

Agenda Report

January 8, 2018

TO: Honorable Mayor and City Council

FROM: Housing and Career Services Department

SUBJECT: AMENDMENT TO PROXIMITY REQUIREMENT OF INCLUSIONARY HOUSING REGULATIONS; FINDING OF NUISANCE FOR 745-759 N. ORANGE GROVE BOULEVARD

RECOMMENDATION:

It is recommended that the City Council take the following actions:

- 1) Find that the proposed actions are exempt from the California Environmental Quality Act ("CEQA") in accordance with Section 15061(b)(3), the General Rule that CEQA only applies to projects that may have an effect on the environment; and
- 2) Amend section IV.B.3.b "Proximity Requirement" of Inclusionary Housing Regulations as described in this agenda report; and
- 3) Make a finding of nuisance as to the property located at 745 – 759 N. Orange Grove Boulevard under the Inclusionary Housing Regulations, Section IV(B)(3)(b), as a blighted condition of long-standing duration.

BACKGROUND:

Under the City's Inclusionary Housing Requirements, Chapter 17.42 of the Zoning Code (the "Inclusionary Ordinance"), a residential project of ten or more units is required to set-aside 15% of the project units as affordable housing restricted to certain income levels -- 15% moderate income units in for-sale projects and 10% low income and 5% moderate income in rental projects. Furthermore, the Inclusionary Ordinance sets forth three alternatives to providing the 15% Inclusionary units "on-site" within the residential project. A developer may: a) pay an In-Lieu fee; b) donate land equivalent to the value of the applicable In-Lieu Inclusionary Fee, or c) provide Inclusionary units at a different location ("Off-Site units").

At the same time, the Inclusionary Housing Regulations (the "Regulations"), as originally adopted in 2001, also impose certain restrictions on where Off-Site units may be located within the City. In particular, section IV.B.3.b ("Proximity Requirement") of

the Regulations stipulates that Off-Site units may not be located in Sub-Area B if the residential project subject to the Inclusionary requirement is located outside of Inclusionary Sub-Area B. Sub-Area B encompasses the Northwest Pasadena area. Maps of the Inclusionary Sub-Areas are attached.

However, at its regular meeting of December 16, 2013, City Council amended the Proximity Requirement provision of the Regulations to create an exception (the "Off-Site Exception") allowing residential projects from any Sub-Area to provide Off-Site units in Sub-Area B provided that the following additional conditions, beyond those required for all Off-Site units, are met: a) the Off-Site units are located within a homeownership project; b) the development of the homeownership project eliminates a nuisance and legal non-conforming use; and c) the nuisance and legal non-conforming use comprises at least 15% of the total site area of the entire project site. The purpose of the amendment was to provide a tool in the wake of the dissolution of Redevelopment, to remove blight while expanding affordable housing opportunities.

To date, one project has utilized the Off-Site Exception – the City-assisted 21-unit homeownership Summit Grove project developed by nonprofit local developer Heritage Housing Partners ("HHP") which eliminated a nuisance legal nonconforming liquor store. The terms of the transaction between the City and HHP for this project, which is currently under construction, were approved by City Council on March 14, 2016. Recently, developer AMLI Residential requested City approval of the Off-Site Exception for an Off-Site project proposed to be located at 745-759 N. Orange Grove Blvd. to be developed by HHP. That approval was not granted, as it cannot be considered under the Regulations as presently written. HHP has not applied for any other City approvals for that proposed project.

AMENDMENT TO PROXIMITY REQUIREMENT

The underlying Regulations presently require that two findings be made on the Off-Site property as a condition of allowing the Off-Site Exception: 1) the property must be a legal non-conforming use; and 2) the property must be a nuisance, which finding shall be made by the City Council on a project-by-project basis. When the City Council modified the Proximity Requirement in 2013 to create the Off-Site Exception, it also directed staff to report on the use of the Off-Site Exception, consider additional changes and report back on any recommendations on how the Off-Site Exception may be expanded.

Accordingly, staff recommends that the Proximity Requirement be amended as follows:

Nuisance-only sites shall be eligible for the Off-Site Exception: a finding of nuisance made by City Council where there is a blighted condition of long standing duration, or a finding of nuisance and legal non-conforming use (to be made administratively). Non-nuisance sites shall not be eligible for the Off-Site Exception including non-nuisance legal nonconforming sites.

The proposed amendments expand the applicability of the Off-Site Exception, but only narrowly.

NUISANCE FINDING FOR 745 -759 N. ORANGE GROVE BLVD.

Any development of Inclusionary Off-Site units on the Off-Site Property will need to be approved as an Off-Site Units Exception pursuant to the Proximity Requirement of the Regulations. The Off-Site Property was used as a gas station from as early as 1927 until 1961, and for automotive repair from 1927 to 2005. The site has since been vacant. The Off-Site Property does not qualify as a legal non-conforming use since such use has long been discontinued. However, the property remains a blight of long standing duration on the immediate neighborhood and represents an under-utilization of the area, resulting in a stagnant and unproductive condition. The establishment of owner-occupied affordable housing at this location under the Off-Site Exception would be expected to facilitate the further redevelopment of the neighborhood, which includes the former Burkhart nursery property.

Allowing the use of Off-Site affordable housing in Sub-Area B is a way for the City to leverage scarce financial resources to achieve two important policy goals: the establishment of affordable owner-occupied housing and the elimination of blight.

The elimination of Redevelopment in California removed an important tool to address blighted and neglected properties. By utilizing Off-Site affordable housing in a strategic fashion, the City cannot fully replicate what was available under Redevelopment, but it can nevertheless achieve neighborhood improvements that would otherwise not be possible. Accordingly, staff recommends that the City Council make a finding of nuisance for the Off-Site Property pursuant to the Off-Site Exception set forth in the Regulations, as a blighted condition of long standing duration. The recommended finding of nuisance finding pertains to the Off-Site Property and to any project that may be approved for this property. Presently, nonprofit developer Heritage Housing Partners currently has site control and is interested in pursuing a project; however, the nuisance finding would not be limited to Heritage Housing Partners or any specific project.

COUNCIL POLICY CONSIDERATION:

The proposed action is consistent with the City's General Plan - Housing Element and the Five-Year Consolidated Plan. It also supports and promotes the quality of life and the local economy -- a goal of the City Council's Strategic Objectives.

ENVIRONMENTAL ANALYSIS:

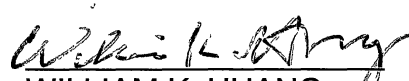
The proposed action has been determined to be exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed amendment to the Inclusionary Housing Regulations and special finding of nuisance have been deemed to not have the potential for significant effect on the environment.

Any proposed housing project on the site will be subject to the appropriate CEQA review to analyze the potential effects on the environment. When CEQA review is conducted, any proposed housing project will be subject to any mitigations measures that could be identified during CEQA review and the conditions of approval associated with obtaining land use entitlements.

FISCAL IMPACT:

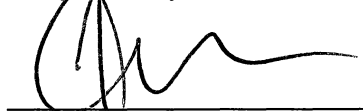
Approval of the proposed amendments to the Inclusionary Housing Regulations will have no fiscal impact on the City.

Respectfully submitted,



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