



SAN DIEGO
HOUSING
COMMISSION

REPORT TO SMART GROWTH AND LAND USE

DATE ISSUED: July 2, 2014

REPORT NO: SGLU14-02

ATTENTION: Chair and Members of the Smart Growth and Land Use Committee
For the Agenda of July 17, 2014

SUBJECT: Proposed Workforce Housing Plan

COUNCIL DISTRICT: Citywide

REQUESTED ACTION

That the Smart Growth and Land Use Committee recommend that the San Diego City Council (City Council) approve a resolution directing further actions in accordance with the elements of the proposed Workforce Housing Plan, subject to the City Council's full legislative discretion.

STAFF RECOMMENDATION

That the Smart Growth and Land Use Committee recommend that the San Diego City Council (City Council) approve a resolution directing further actions in accordance with the proposed Workforce Housing Plan, subject to the City Council's full legislative discretion, and direct the San Diego Housing Commission (Housing Commission) to report back twice yearly to the Smart Growth and Land Use Committee on the status and progress of those recommendations.

SUMMARY

The proposed Workforce Housing Plan includes actions the City Council can take to immediately raise funds for the creation of affordable housing. It also recommends a variety of processes that will allow the City of San Diego (City) to consider future policy decisions to reduce the cost of affordable homes for San Diegans.

The proposed Workforce Housing Plan is a joint recommendation of the Housing Commission and the Jobs Coalition. It includes the following elements:

- 1. Request the Independent Budget Analyst (IBA) of the City to identify additional funding sources for the creation of affordable homes**
 - a. IBA to advise the City Council on potential revenue sources for affordable homes in San Diego.
- 2. Make all homes more affordable**
 - a. Prepare Municipal Code updates for City Council consideration. If adopted, these updates would be designed to make market-rate and affordable homes less expensive to construct.
 - b. Convene a task force to prepare a Planning Priorities Document and an Affordable Smart Growth Plan.
- 3. Maximize Subsidized Housing Dollars**
 - a. Identify City land for development of affordable homes.

- b. Direct the Housing Commission to prepare an Affordable Homes Report.

4. Immediate Municipal Code Updates

- a. Permanently defer collections of Facilities Benefit Assessments (FBA) until developments receive final building inspections.
- b. Starting January 1, 2015, raise Housing Impact Fees 100%, to the level they were at before they were cut in half in 1996.
- c. Sunset the Housing Impact Fee increase on January 1, 2018, unless certain agreed-upon milestones are met.
- d. Create and clarify a variety of mechanisms to reduce the burden for developments that pay the Housing Impact Fee.

The Continuing Need for Affordable Homes in the City:

The City has a “severe shortage of affordable housing” that prompted the City Council to initially declare the nation’s first housing state of emergency on August 6, 2002. The City Council has repeatedly renewed that declaration.

The City will need an additional 38,680 affordable housing units for very low- and low-income residents by 2020, according to the 2011 San Diego Association of Governments’ Regional Housing Needs Assessment.

Increasing the supply of market-rate homes is also needed to keep prices for those homes from rising excessively through growing demand.

The City employs a variety of tools and resources to encourage the development of affordable homes:

- The City uses inclusionary zoning to create both affordable inclusionary units, and to raise revenue to fund separate, 100 percent affordable developments.
- The City implements the state density bonus program, which provides incentives to developers that opt-in to building affordable units within their overall developments.
- Until recently, the City dedicated a percentage of its tax increment, through Redevelopment Agencies, to fund affordable homes.
- The City complies with the state Housing Element law, to plan and zone land with sufficient capacity to provide homes for our expected growth.
- Federal resources allocated to the City, such as Community Development Block Grants and HOME Investment Partnerships Program funds, are used to finance homelessness services and new affordable housing developments.
- Council Policy 600-27 prioritizes the development of affordable homes with an expedite program.

Despite these ongoing efforts, there continues to be a severe shortage of affordable housing. However, specific efforts can be taken to improve the performance of the tools used to build homes that are affordable.

One such effort has been the long-sought update to the City’s Housing Impact Fee Ordinance.

History of the Housing Impact Fee Ordinance:

The San Diego “Housing Impact Fee” was initially established by the Housing Impact Fee Ordinance on April 16, 1990, and was based on a nexus study performed in 1989, which concluded that commercial development creates jobs that warrant the need for more affordable housing due to employment growth. At that time, the revenue levels were set at an amount equal to approximately 1.5 percent of total development costs, as they were in 1990.

In 1996, revenue levels were reduced by 50 percent by the City Council. Since 1996 there has not been an adjustment to the revenue levels, and as a result, the current levels, which range from \$0.27 to \$1.06/square foot based on development type, remain substantially below the original nexus amounts.

On September 2, 2009, the City Council’s Land Use & Housing Committee (LU&H) directed the Housing Commission to update earlier nexus studies after the City Auditor concluded in a July 29, 2009, report that the Housing Trust Fund-related revenues “are outdated, substantially lower than comparable cities, and were not adjusted as required by the municipal code, resulting in an estimated underfunding of \$2.79 million for fiscal years 2006 through 2008.”

On July 11, 2011, the Housing Commission presented a report to the City Council with recommendations to update the Housing Impact Fee program. The recommendations failed on a 4-4 vote. The Housing Commission was asked to return to the City Council after exploring alternative sustainable revenue sources.

In July 2011 through August 2013, the Housing Commission engaged a group of stakeholders in an Affordable Housing Best Practices Task Force.

On August 9, 2013, the Housing Commission issued its staff recommendation to the City Council for how to update the Housing Impact Fee, along with an updated nexus study prepared by Keyser Marston Associates (KMA). On December 10, 2013, the City Council adopted an update to the Housing Impact Fee Ordinance, raising the fee to 1.5 percent of total development costs.

A petition was filed on January 22, 2014, to rescind the City Council’s December 10, 2013, action. The Registrar of Voters verified the petition signatures on February 14, 2014, as sufficient to require action by the City Council. As a result, the City’s Municipal Code required the City Council to rescind its decision or submit the issue to voters at an election.

On March 4, 2014, the City Council acted to rescind its decision. At the meeting, the City Council directed the Housing Commission to continue the dialogue with the Jobs Coalition about affordable housing options and report back to the Smart Growth and Land Use Committee in three months with an update and proposed actions to take.

Negotiations between Housing Commission and the Jobs Coalition:

Housing Commission staff met with members of the Jobs Coalition eight times, as listed below:

Wednesday, March 12, 2014, 8:00 AM – 10:00 AM
Housing Commission, 5th Floor Conference Room

Thursday, March 20, 2014, 10:00 AM – 11:00 AM
San Diego Chamber of Commerce, Room 1000

Tuesday, April 1, 2014, 1:30 PM – 3:00 PM
Housing Commission, 5th Floor Conference Room

Tuesday, April 8, 2014, 2:30 PM – 3:30 PM
Housing Commission, 5th Floor Conference Room

Tuesday, April 15, 2014, 9:00 AM – 11:00 AM
San Diego Chamber of Commerce, Room 1000

Thursday, April 24, 2014, 1:30 PM – 3:30 PM
Housing Commission, 5th Floor Conference Room

Tuesday, May 6, 2014, 3:00 PM – 4:00 PM
Housing Commission, 5th Floor Conference Room

Thursday, June 9, 2014, 2:00 PM – 4:00 PM
California Strategies, 2488 Historic Decatur Road, Suite 200

The Housing Commission was represented in those meetings by President & CEO Richard C. Gentry and Director of Policy Colin Parent. The Jobs Coalition was represented by Craig Benedetto, a Principal at California Strategies, a public strategy firm, and Aimee Faucett, the Executive Vice President and Chief Operating Officer for the San Diego Regional Chamber of Commerce.

As a result of these negotiations, the Housing Commission and Jobs Coalition agreed on the proposed Workforce Housing Plan, the terms of which are contained in a Memorandum of Understanding (MOU) (attachment 3).

Proposed Workforce Housing Plan:

The proposed Workforce Housing Plan proposes both short- and long-term measures to address revenues for the construction of affordable homes and the costs associated with the construction of all residential development.

The specific elements of the Workforce Housing Plan are summarized below:

1. Creation of IBA Report on Revenue Options for Homes:

It is recommended that the IBA conduct a comprehensive examination of potential revenue sources.

2. Make all Housing More Affordable:

It is recommended that the City Council request City staff to prepare a variety of suggested Municipal Code amendments to make it easier and less expensive to develop housing in San Diego.

None of these suggestions will commit the City Council to adopting new Municipal Code amendments or policies. However, they will bring forward, for the City Council's consideration, policy options to reduce the cost of homes.

- a. **Prepare Updates to the City's Density Bonus program:** The City currently complies with state law that requires local governments to provide a density bonus for developments that include affordable housing.

As a part of the state-mandated density bonus program, developers that build affordable units must receive "incentives" in the form of concessions from the ordinary development rules applicable for those parcels. A "menu of options" for density bonus "incentives" will provide certainty for both developers and community members about what kinds of housing will be developed under the program.

Mayor Kevin Faulconer has called for an update to the City's density program in his "Housing for All" Plan. The Housing Commission has begun exploring an update to the density bonus program, and the City Council can consider adopting specific recommended changes once a proposal is brought forward.

- b. **Prepare updates to the City's Transit Overlay District:** The City's Transit Overlay District applies more flexible parking requirements for developments near transit. This policy is intended to allow for less expensive developments, where residents are less likely to own cars.

Further updates can be made to the Transit Overlay District to allow greater parking flexibility for new developments around transit. The state also recently adopted SB 743, which eases the rules for local governments to update parking requirements near transit.

Mayor Kevin Faulconer has also called for updates to the City's rules for parking near transit in his "Housing for All" Plan. The City Council can consider adopting specific recommended changes once a proposal is brought forward by City staff.

- c. **Affordable Smart Growth Plan:** It is recommended that the City undertake a process with stakeholders to identify policy changes and Municipal Code amendments that can be implemented to reduce the cost of development. The result of this process will be an "Affordable Smart Growth Plan," with recommendations to the City and the City Council.
- d. **Planning Priorities Document:** It is recommended that the City publish a plan for how the City intends to prioritize and undertake community plan amendments to address concerns about the timeliness and priorities for these updates. **Mayor Faulconer has identified future plan amendments, and their tentative schedule, in his recent budget documents.**

3. Maximize Subsidized Housing Dollars:

Generally, affordable housing development is governed by the same rules as market-rate development. However, because affordable housing is usually funded by public sources, regulations dictate development attributes. For this section, the proposed Workforce Housing Plan's recommendations are

related to policies the City Council and other government entities can make to reduce the cost of developing affordable homes.

- a. **City Land:** Upon review of the City's vacant and underutilized property, opportunities for the development of affordable housing may be identified. If land is determined appropriate for this purpose, the Housing Commission will recommend a process to the City for use of such land.

Mayor Kevin Faulconer has called for using City land to develop affordable homes in his "Housing for All" Plan. The Housing Commission can help achieve this goal if a list of properties is made available from the City.

- b. **City Legislative Advocacy for Affordable Homes:** The City, in coordination with the Housing Commission, can support efforts to increase state and federal funding for affordable homes, and to reduce the cost of constructing new affordable developments.
- c. **Local Development Policies:** The Housing Commission will submit a report on the policy options the City may undertake to reduce the cost for the development of affordable housing.

4. Immediate Municipal Code Updates:

It is recommended that the City direct the Housing Commission to work with City staff to prepare Municipal Code amendments to lower the cost of development and raise funds for more affordable homes:

- a. **Facilities Benefit Assessments (FBA) Deferrals:** Permanently defer collections of FBA until developments receive final building inspections.
- b. **Housing Impact Fee Update:** The proposed Workforce Housing Plan includes an agreement to raise additional revenues for affordable homes:
 1. Starting January 1, 2015, raise Housing Impact Fees 100 percent, to the level they were at before they were cut in half in 1996.
 2. Sunset the Housing Impact Fee increase on January 1, 2018, unless certain agreed-upon milestones are met.
 3. Create and clarify a variety of mechanisms to reduce the burden for developments that pay the Housing Impact Fee. These are detailed in the proposed Workforce Housing Plan.

5. Milestones and Reporting to the Smart Growth and Land Use Committee:

The MOU agreement between the Housing Commission and the Jobs Coalition calls for milestones, which the parties agree must be met before the sunset provisions are lifted and the Housing Impact Fee increase extended. While those milestones agreements cannot bind future City Council votes, they represent an agreement by the parties to earnestly search for supplementary revenue sources, and to pursue cost reduction efforts, before extending the Housing Impact Fee increase permanently.

Ultimately, the City Council in its legislative discretion will determine whether the City has achieved the milestones.

The milestones, as specified in detail in section 4.c. of the Plan Specifics section of the MOU, are:

- Approval of changes that improve the affordable housing and sustainable development expedite programs.
- Adoption of regulatory reforms that would reduce the cost of commercial development.
- Adoption of regulatory reforms that would reduce the cost of affordable homes.
- Complete two or more community plan updates.
- Complete two or more reforms that require Municipal Code changes or environmental review.

The Housing Commission proposes to report back to the City Council's Smart Growth and Land Use Committee every six months on the status and progress of this agreement. These reports can serve as the basis for the City Council to consider if and how the City is achieving the milestones set out in this proposed agreement.

AFFORDABLE HOUSING IMPACT

Updating the Housing Impact Fee will generate additional resources to finance affordable housing development in the City. The Municipal Code requires that revenue from the Affordable Housing Fund be allocated annually through an Affordable Housing Fund Annual Plan, prepared by the Housing Commission and approved each year by the City Council. The Municipal Code allows these funds to be allocated to several activities in a variety of ways, with percentages of funding specified for transitional housing, housing for low- and very low-income San Diegans, and assistance for first-time homebuyers. How the City Council chooses to allocate those resources from year to year will likely vary.

Other elements of the proposed Workforce Housing Plan, when implemented, will reduce the cost to develop both market-rate and affordable housing.

LEGAL CONSIDERATIONS

While the ultimate legal opinion on any issue affecting the City will be provided by the Office of the City Attorney, the Housing Commission is of the opinion that the City Council is not prevented from adopting an update to the Municipal Code related to the Housing Impact Fee if based upon the recommendations referenced within the MOU.

After a referendum, courts have approved actions by local governments which adopt "essentially different" ordinances on the same subject matter, "delaying full implementation, and providing exemptions for [businesses] that find the requirement excessively burdensome." *Rubalcava v. Martinez*, 70 Cal.Rptr.3d 225, 237 (2007). That is what is proposed by the Workforce Housing Plan, detailed within the MOU, which is designed to, in good faith, "confront the 'popular' objections to the [prior ordinance] and attempt to address them." *Id.*

FISCAL CONSIDERATIONS

Approving this action will begin the process to increase the total Affordable Housing Fund revenue approved in the Housing Commission's Fiscal Year 2015 budget. Funds generated from the Housing Impact Fee are deposited into the City's Affordable Housing Fund and will be used as specified in the Affordable Housing Fund Annual Plan.

PREVIOUS COUNCIL and/or COMMITTEE ACTION

The City Internal Auditor's Office presented its performance audit report to LU&H on September 2, 2009, and to the Housing Authority of the City of San Diego on October 20, 2009. On March 30, 2011, an item was presented at the LU&H meeting. On July 11, 2011 the City Council declined to update the Housing Impact Fee ordinance on a 4-4 vote, referring the matter to the Housing Commission's Affordable Housing Best Practices Task Force, with instructions to return the matter to the City Council. On December 10, 2013, the City Council adopted an update to the Housing Impact Fee Ordinance, raising the fee to 1.5 percent of total development costs. The City Council on March 4, 2014, rescinded its previous approval of updates to the Housing Impact Fee Ordinance and directed the Housing Commission to continue the dialogue with the Jobs Coalition about affordable housing options and report back to the Smart Growth and Land Use Committee in three months with an update and proposed actions to take.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS

On August 9, 2013, the Housing Commission published its staff recommendations, along with the updated nexus study. On August 29, 2013, the Housing Commission hosted its most recent meeting of the Affordable Housing Best Practices Task Force to present both the updated nexus study and the Housing Commission's staff recommendations to update the Housing Impact Fee Ordinance. The Housing Commission made presentations to a number of additional community and industry groups, soliciting feedback and answering questions about both the nexus study and the Housing Commission's staff recommendations.

KEY STAKEHOLDERS and PROJECTED IMPACTS

An array of key stakeholders are directly or indirectly impacted by any change to housing policy in the City, ranging from low-income families and affordable housing advocates to the local development and business communities.

ENVIRONMENTAL REVIEW

The proposed Workforce Housing Plan is not a project as defined by the California Environmental Quality Act Section 21065 and state CEQA Guidelines Section 15378(b)(4), as it is related to the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The determination that this activity is not subject to CEQA, pursuant to Section 15060(c)(3), is not appealable and a Notice of Right to Appeal the Environmental Determination (NORA) is not required. Processing under the National Environmental Policy Act is not required as no federal funds are involved in this action.

Respectfully submitted,

Colin Parent

Colin Parent
Director of Policy
San Diego Housing Commission

Approved by,

Richard C. Gentry

Richard C. Gentry
President & Chief Executive Officer
San Diego Housing Commission

Attachments: 1) 2013 KMA Jobs-Housing Nexus Study
2) Supplemental Clarifications to the KMA Jobs-Housing Nexus Study
3) Proposed Workforce Housing Plan

Hard copies are available for review during business hours in the main lobby of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials on the San Diego Housing Commission website at www.sdhc.org.