



Memorandum

TO: CITY COUNCIL

FROM: Mayor Liccardo
Vice Mayor Magdalena Carrasco
Councilmember Dev Davis
Councilmember Tam Nguyen
Councilmember Sylvia Arenas

SUBJECT: SEE BELOW

DATE: December 15, 2017

Approved

Date

SUBJECT: ACTIONS RELATED TO THE IMPLEMENTATION OF THE AFFORDABLE HOUSING IMPACT FEE AND INCLUSIONARY HOUSING ORDINANCE PROGRAMS

RECOMMENDATION

Approve the staff recommendation with the following change:

1. Adopt a resolution amending the 2017-18 City of San José Schedule of Fees and Charges to establish an In Lieu Fee of \$125,000 per unit for rental development (based on the Housing Department's unit subsidy for the most recent funding commitments) subject to the Inclusionary Housing Ordinance Program effective January 1, 2018.
2. Convene a Council study session prior to March 31, 2018 to discuss the aggregate impact of all of the fees - to fund parks, affordable housing, transportation improvement, and other needs - that the City imposes on housing development and construction. The study session should enable the Council to:
 - a. Assess and compare fees across the most commonly constructed building types;
 - b. Assess and compare fees from other comparative cities in the region or state;
 - c. Identify and bring transparency to the pro formas of housing projects that developers report are "not financeable" or "won't pencil";
 - d. Address the question of whether the City should assess fees - including inclusionary fees - on a square footage basis, rather than per-unit basis, to properly account for the substantial distinction between building 800 square foot studios and a 2,100 square foot single-family homes;
 - e. Utilize financial information drawn from actual housing developers, lenders, and contractors, vetted by a trusted independent consultant. Given the concerns about

proprietary financial data becoming a public record, explore working with a competent and trusted third party, such as SPUR or a local university, to guide the work and collect the data.

BACKGROUND

Under Section 5.08.520, the In-Lieu Fee for each rental inclusionary unit shall be no greater than the average City subsidy required for new construction of a rental residential unit. The fee must be based on City commitments made in the last 12 months when there were three or more City subsidized new construction projects.

The figure of \$125,000 more accurately reflects the average City subsidy per the Housing Department’s most recent funding commitments (see chart below). Additionally, in the three examples staff uses in their report (Attachment B), the Housing Department was the only gap lender in those deals, so the subsidy was higher. Given the availability of Measure A funds over the coming years, it’s also anticipated the City subsidy will lower. As the landscape changes, we anticipate this number will fluctuate annually and per the ordinance will be established annually via the Schedule of Fees and Charges. Per the staff recommendation, this initial in-lieu fee will be in place for 18 months to provide some certainty.

City Per Unit Subsidy for Most Recent Funding Commitments					
Project	4% vs 9%	City Subsidy	# of Units	City Subsidy Per Unit	3.8% Increase Due to Delay
Villas on the Park	9%	\$7,500,000	84	\$89,285.71	
Leigh Avenue Seniors	4%	\$9,000,000	64	\$140,625.00	
Quetzal Gardens	4%	\$9,984,212	71	\$140,622.70	
		\$26,484,212	219	\$120,932.47	\$125,527.91

BROWN ACT: The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.