



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: Councilmember Donald Rocha
SUBJECT: INCLUSIONARY HOUSING ORDINANCE
DATE: December 19, 2017

Approved Don Rocha Date 12-19-17
PH

REPLACEMENT MEMO

REASON FOR REPLACEMENT

The original version of Recommendation 2 referenced June 30 and July 1, 2018, when it should have referenced June 30 and July 1 2019.

RECOMMENDATION

Approve the memo issued by the Mayor, Vice Mayor and Councilmembers Davis Nguyen and Arenas and the memo issued by Councilmember Jimenez with the following amendments:

1. Direct staff to clarify how the inclusionary rules apply to mixed use projects where the affordable requirement is built on-site. In particular, staff should clarify whether the deed restriction for affordable housing needs to be recorded against just the residential component of the mixed-use project instead of the entire site, and whether the affordable component needs to be completed prior to the commercial component of a mixed use project. These clarifications can be accomplished either through revised implementation guidelines or ordinance amendments.
2. Approve the revised fee level of \$125,000 as recommended by the Mayor and his cosigners, but only for the period between January 1 and June 30, 2019. Direct staff to analyze additional affordable housing projects that achieve construction closings during the next six months and return to Council through the budget process to recommend a revised fee number based on those construction closings that would take effect on July 1, 2019.
3. Direct staff to return to Council with an analysis of the municipal code section 5.08.470, which sets out the standards for satisfying the inclusionary requirement by building affordable units on site. Staff's analysis should provide additional information as to how they would interpret the provisions of this section and offer

a recommendation as to whether it should be modified or clarified. In particular, it would be useful to understand whether affordable housing units that are in a separate building from market rate units, but still located on the same site, should qualify as on-site units.

ANALYSIS

I appreciate the memos from my colleagues on this matter and am happy to support them. With this memo I'm offering a few additional suggestions.

Mixed Use Projects

The inclusionary ordinance was adopted before the adoption of our current General Plan, which heavily promotes mixed use development. It would be useful to ensure that all of the provisions of the inclusionary ordinance are clear with respect to mixed-use development, so that there are no obstacles to building inclusionary units on-site as part of a mixed use project. For example, it would be helpful to clarify that the deed restriction for affordable units only needs to be recorded on the residential portion of mixed use project, not on the commercial portion.

Fee Level

I appreciate my colleague's attempt to revise the fee level to account for the costs of the most recent projects. I would point out, however, that none of the projects listed in the memo from the Mayor and his cosigners have achieved construction closings, and one of the projects (Quetzal Gardens) hasn't even come forward to City Council to have its financing approved yet. (Construction closings are the point at which a project's financing has been finalized and construction is ready to begin.) I'm comfortable moving ahead with the fee number recommended by my colleagues, but would recommend that we set it to expire in June 30, 2017, and direct staff to recommend a revised fee number through the budget process based on construction closings over the next six months. This timeline could allow the three projects listed in the memo from the Mayor and cosigners to achieve construction closings and thereby confirm the final City contribution. I don't expect that the fee level would be dramatically different from the fee proposed by my colleagues, but I do think there is benefit to confirming that the subsidy we expect to provide for these projects is borne out in practice.

On-Site Criteria

The inclusionary ordinance provides several different options for a project to meet its affordable housing obligation. The preferred option is for a project to build affordable units on-site. The affordable requirement is 15% if units are built on-site, versus 20% if the developer builds them off-site or pays an in-lieu fee.

Section 5.08.470 of the municipal code (attached) lays out criteria that affordable units have to meet to be considered as on-site units. Among other things, it requires that on-site units "shall be located so as not to create a geographic concentration of inclusionary units within the residential development." Developers have begun asking questions as to how exactly these provisions would be applied. For example, would affordable units that

are located in a separate building from the market rate units, but still on the same site, qualify as on-site units, or would they constitute a “geographic concentration” and thus not meet the on-site criteria.

I recommend that we direct staff to return to Council with additional analysis on this matter. It is desirable to have developers build affordable units themselves on the project site. If our rules currently do not allow units located in a separate building but on the same site to be considered as on-site inclusionary units, then I think we need to consider revising our rules. Even if having affordable and market rate units located in the same building is desirable, we would probably all agree that in light of the housing crisis, producing affordable units is the highest priority. Our definition of on-site units should reflect that priority.

Attachment: Definition of On-Site Units

5.08.470 - Standards for inclusionary units.

- A. Single-family detached inclusionary units shall be dispersed throughout the residential development. Townhouse, row-house, and multifamily inclusionary units shall be located so as not to create a geographic concentration of inclusionary units within the residential development.
- B. The quality of exterior design and overall quality of construction of the inclusionary units shall be consistent with the exterior design of all market rate units in the residential development and meet all site, design, and construction standards included in Title 17 (Buildings and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this code, including but not limited to compliance with all design guidelines included in applicable specific plans or otherwise adopted by the city council, and the inclusionary housing guidelines. Inclusionary units shall have functionally equivalent parking when parking is provided to the market rate units.
- C. Inclusionary units may have different interior finishes and features than market rate units in the same residential development, as long as the finishes and features are functionally equivalent to the market rate units and are durable and of good quality and comply with the inclusionary housing guidelines.
- D. The inclusionary units shall have the same amenities as the market rate units, including the same access to and enjoyment of common open space and facilities in the residential development.
- E. The inclusionary units shall have the same proportion of unit types as the market rate units in the residential development except:
 1. Single family detached residential projects may include single family attached inclusionary units;
 2. Single-family detached inclusionary units may have smaller lots than single-family detached market rate units in a manner consistent with Title 20 of this code; and
 3. Inclusionary units made available for rent may consist of any unit type selected by the applicant.
- F. The inclusionary units shall have a comparable square footage and the same bedroom count and bedroom count ratio as the market rate units.

(Ord. 28689.)