

MEMORANDUM

Date: October 26, 2017
To: Housing Advisory Commission
From: Julie Conway, Housing Manager
Re: Discussion of Requirement On-Site Inclusionary Rental Units

At its September 6, 2017 meeting the Housing Advisory Commission (HAC) considered recommendations to the Board of Supervisors regarding the Inclusionary Housing Program and Affordable Housing Impact Fee (AHIF). The Board considered those recommendations on October 24, 2017 and directed staff to return to the HAC to further consider whether the County should require on-site Inclusionary units in rental projects. The purpose of today's item is to discuss the matter and make a recommendation to the Board of Supervisors on the County's Affordable Housing participation requirement for multi-family rental projects.

BACKGROUND

Commissioners will recall that the County of Santa Cruz conducted a nexus study in 2014-15 in order to review its Affordable Housing Program and, in April of 2015, the Board of Supervisors adopted an Affordable Housing Program with some significant changes to the long standing Program known as "Measure J". These changes required amendments of Santa Cruz County Code Chapter 17.10, which implements the Measure J Program. One of the significant changes adopted by the Board of Supervisors in 2015 was giving developers of for-sale residential properties the ability to choose their method of participating in the Affordable Housing Program by providing 15% of affordable units on-site or to pay and Affordable Housing Impact Fee (AHIF) of \$15 per square foot for all units in the project. This policy was put in place for a two year period with the direction that the Board of Supervisors would reconsider it in October of 2017. On October 24th the Board approved in concept a change in policy that would require on-site inclusionary units at 15% of total units for homeownership projects of 7 or more units.

At the time of the 2015 Housing Program Update, the ability of jurisdictions to implement inclusionary requirements for rental housing was limited by the Palmer Case¹ which found that rental inclusionary requirements conflict with the prohibition on rent limitation imposed by the Costa-Hawkins Rental Housing Act of 1995. On September 29, 2017 Governor Brown signed AB 1505, the "Palmer Fix", which acknowledges the ability of jurisdictions to adopt inclusionary housing ordinances that apply to rental units but that also allows the State to require jurisdictions to prove that the ordinance does not unduly constrain production of housing.

In adopting in concept the requirement for on-site inclusionary units for ownership projects of 7 units or more, the Board requested that your Commission discuss whether rental projects should also require on-site inclusionary units.

ON-SITE INCLUSIONARY RENTAL UNITS

Under the County's affordable housing program, rental housing projects are currently required to pay a fee of \$2 per square foot of habitable area. With the approval of AB 1505, the County could elect to

¹ California Appellate Court ruling in Palmer/Sixth Street Properties, L.P. v. City of Los Angeles

modify its program to require rental projects to include on-site affordable housing units, so long as an alternative means of compliance, such as the payment of in-lieu fees, is also provided.

In consideration of whether to amend the current policy Staff and consultants took into account the following:

1. Need for rental housing. The community is experiencing a well-documented shortage of rental housing for all income levels and household sizes.
2. Lack of market driven rental projects. There have been few market driven rental projects in the County without the 15% on site requirement, adding this requirement would make developing these projects even more challenging. As stated above, this is a housing type that is markedly deficient and the County desires to encourage new development of this type. The \$2 per square foot fee ensures projects participate in the affordable housing program while not providing an additional obstacle to the development of rental housing.
3. Density Bonus. Rental projects should be encouraged to utilize the Density Bonus Program (SCCC § 17.12) which allows developers to include up to 35% more units if they are willing to deed restrict units as affordable in perpetuity. In this way, the County does add to its inventory of affordable rental units and developers gain additional density to help make their projects work.

Note that the HAC has considered a pending revision to the Affordable Housing Guidelines that will implement an oversight process for any rental units created through the Density Bonus Program. The Guidelines will be submitted to the Board of Supervisors in December along with the ordinance revisions in §17.10.

RECOMMENDATION

Staff believes that requiring on-site inclusionary units for rental projects would represent a barrier for constructing rental developments at a time that the community is experiencing a shortage of rental housing.

It is therefore RECOMMENDED that the Housing Advisory Commission discuss the issue of requiring on-site inclusionary rental units and recommend to the Board of Supervisors that the current policy of charging \$2 per square foot of habitable space for multifamily rental developments continue. The issue could be revisited at such a time that the market can be demonstrated to be producing rental housing developments.

Amendments to the Housing Program along with revisions to Santa Cruz County Code §17.10 are expected to return to the Board of Supervisors on December 5, 2017. That discussion will include the results of your Commission's recommendation the on-site rental units.