

COUNTY OF SANTA CRUZ

Planning Department - Housing Division

MEMORANDUM

Date: March 1, 2018
To: Housing Advisory Commission
From: Julie Conway, Housing Manager
Re: Housing Program Update

The Housing Advisory Commission (HAC) conducted a scheduled review of the updated Affordable Housing Program at its September 2017 meeting and again at its November meeting. Recommendations were presented to the Board of Supervisors in December and the Board decided to postpone action until March 20, 2018. One of the recommended changes was to revert to the County's long standing practice of requiring on-site affordable units in multi-family for sale projects but to increase the threshold at which a unit is required from a five unit project to a seven unit project. A group of developers and business people opposed this recommendation because they see the requirement to sell 15% of units at an affordable price as an obstacle to development, thereby exacerbating rather than alleviating the housing availability and affordability crisis. The County's analysis does not support this concern for the market in Santa Cruz County.

In January the Planning Department invited the group to submit development pro-formas or other information to the Housing Section by February 15th to allow for analysis and the development of recommendations. Several people indicated that they would be submitting information for consideration but would do so sometime after the February 15th deadline. Materials have not been received as of March 1. At this time, staff anticipates returning to the Board of Supervisors on the scheduled report back date of March 20 to further consider the Housing Program.

Staff recommends the HAC discuss the issue, receive public comment and consider further recommendations to the Board of Supervisors.

Attachment: December 2017 report to the Board of Supervisors on the Housing Program.



County of Santa Cruz

Planning Department

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 Kathleen Molloy Previsich, Planning Director

Meeting Date: December 12, 2017
Date: November 17, 2017
To: The Board of Supervisors
From: Kathy Previsich, Planning Director
Subject: Affordable Housing Program Update

In 2015 the Board of Supervisors adopted significant amendments to Santa Cruz County Code Chapter 17.10, the Affordable Housing Regulations, and adopted a new Affordable Housing Impact Fee (AHIF) approach to replace earlier "in lieu" fees that had applied to 3- and 4-unit projects and "fractional" aspects of projects of 5 or more units. A significant amendment at that time was to require 1- and 2-unit projects to pay a fee, where previously requirements were only imposed on projects of 3 or more units. Another of the amendments at that time was to allow "developer choice" as to whether to meet affordable housing requirements by building on-site inclusionary units, or to pay the AHIF at a rate of \$15 per square foot (of all units in a 5+ unit project). The Board directed that, after two years of experience with the "developer choice" option, the matter be reconsidered as part of an affordable housing program review and update. On October 24, 2017 the Board of Supervisors received the scheduled update on the Affordable Housing Program and AHIF. The Board provided direction in concept on the levels of AHIF, lowering the non-residential fee from what had been suggested by staff. The Board provided direction in concept to staff to prepare amendments to the Chapter 17.10 Affordable Housing Ordinance to require on-site inclusionary units for housing projects with seven or more units (which is the project size which yields one one-site unit when the 15% inclusionary requirement is applied). Regarding the matter of developer choice, the Board gave direction in concept that the amendments should revert to the pre-2015 approach of having the Board of Supervisors, rather than a developer, decide whether to allow payment of fees rather than provision of on-site affordable units.

On October 24th, the Board also directed that the Housing Advisory Commission (HAC) further discuss the possibility of requiring on-site inclusionary requirements for rental housing, and that staff further analyze aspects of the AHIF as it pertains to non-residential development.

The attached proposed Ordinance (Attachment 1) reflects the direction provided by the Board of Supervisors, the HAC recommendation to not require on-site inclusionary units for rental projects (to retain the AHIF instead), and staff's recommendation to not provide a square footage threshold for an exemption from the AHIF for non-residential

projects.

On-Site Inclusionary Units for Rental Housing

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 Case, which found that rental inclusionary requirements conflict with the prohibition on rent limitations 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. This reflected a State concern that requiring on-site inclusionary units within rental housing projects could present a substantial barrier to construction of rental housing projects in some housing markets.

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 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 fees, is also provided.

In adopting in concept the requirement for on-site inclusionary units for ownership projects of 7 units or more, the Board requested that the HAC discuss whether rental projects should also require on-site inclusionary units. The HAC considered the matter at its November 1, 2017 meeting.

In consideration of whether to amend the current policy the HAC 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 very 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 in short supply, and the County desires to encourage new rental housing development. 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). This will allow developers to include up to 35% more units if they are willing to identify and deed restrict units that will be affordable for the life of the project. In this way, the County would add to its inventory of affordable rental units and developers would gain additional density to incentivize the construction of rental projects.

The HAC discussed the importance of rental housing and concluded that requiring on-site inclusionary units for rental projects would represent a barrier for constructing rental developments at this time. The HAC recommends that the Board of Supervisors continue the current policy of charging \$2 per square foot of habitable space for multifamily rental developments and requested that staff provide on-going reports on market rate rental

projects seeking development approval and that the issue be revisited in two years to determine whether the market can be demonstrated to be producing rental housing developments.

The HAC has considered a pending revision to the Affordable Housing Guidelines that will implement an oversight process for any affordable rental units created through the Density Bonus Program. The attached proposed ordinance does not include a requirement for on-site inclusionary units for rental projects.

Non-Residential Affordable Housing Impact Fees

The Board directed staff to report back on commercial development in order to provide information on whether raising the non-residential AHIF from \$2 to \$3 per square foot would create a barrier to “mom and pop” commercial development, and to consider whether projects of certain square footage should be exempt from fees. A review of building permits from April 27, 2015 to July 30, 2017 found 182 commercial permits; of those permits only 9 were for new or net new square footage. Of these 9 building permits, 5 were under 3,000 square feet, 2 were between 3,001-5,000 square feet, and only 2 were over 5,000 square feet. The majority of the 182 non-residential building permits are tenant improvements such as remodels to existing building that are not subject to AHIF. The largest non-residential development paying the AHIF was for a new market and office space within the Aptos Village Project. Other projects included a sports pavilion and a bathroom addition at Mount Hermon, a new 4,960 commercial office/storage building, a new 3,485 sf commercial shell, a 2,500 sf storage building at a gun range, a 1,350 sf addition to a commercial building, and some minor additions to a market (524 sf) and to a bakery (600 sf). Staff recommends that AHIF continue to apply to all new and net new square footage and not exclude projects of any size, as non-residential development directly involves new jobs that create need for workforce housing and to establish an exemption threshold would effectively eliminate the non-residential AHIF for most projects.

As shown in the following chart, commercial development currently pays a fee of \$2 per square foot for all uses, except for traditional non-habitable agricultural barns used for equipment storage and animals, which pay a fee of \$1 per square foot. As shown in Attachment 4 Summary of Job Housing Linkage Fee Chart, most counties with commercial fees have a higher fee structure than Santa Cruz County. And, the fees in cities in Santa Clara County are significantly higher. It is proposed that the current fees be increased from \$2 to \$3 per square foot on all commercial uses, except for traditional agricultural barn use, which would remain at \$1 per square foot. Staff and the economic consultant believe that the proposed \$3 per square foot rate does not create a feasibility obstacle.

The lower fee rate for agriculture acknowledges the reduced employment density and consequently the reduced housing impacts of agricultural barns relative to other commercial land uses. It is noted that greenhouses used to grow and maintain cannabis would be subject to the \$3 AHIF due to the levels of improvement and employment that occur for cannabis cultivation, processing and manufacturing activities.

TABLE 1: Proposed AHIF for Commercial / Non-Residential Development		
	Current AHIF	Proposed AHIF
Industrial/Manufacturing	\$2	\$3
Office, Including Medical Office	\$2	\$3
Agricultural-barn housing animals or machinery	\$1	\$1
Agricultural greenhouses, processing facilities and other structures used for agriculture	\$2	\$3
Other non-residential	\$2	\$3
Hotel/Motel	\$2	\$3
Retail	\$2	\$3

Affordable Housing Impact Fee (AHIF) for Accessory Dwelling Units

The Board of Supervisors approved in concept a change to the AHIF that will begin to charge a fee for residential additions of more than 500 square feet, as well as net new square footage for replacement units. The new approach will credit square footage demolished and will exempt the first 500 square feet of net new square footage and will apply AHIF according to a graduated scale (see Table 2 below).

The October 24th discussion by the Board of Supervisors included the topic of whether to charge the AHIF for Accessory Dwelling Units (ADUs). The County has been working to update, simplify and incentivize the construction of ADUs by homeowners, including an update of the overall approach to fees for ADUs. The Board asked staff to consider the way in which ADU's are charged AHIF.

Staff recommends that ADU's be treated like remodels and room additions: the first 500 square feet would be exempted and additional square footage over 500 square feet would pay on the same graduated scale as room additions and replacement units. This change would be consistent with an "everybody pays approach", but still allow ADU conversions and small ADUs of 500 square feet or less to be exempt, minimizing the additional cost of building ADU's and incentivizing construction of ADUs (especially small ADUs). In accordance with Supervisor Friend's direction from the December 5, 2017 hearing on ADU's, the County will waive the AHIF due on any unit for which the owner has recorded an affordable housing agreement.

The following chart summarizes the proposed Residential AHIF levels, reflecting the direction in concept provided by the Board on October 24th, as well as the recommended approach for ADUs:

TABLE 2: PROPOSED AFFORDABLE HOUSING IMPACT FEES - RESIDENTIAL PROJECTS				
	1 Unit Projects	Additions, Remodels and Replacements - for Net new square footage greater than 500	2-4 Unit Projects	5-6 Unit Projects

		(Including ADU square footage over 500 feet unless the owner has recorded an affordable housing agreement)		
Up to 2,000 square feet	\$2	\$2	\$7	\$15
2,001-2,500 square feet	\$3	\$3	\$8	\$15
2,501-3,000 square feet	\$5	\$5	\$10	\$15
3,001-4,000 square feet	\$10	\$10	\$12	\$15
4,001 square feet and up	\$15	\$15	\$15	\$15

California Environmental Quality Act

The proposed revisions to the Affordable Housing Ordinance are not subject to the California Environmental Quality Act (CEQA) as defined in Section 15061(b)(3) because of the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. In this case, the Affordable Housing Ordinance does not directly result in development but merely defines the affordability of residential development analyzed as part of a development proposal (Attachment 3). Future development proposals would be subject to additional approvals and CEQA compliance.

Affordable Housing Guidelines

The Affordable Housing Guidelines that would reflect regulatory changes will be submitted to the Board of Supervisors for approval after the amendments to SCCC Chapter 17.10 have been adopted.

Affordable Housing Impact Fees

The approach to and levels of the Affordable Housing Impact Fee, as presented and recommended in this report, will be reflected in the Uniform Fee Schedule (UFS) update to be considered by the Board for adoption later on today's agenda. If your Board should change the proposed fees the UFS will be amended to incorporate the changes.

RECOMMENDATION

It is therefore RECOMMENDED that your Board take the following actions:

1. Hold a public hearing to consider revisions to Santa Cruz County Code Chapter 17.10;
2. Approve the Ordinance amending Santa Cruz County Code Chapter 17.10, in concept (Attachment 1); and
3. Determine that the proposed project is exempt from the California Environmental Quality Act and direct staff to post the Notice of Exemption (Attachment 3);
4. Direct the Clerk of the Board to place the Ordinance for second reading and final approval on the next available agenda.

Submitted by:


Kathy Previsich, Planning Director 11/20/2017

Recommended:

Carlos J. Palacios, County Administrative Officer

Attachments:

- a Attachment 1 - Ordinance, Chapter 17.10 (clean copy)
- b Attachment 2 - Ordinance, Ch. 17.10 (strikeout-underline copy)
- c Attachment 3 - CEQA Notice of Exemption
- d Attachment 4 - Summary of Jobs Housing Linkage Fee