



Legislation Details (With Text)

File #:	15-580	Version:	1	Name:	SR Housing Nexus Study
Type:	Staff Report	Status:	Filed	In control:	City Council
On agenda:	11/2/2015	Final action:	11/2/2015	Enactment date:	
Enactment date:		Enactment #:		Title:	Staff Report for Resolution Authorizing a Memorandum of Understanding (MOU) Between the City of San Leandro and Silicon Valley Community Foundation for a Regional Housing Nexus Study
Sponsors:	Cynthia Battenberg			Indexes:	
Code sections:				Attachments:	

Date	Ver.	Action By	Action	Result
11/2/2015	1	City Council	Received and Filed	

Staff Report for Resolution Authorizing a Memorandum of Understanding (MOU) Between the City of San Leandro and Silicon Valley Community Foundation for a Regional Housing Nexus Study

SUMMARY AND RECOMMENDATIONS

The City of San Leandro's Inclusionary Zoning Ordinance was approved in 2005 to encourage the development of affordable housing in the City. The elimination of redevelopment agencies in 2012 and the inapplicability of the ordinance to rental housing since 2009 impacts the creation of affordable housing in the City. A housing nexus study is proposed to provide a legal and economic basis for future amendments to the City's Inclusionary Zoning (IZ) Ordinance.

Staff recommends authorizing the City Manager to Execute a Memorandum of Understanding (MOU) with the Silicon Valley Community Foundation (SVCF) to fund the City's participation in a Regional Housing Nexus Study.

BACKGROUND

The City of San Leandro enacted its city-wide Inclusionary Zoning (IZ) Ordinance in 2005. The intent of the IZ Ordinance was to encourage the development of affordable housing to a broad range of households with varying income levels and to further the City's Housing Element goals including adding affordable housing to the City's housing inventory in proportion to existing needs and future population and job growth. Key requirements under the 2005 IZ Ordinance are shown below.

- New rental development projects of 4 or more units shall make 15% of the total units affordable for low and/or very low income renters. (This requirement was placed on hold in 2009 after the *Palmer v. Los Angeles* appellate court decision which found that rental inclusionary zoning requirements violated California rental housing law)
- New ownership development projects of 2 or more units shall make 15% of the total units

affordable for moderate and/or low income homebuyers. Also, for projects between 2 to 6 units, the developer has the option to pay a housing in lieu fee rather than constructing the applicable affordable unit(s)

- The affordability period for inclusionary rental developments will be a minimum of 55 years and for ownership developments a minimum of 45 years
- Design of inclusionary units must be integrated into the overall project and shall be consistent or compatible with the market rate units
- Creation of an Affordable Housing Trust Fund shall be funded from affordable housing-related fees such as the housing in lieu fee

The City amended the IZ Ordinance in 2006 to include residential condominium conversions. Prior to the 2005 enactment of the IZ Ordinance, the City's inclusionary zoning regulations required a 10% affordable housing set-aside for residential development with 20 or more units.

To date, 17 affordable ownership units from private residential development projects (such as Cherry Glen at Washington Ave/Springle Lake Drive, Toscani Place at Davis Street/Pacific Ave and The Willows on Fargo Ave) have been created under the IZ Ordinance.

Due to the slow housing market in San Leandro since the inception of the IZ Ordinance in 2005, the annual Affordable Housing Trust Fund revenue has been minimal. The current Housing Trust Fund balance is approximately \$85,000, which is a negligible amount to assist with the construction of new affordable units.

Housing is currently a Bay Area wide concern. While there are numerous reasons for the crisis, the lack of supply is a major driver. The number of new housing units produced in the City of San Leandro, as well as most other Bay Area cities, has failed to meet the demand. There is a need for new housing of all types: affordable (low and very low), moderate, and market rate housing.

In the past two years there has been increased interest from housing developers in housing opportunity sites in the City. As a built-out City, the majority of opportunities fall in Downtown San Leandro and along E. 14th Street, including the Bay Fair area. The Association of Bay Area Government (ABAG) has designated these transit rich areas as Priority Development Areas. The City's Housing Element Update, adopted in January 2015, confirmed that zoning was in place for the construction of 2,287 new housing units in the next eight years, consistent with the City's Regional Housing Needs Allocation.

There are currently 12 new units on Aurora under construction and numerous housing developments in the planning process which could produce upwards of 800 new units (approximately 500 rental and 300 for sale). Application of the IZ Ordinance, which requires 15% of for sale homes be affordable, could generate 45 new affordable homes. The 500 rental units may also provide housing opportunities naturally to moderate income households. In San Leandro, a moderate income 2-person household is currently defined as those with an annual income of \$89,000.

The majority of affordable housing created in the City of San Leandro since 2005 received significant funding assistance from the former Redevelopment Agency of the City of San Leandro (RDA). The RDA received approximately \$2 million annually to fund eligible affordable housing projects under the RDA Housing Set-Aside Fund (which under State law mandated that 20% of the RDA's tax increment revenue be reserved for affordable housing). The RDA created 117 new affordable rental housing units in Casa Verde and Estabrook Place Senior Housing as well as provided funding assistance for

the 115 affordable family/workforce units in Phase 1 of Marea Alta currently under construction.

With the State's dissolution of redevelopment in 2012, the City is left solely with the IZ Ordinance to produce new affordable housing units. Finding ways to support the development of new affordable housing remains challenging for the City and other jurisdictions in California. Declining federal affordable housing program funding, such as the Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) Programs, adds to the challenge.

The State low income housing tax credit program remains a vital resource, and new State affordable housing funding programs such as the Cap and Trade Program are helpful. Cities and counties currently face challenges finding more substantial and permanent affordable housing financing opportunities. Preparation of a nexus study is the important first step in the process of evaluating the City's IZ Ordinance and re-assessing the goals and strategies to incentivize and produce more affordable housing. This is a delicate issue as an aggressive IZ Ordinance could push too much of the burden for creation of affordable housing to developers which may make projects financial infeasible.

There are three issues related to the IZ Ordinance that staff recommends be addressed as part of the evaluation of the IZ Ordinance.

1. How do we require a percentage of new rental housing be affordable?
2. Should we allow residential developers to pay an in lieu fee which can then be used to support standalone affordable housing projects? The benefit of standalone affordable housing projects is that the non-profits, (such as BRIDGE Housing, Eden Housing, etc.) that develop and manage these developments are able to pool together multiple resources and provide support services to the tenants.
3. Should commercial developers contribute to the creation of affordable housing?

Santa Clara and Alameda County Regional Nexus Study

City staff planned to conduct a nexus study in partnership with the City of Albany, and \$40,000 in funding is included in the Fiscal Year 2015-16 budget for this project. An opportunity exists to collaborate with a larger group of jurisdictions which will save time and money as well as provide a stronger basis to support the likely policies that will need to be adopted. The Santa Clara and Alameda counties project is modeled after an ongoing multi-city nexus study in San Mateo County where the majority of cities agreed to participate.

Silicon Valley Community Foundation (SVCF) is sponsoring the regional nexus study planned for cities in Santa Clara and Alameda counties. SVCF is a philanthropic organization that provides leadership, expertise and capital to help address social issues in the San Francisco-Oakland-San Jose Bay Area region, including serving as a resource for nonprofit, civic, government and philanthropic organizations. SVCF will contract with Keyser Marston Associates (KMA) to complete the nexus study.

KMA was chosen because they have extensive experience preparing nexus studies in California. KMA has worked on nexus studies for over 25 California cities and counties, as well as in Washington and Hawaii. SVCF checked references, including legal counsel, before choosing KMA. The planning firm, Baird + Driskell Community Planning, which managed the San Mateo multi-city effort, will coordinate the process and act as the point of contact for cities.

Several jurisdictions in Santa Clara and Alameda counties have expressed interest in coordinating their efforts. SVCF expects at least ten cities to participate in the regional nexus study. To date, the following cities have approved or are in the process of approving the MOU to join in the nexus study: Albany, Fremont, Union City, Campbell, Los Altos, Milpitas, Santa Clara and Saratoga. SVCF expects at least two more cities to participate. Although it is a cooperative effort, each city will receive a unique report based on local market conditions. After receiving the report, cities would be free to adopt or not adopt fees as they see fit.

There are a number of significant advantages in doing a combined nexus study, not least of which is to save time and money. An important benefit is that a regional nexus study also offers a regional approach to a regional challenge, which is finding realistic ways to fund affordable housing. Furthermore, while jurisdictions will be free to tailor the fees and programs to meet their particular needs, any amount of standardization will make it easier for developers to comply.

The study will document the permissible and recommended fee levels for each jurisdiction for both residential and commercial developments. The nexus study will include the following key components:

- Maximum fees permitted on new residential development
- Maximum fees permitted on new commercial development
- Feasibility study that will provide recommended fees for new residential and commercial development
- Supporting material such as fee levels in other cities and the potential benefits of the fees.
- Summary of Silicon Valley- and Alameda County-wide material looking at trends, fees in different cities.

The pro-rated cost is estimated to not exceed \$25,000 for small cities, \$32,000 for midsized cities and \$42,000 for large cities. The City of San Leandro falls in the midsized cities category. If more cities participate in the study, then the base rate may decrease for all participating cities.

It is anticipated that the nexus study will be completed in Spring 2016.

Applicable General Plan Policies

The following Housing Element policy and action under the General Plan apply:

- **Policy 53.04 Inclusionary Housing** - To the extent permitted by law, require the inclusion of housing affordable to moderate, low, and/or very low income households in new housing developments or the payment of an in-lieu fee which creates a funding source for affordable housing. Modify ordinances as needed to make these requirements clearer and more effective.
 - **Action 53.04-A: Housing Nexus Study**
Prepare a nexus study, either independently or collaboratively with other cities, to support an adjustment to the inclusionary housing in-lieu fee and/or an Affordable Rental Housing Impact Fee.

Legal Analysis

The City Attorney reviewed the MOU and approved it as to form.

Fiscal Impacts

This nexus study will cost the City an amount that will not exceed \$32,000. The City Council appropriated \$40,000 for the preparation of a nexus study in the approved FY2015-16 City Budget for the Housing Services Division (Account 010-41-004-5120). Therefore the City's pro-rated base rate of \$32,000 for the nexus study reflects a cost savings for the City.

ATTACHMENT

Attachment to Resolution

- Memorandum of Understanding with Silicon Valley Community Foundation

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