CITY OF DUARTE
PLANNING COMMISSION
M I N U T E S
January 18, 2022

Planning Commission
Commissioners
Sara Vasquez, Chair
Tina Heany, Vice-Chair
Danny Ramirez
Wally Wolff

1. CALL TO ORDER AND NOTATION OF ANY ABSENCES:

Chair Vasquez called the meeting to order at 7:02 p.m. The following were in attendance:

PRESENT:	Vasquez, Heany, Ramirez and Wolff
ABSENT:	None
STAFF:	Hensley, Golding, Baldwin, McCurley, Hernandez
DEPUTY CITY ATTORNEY:	Jeff Melching

2. PLEDGE OF ALLEGIANCE:

None.

3. COMMISSION REORGANIZATION:

The reorganization of the Commission will continue with Chair Vasquez and Vice-Chair Heany, by the consensus of the Board.

4. APPROVAL OF MINUTES: December 20, 2021

Heany motion to approve the December 20, 2021 minutes seconded by Wolff and carried 3-0-1-0. (Yes: Vasquez, Heany, Wolff; No: None; Abstain: Ramirez; Absent: None).

5. ORAL COMMUNICATIONS ITEMS NOT ON THE AGENDA:
None.

6. PUBLIC HEARINGS:

A. **Site Plan and Design Review SPDR 2020-33.** A new, two-story, 3,234 square foot single-family residence with a 557 square foot garage is proposed at 2528 Gardi Street.

Jason Golding, Planning Manager, presented the project on behalf of Associate Planner Nick Baldwin. Golding presented the staff report and answered questions from the Planning Commission.

Public Comments

Carlos and Christine Guzman, Property Owners of 2528 Gardi Street. Discussed minor setbacks during the construction of the project, thanked staff for the teamwork and support in helping them build their dream home in the City.

Action

Motion made by Heany to approve SPDR 2020-33 (PC Resolution 21-13), seconded by Wolff. Motion carried 4-0-0-0. (Yes: Vasquez, Heany, Ramirez, Wolff; No: None; Abstain: None; Absent: None).

7. PUBLIC HEARINGS:

A. Conditional Use Permit 2021-02. A new massage business at 2163 Huntington Drive.

Craig Hensley Community Development Director requested the continuation of the item to February's meeting.

Public Comments

The Commission opened and closed public comments on this item. There were no comments made.

Action

Vasquez motion to continue CUP 2021-02 (PC Resolution 21-12) to the next meeting on February 22, 2022, seconded by Heany. Motion carried 4-0-0-0. (Yes: Vasquez, Heany, Ramirez, Wolff; No: None; Abstain: None; Absent: None).

B. Municipal Code Amendment 2022-01. A City-initiated request to establish and amend definitions and regulations for Urban Lot Splits and Duplex Developments in Single-Family Residential Zones to implement recently enacted state law.

Jason Golding, Planning Manager presented the staff report and answered questions from the Commission.

Craig Hensley, Community Development Director, commended Golding on the extraordinary job done and presentation of the item and elaborated on the State requirements for all the Cities.

Golding indicated a minor correction under the proposed Ordinance; the Urban Lots Split Provision, subsection E.7B.

Commissioner Comments

Heany asked about the challenges and timeframe on the new State law changes. Assistant City Attorney Melching and Hensley responded.

Wolff commented on the continued trend of State jurisdiction and centralized land use planning.

Vasquez inquired about the approval process and cancellation of the Ordinance in the future once presented to the City Council. Golding and Hensley responded.

Public Comments

There were no Public Comments.

Action

Motion made by Vasquez and seconded by Heany to approve MCA 2022-01 (PC Resolution 22-01), and change to 7.B to read: If approved by the Community Development Director, any Duplex project that involves an existing dwelling unit proposed for demolition of more than 25 percent of the existing exterior structure walls of an existing dwelling on the parcel must comply with replacement provisions of Government Code 66300(d). Motion carried 4-0-0-0. (Yes: Vasquez, Heany, Ramirez, Wolff; No: None; Abstain: None; Absent: None).

8. ITEMS FROM DIRECTOR:

Hensley provided development updates and answered questions from the Commission.

9. ITEMS FROM COMMISSIONERS:

Heany commended staff on the great job and lovely Recognition Awards event.

Wolff asked if Council meetings were held in person or via zoom. Hensley responded.

10. ADJOURNMENT: Tuesday, February 22, 2022

Wolff moved to adjourn at 8:05 p.m., seconded by Vasquez. The next meeting is scheduled for Tuesday, February 22, 2022.

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Craig Hensley, Secretary

PLANNING COMMISSION STAFF REPORT

Date: February 28, 2022

Project: Municipal Code Amendment 22-02

Subject: A City-initiated request to repeal Chapter 19.30 “Inclusionary Housing” of the Duarte Development Code.

Location: City-wide

SUMMARY

Since 2005, the City’s adopted Inclusionary Housing Ordinance established a City-wide program requiring new residential developments to provide a minimum percentage of affordable housing units, or alternatively, pay a fee to the City’s Inclusionary Housing Trust Fund in-lieu of providing affordable housing units. The purpose of the Inclusionary Housing Program is to facilitate the development of affordable housing within the community in alignment with the City’s Housing Element goals and policies.

In the years following the creation of the Inclusionary Housing Program, various impediments beyond the control of the City ultimately stifled the Inclusionary Housing Program’s ability to produce the number of inclusionary housing units and in-lieu fee deposits that had initially been anticipated when the Inclusionary Housing Program was adopted. As a result, the City approved a temporary, five-year suspension of the program between July 31, 2016 and July 31, 2021.

Since the suspension period went into effect, various legislative changes designed to promote affordable housing development have been enacted, and residential development trends, specifically within the City, have changed significantly. In consideration of the aforementioned trends, and in combination with the findings of analyses conducted by the City during the suspension period, staff is recommending that the City’s Inclusionary Housing Ordinance be repealed, in its entirety. The proposed Municipal Code Amendment to repeal the City’s Inclusionary Housing Ordinance is being presented to the Planning Commission for their review and recommendation on to the City Council.

BACKGROUND

On May 24, 2005, the City adopted Ordinance No. 778 (Municipal Code Amendment 05-1), enacting what is currently Chapter 19.30 “Inclusionary Housing” of the Duarte Development Code[1] (Exhibit D). The ordinance established a City-wide Inclusionary Housing Program requiring new residential developments to provide a minimum of fifteen percent (15%) of units affordable to very low, low, and moderate income households, or alternatively, pay an in-lieu fee to be deposited

[1] After adoption of the comprehensive Duarte Development Code in 2010, Chapter 19.68 “Inclusionary Housing” of the Municipal Code was changed to Chapter 19.30 “Inclusionary Housing” of the Development Code.

into an Inclusionary Housing Trust Fund, to be utilized exclusively for the purpose of providing affordable housing throughout the City.

Unfortunately, the success of the City's Inclusionary Housing Program was hampered by several impediments. The Great Recession of 2007-2009 severely hindered new residential development, and the 2012 dissolution of Redevelopment Agencies, along with their affordable housing set-aside funds, meant a loss of funding that was intended to supplement the in-lieu fees deposited into the City's Inclusionary Housing Trust Fund. Ultimately, these circumstances resulted in the production of zero (0) inclusionary housing units and an insufficient amount of in-lieu funds to effectively provide additional affordable housing during the Inclusionary Housing Program's first ten (10) years.

Given these lackluster results, the City adopted Ordinance No. 865 (Municipal Code Amendment 16-02) on June 28, 2016, effectively suspending the Inclusionary Housing Program for a period of five years by exempting all residential developments securing certificates of occupancy between July 31, 2016 to July 31, 2021 from the requirements of the Inclusionary Housing Program (Exhibit C). The temporary suspension was intended to provide the City with an opportunity to monitor housing developments and trends, and evaluate the Inclusionary Housing Program's efficacy in facilitating the development of affordable housing within the City. As of August 1, 2021, the suspension has ended. At this juncture, the City must evaluate the information gleaned during the suspension period and make a determination as to the future of the Inclusionary Housing Program.

ANALYSIS

As part of the City's 6th Cycle Housing Element Update, and in an effort to better understand the impact of the City's Inclusionary Housing Program upon housing development, an inclusionary housing feasibility analysis was completed by Harris & Associates in August 2020. The analysis, which was incorporated into the City's adopted 2021-2029 Housing Element as Appendix E, made several findings on the impact of inclusionary housing requirements and its efficacy at creating new affordable housing (Exhibit B).

One component of the feasibility analysis' findings related to the way in which the existing Inclusionary Housing Ordinance may be impacting the City's positioning as a desirable location in a competitive development environment. For one, the analysis found that the existing rate of return on multi-family housing developments within the City of Duarte is less than the Los Angeles County average rate of a return on a multi-family housing development. When factoring in the potential in-lieu fees associated with the Inclusionary Housing Program, the rate of return becomes even lower. Combined with the fact that only two (2) other cities within the San Gabriel Valley have implemented Inclusionary Housing Ordinances, the requirements of the City's Inclusionary Housing Program may make the City less appealing for new development and may discourage development altogether. The minimal amount of development that occurred during the first ten (10) years of the Inclusionary Housing Program as compared to the more than 900 residential units that were either in the entitlement process, approved, or under construction in the time following suspension of the Inclusionary Housing Ordinance, points to the Inclusionary Housing Program's encumbrance upon development. Still, if residential development does continue to occur within the City despite the low rate of return and despite the implementation of the Inclusionary Housing Program, the COVID-19 pandemic's impact on the decline of rental rates is likely to further reduce the rate of return on development projects, which in turn may result in a limited and insufficient amount of in-lieu fee revenue, essentially mirroring the same circumstances that were evidenced prior to the suspension of the Inclusionary Housing Program.

The feasibility analysis also describes how State-wide legislative changes have implemented new methods for incentivizing affordable housing development and the associated impact on the feasibility of an Inclusionary Housing Program. Specifically, State mandates related to accessory dwelling units and density bonuses have provided additional tools for enabling and incentivizing the construction of affordable housing through enacting requirements related to the streamlining of the development process. Legislative changes in the available funding mechanisms for affordable housing, such as the establishment of the San Gabriel Valley Regional Housing Trust; the SB 2 grant; and the Low-Income Housing Tax Credit program, have provided additional resources to cities and developers for funding affordable housing. Collectively, these changes provide alternative tools for encouraging and developing the construction of affordable housing without placing any additional financial burden upon developers.

Ultimately, the feasibility analysis suggests that the use of alternative tools that do not increase construction and development costs in the same manner as the Inclusionary Housing Program, are likely to be more effective at producing affordable housing within the City. Thus, while the City remains committed to its goal of encouraging the development of affordable housing and providing affordable housing opportunities within Duarte, as outlined in the recently adopted 2021-2029 Housing Element, staff believes the repeal of the adopted Inclusionary Housing Ordinance is the most effective path forward to accomplishing these goals.

ENVIRONMENTAL

The proposal has been reviewed with respect to environmental impact and staff has determined that the project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of Title 14 of the California Code of Regulations and exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. No further environmental review is required at this time in accordance with CEQA Guidelines, and a Notice of Exemption has been prepared for the project.

RECOMMENDATION

Staff recommends that the Planning Commission review and adopt PC Resolution 22-02 (Exhibit A), recommending that the City Council approve Municipal Code Amendment 22-02 repealing Chapter 19.30 “Inclusionary Housing” and modifying Chapter 19.10 “Residential Zones” and Chapter 19.160 “Definitions” within Title 19 “Development Code” of the City of Duarte Municipal Code thereby terminating the City's Inclusionary Housing Program.

Respectfully Submitted,

Maia McCurley
Associate Planner

ATTACHMENTS

Exhibit A – PC Resolution 22-02
Exhibit A-1 – Proposed Municipal Code Amendments
Exhibit B – Appendix E of the City of Duarte 2021-2029 Housing Element
Exhibit C – City Council Staff Report for Municipal Code Amendment 16-02 (June 2016)
Exhibit D – City Council Staff Report for Municipal Code Amendment 05-1 (May 2005)

RESOLUTION NO. PC 22-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE, RECOMMENDING THE DUARTE CITY COUNCIL ADOPT MUNICIPAL CODE AMENDMENT 22-02 REPEALING CHAPTER 19.30 "INCLUSIONARY HOUSING" AND MODIFYING CHAPTER 19.10 "RESIDENTIAL ZONES" AND CHAPTER 19.160 "DEFINITIONS" WITHIN TITLE 19 "DEVELOPMENT CODE" OF THE CITY OF DUARTE MUNICIPAL CODE THEREBY TERMINATING THE CITY'S INCLUSIONARY HOUSING PROGRAM

WHEREAS, on May 24, 2005, the City adopted Ordinance No. 778 (Municipal Code Amendment 05-1), enacting what is currently Chapter 19.30 "Inclusionary Housing" of the Duarte Development Code, which established a City-wide Inclusionary Housing Program; and

WHEREAS, in the years following the creation of the Inclusionary Housing Program, a combination of circumstances, including the dissolution of Redevelopment Agencies and associated elimination of the required 20% set-aside funds for low-and-moderate-income housing, as well as the Great Recession of 2007-2009, ultimately resulted in the production of zero inclusionary housing units and an insufficient amount of in-lieu funds necessary to effectively provide additional affordable housing; and

WHEREAS, on June 28, 2016, the City adopted Ordinance No. 865 (Municipal Code Amendment 16-02), temporarily suspending the Inclusionary Housing Program for a five-year period between July 31, 2016 and July 31, 2021 allowing the City the opportunity to monitor housing developments and trends, and evaluate the Inclusionary Housing Program's efficacy in facilitating the development of affordable housing within the City; and

WHEREAS, several legislative changes related to density bonus requirements, accessory dwelling units, and affordable housing funding mechanisms have occurred in the time since the Inclusionary Housing Program was suspended, offering additional tools to encourage and promote the development of affordable housing; and

WHEREAS, during the suspension period the City has seen an exponential rise in housing development with a combination of more than 900 residential units in the entitlement process, approved, or under construction; and

WHEREAS, the findings of the analyses the City conducted during the suspension period demonstrated that the Inclusionary Housing Program may have a negative impact on residential construction and that alternative incentives and policy measures may be more effective and productive at furthering the City's goal of providing affordable housing; and

WHEREAS, the City remains committed to advancing efforts to provide affordable housing within the City and the findings of the analyses completed within recent years support the repeal of the City's Inclusionary Housing Ordinance so as not to impede the development of affordable housing within the City; and

WHEREAS, Section 19.142.030 through 19.142.060 of the Duarte Development Code authorizes both the Planning Commission and the City Council to consider such requests subject to certain findings; and

WHEREAS, the Community Development Department has reviewed the project with respect to environmental impact and has determined that the application is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of Title 14 of the California Code of Regulations and exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations; and

WHEREAS, a notice of a public hearing on the proposed Municipal Code Amendment was published in the local newspaper and posted at three (3) public locations pursuant to Duarte Development Code Chapter 19.146 and in accordance with applicable State law; and

WHEREAS, the Planning Commission of the City of Duarte held a duly noticed public hearing on February 28, 2022 at 7 PM, whereupon the Planning Commission received and considered the staff report and all of the information, evidence, and public testimony presented in connection with the foregoing public hearing on the proposed Municipal Code Amendment; and

WHEREAS, after careful study and the holding of a duly noticed public hearing, the Planning Commission recommends the City Council adopt and approve Municipal Code Amendment 22-02 repealing Chapter 19.30 "Inclusionary Housing" of the Duarte Development Code, and modifying Chapter 19.10 "Residential Zones" and Chapter 19.160 "Definitions" of the Duarte Development Code to remove references to Chapter 19.30 and the Inclusionary Housing Program.

NOW, THEREFORE, the Planning Commission of the City of Duarte resolves as follows:

SECTION 1. All of the facts set forth in the Recitals of this Resolution are true and correct, and incorporated herein by this reference.

SECTION 2. Based upon substantial evidence presented to the Planning Commission during the public hearing, including written staff reports and verbal testimony, the Planning Commission of the City of Duarte makes the following findings in accordance with the required findings for Development Code Amendments, as set forth in Duarte Development Code Section 19.142.060:

1. *The proposed amendment is consistent with the General Plan and any applicable specific plan.*

   Policies 2.1.2 and 4.1.1 of the Duarte Housing Element direct the City to support the use of both regulatory and financial incentives for affordable housing. With the repeal of the Inclusionary Housing Ordinance, the City will continue to utilize incentives to facilitate the development of affordable housing. Such incentives include the State's Density Bonus Law, as well as the promotion of State funding resources and grants for affordable housing. Additionally, the City will continue to respond to changes in State housing law intended to encourage production of affordable housing. The City's adoption of an Accessory Dwelling Unit Ordinance compliant with State law is an example of the City's responsiveness to State housing law changes, and is also demonstrative of the City's commitment to promoting and incentivizing development of affordable housing units in a manner that is consistent with the City's values and character.

2. *The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.*

   Goal 2 of the adopted Housing Element is for the City to reduce governmental constraints to housing, while maintaining community character. The findings of the analyses conducted during the Inclusionary Housing Program's five-year suspension period demonstrated that the added costs created through the City's Inclusionary Housing Program make development of affordable housing less financially feasible and thus, the program constitutes a governmental constraint on the creation of affordable housing. Repeal of the Inclusionary Housing Ordinance will remove this constraint, which will benefit the public interest.

   Goal 5 of the adopted Housing Element is for the City to provide adequate housing sites through appropriate land use, zoning, and specific plan designations to accommodate Duarte's share of regional housing needs. The City's evaluation of the Inclusionary Housing Program found the added expense of developing residential units within the City inhibited the development of both affordable housing units as well as market-rate housing units. Therefore, the repeal of the Inclusionary Housing Ordinance will help encourage the development of residential units meeting the housing needs of varying household incomes within the community, which will enhance the overall welfare of the community.

3. *The proposed amendment is internally consistent with other applicable provisions of this Development Code.*

   The repeal of Chapter 19.30 will not affect the internal consistency of the Development Code. The proposed modifications within Chapter 19.10 and

Chapter 19.160 will remove references to Chapter 19.30 to ensure the Development Code remains consistent throughout.

SECTION 3. In adopting this Resolution, the Planning Commission finds that the project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of Title 14 of the California Code of Regulations and exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Therefore, no further environmental review is required in accordance with CEQA Guidelines, and a Notice of Exemption has been prepared for this project.

SECTION 4. The Planning Commission hereby recommends that the City Council adopt and approve the proposed Municipal Code Amendment 22-02 repealing Chapter 19.30 "Inclusionary Housing" and modifying Chapter 19.10 "Residential Zones" and Chapter 19.160 "Definitions" within Title 19 "Development Code" of the City of Duarte Municipal Code thereby terminating the City's Inclusionary Housing Program.

SECTION 5. The Chairperson shall sign this Resolution and the Secretary shall attest and certify to the passage and adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Duarte at a regular meeting held on the 28th day of February, 2022.

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Sara Vasquez, Chairperson
City of Duarte Planning Commission

ATTEST:

____
Craig Hensley, Community Development Director

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } ss.
CITY OF DUARTE

I, Craig Hensley, Community Development Director of the City of Duarte, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Duarte held on February 28, 2022, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

____
Craig Hensley, Community Development Director

EXHIBIT A-1 TO PC RESOLUTION 22-02
Proposed Municipal Code Amendments

SECTION 1. Chapter 19.30 “Inclusionary Housing” of Article 3 “Regulations Applicable to All Zones” to Title 19 “Development Code” of the City of Duarte Municipal Code is hereby repealed in its entirety.

SECTION 2. The following chapters of the Duarte Development Code are amended to read as follows:

Modifications to Chapters 19.10 “Residential Zones” and 19.160 “Definitions”

(DELETIONS SHOWN AS ~~DOUBLE STRIKE THROUGH~~):

A. Modify 19.10.090 “Other applicable regulations” of Chapter 19.10 “Residential Zones” of Article 2 “Zones, Allowable Uses, and Development Standards” to Title 19 “Development Code” of the City of Duarte Municipal Code as follows:

19.10.090 – Other applicable regulations.

In addition to the requirements contained in this Chapter 19.10 (Residential Zones), regulations contained in the following Chapters may apply to development in residential zones.

~~Chapter 19.30, Inclusionary Housing.~~
Chapter 19.32, Site Planning and General Development Standards.
Chapter 19.34, Accessory Structures.
Chapter 19.36, Fences, Walls, and Hedges.
Chapter 19.38, Off-Street Parking Regulations and Design.
Chapter 19.40, Landscaping.
Chapter 19.42, Signs.
Chapter 19.44, Architectural and Design Standards.
Chapter 19.48, Property Maintenance.
Chapter 19.50, Performance Standards.
Chapter 19.52, Sustainable Development Practices.
Article 4, Standards for Specific Land Uses and Activities.

B. Modify “Inclusionary Housing Agreement,” “Inclusionary Housing Plan,” “Inclusionary Units,” and “In-lieu Fee” of 19.160.100 “‘I’ Definitions” of Chapter 19.160 “Definitions” of Article 9 “Definitions” to Title 19 “Development Code” of the City of Duarte Municipal Code as follows:

~~*Inclusionary Housing Agreement.* A legally binding agreement between a developer and the city in form and substance satisfactory to the director and city attorney, setting forth those provisions necessary to ensure that the requirements of this chapter, whether through the provision of inclusionary units or through an alternative method permitted by this Chapter, are satisfied.~~

~~*Inclusionary Housing Plan.* The plan referenced in Section 19.30 and further described in the regulations, which sets forth the manner in which the requirements of this chapter will be implemented for a particular residential development.~~

~~*Inclusionary Units.* A dwelling unit that will be offered for rent or sale to very low, low, or moderate-income households, at the applicable affordable housing cost, pursuant to this chapter.~~

Industry. Establishments engaged in the manufacturing of finished parts or products, either from raw materials or previously prepared materials, within an enclosed structure. Includes processing, fabrication, assembly, treatment, testing (e.g., laboratories), packaging, incidental office storage, sales, and distribution of the parts or products; and laundry and dry cleaning plants. Excludes vehicle/equipment rentals (“Vehicle/Equipment Rentals”), vehicle repair and service (“Vehicle Repair and Service”), vehicle sales (“Vehicle Sales”).

- *Light.* The manufacture and/or processing of consumer-oriented goods in a manner that does not produce noticeable odors, air emissions, or other environmental effects, and that has limited associated trucking activity. Light industries generally require limited amounts of raw materials to produce goods. Examples of light industries include, but are not limited to, the manufacture of clothes, shoes, furniture, consumer electronics, and household items.

- Heavy. The manufacture and/or processing of materials and goods utilizing large quantities of raw materials, and generally requiring high capitalization and production of large quantities of output. Heavy industry often sells output to other business users rather than consumers. Characteristics of heavy industry include, but are not limited to, heavy trucking activity, noise, emissions requiring federal or state environmental permits, use of large quantities of hazardous materials as defined the U.S. Environmental Protection Agency, and requirement for specialized permits from federal and state occupational health and safety agencies.

Inflation Rate. The rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

~~*In-lieu Fee.* The fee-based alternative to the provision of on-site affordable units. See Section 19.30.040 (In-Lieu Fee).~~

Internet/Cyber Café. An establishment that provides more than three computers and/or other electronic devices, for access to that system commonly referred to as the “internet,” e-mail, playing video games over the Internet or other network system, and/or access to other computer software programs, to the public for compensation and/or for public access. Internet café is also synonymous with PC café, cyber café, internet gaming center, computer/internet rental and cyber centers. See “Commercial Recreation and Entertainment.”

Appendix E

Inclusionary Housing Feasibility Study and
Affordable Housing Overlay Feasibility

Inclusionary Housing Feasibility Study

August 28, 2020

Prepared for:

City of Duarte

Prepared by:

Harris & Associates

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Irvine, California 92614
(949) 655-3900

Table of Contents

Appendices

Section 1 Executive Summary

As part of the 6th cycle Housing Element process currently underway. Harris & Associates ("Harris") was retained by Karen Warner Associates to review the feasibility of implementing the City of Duarte's ("City") Inclusionary Housing Ordinance that was suspended in 2016 ("IH Ordinance"). Harris assessed the impact of the IH Ordinance on the financial feasibility of a prototype rental project in Duarte (similar to what a developer would do when considering a market-rate housing project). A pro forma analysis (i.e., a comparison of development costs and rental revenues) of a prototype rental development was prepared to determine if an Inclusionary Housing In-Lieu Fee ("In-Lieu Fee") would affect the financial feasibility of development. The findings of the analysis include the following:

1. **Overall, the required rate of return on multi-family housing projects in Duarte is below the Los Angeles County average *without* the In-Lieu Fee –** According to CBRE, the average rate of return for a multifamily project in LA County during the 4th Quarter of 2019 was 4.6%. The pro forma analysis shows a 4.32% rate of return without the In-Lieu Fees, but falls to 4.30% if In-Lieu Fees are included. With the rate of return below average to start with, additional fees will likely discourage housing development.
2. **Declining Rents Resulting from the COVID-19 Pandemic Will Further Diminish Rate of Return -** Rent rates throughout LA County have decreased while vacancy rates have increased in recent months due to the COVID-19 pandemic. A lack of rental income growth negatively effects the financial feasibility of rental projects, especially as land values and prices have not declined. These trends could further suppress rates of return and limit the amount of potential In-Lieu Fee revenues, similar to previous years.
3. **Only 2 Other San Gabriel Valley Cities have Inclusionary Housing Requirements -** An analysis of San Gabriel Valley cities show that only Pasadena and Claremont have implemented IH Ordinances. Implementing In-Lieu Fees in the City could create an uncompetitive environment for developers who may choose to pursue projects in neighboring cities without Inclusionary Housing Requirements.
4. **Recent Legislative Changes Provide Incentives for Affordable Housing and Funding Sources (State vs. Local Funding) –** Legislative changes affecting all cities in the State since 2016 have provided incentives to developers to build affordable housing. Density bonus requirements allow for more units to be built on a site if affordable units are included. Accessory dwelling units are also allowed Statewide which is anticipated to produce additional market rate and affordable housing units. There has also been a shift in how affordable housing is funded – State grants are available for the planning and development of housing (including affordable housing). Prior to 2012, funding was available at the local level through Redevelopment.
5. **Implementing an IH Ordinance Could Have a Negative Impact on Residential Construction -** Prior to 2016, the City experienced relatively slow housing production, even after the economy had recovered from the Great Recession. However, since 2017 (the first year after the IH Ordinance was suspended) over 900 residential units are either in the planning stages, have been approved or are under construction in the City. Therefore, other incentives

and policy measures that do not increase construction costs in the City may be more effective at increasing affordable housing development in the City.

Section 2 Background

IH Ordinances attempt to increase the supply of affordable units by requiring developers to reserve a certain percentage of housing units for very low, low and moderate-income households in new residential developments, or pay an In-Lieu Fee. In-Lieu Fees are typically deposited into a housing trust fund where they can be used to finance affordable housing development.

In 2005, the City adopted an IH Ordinance which imposed a 15% affordability requirement on new residential development projects with an option to pay an In-Lieu Fee of $6.50 per square foot instead of constructing the affordable units. However, the City adopted a 5-year suspension of the program in 2016 due to the fact that residential development was not being proposed and therefore not generating In-Lieu Fee revenues. The program's lack of success can likely be attributed to the following factors:

- **The Great Recession** – housing production in the City diminished significantly due to market forces related to the 2008-09 recession.

- **Redevelopment Dissolution** – in 2012, the State of California moved to dissolve all Redevelopment Agencies. Prior to 2012, 20% of property tax increment revenues were set-aside to help finance the development of affordable housing. However, Redevelopment Dissolution eliminated the 20% affordable housing set-aside, which deprived the Inclusionary Housing Trust Fund from a steady source of funds to leverage collected In-Lieu Fee revenues.

The City is reevaluating the feasibility of the IH Ordinance in connection with the 6^{th} Cycle Housing Element currently being prepared.

Section 3 Assumptions

Harris analyzed the financial feasibility of developing a multifamily rental project in the City under the current IH Ordinance. Harris modeled its analysis after an actual multifamily development in the City in order to accurately portray a scenario that reflects current market conditions and prospective development types. The most representative project appears to be The Residences at Duarte Station ("Project"), which would replace an existing warehouse with a six-story apartment building. Table 1 below provides further details about the Project.

Table 1 **Project Characteristics**	
Project Name:	The Residences at Duarte Station
Address:	1700 Business Center Drive
Building Size:	114,602 sq. ft.
Lot Size:	4.31 Acres
Units:	
Studio	10
1-Bed	194
2-Bed	132
3-Bed	8
Total	**344**
Sources: Duarte Partners, LLC; CoStar	

Harris created a model development pro forma, including a development budget and 30-year cash flow, in order to analyze the financial feasibility of the Project and determine how the In-Lieu Fee would affect the expected rate of return. The development budget and cash flow utilize the following assumptions:

- **Land and Acquisition Costs –** determined the actual sale price of the property in 2019 using CoStar, one of the largest providers of information, analytics and marketing services for the commercial real estate industry.
- **Construction Costs –** estimated using 2020 Marshall & Swift construction cost estimates and assuming a 5% contingency.
- **Financing and Soft Costs –** calculated as a percentage of total Hard Costs based on March 2020 Reports from the University of California, Riverside and the University of California, Berkeley's Terner Center for Housing Innovation.
- **Rent Rates –** estimated using average rents and unit mixes from similar developments in the San Gabriel Valley with a 10% decrease to account for location. Rents and unit mixes of comparable developments were obtained in July 2020 using CoStar.
- **Operating Expenses –** annual per unit operating expenses derived from a 2016 Operating Expense Analysis prepared by CohnReznick, LLP

Section 4 Feasibility Analysis

4.1 Rate of Return

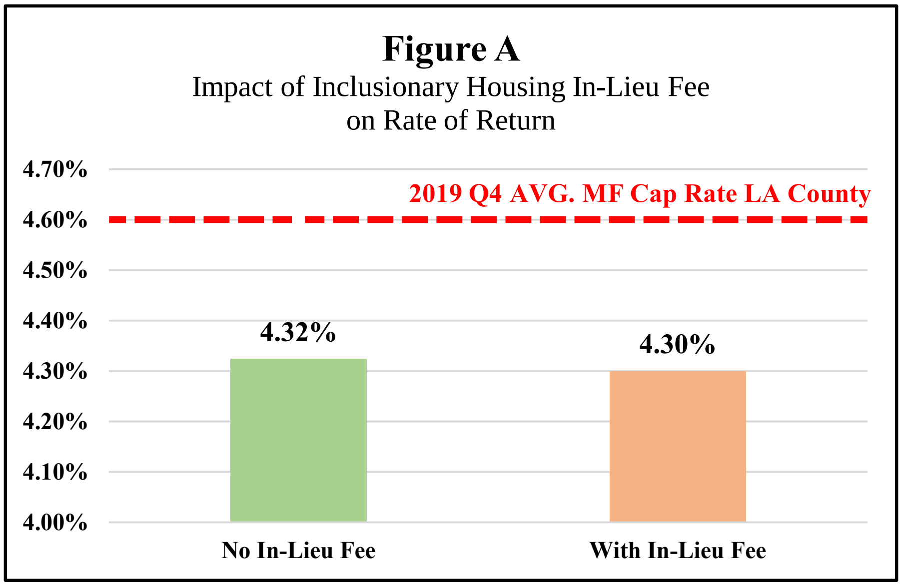
Harris estimated the capitalization rate ("Cap Rate") of the Project in order to determine the impacts of the In-Lieu Fee on the expected rate of return. The Cap Rate is a measure of a property's rate of return in a single year by dividing its annual net operating income (effective gross rent - operating expenses) by the total initial investment. Table 2 below provides a summary of the pro forma analysis for the Project. The analysis includes two scenarios: ***Scenario A does not include any In-Lieu Fees while Scenario B incorporates the In-Lieu Fees in the development cost***.

Table 2
Pro Forma Analysis - The Residences at Duarte Station

	Scenario A No In-Lieu Fee	Scenario B With In-Lieu Fee
Development Costs:		
Land & Acquisition Costs	$ 24,730,603	$ 24,730,603
Hard Costs	78,458,370	78,458,370
Soft Costs	18,830,009	18,830,009
Financing Costs	11,309,706	11,309,706
In-Lieu Fee[1]	-	744,913
Total Development Costs	**$ 133,328,688**	**$ 134,073,601**
Net Operating Income	**$ 5,765,101**	**$ 5,765,101**
Rate of Return (Cap Rate)	**4.32%**	**4.30%**

[1] $6.50 per sq. ft.
Sources: CoStar; CBRE; UC Riverside; UC Berkeley; Duarte Partners LLC; CohnReznick, LLP, Marshall & Swift

The expected Cap Rate for the Project without In-Lieu Fees is 4.32% compared to 4.30% with In-Lieu Fees (a difference of 0.02%). Appendix A provides a 30-year cash flow detailing the Cap Rate calculations for Scenarios A and B. While the addition of In-Lieu Fees to the development budget has a relatively small impact on the overall Cap Rate, it is important to note that the Cap Rate under both scenarios falls below industry standards. According to CBRE, the average Cap Rate for multifamily investments in Los Angeles County in the 4th quarter of 2019 was 4.6%. Figure A illustrates that the Project does not meet this benchmark under both scenarios. Given the existing market conditions and low expected rates of return, adding additional costs such as In-Lieu Fees could render a rental project financially infeasible and be the final cost that would dissuade a developer from moving forward with a residential project in Duarte.



4.2 COVID-19 Pandemic

In previous years, the City's IH Ordinance did not generate sufficient revenues to fund affordable housing development. The City received a total of $508,045 in In-Lieu Fee deposits while the program was in effect, due in large part to market conditions related to the Great Recession of 2008-09.

The economic impacts of the COVID-19 pandemic may further influence the feasibility of implementing an IH Ordinance by creating market conditions similar to previous years. More specifically, rent rates have decreased while vacancy rates have increased as a result of the pandemic. An April 2020 CoStar report showed that multifamily rents in Pasadena dropped 2.54% between March 11 and March 30, 2020, while a separate report indicated that County-wide vacancies had reached as high as 5.5% in the 2nd Quarter of 2020. A prolonged recession as a result of the Pandemic, combined with additional development costs in the form of In-Lieu Fees, could lead to minimal In-Lieu Fee deposits comparable to previous years.

4.3 San Gabriel Valley Inclusionary Housing Ordinances

Given current conditions, the Inclusionary Housing requirements could also create an uncompetitive market environment when compared with neighboring cities. An analysis of San Gabriel Valley cities performed by Harris shows that only Pasadena and Claremont have implemented IH Ordinance. IH Ordinances represent less of an impedement to housing development in cities where rent rates and demand for housing are highest. For example, data from the Census Bureau shows that median rents in Pasadena were 5.3% higher than Duarte in 2018. If an IH Ordinance is implemented in the City, developers may opt to develop projects in neighboring Cities with more favorable fee structures.

Section 5 Findings

5.1 Changes in Affordable Housing Funding

Prior to 2011, affordable housing projects in many cities in California were primarily funded through Redevelopment. It is estimated that Redevelopment projects Statewide generated approximately $1 billion per year. After Redevelopment Dissolution, the most significant funding source to fund affordable housing was lost. However, the following are some of the significant events that have occurred in recent years in an effort to replace the former funding source:

1. The State passed a number of legislative measures to significantly streamline housing development and remove barriers to building housing (e.g. automatic density bonuses for projects containing affordable units). The State also passed Senate Bill No. 751 establishing the San Gabriel Valley Housing Trust, a Joint Powers Authority funding low low-income and homeless housing (Duarte is a member jurisdiction);

2. A tax on property transfers was established to fund housing initiatives in every city in the state (i.e. Building Homes and Jobs Act ("SB 2")), and has provided for a number of grants to cities and counties for the planning and development of affordable housing projects (this recurring source of revenue will be available to cities annually); and

3. The Low-Income Housing Tax Credit ("LIHTC") program was expanded in 2019, which has been the largest source of funding for affordable housing projects since Redevelopment Dissolution.

It is also important to note that the State is currently examining development impact and other fees imposed on housing projects and it is likely that these types of fees will be scrutinized moving forward as these fees increase the cost and affect the financial feasibility, and potentially discourage, the development of housing.

Overall, over the last ten years, affordable housing sources have shifted from a locally funded activity (i.e., Redevelopment) to a State-funded initiative. Given this shift and the additional grants and other resources through the State, it appears that affordable housing can be encouraged and built using the tools summarized above and described in more detail below.

5.2 Affordable Housing Grants

The State provides several planning grants to cities aimed at increasing affordable housing production. The SB 2 grant establishes a recording fee on all real estate transactions to increase the supply of affordable homes in California. The City was awarded SB 2 grant funding in 2020 to cover the costs of establishing an Acquisition and Rehabilitation program that demonstrates the financial feasibility of the acquisition and rehabilitation of specific multi-family projects in the

City to developers. The intent of this program is to encourage the development community to acquire and rehabilitate existing apartment projects using public and other funding sources to create and preserve income-restricted affordable housing units.

The Local Early Action Planning ("LEAP") grant allocates $119 million for cities and counties, providing one-time grant funding to update their planning documents and implement process improvements that will facilitate acceleration of housing production and help local governments prepare for their 6th cycle Regional Housing Needs Assessment ("RHNA"). The City was awarded preliminary approval of the LEAP grant application in 2020. If awarded, the City will utilize the LEAP grant funds for the 6th Cycle Housing Element, to be completed in 2021.

5.3 Density Bonus Law

The State Density Bonus Law (found in Government Code Sections 65915 – 65918) allows developers to obtain more favorable local development requirements in exchange for offering to build or donate land for affordable or senior units. The Density Bonus Law provides developers with up to a 35% increase in project density depending on the amount of affordable housing provided, and an 80% increase in density for projects which are completely affordable. The Density Bonus Law is a state mandate and is required in every city and county in California, and developers who meet the requirements are entitled to receive the density bonus by-right.

5.4 Low-Income Housing Tax Credits

The Low-Income Housing Tax Credit ("LIHTC") is a tax incentive that subsidizes the acquisition, construction, and rehabilitation of affordable rental housing for low- and moderate-income tenants. The federal government issues tax credits to state and territorial governments, who then award the credits to private developers of affordable rental housing projects. The LIHTC program contains two funding options that subsidize either 30 percent ("4% Tax Credits") or 70% ("9% Tax Credits") of the low-income unit costs in a project. The 9% Tax Credits are more competitive and have stricter requirements with regards to the amount of units reserved for tenants with extremely-low income levels (30% of area median income). In 2019, the State expanded its LIHTC program in the form of an additional $500 million to provide more subsidies to qualifying developers.

5.5 Accessory Dwelling Units

Accessory Dwelling Units ("ADUs") are separate small dwelling units embedded within single-family residential properties. ADUs often provide housing at more affordable rent rates due to their low cost and immediate feasibility, with homeowners building in their own backyards. The ADU legislation at the State level requires all cities and counties to allow these units with very minimal requirements and the waiver of development fees if the units are below a certain square footage threshold. According to McKinsey Global Institute, ADUs could account for as much as half of California's new development capacity in coming decades.

Appendix A

The Residences at Duarte Station
30-year Cash Flow
Without Inclusionary Housing In-Lieu Fee

Cash Flow																
Year	Growth Rate	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Gross Rental Income	3.00%	9,170,150	9,445,254	9,728,612	10,020,470	10,321,084	10,630,717	10,949,638	11,278,127	11,616,471	11,964,965	12,323,914	12,693,632	13,074,441	13,466,674	13,870,674
Other Income																
Potential Gross Income		9,170,150	9,445,254	9,728,612	10,020,470	10,321,084	10,630,717	10,949,638	11,278,127	11,616,471	11,964,965	12,323,914	12,693,632	13,074,441	13,466,674	13,870,674
Vacancy	7.00%	641,910	661,168	681,003	701,433	722,476	744,150	766,475	789,469	813,153	837,548	862,674	888,554	915,211	942,667	970,947
Effective Gross Income		8,528,239	8,784,086	9,047,609	9,319,037	9,598,608	9,886,566	10,183,163	10,488,658	10,803,318	11,127,418	11,461,240	11,805,077	12,159,230	12,524,007	12,899,727
Operating Expenses																
Property Taxes	2.00%	1,031,890	1,052,528	1,073,578	1,095,050	1,116,951	1,139,290	1,162,075	1,185,317	1,209,023	1,233,204	1,257,868	1,283,025	1,308,686	1,334,859	1,361,557
Payroll	3.00%	478,848	493,213	508,010	523,250	538,948	555,116	571,770	588,923	606,590	624,788	643,532	662,838	682,723	703,204	724,301
Administrative	3.00%	229,792	236,686	243,786	251,100	258,633	266,392	274,384	282,615	291,094	299,826	308,821	318,086	327,628	337,457	347,581
Repairs & Maintenance	3.00%	185,072	190,624	196,343	202,233	208,300	214,549	220,986	227,615	234,444	241,477	248,721	256,183	263,868	271,784	279,938
Utilities	3.00%	346,752	357,155	367,869	378,905	390,272	401,981	414,040	426,461	439,255	452,433	466,006	479,986	494,385	509,217	524,494
Insurance	3.00%	89,096	91,769	94,522	97,358	100,278	103,287	106,385	109,577	112,864	116,250	119,738	123,330	127,030	130,840	134,766
Other Expenses	3.00%	1,329,560	1,369,447	1,410,530	1,452,846	1,496,431	1,541,324	1,587,564	1,635,191	1,684,247	1,734,774	1,786,817	1,840,422	1,895,635	1,952,504	2,011,079
Management Fee	3.50% of EGI	298,488	307,443	316,666	326,166	335,951	346,030	356,411	367,103	378,116	389,460	401,143	413,178	425,573	438,340	451,490
Reserve	$300 per unit	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200
Total Op. Exp.		2,763,138	2,832,617	2,903,975	2,977,262	3,052,533	3,129,844	3,209,250	3,290,811	3,374,586	3,460,638	3,549,029	3,639,825	3,733,093	3,828,903	3,927,326
Net Operating Income		**5,765,101**	5,951,469	6,143,634	6,341,775	6,546,075	6,756,723	6,973,913	7,197,847	7,428,732	7,666,780	7,912,211	8,165,252	8,426,136	8,695,103	8,972,401
Annual Debt Service		5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131
Equity Cash Flow		751,970	938,338	1,130,503	1,328,644	1,532,944	1,743,591	1,960,782	2,184,716	2,415,601	2,653,649	2,899,080	3,152,121	3,413,005	3,681,972	3,959,270
Total Development Cost		**133,328,688**														
Rate of Return		**4.32%**														

Cash Flow																
Year	Growth Rate	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Gross Rental Income	3.00%	14,286,794	14,715,398	15,156,860	15,611,566	16,079,913	16,562,310	17,059,179	17,570,955	18,098,083	18,641,026	19,200,257	19,776,264	20,369,552	20,980,639	21,610,058
Other Income																
Potential Gross Income		14,286,794	14,715,398	15,156,860	15,611,566	16,079,913	16,562,310	17,059,179	17,570,955	18,098,083	18,641,026	19,200,257	19,776,264	20,369,552	20,980,639	21,610,058
Vacancy	7.00%	1,000,076	1,030,078	1,060,980	1,092,810	1,125,594	1,159,362	1,194,143	1,229,967	1,266,866	1,304,872	1,344,018	1,384,339	1,425,869	1,468,645	1,512,704
Effective Gross Income		13,286,719	13,685,320	14,095,880	14,518,756	14,954,319	15,402,948	15,865,037	16,340,988	16,831,218	17,336,154	17,856,239	18,391,926	18,943,684	19,511,994	20,097,354
Operating Expenses																
Property Taxes	2.00%	1,388,788	1,416,563	1,444,895	1,473,793	1,503,268	1,533,334	1,564,001	1,595,281	1,627,186	1,659,730	1,692,924	1,726,783	1,761,319	1,796,545	1,832,476
Payroll	3.00%	746,030	768,410	791,463	815,207	839,663	864,853	890,798	917,522	945,048	973,399	1,002,601	1,032,679	1,063,660	1,095,570	1,128,437
Administrative	3.00%	358,008	368,749	379,811	391,205	402,942	415,030	427,481	440,305	453,514	467,120	481,133	495,567	510,434	525,747	541,520
Repairs & Maintenance	3.00%	288,336	296,986	305,896	315,073	324,525	334,261	344,288	354,617	365,256	376,213	387,500	399,125	411,098	423,431	436,134
Utilities	3.00%	540,228	556,435	573,128	590,322	608,032	626,273	645,061	664,413	684,345	704,875	726,022	747,802	770,236	793,343	817,144
Insurance	3.00%	138,809	142,973	147,262	151,680	156,230	160,917	165,745	170,717	175,839	181,114	186,547	192,144	197,908	203,845	209,961
Other Expenses	3.00%	2,071,411	2,133,553	2,197,560	2,263,487	2,331,392	2,401,333	2,473,373	2,547,574	2,624,002	2,702,722	2,783,803	2,867,317	2,953,337	3,041,937	3,133,195
Management Fee	3.50% of EGI	465,035	478,986	493,356	508,156	523,401	539,103	555,276	571,935	589,093	606,765	624,968	643,717	663,029	682,920	703,407
Reserve	$300 per unit	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200
Total Op. Exp.		4,028,434	4,132,303	4,239,011	4,348,636	4,461,261	4,576,970	4,695,850	4,817,990	4,943,480	5,072,417	5,204,896	5,341,018	5,480,885	5,624,602	5,772,279
Net Operating Income		9,258,285	9,553,017	9,856,869	10,170,120	10,493,058	10,825,978	11,169,187	11,522,998	11,887,737	12,263,737	12,651,343	13,050,908	13,462,799	13,887,392	14,325,075
Annual Debt Service		5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131
Equity Cash Flow		4,245,153	4,539,886	4,843,738	5,156,989	5,479,926	5,812,847	6,156,055	6,509,867	6,874,606	7,250,606	7,638,211	8,037,777	8,449,668	8,874,261	9,311,944

Appendix A

The Residences at Duarte Station
30-year Cash Flow
With Inclusionary Housing In-Lieu Fee

Cash Flow																
Year	Growth Rate	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Gross Rental Income	3.00%	9,170,150	9,445,254	9,728,612	10,020,470	10,321,084	10,630,717	10,949,638	11,278,127	11,616,471	11,964,965	12,323,914	12,693,632	13,074,441	13,466,674	13,870,674
Other Income																
Potential Gross Income		9,170,150	9,445,254	9,728,612	10,020,470	10,321,084	10,630,717	10,949,638	11,278,127	11,616,471	11,964,965	12,323,914	12,693,632	13,074,441	13,466,674	13,870,674
Vacancy	7.00%	641,910	661,168	681,003	701,433	722,476	744,150	766,475	789,469	813,153	837,548	862,674	888,554	915,211	942,667	970,947
Effective Gross Income		8,528,239	8,784,086	9,047,609	9,319,037	9,598,608	9,886,566	10,183,163	10,488,658	10,803,318	11,127,418	11,461,240	11,805,077	12,159,230	12,524,007	12,899,727
Operating Expenses																
Property Taxes	2.00%	1,031,890	1,052,528	1,073,578	1,095,050	1,116,951	1,139,290	1,162,075	1,185,317	1,209,023	1,233,204	1,257,868	1,283,025	1,308,686	1,334,859	1,361,557
Payroll	3.00%	478,848	493,213	508,010	523,250	538,948	555,116	571,770	588,923	606,590	624,788	643,532	662,838	682,723	703,204	724,301
Administrative	3.00%	229,792	236,686	243,786	251,100	258,633	266,392	274,384	282,615	291,094	299,826	308,821	318,086	327,628	337,457	347,581
Repairs & Maintenance	3.00%	185,072	190,624	196,343	202,233	208,300	214,549	220,986	227,615	234,444	241,477	248,721	256,183	263,868	271,784	279,938
Utilities	3.00%	346,752	357,155	367,869	378,905	390,272	401,981	414,040	426,461	439,255	452,433	466,006	479,986	494,385	509,217	524,494
Insurance	3.00%	89,096	91,769	94,522	97,358	100,278	103,287	106,385	109,577	112,864	116,250	119,738	123,330	127,030	130,840	134,766
Other Expenses	3.00%	1,329,560	1,369,447	1,410,530	1,452,846	1,496,431	1,541,324	1,587,564	1,635,191	1,684,247	1,734,774	1,786,817	1,840,422	1,895,635	1,952,504	2,011,079
Management Fee	3.50% of EGI	298,488	307,443	316,666	326,166	335,951	346,030	356,411	367,103	378,116	389,460	401,143	413,178	425,573	438,340	451,490
Reserve	$300 per unit	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200
Total Op. Exp.		2,763,138	2,832,617	2,903,975	2,977,262	3,052,533	3,129,844	3,209,250	3,290,811	3,374,586	3,460,638	3,549,029	3,639,825	3,733,093	3,828,903	3,927,326
Net Operating Income		**5,765,101**	5,951,469	6,143,634	6,341,775	6,546,075	6,756,723	6,973,913	7,197,847	7,428,732	7,666,780	7,912,211	8,165,252	8,426,136	8,695,103	8,972,401
Annual Debt Service		5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131
Equity Cash Flow		751,970	938,338	1,130,503	1,328,644	1,532,944	1,743,591	1,960,782	2,184,716	2,415,601	2,653,649	2,899,080	3,152,121	3,413,005	3,681,972	3,959,270
Total Development Cost		**134,073,601**														
Rate of Return		4.30%														

Cash Flow																
Year	Growth Rate	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Gross Rental Income	3.00%	14,286,794	14,715,398	15,156,860	15,611,566	16,079,913	16,562,310	17,059,179	17,570,955	18,098,083	18,641,026	19,200,257	19,776,264	20,369,552	20,980,639	21,610,058
Other Income																
Potential Gross Income		14,286,794	14,715,398	15,156,860	15,611,566	16,079,913	16,562,310	17,059,179	17,570,955	18,098,083	18,641,026	19,200,257	19,776,264	20,369,552	20,980,639	21,610,058
Vacancy	7.00%	1,000,076	1,030,078	1,060,980	1,092,810	1,125,594	1,159,362	1,194,143	1,229,967	1,266,866	1,304,872	1,344,018	1,384,339	1,425,869	1,468,645	1,512,704
Effective Gross Income		13,286,719	13,685,320	14,095,880	14,518,756	14,954,319	15,402,948	15,865,037	16,340,988	16,831,218	17,336,154	17,856,239	18,391,926	18,943,684	19,511,994	20,097,354
Operating Expenses																
Property Taxes	2.00%	1,388,788	1,416,563	1,444,895	1,473,793	1,503,268	1,533,334	1,564,001	1,595,281	1,627,186	1,659,730	1,692,924	1,726,783	1,761,319	1,796,545	1,832,476
Payroll	3.00%	746,030	768,410	791,463	815,207	839,663	864,853	890,798	917,522	945,048	973,399	1,002,601	1,032,679	1,063,660	1,095,570	1,128,437
Administrative	3.00%	358,008	368,749	379,811	391,205	402,942	415,030	427,481	440,305	453,514	467,120	481,133	495,567	510,434	525,747	541,520
Repairs & Maintenance	3.00%	288,336	296,986	305,896	315,073	324,525	334,261	344,288	354,617	365,256	376,213	387,500	399,125	411,098	423,431	436,134
Utilities	3.00%	540,228	556,435	573,128	590,322	608,032	626,273	645,061	664,413	684,345	704,875	726,022	747,802	770,236	793,343	817,144
Insurance	3.00%	138,809	142,973	147,262	151,680	156,230	160,917	165,745	170,717	175,839	181,114	186,547	192,144	197,908	203,845	209,961
Other Expenses	3.00%	2,071,411	2,133,553	2,197,560	2,263,487	2,331,392	2,401,333	2,473,373	2,547,574	2,624,002	2,702,722	2,783,803	2,867,317	2,953,337	3,041,937	3,133,195
Management Fee	3.50% of EGI	465,035	478,986	493,356	508,156	523,401	539,103	555,276	571,935	589,093	606,765	624,968	643,717	663,029	682,920	703,407
Reserve	$300 per unit	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200	103,200
Total Op. Exp.		4,028,434	4,132,303	4,239,011	4,348,636	4,461,261	4,576,970	4,695,850	4,817,990	4,943,480	5,072,417	5,204,896	5,341,018	5,480,885	5,624,602	5,772,279
Net Operating Income		9,258,285	9,553,017	9,856,869	10,170,120	10,493,058	10,825,978	11,169,187	11,522,998	11,887,737	12,263,737	12,651,343	13,050,908	13,462,799	13,887,392	14,325,075
Annual Debt Service		5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131	5,013,131
Equity Cash Flow		4,245,153	4,539,886	4,843,738	5,156,989	5,479,926	5,812,847	6,156,055	6,509,867	6,874,606	7,250,606	7,638,211	8,037,777	8,449,668	8,874,261	9,311,944

Affordable Housing Overlay - Development Feasibility Analysis
City of Duarte

Site No.	Site 7	Site 8	Site 9	Site 10	Site 11	Site 12
Address	2100 block Huntington Dr	2400 block Huntington Dr	1159 Three Ranch Rd	1806 & 1812 Mountain Ave	2012 & 2018 Mountain Ave	Duarte Park Apartments
Lot Size	1.8	1.4	1.1	0.35	0.6	4.38
Proposed Density	30 du/ac	30 du/ac	30 du/ac	30 du/ac	30 du/ac	30 du/ac
Total Units	**54**	**40**	**30**	**11**	**18**	**131**
Permanent Supportive Housing	0	0	0	5	12	0
Permanent Supportive Housing - PBV Subsidized[1]	12	9	8	5	5	0
Very Low Income[2]	13	10	9	0	0	100
Low Income[3]	28	20	12	0	0	30
Manager's Unit	1	1	1	1	1	1
Rental Income & Operating Expenses						
Annual Gross Rent Income	$690,931	$505,134	$384,659	$114,684	$169,256	$2,138,697
Annual Operating Expenses[4]	$324,000	$240,000	$180,000	$66,000	$108,000	$668,100
Net Operating Income (Income - Expenses)	**$366,931**	**$265,134**	**$204,659**	**$48,684**	**$61,256**	**$1,470,597**
Max Supportable Debt[5]	*$6,005,134*	*$4,339,138*	*$3,349,411*	*$796,754*	*$1,002,502*	*$24,067,543*
Sources						
Federal Tax Credit Equity[6]	$18,380,999	$13,615,555	$10,211,666	$3,744,278	$6,127,000	$11,561,442
Deferred Developer Fee	$2,162,860	$1,602,119	$1,201,589	$440,583	$720,953	$5,246,938
Local Funding	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Permanent Loan	$6,005,134	$4,339,138	$3,349,411	$796,754	$1,002,502	$24,067,543
City Land Donation[7]	$0	$878,422	$0	$723,035	$0	$0
Total Sources	**$27,548,993**	**$21,435,234**	**$15,762,667**	**$6,704,650**	**$8,850,455**	**$41,875,923**
Uses						
Development Costs[8]	$26,355,388	$19,522,510	$14,641,882	$5,368,690	$8,785,129	$41,091,571
Total Uses	**$26,355,388**	**$19,522,510**	**$14,641,882**	**$5,368,690**	**$8,785,129**	**$41,091,571**
Gap (Sources - Uses)	**$1,193,605**	**$1,912,724**	**$1,120,784**	**$1,335,959**	**$65,326**	**$784,352**

(1) Assumes units will be subsidized using Department of Housing and Urban Development (HUD) project-based vouchers.

(2) Unit counts are based on San Gabriel Valley projects awarded 9% Low-Income Housing Tax Credits (LIHTCs) in 2020. Rents are calculated assuming incomes between 40% and 50% of Area Median Income (AMI). Duarte Park Apartments (Site 12) currently has 100 very low units with project-based vouchers. Therefore, 2021 HUD fair market rents are assumed for these units.

(3) Unit counts are based on San Gabriel Valley projects awarded 9% LIHTCs in 2020. Rents are calculated assuming income of 60% of Area Median Income (AMI).

(4) Operating expenses are based on 2021 Operating Cost Minimums established by the California Tax Credit Allocation Committee (CTCAC).

(5) Assumes 4% interest rate with an ammortization period of 35 years and a debt coverage ratio of 1.15.

(6) Assumes projects on Sites 7-11 will be awarded 9% LIHTCs based on San Gabriel Valley projects awarded 9% LIHTCs in 2021; Site 12 assumed 4% LIHTCs because there is no permanent supportive housing component.

(7) The City owns 2 of the 6 parcels that comprise Site 8. The City owns both parcels that comprise Site 10.

(8) Development costs based on average per unit development costs of San Gabriel Valley projects awarded 9% LIHTCs in 2020.Site 12 assumes that 101 units will be rehabilitated and 30 units will be newly constructed.

Sources: California Tax Credit Allocation Committee, Los Angeles County Development Authority Utility Allowance Schedule Effective 07-01-2020, 2021 HUD Fair Market Rents, 2021 HCD State Income Limits

CITY COUNCIL STAFF REPORT

Date:	June 14, 2016
To:	Mayor and City Council
Location:	City-wide
Project:	**Municipal Code Amendment 16-02**; Proposed Amendment to Municipal Code Section 19.30.050 – A Temporary, Five-Year Suspension of the Enforcement of the City's Inclusionary Housing Program

SUMMARY

The City adopted an Inclusionary Housing Program (Program) in 2005 with the intentions of requiring a percentage of new residential housing units to be reserved for moderate, low and very-low income households. Affordable units were required to be dispersed throughout the development, in an effort to generate a mix of income levels within residential areas, regardless of economic status and income level. Alternatively, residential developers were given the ability to pay a fee, in-lieu of providing the units on-site, which is collected in an Inclusionary Housing Trust Fund.

Several impediments have occurred since the adoption of the Program, including the loss of Redevelopment Agencies and the elimination of the 20% affordable set-aside. Set-aside funds have been the key factor in producing affordable housing within the community, including assistance to several affordable senior housing projects and the use of silent second programs for homebuyers. The 2008-2009 recession and a relatively lackluster housing starts market has further stifled new residential development; which has led to no produced inclusionary housing units and a dearth of in-lieu fee deposits since the Program's creation.

Based primarily upon these circumstances, Staff is recommending that the City Council review, consider and approve a suspension of the City's Inclusionary Housing Program, as further described in Municipal Code Amendment 16-02. The Code Amendment proposes a temporary suspension of the City's Inclusionary Housing Program for a period of five years. The suspension will allow the City to monitor housing developments and trends in the City, surrounding areas, and State; determine whether the program is helping or hindering the development of affordable housing within the City; as well as allow Staff to focus first on its Regional Housing Needs Assessment (RHNA) allocations for moderate and above-moderate housing, in an effort to gain momentum for residential development in the City generally.

BACKGROUND

In 2005, the City of Duarte enacted Chapter 19.68 of the Duarte Municipal Code, relating to inclusionary housing[1]. Those provisions called for a 15% set-aside of all residential housing

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[1] After adoption of the comprehensive Duarte Development Code in 2010, Chapter 19.68 of the Municipal Code was changed to Chapter 19.30 of the Development Code.

units constructed in the City for affordable housing, or for the payment of a $6.50 per square foot in-lieu-fee, which was set by a resolution of the City Council.

The idea behind the in-lieu-fee option was to create an "Inclusionary Housing Trust Fund," to be used in conjunction with the Duarte Redevelopment Agency's low and moderate-income housing set-aside funds. As originally envisioned, the proceeds of this fund were to be applied in acquiring and rehabilitating apartments and other housing, rehabilitating them, and imposing restrictive covenants to maintain their long-term affordability.

A survey of adjacent communities was conducted prior to the consideration of a proposed code amendment. Arcadia, Glendora, Monrovia, and Temple City responded to our survey and all of these Cities never adopted an Inclusionary Housing Ordinance. In our conversations with these Cities, it was learned that all offer density bonuses to spur the production of affordable housing. The other non-respondent cities included Azusa, Baldwin Park and Covina. Research of their zoning codes reveals that none of these communities currently have an adopted inclusionary housing requirement. There are several Southern California cities that have inclusionary housing requirements, including but not limited to: Los Angeles, Pasadena, Culver City, West Hollywood and Santa Monica. These cities are larger in population, are more urban in nature, and have considerably more affordable housing demands than the suburban San Gabriel Valley cities surveyed.

On May 16, 2016, the Planning Commission held a public hearing to consider Municipal Code Amendment 16-02. At the meeting, the Planning Commission unanimously approved Resolution 16-08 (Exhibit C), recommending the City Council adopt proposed Municipal Code Amendment 16-02.

ANALYSIS

Since this Program's inception, the City has experienced two major impediments to achieving the goals it originally envisioned. First, the broader collapse of the housing market that arose in 2008-2009 seriously impacted residential markets, and particularly the development and construction of new housing, region-wide. Second, the dissolution of redevelopment agencies, and elimination of the 20% affordable set-aside, deprived the Inclusionary Housing Trust Fund with the steady source of funding which was to operate synergistically with collected in-lieu-fees for inclusionary housing.

The result has been a scarcity of new residential development in the City. The consequence has been insufficient funding for the Inclusionary Housing Fund to meet its originally intended purposes. At present, and after some 10 years of existence, the fund's balance is just below $502,000. This sum is insufficient to produce measurably effective results in providing additional affordable housing within the City.

Against this backdrop, the City is still working toward meeting regional housing needs. Duarte has been assigned various targets for achievement of additional housing by the Southern California Association of Governments (SCAG), as a part of its 2013-2021 Regional Housing

Needs Assessment. For Duarte, the need identified spans all income segments, and includes a substantial number of moderate and above-moderate income level housing. Duarte's RHNA targets for the 5th Cycle Planning Period (2013-2021) are as follows for SCAG's various identified income levels:

Extremely Low	44 units
Very Low	87 units
Low	53 units
Moderate	55 units
Above-Moderate	142 units
Total	**381 units**

Since the SCAG's adoption of the 5th Cycle RHNA allocation targets, the City has permitted 41 Very-Low Income and one (1) Low Income dwelling unit, associated with the construction of the Andres Duarte II Senior Housing Project at the corner of Huntington Drive and Pops Road.

As can be seen, the majority of the City's housing need target actually lies within the moderate and above-moderate categories. City staff has been looking at ways to spur residential housing development in the City generally. For new housing starts, the moderate and above-moderate segments appear to be leading the broader housing market recovery, particularly in multi-family segments.

City staff is concerned that under current prevailing housing market conditions, the Inclusionary Housing program may actually be impeding housing development in the City. For instance, using the current in-lieu fee ($6.50 per gross square foot), a new 2,500 sq. ft. detached house with a three-car garage would pay approximately $20,000 in fees; while a new 1,500 sq. ft. townhome/condominium with a two-car garage would contribute approximately $12,000 towards the Inclusionary Trust Fund. These financial requirements discourage residential development in a period where the City has approved or is considering several major projects, including but not limited to: Duarte Station Specific Plan (up to 475 units), Town Center Specific Plan (potential for up to 1,075 units), and 3rd & Oak (potentially 18 units). In fact, analysis of the 3rd and Oak project show that the approximate in-lieu fee collected from this development, projected to be nearly $250,000, would make the project unfeasible to the developer. Furthermore, many of these projects are in direct competition with similar transit-oriented/transit-adjacent, mixed-use, higher density developments that are being considered in adjacent cities that do not have an inclusionary housing program or in-lieu fees.

In addition, the City has experienced a number of commercial vacancies, particularly in commercial centers along its main thoroughfare, Huntington Drive. Spurring residential development, most notably in the moderate and above-moderate segments, may serve to produce additional units, which may improve the demographic profile of the City and its appeal to potential commercial tenants and/or developers.

As such, City staff is proposing a temporary suspension of the City's Inclusionary Housing Program, for a period of five years. The suspension will allow the City to monitor housing developments and trends in the City, surrounding areas, and State; and do so over a meaningful period of time. Other cities that have suspended their Inclusionary Housing program in the last several years include Whittier, Highland, Hercules, Ripon, and Scotts Valley. Data from this observation period will help City staff determine whether the program is helping or hindering the development of affordable housing within the City. Furthermore, the suspension period of five years coincides with the beginning of the next RHNA cycle, which would begin in 2021.

The proposed suspension will also permit City staff to focus first on its current RHNA allocations for moderate and above-moderate housing, in an effort to gain some momentum for residential development in the City generally. In addition, it will allow the City to monitor State law developments centering on potential replacements of the discontinued affordable housing set-aside, which was lost to the State-wide dissolution of redevelopment agencies.

Staff is suggesting suspension of the Inclusionary Housing Program, instead of a reduction or partial refunding of in-lieu-fees, in part because such actions could potentially raise issues triggering prevailing wage requirements on what would otherwise be private housing developments. (See, Cal. Labor Code § 1702(b)(4).) This would potentially create further burdens to the feasibility of new housing development within the City.

The recommendation for a temporary suspension of this program should not be mistaken for an abandonment of, or waning enthusiasm for, or commitment to accomplishing the goals of encouraging affordable housing in Duarte. The City has, and will continue to use, the State's density bonus law to provide incentives for developers to meet this segment of housing need throughout the proposed suspension period. In addition, City staff will continue to look for an impactful and strategic application of existing funds in the Inclusionary Housing Trust Fund during the suspension period. The City will continue to: promote public/private partnerships for the provision of affordable housing, provide regulatory incentives for affordable housing, and will continue to support regional first time buyer and rental assistance programs.

Mechanically, the means by which this temporary suspension will be accomplished is relatively simple. Staff proposes adding a fourth exemption to existing Municipal Code Section 19.30.050, exempting all residential developments within the defined time period from application of the Chapter. Once the period of suspension has expired, the existing provisions of the Inclusionary Housing Program would be fully applicable; or the City could elect to modify the existing Inclusionary Housing Chapter (through a separate Municipal Code Amendment) based upon changes to Inclusionary Housing laws at the State or regional governmental level.

The proposed temporary suspension of the Inclusionary Housing Program would be exempt from review under the California Environmental Quality Act ("CEQA"), under both CEQA regulations section 15273, relating to "Rates, Tolls, Fares, and Charges," and section 15306, relating to "Information Collection."

RECOMMENDATION

Evidenced by the Planning Commission's unanimous approval of PC Resolution 16-08 (Exhibit B), recommending City Council approval of Municipal Code Amendment 16-02, it is recommended that the City Council hold the public hearing and approve proposed Ordinance 16-O-05 (Exhibit C); amending Chapter 19.30.050 (Inclusionary Housing) of the Duarte Development Code, which would thereby suspend the City's Inclusionary Housing Program for a period of five (5) years.

Respectfully Submitted,

for

David B. Cosgrove
City Attorney

Jason Golding
City Planner

ATTACHMENTS

Exhibit A – Current Inclusionary Housing Chapter (DDC 19.30)
Exhibit B – PC Resolution 16-08
Exhibit C – Ordinance 16-O-05

To: Ed Cox, Director of Community Development

From: Sandi Shannon, Redevelopment Coordinator

Date: May 3, 2005

Subject: Inclusionary Housing Ordinance

INTRODUCTION

The need for an inclusionary housing program is driven by the City's goal to add affordable housing units to the city's existing housing stock, as specified in the Housing Element of Duarte's General Plan. To address the Housing Element goal of providing more affordable housing, the proposed Inclusionary Housing Ordinance (Exhibit A) will establish a formal policy and procedure requiring private developers to contribute towards affordable housing units that are necessary to balance their creation of market-rate housing units. The ordinance gives private developers the option of either (1) developing as part of their development a certain percentage of housing units that are affordable to households with very-low, low, and moderate income levels, as those levels are defined in State law, or (2) paying an in-lieu fee in an amount to be determined by resolution adopted by the City Council.

This Staff report describes the need for the ordinance, the basic requirements of the ordinance, and other proposed actions to implement the terms of the ordinance.

BACKGROUND

In Southern California, as well as most other areas of the country, the need for affordable housing has increased over the last three decades to become one of the most difficult problems facing state and local government today. No one public policy or program can fully address this overwhelming need. Cities and counties must look at a number of programs and procedures to help meet their goals of providing as much affordable housing as possible to their constituencies.

Thus, various policies and programs are necessary to provide affordable housing, and the proposed Inclusionary Housing Ordinance is an additional tool towards achieving that goal. The term "inclusionary" can be defined as a mandatory requirement or voluntary goal to reserve a certain percentage of housing units for very low, low, and moderate-income households in new residential developments. When spread throughout new development, affordable units contribute to a mix of housing for various income levels.

The first successful inclusionary housing ordinance was adopted in Montgomery County, Maryland in 1973. Since then various inclusionary housing ordinances have been adopted by cities and counties throughout the United States. In California, as of March 2003, more than 120 cities and counties had adopted such ordinances.

These legislative actions demonstrate that as market-rate housing continues to climb in cost, developers are increasingly expected to provide a percentage of affordable housing units in their proposals for new residential development. An inclusionary housing ordinance can serve to provide developers with an established and equitable means of determining how to provide affordable units. The ordinance can establish an inclusionary percentage of affordable units, target income levels that would most benefit from affordable units, specify length of affordability, and provide more than one option for provision of the required units (for example, construct affordable units within the new development, or pay an in-lieu fee).

Typically, an inclusionary housing ordinance authorizes the setting of the in-lieu fee by resolution and also authorizes a means to establish regulations (also to be adopted by resolution) for implementing the requirements of the ordinance.

DISCUSSION

The proposed Inclusionary Housing Ordinance (Exhibit A) will comply with the adopted and State-certified Housing Element of the Duarte General Plan. Goal 5.2 of the Housing Element is to "Increase the supply of low and moderate-income housing units throughout the city.". Program 21 of the Housing Element states: "Prepare and adopt an inclusionary zoning ordinance that will require provisions for affordable housing as part of any residential development that reaches defined thresholds…".

The proposed ordinance includes provisions requiring either on-site development of 15% affordable units or the payment of an in-lieu fee, as well as certain other requirements all designed to implement Program 21 to meet Goal 5.2.

The proposed ordinance will require developers of new residential developments consisting of four (4) or more for-sale units, or 10 or more rental units, to either provide 15% affordable units on-site as part of the development, or alternatively to pay an in-lieu fee in an amount to be determined by the City Council by resolution.

Specifically, under the proposed ordinance if the project is a for-sale development, and the developer elects to construct inclusionary units on-site rather than paying the in-lieu fee, the developer would have to sell 15% of the units to moderate income households and those units would be covenanted for affordability for 45 years in accordance with applicable law. For rental projects, the proposed ordinance applies to new rental developments of 10 or more units. If the developer of a rental project of 10 or more units elects to construct the inclusionary units on-site rather than paying the in-lieu fee, the developer would have to rent 15% of the units to very low, low, or and moderate income households, but at least 40% of the 15% (or 6% of the total units) would be required to be rented to very low income households. These inclusionary rental units would be covenanted for affordability for 55 years in accordance with applicable law.

As detailed below, the project developer can pay an in-lieu fee instead of constructing the units on site. Providing the alternative of an in-lieu fee payment elevates the legal basis and validity of the ordinance by providing more than one method of compliance.

- The proposed ordinance further authorizes the City Council to establish regulations (by resolution) to implement the inclusionary housing program.

The proposed ordinance also requires that developers submit an inclusionary housing plan for review and approval by the Community Development Director. The inclusionary housing plan would specify the developer's intended manner of meeting the inclusionary housing requirements that apply to his proposed project. In addition, developers must execute and cause to be recorded an inclusionary housing agreement, unless the developer chooses to pay the in-lieu fee in place of building the required number of affordable units on-site.

IN-LIEU FEE

The proposed ordinance establishes a means of calculating an in-lieu fee to be paid if a developer chooses not to build the required number of affordable units within the proposed development. The fee would then be deposited to City "Inclusionary Housing Trust Fund" account specifically established for the purpose of collecting the in-lieu fees which the City can then use, including in conjunction with the Redevelopment Agency's Low and Moderate Income Housing Set-Aside Fund, to provide more affordable housing units. For example, the City could choose to use the in-lieu fees collected toward purchase of existing apartments which could then be rehabilitated, covenanted as affordable units, and rented (after the City or Redevelopment Agency has sold the apartment complex, probably to a nonprofit housing entity) as very-low and low-income rental units.

As detailed below, Staff is recommending that if the City Council adopts the proposed ordinance (at second reading), that at that time it follow that action with the adoption of a resolution that sets the in-lieu fee for both ownership units and rental units at $6.50 per square foot of gross building area (p/s/f of GBA). "Gross building area" is defined the same as "Floor Area" in Section 19.08.160 of the Duarte Municipal Code (generally sum of the gross horizontal areas of the several floors of a building excluding areas for accessory garage). Arriving at that recommended in-lieu fee required a number of steps.

The method for calculating in-lieu fees has been developed in consultation with Keyser Marston Associates, Inc. ("KMA"), a firm that specializes in redevelopment finance, real estate, and affordable housing. KMA has been instrumental in helping cities throughout the state to develop policies on affordable housing issues, including analyzing the maximum in-lieu fee that can be legally justified under a "nexus" analysis. The KMA Report describing the analysis and resulting recommendations is attached. (Exhibit B)

Through an analysis of the Duarte housing market for both for-sale and rental units, KMA has estimated the affordability gap between housing market rates and income levels for very-low, low, and moderate income households. Once the affordability gap was estimated, the maximum justified in-lieu fees for ownership and rental units could be determined. In the KMA Report the in-lieu fee for ownership units is arrived at by determining the average affordability gap ($274,000) and multiplying it by the required percentage of affordable units per project (15%), resulting in an inclusionary housing obligation cost of $41,100 per unit ($274,000 x .15% = $41,100). The in-lieu fee could thus legally be as high, on a per unit basis, as $41,100 per unit for all units developed in a project. As an alternate to a per unit cost, the affordable housing cost gap can be determined on a per square foot of gross building area (p/s/f of GBA) basis. The average size new home in Duarte is estimated to be 1,750 square feet and thus the gap of $41,100 divided by 1,750 s.f. equals $23.43 per square foot of gross building area (p/s/f of GBA). Thus, on a p/s/f of GBA basis, an in-lieu fee of $23.43 could be legally justified (rounded down in the report to $23 p/s/f of GBA).

The same type of analysis was performed for development of rental units, where the affordability gap analysis showed a gap of $138,000 per very-low income rental unit and a $26,000 gap per moderate income rental unit, for a weighted average gap of $70,800 per rental unit. Applying the same 15% figure to that rental affordability gap results in a cost of $10,620 per unit ($70,800 X 15% = $10,620). Thus the maximum legally justified in-lieu fee on a per unit basis for rental units would be $10,620 for each rental unit developed in a project.

Similar to the ownership unit analysis, the rental unit in-lieu fee can also be determined on a p/s/f of GBA. The KMA Report analyzes the rental in-lieu fee on that basis and determined the maximum legally justified in-lieu fee for each rental unit to be $13.28 p/s/f/ of GBA (rounded down in the KMA Report to $13 p/s/f of GBA).

Thus, the KMA Report provides the analytical nexus for determining the maximum in-lieu fee that could be charged for ownership units at $41,100 per unit or $23 p/s/f of GBA, and for rental units at $10,620 per unit or $13 p/s/f of GBA.

Based on discussions with KMA, Staff believes that a fee based on p/s/f of GBA is a more equitable method of assessing the in-lieu fee than a per-unit basis and avoids the situation where the developer of, for example, 20 large units would pay the same as the developer of 20 small units.

But an in-lieu fee set at $23 p/s/f of GBA for ownership units and $13 p/s/f/ of GBA for rental units, i.e., in-lieu fees set at the maximum legally justified amounts, could serve as a sufficient disincentive to a developer to prevent the building of new housing in Duarte. Therefore, part of KMA's analysis in its report is what other cities in the region charge. KMA found that the in-lieu fees of other cities range from $1 to $41 p/s/f of GBA, but generally tended to be under $13 p/s/f of GBA.

To arrive at the recommended in-lieu fee of $6.50 p/s/f of GBA, Staff focused on the City Council's stated goal of acquiring existing rental units, rehabilitating those units, and then partnering with a non-profit housing entity to rent those units at very low and low income rents. Thus, the affordability gap for rental units became an important criterion. Again, under the KMA analysis, the maximum legally justified in-lieu fee for rental units is $13 p/s/f of GBA. But charging the maximum justified fee can serve as a disincentive to development. In analyzing the in-lieu fee amounts from other jurisdictions, and balancing the need for the fee with an amount that can, at this time, be supported and not act as a disincentive, Staff is recommending the in-lieu fee for both ownership units and rental units be set at $6.50 p/s/f of GBA, which is one-half of maximum justified rental in-lieu fee amount.

Because of the cost to develop units on-site will be greater than the cost of the in-lieu fee, we would expect developers to elect to pay the in-lieu fee. For example, let's assume a new 18 home development with nine 3-bedroom units of 1600 s/f of GBA each, and nine 4-bedroom units of 1800 s/f of GBA each. If the developer constructs the inclusionary units on-site, the developer would have to construct 3 inclusionary units for sale to moderate income buyers (two 3-bedroom units and one 4-bedroom unit). Utilizing the figures in the KMA Report, the cost to the developer to subsidize the inclusionary units is estimated to be $254,000 for each 3-bedroom unit and $280,600 for the 4-bedroom unit, for a total cost to the developer of $788,600 in total lost sales price. For that same 18-unit project, the in-lieu fee would be $6.50 p/s/f of GBA X 30,600 s/f of GBA = $198,900. We would expect the developer to pay the $198,900 rather than forego the opportunity to make $589,700 ($788,600 less the in-lieu payment of $198,900).

The in-lieu fee may be reviewed periodically as housing market conditions change. This review could be timed to be done at the same intervals that the Implementation Plan is reviewed by the Redevelopment Agency, at five-year intervals, and changed when needed by resolution.

As noted above, the in-lieu fee would be adopted by resolution at the time of the second reading of the ordinance, if the proposed ordinance is adopted. A copy of that proposed resolution establishing the in-lieu fee amount is attached as Exhibit C.

INCLUSIONARY HOUSING REGULATIONS

To implement the ordinance, Staff is recommending that, at the time of the second reading of the ordinance if the proposed ordinance is adopted, the City Council adopt a resolution enacting the Inclusionary Housing Regulations. The proposed Inclusionary Housing Regulations and the draft resolution which adopts the regulations are attached as Exhibit D. The regulations set out detailed procedures for submittal of the inclusionary housing plan or, in the alternative, payment of the in-lieu fee, sale or rental of inclusionary units if built on-site, the establishment and use of the Inclusionary Housing Trust Fund, etc.

CEQA COMPLIANCE

An initial study, Environmental Impact Assessment #207, was prepared for the proposed ordinance and implementing actions. EIA #207 indicates that the proposal will not result in any significant adverse impacts to the environment. A draft Negative Declaration was prepared and made available for public review. The public review period was from March 21 to April 11, 2005. No public comments were received.

A copy of the EIA #207 and the Negative Declaration are attached as Exhibit E. Staff is recommending that as its first action the City Council adopt the Resolution attached as Exhibit F approving the Negative Declaration.

PLANNING COMMISSION REVIEW AND RECOMMENDATION

On April 4, 2005, the Planning Commission of the City of Duarte held a duly noticed public hearing on the proposed Inclusionary Housing Ordinance. Following that public hearing the Planning Commission voted to recommend to the City Council the adoption of the Negative Declaration and the adoption of the Ordinance. A copy of the pertinent portion of the minutes of that Commission meeting is attached as Exhibit G.

PUBLIC HEARING NOTICE

A Public Hearing Notice was published in "The Sunday Star" (i.e. "The Duartean") on April 10, 2005 and posted at City Hall, the Public Safety Office and the Public Library. The public hearing was opened by the City Council at its regular meeting of April 26, 2005, and continued to the meeting of May 10, 2005.

RECOMMENDATION

Staff recommends the City Council take the following actions at the May 10, 2005 City Council meeting:

Call the continued public hearing to order and invite public testimony;
Close the public hearing;
Adopt the Resolution approving the Negative Declaration.
Adopt the Inclusionary Housing Ordinance for first reading.

If the above actions are taken, Staff will propose the City Council take the following actions at the May 24, 2005 City Council meeting:

Adopt the Inclusionary Housing Ordinance (second reading)
Adopt Inclusionary Housing In-Lieu Fee by Resolution
Adopt Inclusionary Housing Regulations by Resolution

ATTACHMENTS

Exhibit A	Inclusionary Housing Ordinance
Exhibit B	Keyser Marston Report
Exhibit C	Draft Resolution Establishing In-Lieu Fee Amount
Exhibit D	Inclusionary Housing Regulations and Draft Resolution Adopting Regulations
Exhibit E	EIA #207 (Initial Study) and Negative Declaration
Exhibit F	Resolution Adopting Negative Declaration
Exhibit G	Planning Commission Minutes

RESOLUTION NO. PC 22-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE, RECOMMENDING THE DUARTE CITY COUNCIL ADOPT MUNICIPAL CODE AMENDMENT 22-02 REPEALING CHAPTER 19.30 "INCLUSIONARY HOUSING" AND MODIFYING CHAPTER 19.10 "RESIDENTIAL ZONES" AND CHAPTER 19.160 "DEFINITIONS" WITHIN TITLE 19 "DEVELOPMENT CODE" OF THE CITY OF DUARTE MUNICIPAL CODE THEREBY TERMINATING THE CITY'S INCLUSIONARY HOUSING PROGRAM

WHEREAS, on May 24, 2005, the City adopted Ordinance No. 778 (Municipal Code Amendment 05-1), enacting what is currently Chapter 19.30 "Inclusionary Housing" of the Duarte Development Code, which established a City-wide Inclusionary Housing Program; and

WHEREAS, in the years following the creation of the Inclusionary Housing Program, a combination of circumstances, including the dissolution of Redevelopment Agencies and associated elimination of the required 20% set-aside funds for low-and-moderate-income housing, as well as the Great Recession of 2007-2009, ultimately resulted in the production of zero inclusionary housing units and an insufficient amount of in-lieu funds necessary to effectively provide additional affordable housing; and

WHEREAS, on June 28, 2016, the City adopted Ordinance No. 865 (Municipal Code Amendment 16-02), temporarily suspending the Inclusionary Housing Program for a five-year period between July 31, 2016 and July 31, 2021 allowing the City the opportunity to monitor housing developments and trends, and evaluate the Inclusionary Housing Program's efficacy in facilitating the development of affordable housing within the City; and

WHEREAS, several legislative changes related to density bonus requirements, accessory dwelling units, and affordable housing funding mechanisms have occurred in the time since the Inclusionary Housing Program was suspended, offering additional tools to encourage and promote the development of affordable housing; and

WHEREAS, during the suspension period the City has seen an exponential rise in housing development with a combination of more than 900 residential units in the entitlement process, approved, or under construction; and

WHEREAS, the findings of the analyses the City conducted during the suspension period demonstrated that the Inclusionary Housing Program may have a negative impact on residential construction and that alternative incentives and policy measures may be more effective and productive at furthering the City's goal of providing affordable housing; and

WHEREAS, the City remains committed to advancing efforts to provide affordable housing within the City and the findings of the analyses completed within recent years support the repeal of the City's Inclusionary Housing Ordinance so as not to impede the development of affordable housing within the City; and

WHEREAS, Section 19.142.030 through 19.142.060 of the Duarte Development Code authorizes both the Planning Commission and the City Council to consider such requests subject to certain findings; and

WHEREAS, the Community Development Department has reviewed the project with respect to environmental impact and has determined that the application is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of Title 14 of the California Code of Regulations and exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations; and

WHEREAS, a notice of a public hearing on the proposed Municipal Code Amendment was published in the local newspaper and posted at three (3) public locations pursuant to Duarte Development Code Chapter 19.146 and in accordance with applicable State law; and

WHEREAS, the Planning Commission of the City of Duarte held a duly noticed public hearing on February 28, 2022 at 7 PM, whereupon the Planning Commission received and considered the staff report and all of the information, evidence, and public testimony presented in connection with the foregoing public hearing on the proposed Municipal Code Amendment; and

WHEREAS, after careful study and the holding of a duly noticed public hearing, the Planning Commission recommends the City Council adopt and approve Municipal Code Amendment 22-02 repealing Chapter 19.30 "Inclusionary Housing" of the Duarte Development Code, and modifying Chapter 19.10 "Residential Zones" and Chapter 19.160 "Definitions" of the Duarte Development Code to remove references to Chapter 19.30 and the Inclusionary Housing Program.

NOW, THEREFORE, the Planning Commission of the City of Duarte resolves as follows:

SECTION 1. All of the facts set forth in the Recitals of this Resolution are true and correct, and incorporated herein by this reference.

SECTION 2. Based upon substantial evidence presented to the Planning Commission during the public hearing, including written staff reports and verbal testimony, the Planning Commission of the City of Duarte makes the following findings in accordance with the required findings for Development Code Amendments, as set forth in Duarte Development Code Section 19.142.060:

1. *The proposed amendment is consistent with the General Plan and any applicable specific plan.*

   Policies 2.1.2 and 4.1.1 of the Duarte Housing Element direct the City to support the use of both regulatory and financial incentives for affordable housing. With the repeal of the Inclusionary Housing Ordinance, the City will continue to utilize incentives to facilitate the development of affordable housing. Such incentives include the State's Density Bonus Law, as well as the promotion of State funding resources and grants for affordable housing. Additionally, the City will continue to respond to changes in State housing law intended to encourage production of affordable housing. The City's adoption of an Accessory Dwelling Unit Ordinance compliant with State law is an example of the City's responsiveness to State housing law changes, and is also demonstrative of the City's commitment to promoting and incentivizing development of affordable housing units in a manner that is consistent with the City's values and character.

2. *The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.*

   Goal 2 of the adopted Housing Element is for the City to reduce governmental constraints to housing, while maintaining community character. The findings of the analyses conducted during the Inclusionary Housing Program's five-year suspension period demonstrated that the added costs created through the City's Inclusionary Housing Program make development of affordable housing less financially feasible and thus, the program constitutes a governmental constraint on the creation of affordable housing. Repeal of the Inclusionary Housing Ordinance will remove this constraint, which will benefit the public interest.

   Goal 5 of the adopted Housing Element is for the City to provide adequate housing sites through appropriate land use, zoning, and specific plan designations to accommodate Duarte's share of regional housing needs. The City's evaluation of the Inclusionary Housing Program found the added expense of developing residential units within the City inhibited the development of both affordable housing units as well as market-rate housing units. Therefore, the repeal of the Inclusionary Housing Ordinance will help encourage the development of residential units meeting the housing needs of varying household incomes within the community, which will enhance the overall welfare of the community.

3. *The proposed amendment is internally consistent with other applicable provisions of this Development Code.*

   The repeal of Chapter 19.30 will not affect the internal consistency of the Development Code. The proposed modifications within Chapter 19.10 and

Chapter 19.160 will remove references to Chapter 19.30 to ensure the Development Code remains consistent throughout.

SECTION 3. In adopting this Resolution, the Planning Commission finds that the project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of Title 14 of the California Code of Regulations and exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Therefore, no further environmental review is required in accordance with CEQA Guidelines, and a Notice of Exemption has been prepared for this project.

SECTION 4. The Planning Commission hereby recommends that the City Council adopt and approve the proposed Municipal Code Amendment 22-02 repealing Chapter 19.30 “Inclusionary Housing” and modifying Chapter 19.10 “Residential Zones” and Chapter 19.160 “Definitions” within Title 19 “Development Code” of the City of Duarte Municipal Code thereby terminating the City’s Inclusionary Housing Program.

SECTION 5. The Chairperson shall sign this Resolution and the Secretary shall attest and certify to the passage and adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Duarte at a regular meeting held on the 28th day of February, 2022.

____
Sara Vasquez, Chairperson
City of Duarte Planning Commission

ATTEST:

____
Craig Hensley, Community Development Director

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } ss.
CITY OF DUARTE

I, Craig Hensley, Community Development Director of the City of Duarte, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Duarte held on February 28, 2022, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

____

Craig Hensley, Community Development Director

MEMORANDUM

TO: Planning Commission

FROM: Nick Baldwin, Associate Planner

DATE: February 28, 2022

SUBJECT: **CONTINUANCE OF CONDITIONAL USE PERMIT 21-02**

The subject hearing item was initially scheduled to the January 18, 2022 Planning Commission meeting and was continued to the February 28, 2022 meeting. This item is being continued again and will be re-noticed when it is ready to be placed on a Planning Commission meeting agenda.

PC RESOLUTION 21-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE DETERMINING THAT THE PROPOSED REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW THE PROPOSED MASSAGE BUSINESS WITHIN THE COMMERCIAL UNIT AT 2163 HUNTINGTON DRIVE MEETS THE REQUIRED FINDINGS DESCRIBED UNDER DUARTE DEVELOPMENT CODE 19.114.050(B) AND THUS APPROVES CONDITIONAL USE PERMIT 2021-02 SUBJECT TO CONDITIONS OF APPROVAL