

DATE ISSUED: February 12, 2001

REPORT NO. 01-030

ATTENTION: Land Use and Housing Committee
Agenda of February 14, 2001

SUBJECT: Status of Housing Element and Implementation of Housing Element Programs

REFERENCE: Managers Report P-00-127

SUMMARY

Issue - Should the Land Use and Housing Committee direct City staff and Housing Commission staff to proceed on the programs as recommended in this report?

Manager's Recommendation - Direct City staff and Housing Commission staff to proceed on the programs as recommended in this report.

Other Recommendations - None.

Fiscal Impact - None with this action.

BACKGROUND

In August 2000, the City Council authorized submittal of the draft Housing Element to the State of California Department of Housing and Community Development (HCD) for review. This workshop is the first opportunity to discuss housing policy issues with the Land Use and Housing (LU&H) Committee since that time and provides an update on progress made. Additionally, as a result of recent Council discussions on a specific development project and public comment, several housing related items have been referred to the Planning Department for follow-up. These items are also addressed in this report.

By law, HCD must review and certify the Housing Element to be in compliance with state Housing Element law. At the August City Council hearing, the Council directed that a resolution adopted by the Planning Commission be forwarded to HCD as part of the submittal and that the programs recommended in the resolution be incorporated into the draft Element. Specifically, the resolution included direction for the following actions in order to facilitate housing affordability. Most of these actions will require adoption of legislation by the City Council to actually implement.

- a. Develop a flexible inclusionary housing program with incentives.
- b. Incorporate minimum density levels into the City's development regulations.
- c. Protect Single Room Occupancy hotel (SRO) resources to the maximum extent allowed by law.
- d. Target a higher percentage of Housing Commission resources for First-Time Homebuyer Assistance, Rehabilitation and Rental Subsidies to the Planned Urbanizing Communities.

- e. Reinststate the original funding commitment to the Housing Trust Fund to maximize local resources for leveraging and financing for affordable housing.
- f. Reaffirm the City's commitment to jobs-housing balance and implementation of the City Council's Policy on Balanced Communities.

DISCUSSION

Status of the Housing Element

The State of California's Department of Housing and Community Development (HCD) has reviewed the draft Housing Element and asked City and Housing Commission staff to do additional work. Some of this work has been completed; some of it is underway. The biggest task remaining is an inventory of the City's vacant and potentially redevelopable land by zoning. Unfortunately, the City's land use data base by zoning is not up-to-date and considerable work is needed to reconcile the land inventory by zoning with SANDAG's projection of remaining developable land which was provided in the initial submittal to HCD.

Additionally, HCD has asked for further analysis of constraints to permit processing and additional programs to address those constraints. The Development Services Department is continuing to study ways of further reducing permit processing times and to remove constraints. Planning staff and Development Services staff have met to discuss possible programs to add to the Housing Element. One possibility might be to recommend that the City Council raise the thresholds for projects which require discretionary review in order to increase the number of ministerial reviews. Another possibility might be to reduce the decision-making level from a Process 3 to a Process 2 for some types of multiple dwelling projects. This will require further discussion since it runs counter to community planning groups' desire for community review of development projects.

Staff is hoping to be able to complete the additional work requested by HCD and resubmit the Housing Element in approximately four to eight weeks. After HCD support, staff would return to Council with a recommendation for adoption of the Housing Element.

Status of City Council Resolution Action Items

The City Council action to forward the Housing Element to the State incorporated the resolution items recommended by the Planning Commission. The status on each of these items is reviewed below.

A. Inclusionary Housing

Staff is compiling information on successful inclusionary housing programs of other jurisdictions in California and elsewhere in the nation. Many of the programs are operable in smaller jurisdictions with a high concentration in the Bay Area. In the San Diego region, Carlsbad, Chula Vista, Coronado, Del Mar, Encinitas, Oceanside, Poway, San Marcos, Solana Beach and Vista have inclusionary housing programs.

There are many variables and issues which must be considered. Some of the most important are the minimum size of projects which would be included in the program, affordability requirements (e.g., low income, moderate income) and length of affordability, opportunities for in-lieu fees, and options for satisfying the requirement on- or off-site. A critically important issue is what incentives and offsets are provided to help make the units affordable.

City and Housing Commission staff intend to create a working committee to consist of all of the major stakeholders, including the development industry, the business and biotech community, affordable housing advocates, the Community Planners Committee, environmentalists and other affected interests to consider an inclusionary housing program. Staff intends to return to the LU&H Committee with a preliminary proposal within 90 days of creation of the committee.

In the interim, staff intends to continue to seek affordable housing commitments from applicants requesting a community plan amendment. In the past year, staff has been able to obtain commitments from a number of applicants for low income or moderate income units. Staff anticipates that these efforts will continue and that the requests will range from approximately 10 - 20% of total project units. The length and terms of affordability will depend on the economics associated with individual projects until a permanent program establishes standards.

The intent of an inclusionary housing program would be to avoid any effect on the policies of the North City Future Urbanizing Area Framework Plan. The north city area is the only area of the City where there is an affordable housing requirement of 20% which has been in place since the late 1980's. Inclusionary housing programs could play a role in leveraging density in the City of Villages strategy.

B. Density Minimums

Staff is currently studying alternatives for incorporating density minimums into the multiple dwelling unit zones of the Land Development Code. Factors that need to be considered to develop workable density minimums are: 1) minimums need to relate well to the applicable community plan goals and density range; 2) they should be attainable when parking requirements are taken into consideration; 3) they should not cause project applicants to enter the discretionary permit approval process due to the code threshold levels which trigger discretionary review; and, 4) the need for community plan amendments or rezonings should be minimized.

In order to come up with a proposal that is workable, staff intends to meet with representatives of the development community, the Community Planners Committee, affordable housing advocates and other interested parties. Staff will report back to LU&H within 60 days.

Assuring minimum density is a key for providing needed housing in San Diego for the next 20 years and beyond. The current densities called for in the community plans must be measured as well as the density that will be proposed in the Strategic Framework's City of Villages strategy.

C. Single Room Occupancy (SRO) Hotels

The City Attorney and Housing Commission Counsel have advised staff that the City's SRO regulations must be amended to remove the requirement to replace SRO units which are demolished or converted to other uses. The Ellis Act, codified as Government Code Section 7060, prohibits local jurisdictions from preventing owners of rental housing from discontinuing their rental business. The requirement for replacement units has been interpreted by the state judicial system to be contrary to this provision. Staff intends to recommend to the City Council the adoption of an amendment to the existing regulations to delete the replacement requirements in the near future.

Staff recognizes, however, that SRO-type development is an important component of the City's affordable housing strategy and should be expanded beyond downtown. The City of Villages strategy can be a means of helping to accomplish this goal. Accordingly, an interdisciplinary staff working group is exploring alternatives for strengthening the City's incentives to both facilitate the expansion of the overall SRO Program and specific incentives for the development of SROs beyond downtown.

D. Target Housing Commission Resources to Planned Urbanizing Communities

This recommendation is a result of the City Council's recognition that housing costs generally tends to be higher in the Planned Urbanizing Communities and that the Housing Commission's resources in the form of the First-Time Homebuyer Assistance Program, Rehabilitation and Rent Subsidies tend to be focused primarily in the older communities of San Diego. Both the Strategic Framework and the Housing Element have as stated goals the provision of affordable housing opportunities in proximity to emerging employment opportunities.

To help address this situation, Housing Commission staff is studying the feasibility of directing a greater portion of affordable housing funds to the newer communities of San Diego. Staff will report back to the Planning Commission with a status report within 90 days.

E. Reinstate Original Funding Commitment to Housing Trust Fund

The Housing Trust Fund was established in 1991 by the City Council, with the primary funding source being a Housing Impact Fee on nonresidential development, based on the proportion of low wage jobs generated. In 1996 the fee was reduced by 50%. There are several alternatives for restoring the original funding level or otherwise expanding the fund. One alternative might be to reinstate the initial Housing Impact Fee. Another might be to define additional funding sources for the Housing Trust Fund. These could potentially include private corporate and foundation funds, as has been done in Silicon Valley.

Expansion of the Housing Trust Fund also relates directly to identification of potential new funding sources to close the infrastructure funding gap in the older communities of San Diego. Affordable housing can be considered, in a sense, to be part of a community's infrastructure. Accordingly, Housing Commission staff will get input on workable funding sources from the Strategic Framework citizens committees.

Other Housing Policy Issues

Demolition of Affordable Housing Units

At the request of Councilmember Wear, testimony from Mr. Mel Shapiro during Public Comment at the City Council meeting of January 9, 2001, was referred to the City Manager for response. Mr. Shapiro later testified at the Strategic Framework City Council workshop on January 29. Mr. Shapiro was concerned about recently approved development projects which involved demolition of affordable rental units. He is particularly concerned because rental rates are rising rapidly and the vacancy rate is quite low. He asked the City to develop a policy on demolition to protect the rental housing population in San Diego.

Demolition of rental units in conjunction with redevelopment or intensification has become an issue of increasing concern in San Diego as the rental market has become increasingly constricted and relatively affordable rental units have become increasingly hard to find. Typically, demolition of rental units may occur as part of a project involving intensification or densification of use. An example is the recently approved Center Court apartments in Uptown which involved the demolition of nine rental units and their replacement with 34 new rental units. In general, densification in proximity to transit corridors and adequate public facilities and services are consistent with the City's housing goals. Densification is generally regarded as an essential component for meeting the City's affordable housing needs. However, it may also have the unfortunate side effect of removing existing lower cost units and displacing tenants, some of whom may be lower income households. The City does not typically request rents of units proposed for demolition or the income levels of tenants displaced so there is no way of documenting the extent to which they may have been "affordable." However, when demolition occurs in the Coastal Zone, the City does require certification from the Housing Commission that no lower-income households are residing there.

The issue has also risen in conjunction with the Unified School District's plans under Prop MM to construct several new schools in older communities. It should be noted that school districts are legally an agent of state government and therefore, not subject to City requirements for a building or demolition permit prior to demolition. However, displaced tenants are legally entitled to displacement and relocation benefits.

Some progress has been made on this issue. The City's legislative agenda for the coming year, as approved by the Rules Committee, includes direction to seek state legislation to provide funding to local housing agencies to assist school districts in replacing affordable housing demolished as the result of new school construction.

The Committee may wish to direct consideration of policy options for minimizing demolition of existing housing units, especially those occupied by lower income households. Incentives could be explored to encourage rehabilitation as an alternative to new construction, to replace demolished units within the same price range, and to retain the number of demolished units within new development on the site.

Accordingly, staff has begun researching incentives, and can return to the LU&H Committee with recommendations within 90 days. Any new policy and accompanying implementation program could then be incorporated into the Housing Element.

Affordable Housing Density Bonus Program

In June 1999, the City Council adopted an ordinance to amend the Affordable Housing Density Bonus Program to bring it into compliance with state requirements. The revised regulations have been in effect since June 1999 outside the Coastal Zone. However, as a citywide ordinance, it must also be certified by the California Coastal Commission for consistency with the City's Local Coastal Program.

In November 2000, the Coastal Commission approved the ordinance with modifications proposed by Coastal Commission staff which were opposed by City staff. The ordinance, as amended by the Coastal Commission, would allow for modifications to applicable development regulations as an incentive for affordable housing. There is no limit on the number of such modifications which may be incorporated into a project except when all such incentives have an adverse effect on coastal resources. In those instances, **only the one incentive that is most protective of coastal resources may be granted.** This

change is more restrictive than state law and would cause the City's regulations in the Coastal Zone to be more restrictive than outside the Coastal Zone.

City staff is concerned that the changes made by the Coastal Commission conflict with the City's housing goals and would have the effect of minimizing the effectiveness of the program in the Coastal Zone as an affordable housing tool.

In discussions with the State Department of Housing and Community Development regarding this issue, they have suggested setting up a working group process to include the environmental community, affordable housing advocates, HCD, community representatives, SANDAG and others. This group would expand understanding of how the Density Bonus Program interacts with the Coastal Act and to increase the use of this program in general.

Accordingly, staff intends to recommend to the City Council that it accept and implement the Coastal Commission's modifications and direct the City Manager to create a working group as recommended by HCD.

Companion Units

On November 15, 2000, the LU&H Committee directed staff to process amendments to the companion unit regulations to remove some development restrictions but to retain the discretionary process. The Committee believed that changes to the regulations could promote the use of companion units and help supply needed affordable housing units. Staff is proceeding to with these changes.

CONCLUSION

The shortage of housing, particularly housing affordable to lower income and even moderate income households, has become a critical issue. This report has provided an overview of progress on key housing programs related to the resolution adopted by the Planning Commission and City Council and other important housing issues. Accordingly, staff is requesting direction from LU&H for appropriate follow-up.

Respectfully submitted,

S. Gail Goldberg, AICP
Planning Director

Approved: P. Lamont Ewell
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Elizabeth Morris
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GOLDBERG/MORRIS/MZP

Attachment: *Planning Commission Resolution on Housing Element approved by City Council, July 31, 2000

* NOTE: Attachment not available in electronic format. Copies of the attachment are available for review in the Office of the City Clerk,

(619) 533- 4000.