

DATE ISSUED: May 14, 2003 REPORT NO. 03-096

ATTENTION: Honorable Mayor and City Council
Docket of May 20, 2003

SUBJECT: AFFORDABLE/IN-FILL HOUSING EXPEDITE PROGRAM
IMPLEMENTATION

REFERENCE: Council Policy 600-27; Manager's Report No. 02-085, Affordable/In-fill Housing Expedite Program; Manager's Report No. 03-040, Development Services Department Fee Proposal; Manager's Report No. 03-059, Affordable/In-fill Housing Expedite Program Implementation; Report to the Planning Commission No. P-03-110, Affordable/In-fill Housing Expedite Program Implementation

SUMMARY

Issue - Should the City Council adopt the Affordable/In-Fill Housing Expedite Program, which includes amendments to Council Policy 600-27 and the Municipal Code?

Staff's Recommendation:

1. ADOPT amendments to Council Policy 600-27 in order to implement the new Affordable/In-fill Housing Expedite Program; and
2. ADOPT an amendment to the Municipal Code to grant staff the authority to expire discretionary permit applications after 90-days of inactivity; and
3. ADOPT an amendment to the Municipal Code to allow deviations from development regulations as an additional incentive for affordable/in-fill housing projects.

Planning Commission Recommendation - On April 24, 2003, the Planning Commission voted unanimously to recommend approval of the staff recommendation with several suggested modifications. These modifications are discussed in detail within the "Discussion" section of this report.

Other Recommendations - On April 2, 2003, the Land Use & Housing Committee voted 4-1 to recommend City Council approval of the staff recommendation. On March 26, 2003, the Housing Subcommittee of the Chamber of Commerce voted unanimously to recommend conceptual approval of the staff recommendation. On March 25, 2003, and on April 22, 2003, the Community Planners Committee (CPC) recommended approval of

the staff recommendation. The Affordable/In-Fill Housing Expedite Program has also been presented to the Affordable Housing Task Force, the Technical Advisory Committee (TAC) of the Land Use & Housing Committee, and the Land Development Code Monitoring Team.

Environmental Impact - This activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

Fiscal Impact - Implementation of the Affordable/In-Fill Housing Expedite Program will require additional staff, which are included in the Development Services Department fee proposal, and which will be fully cost recoverable through permit fees.

Code Enforcement Impact - None with this action

Housing Impact Statement - Approval of these actions will result in substantial time savings in the permitting process for affordable/in-fill housing projects, which will translate into direct financial savings for affordable housing developers through reduced holding costs and interest payments.

BACKGROUND

On August 6, 2002 ("Housing Day"), the City Council took several actions relative to housing issues including declaring a housing state of emergency; directing staff to proceed with the creation of an inclusionary housing ordinance; approving the Comprehensive Affordable Housing Collaborative's recommendation to leverage redevelopment set-aside funds to create up to \$55 million in affordable housing financing (the Council authorized staff to release the Notice of Funding Availability on January 28, 2003); and approving the Affordable/In-fill Housing Expedite Program.

As part of the Affordable/In-fill Housing Expedite Program, the City Council directed the City Manager to implement various procedural changes necessary to expedite affordable/in-fill housing projects. These procedural changes include amendments to Council Policy 600-27 (The Affordable/In-fill Housing Expedite Program - See Attachment 1), an amendment to the Municipal Code to grant staff the authority to expire development permit applications due to inactivity (see Attachment 2), and an amendment to the Municipal Code to allow deviations from development regulations as an additional incentive for affordable/in-fill housing projects (see Attachment 3).

DISCUSSION

Planning Commission's Recommendations:

On April 24, 2003, the Planning Commission approved two separate motions associated with the Affordable/In-Fill Housing Expedite Program. The first motion, which was approved unanimously (by a vote of 6-0), recommended approval of the staff recommendation with several modifications. Provided below is a description of the Planning Commission's recommendations,

and the City staff response to those recommendations:

1. Letter "D" on the Eligibility List of Council Policy 600-27 should be revised as follows:

~~Urban In-fill housing development projects of 10 units or more within “Urbanized” areas of the City as defined in the Progress Guide and General Plan. These in-fill development projects are eligible for expedited processing under this policy provided that all of the dwelling units are affordable to households earning no more than 150 percent AMI for both rental and for-sale (first ownership cycle only) units. In-fill housing development projects need to provide a larger number of affordable housing units than they replace, where applicable.~~

City Staff Response: Staff recommends no change to this definition. The definition of Urban In-Fill to include "projects of 10 units or more within Urbanized areas of the City" was part of the original recommendation from the Land Use and Housing Committee and the City Council. In addition, the Planning Commission's change would significantly increase the types of projects eligible for expedited permit processing, which could negatively impact the program's workload and carrying capacity.

2. For the proposed Municipal Code amendment for deviations, the third Supplemental Finding reads, "The deviation is necessary to make it economically feasible for the applicant to develop an affordable/in-fill housing project." The Planning Commission recommended that if staff determines that an economic analysis is necessary to support a deviation, that analysis should be submitted no later than the first review cycle.

City Staff Response: Delete this entire finding from the proposed deviation section. Both the Planning Commission and City staff had difficulty interpreting how to implement this finding. In many cases economic feasibility is difficult to measure without the submittal of a detailed financial analysis, and requiring applicants for small housing projects to submit detailed financial analysis could defeat the purpose of expediting the permit process and/or providing affordable housing. The Planning Commission did not recommend deleting this finding.

3. Staff should create development review guidelines for affordable/in-fill housing projects that community planning groups can utilize for project review.

City Staff Response: Included within the August 6 Manager's Report (No. 02-181) was an alternative proposal to allow residential developers to comply with, and community planning groups to use as review criteria, a set of performance standards rather than specific regulations. The report included examples of the types of performance-based design standards both staff and community planning groups could use as guidelines for residential projects. It is proposed that these standards be incorporated into the Community Orientation Workshop (COW) process for community planning group members, and included within the Development Review Process handbook that is distributed to all COW participants.

4. Status reports regarding the Affordable/In-Fill Housing Expedite Program should be provided on a regular basis to CPC, the Planning Commission, and T.A.C..

City Staff Response: City staff has committed to providing quarterly reports to CPC, the Planning Commission, and TAC.

5. The definition of "Military Housing" should be expanded, and the affordability levels for military housing within Council Policy 600-27 should be consistent with the affordability levels contained within the military's own policy.

City Staff Response: The definition of "Military Housing" has been expanded to read as follows: "Military housing constructed by the Federal Government or through a contract with the Federal Government, for use by active military personnel and their families." Staff does not recommend limiting eligible military housing based on affordability levels because it would be difficult to implement and enforce. If the City Council chooses to limit the type of military housing based on the Housing Commission's definition of affordable, expedited permit processing would be limited to military housing for enlisted military personnel at a rank of E-5 or below. Enlisted military personnel at a rank of E-5 receive a basic allowance for housing of \$1,303 per month, which is at the Low Income to Moderate Income level.

6. For the proposed Municipal Code amendment for deviations, the first Supplemental Finding reads, "The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City." Staff should establish standards to better define the words "materially assist."

City Staff Response: Staff recommends no change to this finding. The issue of whether or not a proposed affordable/in-fill housing project materially assists in accomplishing the goal of providing affordable housing opportunities in economically balanced communities should be at the discretion of the Planning Commission, should be based on the individual merits of a proposal, and determined on a case-by-case basis.

The Planning Commission's second motion, which was approved by a vote of 5-1, is as follows:

"While the Planning Commission supports an expedite program for sustainable buildings, it should have its own expedite program, or, if it is to be included in the Affordable/In-Fill Housing Expedite Program, a project with sustainable buildings would be eligible for expedited permit processing only if the project also includes an affordable housing component."

City Staff Response: Staff does not recommend this change. The proposed Council policy currently provides expedited permit processing for "sustainable buildings" without an affordable housing component as directed by the Land Use and Housing Committee. In addition, the proposed Council policy provides "sustainable building" projects with a higher priority if they do include an affordable housing component.

AMENDMENTS TO COUNCIL POLICY 600-27:

The proposed amendments to Council Policy 600-27 will establish the new Affordable/In-Fill Housing Expedite Program. This new program defines procedures for processing affordable housing projects, and contains the following three primary components:

- I. **Eligibility** - The Policy specifically defines those affordable/in-fill housing projects that qualify for expedited permit processing, including the following:
 - A. Residential development projects where at least 10 percent of the units are set aside for households with an income at or below 65 percent area median income (AMI) for rental units and at or below 100 percent AMI for for-sale units as set forth in the City’s Inclusionary Housing Ordinance.
 - B. Residential development projects sponsored by and/or receiving funding from the Comprehensive Affordable Housing Collaborative (The Redevelopment Division of the Community and Economic Development Department, Centre City Development Corporation, Southeastern Economic Development Corporation, and the San Diego Housing Commission) where at least 15 percent of the units are set aside for households with an income at or below 120 percent AMI, as determined by the San Diego Housing Commission.
 - C. Residential development projects underwritten to utilize Federal, State or Local funds and which result in a regulatory agreement that restricts tenancy and rents at or below 60 percent AMI.
 - D. Urban In-fill housing development projects of 10 units or more within “Urbanized” areas of the City as defined in the Progress Guide and General Plan. These in-fill development projects are eligible for expedited processing under this policy provided that all of the dwelling units are affordable to households earning no more than 150 percent AMI for both rental and for-sale (first ownership cycle only) units. In-fill housing development projects need to provide a larger number of affordable housing units than they replace.
 - E. Military housing constructed by the Federal Government or through a contract with the Federal Government, for use by active military personnel and their families.
 - F. New residential, commercial, and industrial development projects which meet the “sustainable buildings” definition under Council Policy 900-14.
 - G. Mixed-use development projects (development projects that combine residential with other land uses) where at least 50 percent of the gross floor area of the entire project site is dedicated to residential dwelling units affordable as described in A, B, C and/or D above.

Projects that elect to pay In-Lieu fees to satisfy the affordable housing requirements are not eligible for expedited permit processing under this policy (except for E and F above).

II. Process - The policy establishes new expedited permit procedures designed to process affordable/in-fill housing projects twice as fast as the current system allows. In summary, the Policy requires a more aggressive processing timeline by providing mandatory preliminary review meetings for early staff feedback, significantly reducing project review cycles, funding the environmental initial study at preliminary review, and scheduling public hearings after the third review cycle and upon completion of the environmental document. Implementation of this expedited permit process will require additional staff positions and permit fees which are proposed as part of the Development Services Department's Fee Proposal. The ability of staff to process these projects within the reduced time frames is dependent upon adoption of the Department's Fee Proposal.

III. Carrying Capacity - A key component to the success of this program will be implementing the “carrying-capacity” of the expedite program in order to maintain efficiency and effectiveness within established time lines. During those periods when workload exceeds the carrying capacity of the expedite program, expedited project processing (both discretionary and ministerial) will be provided based on the following priority list:

Priority 1: City of Villages Pilot Projects selected by the City Council that provide affordable housing as defined in the eligibility section of the Policy.

Priority 2: Residential development projects that set aside the highest percentage of units affordable to households at the lowest income levels. For example, a project that provides 100 percent Very-Low Income affordable housing units has a higher priority than a project that sets aside 10 percent of the units affordable to Moderate Income households.

Priority 3: Residential development projects that qualify for the 9 percent tax credit and residential development projects qualifying for multifamily revenue bonds.

Priority 4: Residential development projects sponsored by and/or receiving funding from the Comprehensive Affordable Housing Collaborative (The Redevelopment Division of the Community and Economic Development Department, Centre City Development Corporation, Southeastern Economic Development Corporation, and the San Diego Housing Commission) where at least 15 percent of the units are set aside for households with an income at or below 120 percent AMI.

Priority 5: Residential development projects where at least 10 percent of the units on-site are set aside at no more than 65 percent AMI for rental units and at no more than 100 percent AMI for for-sale units as set forth in the City’s Inclusionary Housing Ordinance.

Priority 6: Residential development projects where at least 10 percent of the units off-site are set aside at no more than 65 percent AMI for rental units and at no more than 100 percent AMI for for-sale units as set forth in the City’s Inclusionary Housing Ordinance.

- Priority 7: Urban In-Fill housing projects of 10 units or more as defined in this Policy.
- Priority 8: Military Housing constructed by the Federal Government or through a contract with the Federal Government, for use by active military personnel and their families.
- Priority 9: New residential, commercial, and industrial projects which meet the “sustainable buildings” definition under City Council Policy 900-14. Residential projects that qualify as both “Affordable Housing” and “Sustainable Building” projects will be provided with a shared Priority 4 status.

The Affordable/In-Fill Housing expedite program will be implemented by a specialized staff team (these additional staff positions are proposed as part of the Development Services Department's Fee Proposal) who will primarily process discretionary land development projects. Expedited permit processing for ministerial building permits and engineering approvals will be an option available to developers through the express plan check service.

EXPIRING PERMIT APPLICATIONS DUE TO INACTIVITY:

During the August 6, 2002 ("Housing Day") City Council Hearing, staff presented a number of actions that would facilitate expediting the processing of affordable/in-fill housing projects. One of those actions recommended by staff and endorsed by the Council included providing staff with the authority to expire permit applications due to inactivity. This would allow the Development Services Department to better manage workload and avoid projects being submitted in an attempt to circumvent changes to land development regulations.

Council approval of this proposal would simply provide the authority to expire permit applications when warranted. The primary intent of this proposal is to only expire those inactive applications where an applicant cannot demonstrate compelling evidence or willingness to continue processing.

ALLOWING DEVIATIONS FOR AFFORDABLE/IN-FILL HOUSING PROJECTS:

Another expedite action discussed and endorsed during Housing Day included amending the Municipal Code to allow deviations from the Code's development regulations, including those development regulations contained within Planned District Ordinances. Often, affordable/in-fill housing projects are either delayed or made infeasible because of their inability to meet the often strict and detailed development regulations of the Municipal Code. Detailed planned district ordinance, engineering, and zoning regulations combine to limit particular design solutions that would make these types of projects both practicable and desirable.

The proposed Municipal Code amendments would provide a process alternative to use when affordable/in-fill housing projects run into these types of obstacles. Applicants for these projects

would still be required to meet all of the required development regulations, however the Planning Commission would have the authority to approve the project with deviations provided certain findings can be made.

San Diego Municipal Code Section 143.0750 currently allows deviations from applicable development regulations as an additional incentive for affordable housing density bonus projects through a Process 4 Site Development Permit. This new proposal includes granting the same incentive for affordable/in-fill housing projects provided the following supplemental findings can be met:

1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City;
2. The development will not be inconsistent with the purpose of the underlying zone;
3. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

This Municipal Code amendment would require a Site Development Permit (Process 4-Planning Commission decision) for affordable/in-fill housing projects seeking deviations. Although the Land Development Code currently allows applicants to request deviations and/or variances from any development regulation City-wide, the required permit type, approval process, and noticing procedures vary widely depending on project type and geographic location. This proposed deviations section of the Code would provide one consolidated, simplified process for all eligible affordable/in-fill housing projects regardless of geographic location, and would implement the intent of Council Policy 600-27 by providing an additional development incentive to builders of affordable housing.

CONCLUSION

The affordable/in-fill housing expedite program is just one important component part of a comprehensive package to address affordable housing issues in San Diego. Numerous other programs, policies, and efforts are currently underway (i.e., Inclusionary Housing Ordinance; Affordable Housing Collaborative's NOFA; various Housing Commission and Redevelopment Agency assistance programs; Affordable Housing Task Force; Future Urbanizing Area affordable housing requirements, etc.) to assist and encourage the development of affordable housing in San Diego.

The policy and code changes outlined in this report will simplify and streamline the review process for affordable/in-fill housing projects and provide incentives to the housing industry to produce a wider range of housing types that are more affordable in the City of San Diego. Ultimately, the time savings produced through this affordable/in-fill housing program will translate into direct financial savings for affordable/in-fill housing developers through reduced holding costs and interest payments.

Respectfully submitted,

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Approved: P. Lamont Ewell
Assistant City Manager

CHRISTIANSEN/MJW:

- Attachments: 1. [Draft Council Policy 600-27.](#)
2. [Draft Ordinance to expire permit applications due to inactivity.](#)
3. [Draft Ordinance to allow deviations for affordable/in-fill housing projects.](#)
4. [Existing Council Policy 600-27 in strike-out format.](#)