Council Agenda Correspondence

DATE: July 18, 2022

TO: Mayor and Council

FROM: Michael Codron, Director of Community Development
Tyler Corey, Deputy Director of Community Development
Rachel Cohen, Senior Planner

VIA: Derek Johnson, City Manager

SUBJECT: Item # 7b – REPEAL AND REPLACE THE CITY OF SAN LUIS OBISPO'S MUNICIPAL CODE CHAPTER 17.138 (INCLUSIONARY HOUSING REQUIREMENTS) TO UPDATE REGULATIONS FOR CONSISTENCY WITH THE 6TH CYCLE HOUSING ELEMENT, AMEND TITLE 4 OF THE CITY OF SAN LUIS OBISPO MUNICIPAL CODE TO ADD CHAPTER 4.60 TO ESTABLISH A COMMERCIAL LINKAGE FEE, AMEND INCLUSIONARY HOUSING IN-LIEU FEES IN ACCORDANCE WITH CHAPTER 17.138 OF TITLE 17, ESTABLISH THE AMOUNTS OF COMMERCIAL LINKAGE FEES IN ACCORDANCE WITH CHAPTER 4.60 OF TITLE 4 OF THE SAN LUIS OBISPO MUNICIPAL CODE, AND AMEND THE COMPREHENSIVE FEE SCHEDULE

This agenda correspondence is intended to respond to two written comment letters that were recently submitted. One is from Donna Lewis (Attachment A) and the other is from the Chamber of Commerce (Attachment B). The issues raised in these letters are summarized and consolidated to ensure a clear response on each topic.

1) <u>Public Engagement Process (noted as Comment #1 in the attached letters).</u>

   "I do wish that staff had more fully engaged the building, real estate, and business community on the Inclusionary Housing ordinance. There were a couple of presentations done, but I personally feel that more active and dynamic engagement could have and should have occurred far earlier on with the professionals that are most directly affected by changes to this ordinance."

   Staff Response: *As discussed in the Council Agenda Report (PDF packet page 599), public outreach regarding the Inclusionary Housing Ordinance began in 2020 with the presentation to City Council on April 21st about the completed Nexus Study. On June 2, 2020, staff submitted a Memo to the Planning Commission about the Nexus Study. The Nexus Study was used to inform new programs within the 6th Cycle Housing Element Update. The Council Agenda Report identifies a wide variety of other outreach performed to engage the community on the IHO update.*

Fundamentally, staff sees its work on the Inclusionary Housing Ordinance as part of a continuum of housing program implementation tied to the 2020 Housing Element Update. It is important to remember that as part of the Housing Element update, staff facilitated eight presentations, meetings, online surveys, and a public workshop (details of the public outreach are provided in Appendix G of the 6th Cycle Housing Element). Participants of the community workshop and the online survey were invited to answer the following questions: "What type of housing is needed most in our community?" and "What housing issues exist in the community?" Approximately 100 individuals participated in the in-person workshop and online survey and identified ***affordable housing*** *as the type of housing needed most and the biggest housing issue of the community.*

More recently, City staff has had the opportunity for substantial engagement with a Chamber of Commerce task force that has provided valuable input for consideration. This input has helped staff develop an important alternative for Council consideration regarding the appropriate balance to strike regarding the amount of inclusionary housing required through the IHO update.

2) Table 2A has been effective and should be retained (noted as Comment #2 in the attached letters).

"I simply don't agree with the idea that Table 2A should be eliminated as it's perceived to have not produced the outcomes originally intended related to the production of affordable housing."

"Table 2A has been effective. The assertion that our community has 'missed out' on a tremendous number of Affordable units because of 2A does to consider the number of projects that would not have come to fruition at all, would have included fewer total units - and thus fewer Affordable units - or would have taken many more years to make it to market; Table 2A should be modified, not eliminated."

Staff Response: *As discussed in the Council Agenda Report (PDF packet page 596) the purpose of the IHO update is to produce more affordable housing. Table 2A was established as an amendment to the original IHO to encourage the creation of projects with higher density and smaller unit sizes, which would be considered affordable-by-design within the City. The intent was for these smaller units to sell or rent at prices affordable to moderate- or low-income households.*

This concept has not produced affordable housing in practice. Table 1 below provides a snapshot of recent projects that have utilized Table 2A and shows how many affordable, deed-restricted units were not built in lieu of Table 2A units. Unfortunately, if the results of Table 2A are smaller homes on smaller lots, those homes are still not affordable to households earning 120% or less of Area Median Income (AMI). As a result, the elimination of Table 2A is recommended to increase the production of affordable housing, while other initiatives are being pursued to implement Housing Element programs, consistent with the Major City Goal work program.

*While it is possible that some of these projects may not have moved forward without Table 2A, the issue should not be looked at in isolation. The projects listed below include "expansion area" projects where the requirement is currently 15% (5% low AND 10% moderate). These projects (identified with an *) show a bigger gap between the number of affordable units provided with or without Table 2A. The recommendation before the Council is for a lower percentage requirement in these areas, and a higher requirement in other parts of the City to accomplish a single standard that all projects subject to the IHO can adhere to. The policy decision for the City Council is about how much affordable housing the City should require as a percentage of market-rate housing development. The feasibility analysis that the current recommendation was based on indicates that development would be financially feasible with the proposed affordable housing percentage requirements. However, if this amount is considered too high by a majority of Council Members, then an alternative is provided to help the Council find the right policy balance with its decision.*

Table 1 - Recent projects that have utilized Table 2A

Year Approved	Project Name	Number of Units	Number of Affordable Units	Income Level	Number of Units w/out Table 2A
2019	Terraza	28	1	Moderate	2
2021	Bullock Ranch*	192	7	2 Low, 5 Mod	29
2017	West Creek (Vintage & Noveno)*	172	10	Moderate	26
2018	The Connect	78	1	Moderate	4
2020	Laurel Creek	100	1	Moderate	5
2016	The Yard	43	1	Moderate	3
2005	Avivo	161	2	Moderate	9
2018	Twin Creeks	94	3	2 Low, 1 Mod	5
2020	Orcutt Road Apartments	10	1	Moderate	1
	Total	878	27		84

** Projects located within Expansion Areas have an Inclusionary Housing Requirement of 15%*

3) <u>State Density Bonus Law Option (noted as Comment #3 in the attached letters)</u>

"…produce an example of how State Density Bonus Law would replace Table 2A…"

Staff Response: *The Council Agenda Report (PDF page 597) provides a discussion about how a new housing project can utilize the State's Density Bonus Law (DBL). The DBL provides incentives for developers in the form of an increased number of market-rate units, concessions to standards (such as parking, setbacks and building height) where necessary, and incentives that could include an additional density bonus to allow for more market-rate housing. DBL projects are exempt from the IHO.*

A developer who meets the requirements of the state law is entitled to receive these benefits as a matter of right. In the case of a project that provides at least 20% low-income units, the project would be automatically entitled to move forward to the building permit phase if designed to meet the City's Objective Design Guidelines. There are a number of ways that a project can qualify for a density bonus. Even dedication of land to a qualified affordable housing developer under the Density Bonus Law can provide for a 15% density bonus for the entire project, and additional density bonuses would be available for the affordable housing site.

4) Support more market rate units and less inclusionary units, particularly low income, for-sale units (noted as Comment #4 in the attached letters)

"Requiring 5% low-income units & 5% moderate income for sale units in a new development I fear will literally stop some projects from happening all together or will force the production of higher end housing to offset the cost of providing the affordable units."

"When considering for sale units, a requirement of 5% low and 5% moderate is unreasonable and gets in the way of our goal to create more housing of all types."

"… require 10% of for-sale units at the moderate, not low, level. Another approach could be to lower the total for-sale requirement to 7.5% with 5% moderate and 2.5% low."

"To truly get the most Affordable housing built, there should be flexibility in the style and location of Affordable units if a market rate developer proposes including more than the required amount of Affordable Housing in a project."

Staff Response: *As one of the alternatives in the Council Agenda Report (PDF packet page 601) staff discusses that the affordable housing requirements and in-lieu fee amounts contained in the IHO are based on a detailed analysis prepared by the City's consultant, Economic & Planning Systems, Inc. (EPS). Reducing these requirements is not recommended, however, the City Council's decision is a pure policy choice, and the Council has plenary authority to make revisions as long as they comply with applicable State and Federal housing law.*

If the Council majority decides that a reduced affordable housing requirement best balances all policy considerations, then staff would recommend reducing the for-sale percentage requirement from 10% to 8% (3% low and 5% moderate). It must be noted that there is alignment between the affordable housing percentage requirement contained in the proposed IHO update and the corresponding in-lieu fees. As a result, if this alternative is pursued the change should be made together with a reduction in the in-lieu fee amount from $25 per square foot, to $20 per square foot to maintain consistency with the feasibility analysis. Incidentally, the alternative and resulting in-lieu fee would bring the rental and for sale requirements into alignment and this is noteworthy given that the Chamber of Commerce Task Force has indicated that they believe the rental requirements are reasonable.

If a developer provides more than the inclusionary requirement, they likely qualify as a density bonus project and therefore are no longer subject to the IHO standards. See the response under Comment #3 for more information on Density Bonus Law.

5) <u>Support non-profit housing developers (noted as Comment #9 in the attached letters)</u>

"While we appreciate the proposed fractional approach to smaller developments, imposing a flat $25/SF fee for larger developments is not feasible. Fees should be calibrated to a proportionate share of what a non-profit developer needs to secure state and federal funds - as our original proposal does."

"Non-profit builders are an essential part of our housing community and, unlike market-rate developers, non-profits have access to programs that maximize output of Affordable units. The Inclusionary Housing Ordinance should be structured in a way that supports them, not tilts the balance so far in the favor of market-rate developers building Affordable units."

Staff Response: *Each affordable housing project is not created equal, meaning that depending on the location, builder, affordability targets, demographic target, each project requires a range of support to make it feasible. The cost of the project and need for local subsidy could be very different depending on the non-profit or for-profit developer that is constructing the affordable housing. The City has contributed close to $100,000 per unit for projects constructed by Habitat for Humanity, and much less for projects that also leverage tax credits and other funding sources. The proposed in-lieu fees are designed to provide a reasonable trade-off for a developer between paying the in-lieu fee and building the affordable housing units. If the fee is too low, then the developer will always pay the fee. If it is too high, the fee will never be paid. As a result, the fees should not be considered as a policy item separate from the percentage of affordable housing required by the IHO – the fees and percentage requirements work together and should stay in alignment.*

Staff agrees that non-profit builders are an essential part of developing additional affordable housing within the community. However, it must be noted that a core purpose of the IHO is to "include" affordable housing in every development. Specifically, the Housing Element includes policies 4.1 and 4.2 that call for affordable housing to be intermixed within neighborhoods and comparable in size, appearance, and basic quality to market rate units.[1] The IHO update accomplishes these policy objectives. Additionally, when new housing units are constructed, the IHO requires that the affordable housing units are constructed at the same time. Often, units constructed by non-profit housing developers are not constructed until well after a new housing project has been completed.

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[1] HE Policy 4.1: Within newly developed neighborhoods, housing that is affordable to various economic strata should be intermixed rather than segregated into separate enclaves. The mix should be comparable to the relative percentages of extremely low, very-low, low, moderate and above-moderate income households in the City's quantified objectives.
HE Policy 4.2: Include both market-rate and affordable units in apartment and residential condominium projects and intermix the types of units. Affordable units should be comparable in size, appearance, and basic quality to market-rate units.

Separately, in-lieu fees and the commercial linkage fees will be utilized to support non-profit development projects. In addition, State Density Bonus Law allows developers to dedicate land to qualified affordable housing developers, which would exempt the project from the IHO. There are numerous examples in the City of affordable housing projects constructed in this manner. In addition to the fees, Staff agrees that the City should seek out additional funding sources to support more affordable housing discussed further in Comment #8 below.

6) <u>Less fees for commercial development (noted as Comment #10 in the attached letters)</u>

“The commercial linkage fee is close but based on intensity of use, $2.50/SF for industrial and warehouse uses, and $5/SF for all other non-residential uses makes more sense.”

Staff Response: *The proposed commercial linkage fee is in alignment with the fees that commercial projects are currently paying.*

7) <u>Owner occupancy requirement (noted as Comment #5 in the attached letters)</u>

“If table 2A were to be kept in some form, consider options for deed restricting units for Owner Occupancy for a period of up to 5 years in lieu of mandating deed restricted units be built.”

Staff Response: *Second homes and investor homes that remain vacant much of the time may impact the community housing supply, and there are some City regulations that address this in limited circumstances, including no net housing loss in the Downtown and a prohibition on vacation rentals, as well as state laws including SB 1079 that limits investors ability to buy up foreclosed properties, and SB9 (the California HOME Act) applicable to new lot splits in single-family zones. However, the need for below market rate units is critical, and in order to meet the City's Regional Housing Needs Allocation (RHNA), such a trade-off to increase owner occupied deed restrictions for market rate homes that impacts the increase of affordable homes is not recommended. Administering and enforcing a covenant that requires market rate units that are built under Table 2A is questainable.*

8) <u>Pursue additional funding sources to support more affordable housing (noted as Comment #6 in the attached letters)</u>

“It is imperative that we consider additional ways to produce Affordable Housing including Enhanced Infrastructure Financing Districts, project-specific Community Financing District, a regional housing bond, and/or dedicating a portion of existing TOT- not just the Inclusionary Housing Ordinance and fees.”

"We should be immediately brainstorming supplementary funding sources to provide for Affordable Housing such as a bond measure, recording fee on purchase transactions (currently only on refinance transactions), transfer tax, sales tax, etc. so that all members of our community are contributing to the solution. We will never achieve the numbers we are mandated by the State to provide until we look for more ways to create an ongoing and steady revenue stream vs. over burdening those that are trying to build the housing we so desperately need."

Staff Response: *Staff agrees that additional funding sources should be sought out to support more affordable housing. The Council Agenda Report (PDF packet page 598) notes that there is a strong interest in pursuing other revenue streams that could create even more affordable housing, including through a down-payment assistance program. Staff is recommending that the City Council provide direction to staff to investigate a variety of Federal, state, and local grant opportunities and other options for creating revenue to support expanded affordable housing programs. Dedicating already forecasted increases in sales tax or General Fund revenues is not recommended as the City has already elected to reduce Development Impact Fees (DIF) by 25% for new development and if General Fund revenues are allocated for the construction of housing, potentially significant policy and tradeoffs would need to be identified.*

9) <u>Operational issues associated with the IHO and other housing programs (noted as Comment #7 in the attached letters)</u>

Staff Response: *It is important to note that these operational issues are relevant to the City's Affordable Housing Program practices but not dictated by the IHO. As a result, these responses are intended to be informational.*

a. Update purchase guidelines and administration of the Affordable Housing Program.

   Staff Response: *Purchase Guidelines have been updated by staff as of July 1, 2022 including equity interest in property and homeownership, and staff is currently working with Housekeys on additional updates regarding occupancy standards, in addition to rental compliance programs in compliance with state law.*

b. Locals first program may be not working out as well as hoped (not accounting for all locals).

   Staff Response: *The locals first program is included for existing projects through Development Agreements but will be limited city-wide due to potential conflicts with state fair housing laws. For both Avila Ranch and San Luis Ranch, the policy is resulting in more intra county residents moving to SLO to be closer to jobs.*

c. Deed restricted units and an equity share units should not be in the same project.

Staff Response: *Long-term affordability agreements and equity-share agreements accomplish very different outcomes. For inclusionary housing, the goal is for the affordable housing to remain affordable in perpetuity. This is also an explicit aspect of units produced under the Density Bonus Law. As a result, long-term affordability is required in these cases. The City has other programs, such as Development Agreements, Planned Development or other rezoning requests, and Specific Plan requirements where additional affordable housing may be required (PD rezoning requires 25% affordability for example). In these cases, staff believes that an equity-share agreement would be appropriate. Equity-share agreements give the homeowner the ability to recover more equity upon sale of the unit at a market price, while providing the City with funding that can be used to create more affordable housing elsewhere.*

d. Improve management of the affordable housing program through Housekeys.

Staff Response: *Staff is continuing to onboard and engage with Housekeys to improve management of the affordable housing program, including reducing processing times, additional communication and education, and improved registration processes. Housekeys is a consultant under contract to perform as the City's Below Market Rate (BMR) administrator. If the conclusion after the initial contract term with Housekeys is that they are too expensive, or not performing to the community's satisfaction, then a new RFP can be published to determine if there are better options available for BMR administration. As an alternative, the City could hire in house staff funded through IHO program or General Fund. It is important to note that nearly three (3) FTE are already funded to support the City's complex housing program.*

For those of you that don't know me well, my name is Donna Lewis and I live and work in the City of SLO. I am a lender and the Branch Manager of Guaranteed Rate here in SLO and have been in the mortgage business for nearly 30 years. I've had the pleasure over my career of serving first time homebuyers of all types as well as every other type of client you might imagine. Over the past few years, I've worked closely with the City and have handled financing on the majority of deed restricted, for sale, low and moderate income units, including handling all of the new construction affordable units at Moylan Terrace, Avivo, 9 on Rockview, South Morros, etc. I've been fortunate to finance a number of homes in the Righetti Ranch area and will be the preferred lender for the low- and moderate-income units at Avila Ranch.

With all that said, I am writing to you on a variety of topics related to the Inclusionary Housing Ordinance and Affordable Housing in general. Sorry in advance, this is a long one, but I believe a worthwhile read in anticipation of your review of staff's recommendations related to the Inclusionary Housing Ordinance.

Commented [CR1]: Comments have been numbered and color coded to correspond with topic areas addressed in the Agenda Correspondence

I would start off by saying that I do wish that staff had more fully engaged the building, real estate, and business community on the Inclusionary Housing ordinance. There were a couple of presentations done, but I personally feel that more active and dynamic engagement could have and should have occurred far earlier on with the professionals that are most directly affected by changes to this ordinance. As a result, the Chamber put together a task force, of which I am a member, and really got into the weeds on this. Staff & the task force will finally meet Friday, the 8th, but it's my understanding that this is also the date the Staff Report is due to Council, so I don't hold out hope that the Task Force will have much impact or influence on the way information is ultimately presented to you.

Comment #1: Public engagement process

So here are my thoughts…

Table 2A vs. State Density Bonus

I simply don't agree with the idea that Table 2A should be eliminated as it's perceived to have not produced the outcomes originally intended related to the production of affordable housing. Noveno is just one example of a project that benefited from Table 2A and produced great outcomes in providing what I consider to be "affordable workforce housing", even though it may not have been restricted for low- and moderate-income buyers. These homes sold in the mid to high $700,000 range and were affordable, by conventional underwriting standards, to moderate & workforce homebuyers (most homes of similar size that were resale units across town were selling nearly at or over $1 million while this development was being built out).

Comment #2: Table 2A has been effective and should be retained

Of the 9 households I helped in this development,

- 5 were First Time Homebuyers & 1 was a move up buyer, and all lived in the City or County
- The professions of the above individuals included…
    - Non-Profit fundraiser

- Cal Poly employee & Sheriff's Dept employee
- Biotech Engineer & Planner for Cal Trans
- PG&E Field Clerk
- Software Engineer & Housewife
- Self-employed Graphic Designer

Moderate income as defined by the City is in the $117k-$131k range so let's call that $10k per month…5 out of 9 of the families we assisted were in fact in a moderate income range or JUST barely above it, while two more would be considered in a "workforce" range. These families opted to jump into market rate housing at higher monthly payments with the idea that if they own the home without a deed restriction, they will have a greater upside opportunity to gain equity in the future. It's possible, that without Table 2A, this project would not have been built due to the number of inclusionary units that would have otherwise been required to be built.

The point here is that in most cases, workforce housing, that might not otherwise have been made available without Table 2A, was made available. The smaller lot size and more compact units, work for a wide range of people, and in providing it, it frees up other housing that will be affordable for someone else. It's important to note that staff has indicated that they are working on a "Workforce" program, but we have yet to see what that means outside of the currently inclusionary housing ordinance and proposed elimination of Table 2A, which is the only mechanism currently to stimulate the production of smaller lot size, smaller unit, workforce housing, without a heavy Inclusionary burden. Staff has indicated that State Density Bonus Law already addresses incentives for density if a builder chooses to amp up the amount of affordable housing it provides in a development. Table 2A, by contrast, reduces the number of low- and moderate-income units a builder is required to provide, if the builder develops a denser project with smaller lots & smaller units – i.e., more affordable by design. While it's clear that both the Council and Staff would prefer to see more affordable units be built to meet the City's RHNA goals, the unintended consequence of removing Table 2A may create a scenario where projects are built with larger more expensive homes to offset the cost of providing the mandated affordable units, eliminating the middle class/workforce product that our city so desperately needs. We need ALL types of housing and FLEXIBILITY in the promotion and production of affordable housing is key.

It should be noted that I strongly encouraged Staff to produce an example of how State Density Bonus Law would replace Table 2A if it were to be eliminated and I would encourage you to do the same. I am not a developer, nor an expert on State Density Bonus Law (I've read quite a bit), but I do feel if Staff could show that it's possible to build a project like Noveno or any other project that used Table 2A with State Density Bonus Law, that this would go a long way in aiding the conversation on this topic.

Comment #3: Density Bonus Law options

Deed Restricted Low & Moderate Income units – allow flexibility in how Low Income units are produced

Requiring 5% low-income units & 5% moderate income for sale units in a new development I fear will literally stop some projects from happening all together or will force the production of higher end housing to offset the cost of providing the affordable units. Currently, the Low-income sales price limit for a 3-bedroom home is $244,200, whereas the Moderate-income limit is $427,175. That's a difference of $182,975 per unit, and a difference of $405,800 as compared to the $650,000 cost to build a moderate/workforce unit as sited in the EPS study. Producing Low Income for sale units is a significant impact to a developer and may make a project financially unfeasible which is contrary to the goal of providing not just affordable housing but more housing in general. **Additionally, while attempting to create "equity" in housing, we are creating a "lottery" which benefits very few households at the expense of all other households in a development and in our community, where other buyers, who may be of moderate-income means, are qualifying at a higher payment threshold and paying far more monthly than their neighbor who scored one of only a very few low- or moderate-income units in town.**

Comment #4: Argument for more market rate and less inclusionary, particularly low income for-sale.

I'd add, that in my experience, clients in a low category very often struggle to qualify to purchase a home, even if deed restricted, for a host of reasons including very little credit or poor credit, no savings for a down payment, debt obligations, or all of the above in some cases. Those that can qualify are often pushing the limit of what they can afford. Based on my experience in the affordable arena, for every qualified low-income buyer, we might have had 10-15 applicants that do not qualify. By contrast, for every qualified moderate-income applicant, we might have had 3-4 applicants that do not qualify. I'd love to see every person on the planet own their own home, but not all families and individuals are ready to own a home, and this percentage is far larger in the Low-Income category.

I'd encourage as much flexibility in how low-income units are delivered and would encourage not requiring 5% low income for sale units in new development (if 10% inclusionary is the requirement, give the builder the option to provide all moderate for sale units or the low units in a rental product, etc.). Making low-income units available in a rental product may be more financially feasible to develop and is often more practical for a low-income family to transition into, with the idea that they may then be able to ready themselves for ownership in the future.

Deed Restricting Market Rate for Owner Occupany for 5 years as a Tradeoff to other Deed Restrictions

If table 2A were to be kept in some form, consider options for deed restricting units for Owner Occupancy for a period of up to 5 years in lieu of mandating deed restricted units be built. This would ensure that people purchasing are not investors, and the units would more than likely be occupied by people who live and work here already. By limiting 2nd home buyers and investors, the pool of buyer is thereby limited, creating less demand which in turn will keep prices lower and more stable/affordable for those who wish to occupy.

Comment #5: Owner occupancy requirement recommendation. Does not address inclusion of targeted households

Look for ways to have more of the Community contribute to the Affordable Housing solution

Putting the burden solely on development to provide Affordable Housing seems so counterintuitive to stimulating the production of the variety of housing types we need in our community. We should be immediately brainstorming supplementary funding sources to provide for Affordable Housing such as a bond measure, recording fee on purchase transactions (currently only on refinance transactions), transfer tax, sales tax, etc. so that all members of our community are contributing to the solution. We will never achieve the numbers we are mandated by the State to provide until we look for more ways to create an ongoing and steady revenue stream vs. over burdening those that are trying to build the housing we so desperately need.

Comment #6: Recommendation to pursue additional funding sources to support more affordable housing.

SLO Worker First – consider tweaking this

This has turned out to be a bit more complex than anyone first considered. In speaking with San Luis Ranch, they are having to hold out for 30 days to make sure a unit is exposed to a buyer who is a SLO worker, before they can then move on to open the same home up to those who work in SLO County for another 30 days, and then I believe after 60 days the unit can be made available to anyone else interested. This may severely delay the time it takes to sell a unit and time is money, which translates into the pricing of a home. With the market slowing down, this could prove very burdensome to a builder to follow such a process rather than simply requiring owner occupancy for a period. Additionally, the SLO Worker First idea didn't consider those who live and work here remotely (employed by a company out of area but living here), and those who live here and are retired. These individuals should not be excluded if they are already in the area and have established residency. Hopefully, this has already been addressed.

Comment #7: Comments regarding operational issues associated with ordinance and other housing programs.

Shared Equity vs. Long Term Deed Restriction – don't put both in the same project

The recommendation in the IHO is to allow a builder to sell some units with an Equity Share deed restriction if the builder provides more than the minimum allotment of affordable units. I don't think this is a good idea. With neighbors living in the same neighborhood and in close proximity, it makes far more sense to treat deed restrictions the same in any one neighborhood, so as to not create a situation where one neighbor is deed restricted over the longer term, and one is given an equity share agreement. And the way the Equity Share agreement is being rewritten, there isn't really any great benefit to a buyer under that agreement that really separates it much from the Long Term Affordability agreement anyway, at least as it was last proposed (in a meeting with Michael & Derek). Lastly, there is no material benefit to a builder in having the Long-Term vs Equity Share agreement…the only benefit is that Equity Share has been more accepted by the market vs. the Long-Term Affordability agreement and in a tough market, anything that is more favorable to a buyer is a good thing.

Down Payment Assistance vs. Deed Restrictions (or some combo thereof)

We've got to find a way to allocate affordable housing funds for the creation of a more robust down payment assistance program. This would be particularly beneficial to Moderate and Workforce buyers, allowing them to purchase not only inclusionary units but Market Rate Units as well. I'd recommend setting aside some of the in-lieu fees for this purpose rather than ONLY subsidizing Affordable for Rent Projects. Down Payment assistance continues to recycle over time and can be used with any property so long as the buyer fits the definition of a Moderate or Workforce buyer. When the home sells, the DPA is paid back with interest and can be reused rather than being property dependent. Adding to "for sale affordable housing stock" adds to the management of the units under the Cities purview, requiring more maintenance and oversight. DPA funds simply get recycled and can be used by many and on any property so long as the buyer meets the moderate or workforce criteria. Lastly, many first-time homebuyers struggle putting together a down payment given that they are spending a fortune on rent and other expenses. Having a down payment assistance program would allow them to enter the housing market sooner than they might have otherwise been able to do. What if a developer, instead of providing affordable units and instead of paying an in-lieu fee to the City, contributed to a DPA fund that then subsidized down payments for any moderate-income buyer in their project? Just trying to think outside the box here to reach the widest number of moderate and workforce buyers in the community while at the same time creating some benefit for the developer who is parting with a significant chunk of change to subsidize affordable housing opportunities.

Update to SLO City's Purchase Guidelines

Staff has been working on "updating" the guidelines for way too long. I've offered to pow wow with Staff on this based on my experience with the program and at Moylan Terrace specifically, but nothing has ever changed. There are a variety of things to clean up in the current purchase guidelines including -

- **# of household members based on bedroom count**; currently a 1 person household can purchase a 3 bedroom home and this has happened over and over again. Larger homes with more bedrooms should go to a minimum household size, i.e. a 1 bedroom goes to a 1-2 person household, a 2 bedroom goes to a 2-4 person household, and a 3 bedroom goes to a 3-5 person household. It should be a high priority to define and change this.
- **Retirement income**; guidelines need to consider and make accommodation for someone whose income comes solely from assets in retirement. There are some cases where a borrower shows assets which exceed the asset limitation (no more than 50% of the purchase price of the home), but they rely on that asset to pay themselves in many cases with no other source of income, so in my opinion these assets should not be counted toward the asset limitation.
- **Occupancy 10 mos out of year**; I heard Housekeys say that occupying a home is defined by someone who occupies 10 out of 12 months in the year. This should be in the guidelines so it's clear.
- **Asset inclusions should be more clearly defined** (see above example re retirement) and consider not allowing someone whose already owned a home to sell that home and

purchase an affordable unit with those proceeds unless they are already in the affordable housing program…in other words, the buyer should be a first-time homebuyer or seller of a smaller affordable unit, and this is not the case currently. I've seen people who have tons of equity, move that to an affordable unit because sale proceeds are excluded from the asset inclusion which doesn't seem to meet the intent of the program unless they have relocated for a job here locally and meet all other criteria.

- **Income projected for next 12 months.** – I heard housekeys say they "project" what someone will earn over the next 12 months and would like clarity on what this means exactly and would recommend an example of this in the City's guidelines so people applying understand the approach.
- **Refi process and cash out**; this is the biggest travesty in my mind. The City currently disallows an owner of an affordable unit to refinance their home and pull equity back out, even if it's equity they've accumulated by paying down their mortgage. At the very least, a homeowner should have the opportunity to pull out their own equity – up to the original acquisition indebtedness. This allows the homeowner to make improvements to the home, maintain the home, and to consolidate debts so that they may remain financially stable while owning the home. I've seen numerous make sense requests be denied in this regard which is unfortunate for the homeowner.

Housekeys

Finally…Housekeys. I congratulate staff and the Council for moving on the hiring of a consultant to help organize, shore up and help manage the City's Affordable Housing program. It's been a long time coming and we've needed a way for those interested in Affordable Housing to easily find access to information and to continue to be made aware of it's availability. With that said, I have concerns with what we've experienced so far, even though I know that it's all still getting set up and I am sure much of this will improve over time. I'd propose that the City use Housekeys to help shore up the program, and put systems in place to run the program, but would encourage the City to stay engaged in the management of the program.

- **Adminstrator is expensive**; the administrator is acting as the City's "agent" and as such, on a resale they wish to charge 6% of the sale price, of which they will pay out 2% to a listing agent and will keep the remainder; the City gets none of this fee. Note that customary listing fee's in SLO are 5% currently. Up to now, these units have been sold in a traditional way, in the MLS, with a listing agent contracting with the seller to sell the home and a buyer's agent working to represent a buyer who may be interested in the home (customarily 5% to the listing agent who then pays the selling agent 50% of that with nothing going to the City in that case either). The buyer has always been required to be "certified" as an affordable buyer and the fee for this has been $350 paid to HASLO or People's Self-Help Housing Corp. What I believe the City really wants and needs is for the Administrator to certify a buyer in a compliant way, and to make sure a new construction or resale unit is sold in a fair manner, giving the greatest exposure of that unit to the local market. I am just not sure that 4% of the sales price should be diverted to Housekeys as the Administrator in addition to fees they will charge the buyer for the certification, etc. and would prefer to see buyers represented by a local agent who can walk them through this process. Maybe there is a way to have the Administrator act as the City's agent for a fee of 5-6%, with 2% paid to a listing agent, and another 1.5-2% going to the buyer's agent that represents the buyer, with the Administrator keeping the remainder. Low- and Moderate-income buyers NEED representation and hand holding in a way that a remote Administrator simply won't be able to provide.

- **Time to process an Affordable Unit**. Housekeys has sited that it may take 60-90 days for them to work through the process of holding a drawing, then holding a lottery, and finally getting down to selecting an eligible buyer for a unit. THEN that seller and buyer must go through the escrow process which no doubt may take another 30-45-60 days. I'm concerned that they will operate too slowly for most sellers or builders, and this will be VERY frustrating. Something to keep an eye on.
- **Selection of eligible buyers**. A prospective buyer registers on their site, is then notified of an "Opportunity Drawing" for which they can register interest. Assuming they register for the drawing, they will then be placed in a "Lottery" for the unit. Because there are so few units, and no doubt will continue to be very few units available, a prospective buyer could literally be ready and waiting indefinitely, while never getting an opportunity to purchase a unit. This is frustrating to me because I see certain individuals do all the right things and work hard to get a unit, while others show up at the last minute, can register, enter the drawing, and win the lottery. It just doesn't seem fair that there isn't a better "cue" for those who take all the necessary steps to be ready & get in line.
- **Communication is key**. This is concerning right out the gate. My hope is that Housekeys will have a dedicated staff member that handles the City of SLO's for sale units so that the local Real Estate community and Lenders dealing with the program have good support and prompt communication & can leave staff at the City alone.
- **Concerned that we are adding an additional layer of bureaucracy**…while the intention is to organize and simplify the process, it may ultimately become far more complicated, especially given that an out of area Administrator is being given a significant degree of oversight. The City loses it's ability to be nimble, flexible, and make quick decisions where time is often of the essence.
- **Housekeys registration process is very clunky**…I am sure this will improve over time, but I would encourage a staff member to create a profile on the Housekeys website. I've had multiple clients call me back after I've encouraged them to register on the site, and most are confused and unclear if they've followed the necessary steps to be notified if a unit comes up. I created a profile myself and understand now why people are getting confused. Really, all a buyer needs to do is get an applicant ID to ready themselves for an opportunity and that should be the first step on their website. Instead, it encourages first doing online homebuyer training and lays out many other steps beyond getting an Applicant ID, which it seems is all that's needed to get "in the system" to be notified of opportunities.

I'll stop there and thanks for reading. I appreciate all of you and your service. I wore myself out on this one email and I realize you ready many, in addition to all the staff reports and information that goes along with them. I don't know how you all do it! Please feel free to reach out to me on my cell if you wish to discuss any of these points further…happy to chat.

SAN LUIS OBISPO CHAMBER of COMMERCE

July 10, 2022

Comments have been numbered and color coded to correspond with topic areas addressed in the Agenda Correspondence

Dear Mayor Stewart and SLO City Councilmembers,

The SLO Chamber of Commerce has appreciated the many conversations we have had with your staff over the past few weeks and are writing today to provide additional context to our original letter regarding the proposed changes to the Inclusionary Housing Ordinance.

Through these conversations, it has become clear that we share the same ultimate goal of creating a regulatory framework that results in many types of housing built to serve the varied needs of our community. There are many elements of the proposed update that will work toward those ends, including:

- The shift to one standard citywide approach rather than separate standards for expansion areas.
- Creating a separate pathway for projects that choose to work within the State Density Bonus Law.
- Including all homes, not just multi-unit developments, in the Inclusionary Housing Ordinance.
- When considering for-rent units, 6% is a fair amount of affordability to require and it is appropriate that for-rent be targeted to the low and very low income levels.

However there are also elements of this ordinance that will, if not amended, result in a failure to meet the goal of creating more housing of all types, including Affordable. In light of the approximately 25% raise in impact fees on July 1, it is particularly important the the changes proposed below be considered:

Comment #4: Argument for more market rate and less inclusionary, particularly low income for-sale.

- When considering for sale units, a requirement of 5% low and 5% moderate is unreasonable and gets in the way of our goal to create more housing of all types. As reflected in the City's study, very low and low income units can be produced more efficiently as rental housing or by non-profit developers - we should follow that recommendation and require 10% of for-sale units at the moderate, not low, level. Another approach could be to lower the total for-sale requirement to 7.5% with 5% moderate and 2.5% low.

Comment #9: Support of non-profit housing developers

- While we appreciate the proposed fractional approach to smaller developments, imposing a flat \$25/SF fee for larger developments is not feasible. Fees should be calibrated to a proportionate share of what a non-profit developer needs to secure state and federal funds - as our original proposal does.

Comment #2: Table 2A has been effective and should be retained

- Table 2A has been effective. The assertion that our community has 'missed out' on a tremendous number of Affordable units because of 2A fails to consider the number of projects that would not have come to fruition at all, would have included fewer total units - and thus fewer Affordable units - or would have taken many more years to make it to market; Table 2A should be modified, not eliminated. The Planning Commission showed interest in including 2A-style modifications down the road, however, to have a complete policy, those modifications should be in the IHO from the start.

Comment #9: Support of non-profit housing developers

- Non-profit builders are an essential part of our housing community and, unlike market-rate developers, non-profits have access to programs that maximize output of Affordable units. The Inclusionary Housing Ordinance should be structured in a way that supports them, not tilts the balance so far in the favor of market-rate developers building Affordable units.

Comment #4: Argument for more market rate and less inclusionary, particularly low income for-sale.

Comment #10: Argument for less fees for commercial development

- The commercial linkage fee is close but based on intensity of use, $2.50/SF for industrial and warehouse uses, and $5/SF for all other non-residential uses makes more sense.
- To truly get the most Affordable housing built, there should be flexibility in the style and location of Affordable units if a market rate developer proposes including more than the required amount of Affordable Housing in a project.

Comment #6: Recommendation to pursue additional funding sources to support more affordable housing.

- It is imperative that we consider additional ways to produce Affordable Housing including Enhanced Infrastructure Financing Districts, project-specific Community Financing District, a regional housing bond, and/or dedicating a portion of existing TOT- not just the Inclusionary Housing Ordinance and fees.

nk you for your consideration. Please don't hesitate to reach out if you have any questions or would to discuss further.

Sincerely,
SLO Chamber Inclusionary Housing Task Force

Aaryn Abbott | Abbott|Reed Inc.
LeBren Harris | Hampton Inn & Suites/ TownPlace Suites San Luis Obispo
Rachel Kovesdi | Kovesdi Consulting
Donna Lewis | Guaranteed Rate

Damien Mavis | CoVelop
Kerry Morris | Morris & Garritano
Stephen Peck | Peck Planning & Development
Ken Triguero | People's Self Help Housing