




Supplemental Planning Commission Staff Report

DATE: April 25, 2023

AGENDA ITEM NO: Agenda Item 3-A

TO: Honorable Chairperson and Planning Commissioners
FROM: Karl H. Berger, City Attorney 
SUBJECT: **Zoning Code Amendment No. 22-01 (ZCA-22-01)** – Inclusionary Housing.

EXECUTIVE SUMMARY:

This is a Supplemental staff report for Agenda Item No. 3-A. Page 3 of the Staff Report for this Item discusses the Celadon mixed-use project that was approved by the City Council “earlier this year.” Additionally, the Staff Report states that the Celadon project contributed \$100,000 to an “affordable housing trust fund.” Please disregard this paragraph of the Staff Report.

A review of the Celadon public hearing (October 6, 2021) shows that the question of an affordable housing in-lieu fee was discussed at some length by the City Council (see, 1:35:16 to 2:01:30). The applicant refused to pay an in-lieu fee (see, 1:42:30 to 1:44:44; and 1:58:01 to 2:01). Ultimately, the City Council approved the Celadon project without the affordable housing component (see, 2:01:30 [abstentions made by Council Member Henry Lo and Mayor Yvonne Yiu]).

The Staff Report was originally written in 2021 in preparation of the City Council’s consideration of the Inclusionary Housing Ordinance (“IHO”). At the time it was drafted, we anticipated that Celadon would make the public benefit contribution for affordable housing. That original draft was not updated to reflect Celadon’s final project approvals and the paragraph, in substance, was unfortunately included in the City Council Staff Report for the November 2, 2022 City Council meeting (attached). The discussion of the Celadon project meeting was in error. This Supplemental Staff Report is submitted to ensure the error is not perpetuated.

All other recommendations and discussions in the Staff Report remain the same.

ATTACHMENT:

1. Staff Report for November 2, 2022 City Council meeting (without attachments).

ATTACHMENT 1

November 2, 2022 Staff Report



City Council Staff Report

DATE: November 2, 2022

AGENDA ITEM NO: Public Hearing - 4A

TO: The Honorable Mayor and City Council

FROM: Steve Sizemore, Interim Director of Community Development
Jessica Serrano, Planning Manager

SUBJECT: A public hearing to consider introduction and first reading of an Ordinance (Zoning Code No. 22-01) adding Chapter 21.19 (Inclusionary Housing) to Title 21 (Zoning) of the Monterey Park Municipal Code to implement the Monterey Park Housing Element; and adoption of a Resolution establishing an in-lieu inclusionary housing fee calculation.

RECOMMENDATION:

It is recommended that the City Council consider:

1. Opening a public hearing and taking testimonial and documentary evidence;
2. After closing the public hearing and considering the evidence submitted during that public hearing:
 - a. Introduce and waive first reading of Ordinance No. _____ adding Chapter 21.19 (Inclusionary Housing) to Monterey Park Municipal Code Title 21 (Zoning) to implement the Monterey Park Housing Element
 - b. Adopt Resolution No. _____ establishing an in-lieu inclusionary housing fee calculation; and
3. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The Monterey Park Housing Element provides that the City Council will consider an inclusionary housing ordinance before the end of 2022. A draft Ordinance and Resolution establishing an in-lieu inclusionary housing fee calculation was prepared for City Council consideration.

The Ordinance (Attachment 1) would encourage the production of affordable units in new housing developments. This is accomplished by several methods, or a combination of methods: (1) require actual construction of affordable units; (2) payment of an in-lieu fee to the City that commensurate with the cost of a the "affordability gap" between the market and affordable rate for the new unit or the construction of off-site affordable units within the City; and/or (3) construction of affordable units at an off-site location within the City.

The Resolution (Attachment 2), establishes an in-lieu inclusionary housing fee calculation. This would equate to the financial impact or "affordability gap" that is created by the Ordinance's inclusionary housing requirements. In-lieu fees would be deposited into an affordable housing trust fund. Separate from the City's General Fund, the

affordable housing trust fund monies must be used exclusively for encouraging affordable housing in the City.

CEQA (California Environmental Quality Act):

Pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*; “CEQA”) and its implementing guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, the “CEQA Guidelines”), the proposed Ordinance and Resolution (ZCA 22-01) are exempt from further CEQA review for the following reasons: (1) they will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines § 15060(c)(2)); (2) there is no possibility that the Ordinance or Resolution may have a significant effect on the environment because any potential, future, housing projects would undergo separate environmental review (CEQA Guidelines § 15061(b)(3)); and (3) the Ordinance and Resolution, by themselves, do not constitute a “project” as defined in the CEQA Guidelines because they involve a policy action that is legislative implementing affordable housing policy and affects prospective future housing development to comply with Housing Element Program 15 (CEQA Guidelines § 15378). The notice of exemption prepared for this project is contained in Attachment 4.

BACKGROUND:

The City adopted the 2021-2029 Housing Element of the General Plan on January 19, 2022. Housing Element Program 15 provides that the City Council will consider an inclusionary housing program. Such programs require certain residential and mixed-use developments to designate a percentage of units within the development as affordable housing. Alternatively, a developer may construct off-site units or pay a fee.

On September 7, 2022, the City Council held a discussion on potential inclusionary housing standards. The Council generally supported inclusionary housing requirements and directed staff to develop an ordinance.

On September 27, 2022, the Planning Commission adopted a resolution recommending that the City Council adopt the draft Ordinance and Resolution. Additionally, the Planning Commission recommended the City Council consider the following Ordinance amendments:

- Lower percentage of required affordable units to 10%-12%; instead of 15% as proposed;
- If a developer provides more affordable units beyond what is required, then the City may offer incentives. For example, if the percentage is X and a developer provides X + 1%, then the development can get one or more incentives on development standards;
- If a development contains units for extremely low- and very low-income households, it can receive a credit and reduce the overall number of affordable units required (see City of Alhambra’s approach in the survey in Attachment 3). This would be an optional incentive rather than a requirement;
- When applying the percentage of required affordable units, if the number of required units results in a fraction, the proposed ordinance should be equitable in either requiring the developer to provide the unit or paying the full in-lieu fee

amount instead of allowing the developer to pay a fraction of the in-lieu fee for a unit.

Once created, the proposed affordable housing trust fund would receive \$100,000 in seed money from the City. This money stems from the Celadon mixed-use project that the City Council approved earlier this year and constitutes one of the developer’s public benefit obligations within the Development Agreement. The City Council anticipated the creation of this trust fund at that time and expected the developer to assist the City with implementing the Housing Element’s objectives.

Proposed Ordinance:

Attachment 3 contains a summary of some of the inclusionary housing ordinances that were reviewed when preparing the draft Ordinance. The following table provides a summary of the major components of the proposed Ordinance:

Applicability	Projects creating 5 or more dwelling units
Affordability Levels*	For rent projects: <ul style="list-style-type: none"> - 9% Low-Income Households - 6% Moderate-Income Households For sale projects: <ul style="list-style-type: none"> - 15% Moderate-Income Households
Alternative Compliance Methods	<ul style="list-style-type: none"> - Inclusionary Housing In-lieu Fee prior to issuance of certificate of occupancy - Off-Site Units
Standards for For-Sale Units	<ul style="list-style-type: none"> - Must be affordable for 45 years - Must certify purchaser’s income - City consent required prior to leasing or renting inclusionary unit - Purchaser of inclusionary units must occupy as “principal residence” - Affordability restrictions must be disclosed to new owners
Standards for Rental Units	<ul style="list-style-type: none"> - Must be affordable for 55 years - Must certify renter’s income - Renter cannot sublease without City approval - Affordability restrictions must be disclosed to new owners
Standards	<ul style="list-style-type: none"> - Inclusionary Housing Units must be comparable to market rate units and dispersed throughout development - Certification of continuing occupancy of inclusionary unit by eligible households
Agreement	Inclusionary Housing Agreement required between developer and City prior to building permit issuance
Modifications or Waivers	<ul style="list-style-type: none"> - Modifications or waivers to requirements may be allowed under certain circumstances, subject to Director approval - Director’s approval may be appealed to Planning Agency

* Income levels are established on an annual basis by California law and published by the California Housing and Community Development Department (HCD).

Proposed In-Lieu Fee Calculation:

The draft Ordinance offers an option for housing developers to pay an in-lieu fee as an alternative to providing affordable housing units within a new development. The calculation methodology contained in the Resolution (Attachment 2) is summarized below:

1. Compile projected market rate prices/rents for proposed project.
2. Calculate the maximum affordable price/rents.
3. Market Rate prices/rents – Affordable price/rent = “Affordability Gap”
4. (Affordability Gap) x (Number of Affordable Units required) = Financial Impact/In-Lieu Fee

FISCAL IMPACT:

There no identifiable fiscal impacts associated with adopting the Ordinance and Resolution (other than administrative costs associated with codifying the Ordinance).

Respectfully submitted by:

Prepared by:



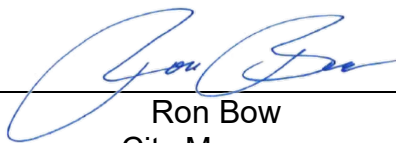
Steve Sizemore
Interim Director of Community
Development



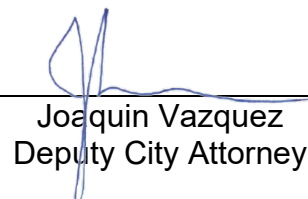
Jessica Serrano
Planning Manager

Approved by:

Reviewed by:



Ron Bow
City Manager



Joaquin Vazquez
Deputy City Attorney

ATTACHMENTS:

1. Ordinance No. _____ amending Title 21 (Zoning) of the Monterey Park Municipal Code to add Chapter 21.19, entitled “Inclusionary Housing,” to implement the Monterey Park Housing Element
2. Resolution No. _____ establishing an in-lieu inclusionary housing fee calculation
3. Survey of Inclusionary Housing Ordinances in Surrounding Communities
4. Notice of Exemption