



HOUSING COMMISSION REGULAR MEETING

AGENDA

May 7, 2014

5:30 pm

City Council Conference Room
City Hall Administration Building
701 Laurel Street, Menlo Park, CA 94025

CALL TO ORDER

ROLL CALL:

Sally Cadigan, Lucy Calder, Carolyn Clarke (Chair), Julianna Dodick (Vice Chair), Michele Tate

A. PUBLIC COMMENT (Limited to 30 minutes)

Under "Public Comment", the public may address the Commission on any subject not listed on the agenda and items listed under the Consent Calendar. Each speaker may address the Commission one time under Public Comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The Commission cannot act on items not listed on the agenda and, therefore, the Commission cannot respond to non-agenda issues brought up under Public Comment other than to provide general information

B. REGULAR BUSINESS

B1. Recommendation to the City Council on a Proposal from MidPen for a \$3.2 million loan from the Below Market Rate Fund for an Affordable Senior Housing Development at 1221-1275 Willow Road ([Staff Report](#))

B2. Approve the March 5, 2014, Special Meeting Minutes ([Attachment](#))

C. INFORMATION ITEMS

C1. Multi-city Affordable Housing Nexus Study and Impact Fee Feasibility for Commercial and Residential Development ([Staff Report](#))

D. REPORTS AND ANNOUNCEMENTS

D1. Commission Member Updates

D2. Staff Updates

E. ADJOURNMENT

Upcoming Quarterly Housing Commission Meeting Dates:

Aug 6, 2014

Regular Meeting

Nov 5, 2014

Regular Meeting

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**Housing Commission Meeting
May 7, 2014**

REGULAR BUSINESS: **Review and Provide a Recommendation to the City Council on a Proposal from MidPen for a \$3.2 million loan from the Below Market Rate Fund for an Affordable Senior Housing Development at 1221-1275 Willow Road**

RECOMMENDATION

Staff recommends that the Housing Commission provide a recommendation to the City Council on the proposal from MidPen for a loan of \$3.2 million from the Below Market Rate (BMR) Housing Fund to support an affordable senior housing development at 1221-1275 Willow Road.

BACKGROUND

Below Market Rate (BMR) Housing Program, Guidelines, and Fund

The BMR Housing Fund is comprised primarily of commercial development in-lieu fees and has a balance of approximately \$11.8 million in total funds and \$5.5 million in uncommitted funds as of March 31, 2014.

The primary purpose of the BMR Housing Program is to increase the supply and assist in the development of housing that is affordable to very low-, low-, and moderate-income households. The BMR Housing Program is contained within the Zoning Ordinance. The BMR Housing Program Guidelines provide direction on the implementation of the program and use of the BMR Fund. The Guidelines list the following uses of the Fund:

- Provision of below market rate financing for homebuyers;
- Purchase of land or air rights for resale to developers at a reduced cost to facilitate housing development for very low-, low- or moderate-income households;
- Reduction of interest rates for construction loans or permanent financing, or assistance with other costs associated with development or purchase of very low-, low- or moderate-income housing;

- Rehabilitation of uninhabitable structures for very low-, low- or moderate-income housing;
- On-site and off-site improvement costs for production of affordable housing;
- Reduction of purchase price to provide units that are very low-, low- or moderate-cost; and
- Rent subsidies to reduce the cost of rent for households with limited incomes.

In addition to these approved uses listed in the Guidelines, City Council approved additional uses on April 26, 2005, subject to approval by the Council for specific proposals. They include:

- Funding for the purchase and rehabilitation of existing apartment buildings for low-income tenants;
- Funding for the purchase of existing housing units to resell as BMR units to moderate-income households;
- Funding the purchase of BMR units until the units can be sold; and
- Funding loans to BMR unit owners to cover costs arising from repairs in the common areas of condominium projects.

In the near future, staff will be bringing to Council additional BMR Guidelines changes. These changes will establish clear policy and criteria for the allocation of funds from the BMR fund prioritizing non-profit development of workforce rental housing affordable to low and very-low income households on sites the City has determined to be viable for Low Income Housing Tax Credits (LIHTC) funding. Per the Settlement Agreement and Housing Element, the City will accomplish this by setting aside a substantial portion of the uncommitted BMR fund balance and future BMR fees received by the City for such development.

Also per the Settlement Agreement, in July of 2013, the City of Menlo Park announced the availability of approximately \$3.2 million in BMR funds for new affordable rental housing projects in Menlo Park, as a final step in completing the requirements of the lawsuit brought against the City by area housing non-profits through a Notice of Funding Availability (NOFA). The purpose of the funds is to support the acquisition, rehabilitation or new construction of housing providing long term affordability. The funding is intended to fill the financing gap between the projected total development costs and other available funding sources.

One proposal meeting the NOFA qualifications and demonstrating their ability to design, build, and manage affordable housing was received by the November 1, 2013 deadline from MidPen Housing. The MidPen project proposed for Willow Road on the site of Mid Pen's existing development known as the Gateway Apartments has now been presented to the Belle Haven community in a series of meeting and is ready to be considered for conditional commitment of this funding from the City.

ANALYSIS

Since it was founded in 1970, MidPen has achieved recognition as a leading non-profit sponsor and developer of affordable housing. MidPen has constructed or rehabilitated more than 7,400 residential units for low-income families, seniors, farm workers, and physically, mentally or developmentally disabled people throughout Northern California with developments in Alameda, Contra Costa, Monterey, Napa, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, and Yuba Counties. 1,500 of Mid Pen's apartment homes are located in San Mateo County. MidPen has a strong track record of leveraging local funds to raise additional funding, compete successfully for low income housing tax credits, and complete projects in a timely way.

MidPen's proposed project would develop Menlo Gateway Senior Housing, a 90-unit new construction, affordable senior housing development at the 1200 block of Willow Road in Menlo Park. The proposed development would include a net increase of 42 affordable units at this location. MidPen's proposal states that the project would be transformative to both current residents and the neighborhood due to its location along the prominent Willow Road corridor.

The current Menlo Gateway Apartments is a 130 unit, 100% affordable, apartment complex on the 1200 and 1300 blocks of Willow Road in the Belle Haven neighborhood of Menlo Park. The proposed project would represent the first phase of a plan to revitalize the entire complex (originally built in the 1960's and "lightly rehabbed" in 1987) and would focus on the 1200 block only, with the potential of increasing the number of units from 48 to 90. This block is where many of the complex's senior residents currently live. The project will be composed of one and two bedroom units. Residential apartments will include a kitchen, dining/living area, bathroom, and bedroom(s). Kitchens, which are proposed to be I-shaped or Pullman style, will include a refrigerator, range, sink with garbage disposal and abundant cabinets. All units are proposed to be adaptable for walkers and wheel chairs. Laundry is provided communally. Social services are proposed to include a small gym or card room, as determined by a resident survey. The apartments would be available to seniors 62 years of age and older. Units would be targeted at 30% of Area Median Income (AMI), or those classified as Extremely Low Income, to 45% AMI, or those considered Low Income (see proposed unit matrix below). The way that current residents' rents are calculated would remain the same.

Unit Type	Quantity	AMI	Max income	Rent net of utilities (2014)
1 br	8	30%	\$26,580	\$584
1br	77	45%	\$39,870	\$896
2br	1	30%	\$29,910	\$697
2br	3	45%	\$44,865	\$1071
2br Mgr unit	1	na	na	na

Income restrictions and rental rate restrictions would apply to all units, consistent with applicable Tax Credit regulatory agreements. MidPen proposes that existing tenants will be relocated during construction at no cost to them. Leasing protocol for any resulting available units would be consistent with the City of Menlo Park's BMR Fund Guidelines, Sections 7 (BMR Waiting List for Rental and For-Purchase Units) and 11 (Requirements for BMR Rental Developments).

MidPen states that the design will embrace the R-4-S design standards and guidelines, ensuring that new building is of high-quality, enhances the neighborhood, and contributes to a healthy environment. Many of the R-4-S standards and guidelines correspond to MidPen's field tested Building Guidelines. New development on the site would follow the R-4-S compliance review process similar to the one St. Anton pursued on Haven Avenue in October 2013 and that Greenheart is pursuing on Hamilton Avenue in May 2014.

In addition to providing additional affordable housing, MidPen expects to address several existing challenges with the site's current design and physical condition, including the separation of the two housing blocks and problematic vehicular and pedestrian circulation patterns. Currently, the management office is on the 1300 block while the services space is on the 1200 block, with a considerable distance in between. Part of the revitalization will include creating dedicated space for on-site management and supportive services on both blocks. These community areas will be sufficiently sized and equipped to meet the needs of the residents and to facilitate MidPen's array of service programs. Redevelopment will allow one block to serve seniors and the other block to serve families; by having each block serve a specific population, MidPen will be able to provide more specialized service attention.

The project's estimated cost is \$31 million, according to the NOFA submission. The current preliminary per unit costs are estimated at \$347,000/unit. These cost estimates are typical for developments of similar scale in the South and West Bay Region. The project is estimated to generate approximately \$17,000,000 in tax credits, depending on pricing and tax rates at time of sale. Thus far, MidPen has received a commitment of \$400,000 in San Mateo County Affordable Housing Funds (AHF) and will continue to seek County support as it becomes available. MidPen has also applied for \$2 million in HOME/CDBG from the County for the Gateway Senior project. County Staff has not recommended the project for funding in this round as they decided to prioritize projects that have city financing commitments and are ready to apply for tax credits in July, 2014. City funding is one of the most important criteria for County funding. MidPen expects the County to have another funding cycle this year and that, with a City financing commitment, Gateway will be well positioned for an additional County commitment. In addition to County funding, MidPen has also recently applied for \$890,000 in Federal Home Loan Bank Affordable Housing Program funds.

Forty two of the 90 units would count toward the City's Regional Housing Needs Assessment (RHNA) requirements and would represent 18% progress on the Very Low Income allotment of 233 units by 2022. Forty four of the new units would be reserved for

current tenants. Based on the City's contribution to the project, a minimum of nine units would be dedicated to the Menlo Park live/work BMR requirement. The actual number of units subject to the Menlo Park live/work requirement will be determined as a part of negotiating the final loan commitment.

If Council is supportive of moving forward, the next step in the process will be a regular agenda item requesting that Council conditionally commit funding for the project. Along with anticipated funding commitments from the County, this will allow MidPen to compete for housing tax credits in March of 2015. Firm commitment of the funds would follow a similar course as that currently being followed for the CORE residential project at the VA Campus.

IMPACT ON CITY RESOURCES

The City's BMR Fund has adequate uncommitted funds to cover the \$3.2 million allocated for this project through the NOFA. As a part of the proposal, MidPen has indicated that the project would be more competitive in the California Tax Credit Allocation process if the existing City loan (approximately \$4 million in Redevelopment funds) were to be "modified and extended" as a part of the funding package. Complicating this request is the dissolution of the RDA, although at this time we believe that as the housing Successor Agency the City can make all decisions regarding the loan without the necessity for State Department of Finance or Oversight Board approval. The final structure of the soft loan from the City would be determined once the City's conditions (if any) have been met and would return to Council for final approval.

The MidPen proposal also includes a request to abandon the portion of Frontage Road controlled by the City on the 1200 block of the complex to improve access and circulation and to provide continuous sidewalk along Willow Road. One of the property's most significant challenges is with circulation, especially with non-resident vehicle and pedestrian traffic through the site. MidPen is proposing reconfiguration of Frontage Road at the 1200 block to allow improvements to circulation and access, and create distinct public and private circulation routes. There are existing precedents of vacation and abandonment of Frontage Road along Willow Road, to allow for a distinct public sidewalk, including the neighboring property 1283 Willow Road and four other properties between Newbridge Street and the Dumbarton Rail tracks. Vacation and abandonment will allow for provision of a public pedestrian route that is integrated with the rest of Willow Road, and a site layout reconfiguration that will greatly benefit residents, staff and the neighborhood, and create clearly delineated boundaries between public and private realms. MidPen's intention on the 1200 block is to demolish the wall, and construct a public sidewalk approximately where the current wall is. Next to the new sidewalk would be a new property boundary – likely a decorative fence – that would maintain security for the site, as well as a landscape buffer. Approximately 775 feet of linear frontage would be affected.

POLICY ISSUES

Below-market-rate units at the deepest affordability levels are the most challenging to finance, and the most critical among Bay Area housing needs and no new senior housing has been built in Menlo Park in many years. This project is well-positioned given MidPen's ownership of the site. To finance these units in any other location in Menlo Park would require a greater level of subsidy for land acquisition.

The proposal from MidPen is consistent with the City's BMR policy and guidelines. Per the anticipated Low Income Housing Tax Credit Regulatory Agreements, tenants will not be accepted unless their household income levels are below 45% AMI. A pro rata share of no less than nine units will be leased according to the City of Menlo Park's BMR Fund Guidelines, Sections 7 and 11.

Benefits of the project include new development of an older housing complex along an important community gateway; the project helps meet a pressing and long-term housing need; it utilizes an opportunity site included in the Housing Element; and the \$3.2 million commitment of BMR funds to leverage a 90-unit affordable rental project is quite reasonable based on cost per unit. Additionally, MidPen has a strong track record of development and operation of affordable rental housing.

An additional benefit of the project to the community is the progress it would represent toward meeting RHNA goals with all 90 units restricted to 30% and 45% AMI translating to 18% progress on the 233 Very Low Income units needed per the proposed Menlo Park RHNA for 2014-2022 for the 42 new units. Demonstrated progress on the City's RHNA allocation can position the City for a share of State funds for transportation improvements.

ENVIRONMENTAL REVIEW

On May 21, 2013, the City Council adopted the Environmental Assessment (EA) prepared for the Housing Element. The EA analyzed the project site as a potential location for higher density, low income housing, and the property was rezoned to R-4-S with an Affordable Housing Overlay (AHO). Therefore, the environmental impacts of this project were reviewed in the EA, which is the equivalent of a Draft Environmental Impact Report (EIR).

In light of the foregoing, the "common sense exemption" which indicates that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment applies. It can be seen with certainty that there is no possibility that the approval of the loan for the development of the project will have a significant effect on the environment beyond what was analyzed in the EA. Therefore, the project is exempt from CEQA.

The proposed street abandonment is Categorically Exempt under Class 5, minor alterations in land use, of the current State of California Environmental Quality Act (CEQA) Guidelines.

PUBLIC NOTICE

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

Report prepared by:
Starla Jerome-Robinson
Assistant City Manager



--DRAFT--
HOUSING COMMISSION SPECIAL MEETING
MINUTES

March 5, 2014

5:30 pm

City Council Conference Room
City Hall Administration Building
701 Laurel Street, Menlo Park, CA 94025

The meeting was called to order at 5:34 p.m.

ROLL CALL:

Commissioners Present: Sally Cadigan
Lucy Calder
Carolyn Clarke (Chair; arrived at 5:35 p.m.)
Michele Tate

Commissioners Absent: Julianna Dodick (Vice Chair; was ill)

Staff Present: Justin Murphy, Development Services Manager
Deanna Chow, Senior Planner
Clay Curtin, Assistant to the City Manager (Commission liaison)

A. PUBLIC COMMENT

There were no public comments.

B. REGULAR BUSINESS

- B1. Recommendation to the Planning Commission and City Council on the Final Draft Housing Element of the General Plan and the Associated Implementing Ordinances (*Attachment*)

Deanna Chow, Senior Planner, provided the staff report.

The Commission heard from Don Cornejo, Supported Living Specialist from the Golden Gate Regional Center and Corrine Shelly Aulgur, member of the Autism Society of America. Both spoke in favor of incorporating information into the Housing Element that considers the needs of individuals with developmental disabilities.

ACTION: *Commissioner Cadigan made a motion (seconded by Commissioner Calder) that the Housing Commission recommend to the Planning Commission and City Council that they approve the proposed Final Draft Housing Element of the General Plan and the Associated Implementing Ordinances and to incorporate information into the plan that considers the needs of people with developmental disabilities. **The motion was approved unanimously (4-0).***

- B2. Review and Discuss the Next Two-Year Housing Commission Work Plan Goals and Outcomes (*Attachment*)

Clay Curtin, Assistant to the City Manager and Commission Liaison, provided a draft of a proposed Two-Year Housing Commission Work Plan.

ACTION: Chair Clarke made a motion (seconded by Commissioner Cadigan) to adopt proposed Two-Year Housing Commission Work Plan. **The motion was approved unanimously (4-0).**

B3. Approve the February 5, 2014, Meeting Minutes (*Attachment*)

ACTION: Commissioner Calder made a motion (seconded by Commissioner Cadigan) to approve the minutes of the February 5, 2014, Housing Commission regular meeting. **The motion was approved unanimously (4-0).**

C. REPORTS AND ANNOUNCEMENTS

C1. Commission Member Updates

There were no commissioner updates.

D. INFORMATION ITEMS

There were no informational items.

E. ADJOURNMENT

The meeting was adjourned at 7:03 p.m. to the May 7, 2014, Regular Meeting starting at 5:30 p.m.

Upcoming Quarterly Housing Commission Meeting Dates:

May 7, 2014	Regular Meeting
Aug 6, 2014	Regular Meeting
Nov 5, 2014	Regular Meeting

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Housing Commission Work Plan for 2014-2016



Housing Commission

Mission Statement

We are affordable housing advocates.

We make recommendations to the City Council on issues related to housing policy, implement Council policy decisions, and represent the City where needed on housing matters.

We are a conduit of information out to the community about affordable housing programs *and* a conduit of information back from the community regarding housing matters to the City Council.

For consideration by the City Council on April 1, 2014



Housing Commission 2014-2016

Commission Members Listing

Commissioner	Carolyn Clarke (Chair)
Commissioner	Julianna Dodick (Vice Chair)
Commissioner	Sally Cadigan
Commissioner	Lucy Calder
Commissioner	Michelle Tate



Housing Commission Priority List

The **Housing Commission** has identified the following priorities to focus on during 2014-2016:

1.	<p><u>BMR Housing</u></p> <ul style="list-style-type: none">• Activities:<ul style="list-style-type: none">○ Monitor and review BMR funds and use.○ Participate in and advise Council and/or Planning Commission on policy decisions related to BMR.• Trigger: Staff will bring items to the commission for consideration.
2.	<p><u>Housing Element Implementation</u></p> <ul style="list-style-type: none">• Activities:<ul style="list-style-type: none">○ Monitor and Review of the Housing Element program implementation.○ Our responsibility is to represent the community in an advisory role and continue to advocate for relevant housing programs, as outlined in the Housing Element, with an emphasis on affordable housing.• Timeframe: Ongoing.
3.	<p><u>Housing Projects</u></p> <ul style="list-style-type: none">• Stay appraised of housing projects in Menlo Park (i.e. CORE, Mid-Peninsula/Willow, HIP, Habitat)• Action: Commissioners will include information on activities in update at quarterly commission meetings.

4.	<p><u>Community Advocacy for Affordable Housing</u></p> <ul style="list-style-type: none"> • Develop awareness in community of the need for affordable housing. <ul style="list-style-type: none"> ○ Interpret who may fit the profile for BMR (i.e. your child's nanny, workers in Menlo Park, etc). This will require understanding the demographics profile of both current and potential BMR candidates. ○ Define what affordable housing means in Menlo Park. • Conduit of information out to the community <i>and</i> back from the community • Action: Commissioners will include information on activities in update at quarterly commission meetings.
5.	<p><u>Collaborate with area Housing Agencies and Advocates</u></p> <ul style="list-style-type: none"> • Identify Housing Commission liaisons for area housing agencies and advocates. Liaison will report back regularly at quarterly commission meetings.



Commission Work Plan Guidelines

Work Plan Worksheet

Step 1

Review purpose of Commission as defined by Menlo Park Council Policy CC-01-0004	Housing matters including housing supply and housing related problems; Community attitudes about housing (range, distribution, racial, social-economic problems); Programs for evaluating, maintaining, and upgrading the distribution and quality of housing stock in the City; Planning, implementing and evaluating City programs under the Housing and Community Development Act of 1974; Members serve with staff on a loan review committee for housing rehabilitation programs and a first time homebuyer loan program; Review and recommend to the Council regarding the Below Market Rate (BMR) program; Initiate, review and recommend on housing policies and programs for the City; Review and recommend on housing related impacts for environmental impact reports; Review and recommend on State and regional housing issues; and Review and recommend on the Housing Element of the General Plan
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Step 2

Develop or review a Mission Statement that reflects that purpose <i>Who we are, what we do, who we do it for, and why we do it!</i>	We are affordable housing advocates. We make recommendations to the City Council on issues related to housing policy, implement Council policy decisions, and represent the City where needed on housing matters. We are a conduit of information out to the community about affordable housing programs <i>and</i> a conduit of information back from the community regarding housing matters to the City Council.
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Step 3

Discuss any priorities already established by Council	There are no Council priorities identified that specifically pertain to the Housing Commission, however, we will monitor development and advocate for affordable housing where advisable.
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Step 4

Brainstorm goals, projects or priorities of the Commission	Benefit, if completed	Mandated by State / Local law or by City Council direction?	Required policy change at the City Council level?	Resources needed for completion? Staff or creation of subcommittees?	Estimated Completion Time	Measurement Criteria How will we know how we are doing?
BMR Housing	<ul style="list-style-type: none"> Oversight of compliance with guidelines 	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Staff time Commission meetings 	24 Months	<ul style="list-style-type: none"> Approved BMR Agreements
Housing Element Implementation	<ul style="list-style-type: none"> In compliance with State requirements 	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Funding Staff time 	ongoing	<ul style="list-style-type: none"> Commission knowledge and feedback on upcoming projects
Housing Projects	<ul style="list-style-type: none"> Continued awareness of upcoming projects in absence of Housing staff 	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Staff time (briefs from planning staff on pending projects) 	ongoing	<ul style="list-style-type: none"> Commission knowledge of projects
Community Advocacy for Affordable Housing	<ul style="list-style-type: none"> More awareness of the need to provide a range of housing opportunities 	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Subcommittee 	24 Months	<ul style="list-style-type: none"> More acceptance of affordable housing by the community
Collaborate with area Housing Agencies and Advocates	<ul style="list-style-type: none"> Access to more resources and ideas 	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Subcommittee 	24 Months	<ul style="list-style-type: none"> More communication with area housing advocates

Step 5

List identified Goals, Priorities and/or Tasks for the Commission	Prioritize Tasks by their significance			
	1 Urgent	2 1-year	3 2-year	4 Long Term
Housing Element Implementation	X			
Community Outreach for awareness and input <ul style="list-style-type: none">• Advise on the commission and what they do• Programs available and the process to utilize them• What does the community feel they need• Article in Menlo Focus• Table at Farmers Market• Information / programming placed on channel 26	X Is taking place and is Ongoing			
All City publications, including the Activity Guide should include information on the housing programs available	X Should begin now and continue			



MEMORANDUM

DATE: May 7, 2014

TO: Housing Commission

FROM: Deanna Chow, Senior Planner

RE: **Item C1: Information Item: Multi-city Affordable Housing Nexus Study and Impact Fee Feasibility for Commercial and Residential Development**

This is an information item and does not require Housing Commission action.

OVERVIEW

Below Market Rate Housing Program

The Below Market Rate (BMR) Housing Program was established in 1987 as a way to increase the housing supply for people who live and/or work in Menlo Park and have very low, low or moderate incomes as defined by income limits set by the State for each County. The primary objective of the program is to create actual housing units rather than generate a capital fund. The BMR requirements for residential development projects is a form of “inclusionary zoning” and the requirements associated with the commercial development projects are a form of “linkage”. Chapter 16.96 of the Municipal Code authorizes the BMR Housing Program. The Program is implemented through Guidelines as adopted and amended by the City Council. On May 6, 2014, the City Council will consider modifications to the BMR Guidelines, primarily for “clean up” items in the document, but to also seek approval for use of BMR funds to cover the administrative costs to operate the program.

All residential developments of five or more units are subject to the City’s BMR requirements. However, application of the BMR Ordinance to rental residential projects has not been enforced since a 2009 appellate court decision (*Palmer/Sixth Street Properties v. City of Los Angeles*) that declared that the state’s Costa Hawkins Rental Housing Act preempts a local jurisdiction’s

inclusionary housing law. The State Legislature passed the Costa Hawkins Rental Housing Act in 1995 to limit the extent of local rent control laws. Therefore, the current BMR Ordinance is applied to for sale residential projects of five or more units only.

Per the BMR Ordinance, proposed developments with less than 20 dwelling units are required to provide not less than 10 percent of the units at below market rate to very low-, low-, and moderate-income households while developments of 20 or more dwelling units are required to provide a minimum of 15 percent of the units at below market rates. This requirement can be met with on-site BMR units incorporated into the project, off-site units, or when the City determines that BMR units are not feasible for the development, payment of an in-lieu fee or a combination of dedicated below market rate units with payment of an in-lieu may be acceptable. The terms of the BMR Housing Agreement are reviewed by the Housing Commission and the applicable reviewing body (i.e., Planning Commission or City Council).

The BMR Ordinance also applies to commercial development of 10,000 square feet or more. Commercial development exempt from this requirement include 1) private school and churches, 2) public facilities, 3) commercial development projects of less than 10,000 square feet, and 4) projects that generate few or no new employees. Similarly, the BMR Housing Program Guidelines provide various alternatives to address the requirement, including providing on-site units (if permitted in the zoning district) or off-site units, or payment of an in-lieu fee when providing the BMR units is not feasible. In October 2000, the City Council adopted the Commercial Linkage Fee Nexus Study, which created the justification to charge a fee to mitigate the impacts of commercial and industrial development on affordable housing. The fees for the upcoming 2014-2015 fiscal year, are \$15.19 per square foot of new gross floor area for office and R&D uses and \$8.24 per square foot of new gross floor area of all other commercial/industrial uses. The fees are adjusted annually on July 1. The fees are collected at the time of building permit issuance and are deposited into the BMR Housing Fund.

Currently, the City is partnering with other San Mateo County jurisdictions for the preparation of affordable housing fee nexus and feasibility studies. Participation in this effort would implement Housing Element Program H4.D, which calls for the preparation of an updated nexus study, and will help ensure compliance with the State Mitigation Fee Act (AB1600 – Government Code Section 66001 through 66003).

Residential and Commercial Linkage Fee Nexus Studies

Since the loss of redevelopment agencies and the State court prohibition of rental inclusionary zoning, cities have increasingly relied on impact fees to

support affordable housing. Generally, impact fees require new construction to pay money into a fund which, in this case is used to support affordable housing. To enact an affordable housing impact fee, cities must first conduct a nexus study that demonstrates the relationship between new housing or jobs and the need for affordable housing in the community.

The need for affordable housing is a continuing issue for San Mateo County and the region, in general. San Mateo County is often ranked as one of the least affordable areas in the state. In order to address this problem, save resources, and also promote cooperation and better policy making, multiple jurisdictions in San Mateo County have partnered to explore the use of impact fees on new development to fund affordable housing. This partnership stems from the City's collaboration with other San Mateo County jurisdictions as part of the City's involvement in 21 Elements. The group is appropriately called 21 Elements because for the past two housing element cycles, all 21 jurisdictions in the County have formed a sub-region to distribute the Regional Housing Needs Allocation (RHNA), to collaborate on housing policy issues and program development, and to develop materials for each jurisdiction's Housing Element.

Thirteen jurisdictions in San Mateo County, plus San Mateo County and the City of Palo Alto are participating in the nexus study. The study would provide a defensible analysis that will be customized on a city-by-city basis to establish individual policy. The City of Foster City has offered to take the lead in coordinating the study, and issued a Request for Proposals (RFP) for the consultant late last Fall. The firms of Strategic Economics and Vernazza Wolfe and Associates were selected to prepare the analysis and studies. The latter firm also prepared the City's Linkage Fee Nexus Study from 2000.

The study contains three main tasks, including 1) affordability gap calculation, 2) residential nexus study (for-sale and rental units), and 3) commercial linkage fee nexus study. The affordability gap is defined as the difference between what a household (renter and owner) can afford to pay and the cost of a new unit. The second component is the residential nexus study, which will estimate the increase in demand for affordable housing associated with new residential development. The study will define a maximum per unit fee that a jurisdiction could charge, either on a unit basis or square foot basis. Lastly, the nexus study will provide a commercial linkage fee analysis to estimate the increase in demand for affordable housing that accompanies new non-residential development. Similar to the residential impact fee, a maximum commercial fee will be defined. This will be on a per square foot basis. An outline of the scope of work is included as Attachment A.

The kick-off for the Nexus Study was conducted in mid March 2014. The consultants are currently collecting data regarding newly completed projects and pipeline projects for both residential and commercial developments to conduct

the analysis. A draft of the nexus report is anticipated in the Fall 2014 with the final summary anticipated at the end of the calendar year. As the process proceeds, staff may check-in with the Housing Commission and/or City Council as questions arise and/or guidance is needed. An information item on the Nexus Study is anticipated for an upcoming June City Council meeting.

The City's participation in the multi-jurisdictional nexus study will provide the City with the opportunity to make policy decisions about affordable housing. Participation in this effort does not obligate the City to change any of its current policies or practices. However, jurisdictions will have the choice to adopt an impact fee, and to determine the amount of the fee, so long as the fee is below the maximum amount identified in the study.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, at least 72 hours prior to the meeting, with this agenda item being listed.

ATTACHMENTS

A. Nexus Study - Outline Scope of Work

Grand Nexus Study

Outline of Scope of Work

Task 1. Project Initiation

- Collect background data from 21 Elements and City Staff and review relevant nexus studies.
- Kick-off meeting.

Task 2. Affordability Gap Calculation

- Affordability gap is defined as the difference between what households (renters and owners) can afford to pay and the cost of new units.
- Housing affordability will be the same for all jurisdictions, calculated based on San Mateo County estimated incomes.
- Because market-rate housing prices vary in each jurisdiction, the affordability gap will be calculated individually for each jurisdiction. This makes the findings on the affordability gap more accurate and more defensible from a legal perspective.

Task 2 Deliverable: Concise technical memorandum containing draft tables summarizing the affordable housing gap for renters and owners.

Task 3. Residential Nexus Study

- The residential nexus study will estimate the increase in demand for affordable housing associated with new residential development.
- The first step will be to determine the type of new development likely to occur in each jurisdiction based on a review of newly completed and pipeline projects. Based on the rents and sales prices of these projects, the team will calculate the household incomes of new households.
- The primary driver for this increase in demand for affordable housing is the growth in expenditures for goods and services, which would generate new jobs. The number and wages of jobs associated with new households is then estimated using an economic model (IMPLAN). Based on the wages of these jobs, the household income of employee households will be calculated.
- The **aggregate** housing affordability gap is estimated by multiplying the number of households that earn lower wages by the average affordability gap estimated in Task 2.
- The aggregate housing affordability gap is divided by the number of housing units in each prototype. This figure defines a maximum per unit fee amount.
- The Nexus Study provides estimates of the maximum fee that can be charged, but jurisdictions have choice about the actual fee to adopt, as long as the fee is below the maximum.
- Fees can be defined on either a unit basis or a square foot basis.

Task 3 Deliverables: Technical memorandum on housing impact fees with summary tables and methodology appendix.

Task 4. Commercial Linkage Fee Nexus Study

- The purpose of a Commercial Linkage Fee Nexus Study is to estimate the increase in demand for affordable housing that accompanies new non-residential development.
- Based on commercial prototypes and industry standards of employment densities, it is possible to estimate employment growth associated with each property prototype.
- Again, like the residential nexus calculations, some of these new jobs pay wages that are too low to afford market-rate housing.
- The remaining research steps are the same as for the residential nexus study.
- Fees are defined on a square foot basis.
- Similar to the residential impact fee, the actual commercial linkage fee that a jurisdiction adopts is based on financial considerations, as well as other factors.

Task 4 Deliverables: Technical memorandum on Commercial Linkage Impact Fees with summary tables and methodology appendix.

Task 5. Meetings with 21 Elements Staff and Stakeholders

- Discuss findings and recommendations.

Task 6. Prepare Draft and Final Reports

- A sample report will be prepared for one jurisdiction to serve as a model.
- Nexus study reports will be prepared for each jurisdiction participating in the study.
- A summary report will also be prepared that is user-friendly and easily understood by a wide audience, providing an overview of the results for all the jurisdictions.

Task 6 Deliverables: Sample nexus study report, draft nexus reports and final nexus reports for all participating jurisdictions. Draft and final summary reports. All work products to be delivered electronically.

Task 7. Meeting with 21 Elements Staff

Optional (Unfunded) Tasks

- Attend public hearings
- Support and specific recommendations to individual jurisdictions
- Excel models