



Council Meeting: July 31, 2012

SUBJECT: Modifications to the Zoning Code Related to Chapter 19.66: Affordable Housing and Single Room Occupancies (Study Issue CDD 09-12C and Non-Routine HO-01)

REPORT IN BRIEF

In 1980, Council established the Below Market Rate (“BMR”) Housing Program, which is currently codified in Sunnyvale Municipal Code (SMC) Chapter 19.66 (“the Ordinance”). The BMR Program has been an important tool for providing rental and ownership opportunities for Sunnyvale’s low- to moderate-income households. As of March 2012, the BMR Program has produced 380 ownership and 639 rental units. In December 2013, an additional 46 BMR rental units will be added to the inventory. Staff anticipates approximately 130 additional ownership units to be created in the coming years.

Several minor amendments to the Ordinance were adopted in 2003. Over the last several years several study issue papers and non-routines have been approved to address additional revisions to the Ordinance. Completion of these items were delayed due to various legal issues and most recently, a decision to conduct a study to document the nexus between new residential development and the demand for affordable housing created by the new development. A nexus study was completed in April 2012 by Economic & Planning Systems, Inc. (“EPS”) and is provided in **Attachment A**.

Staff has reviewed affordable housing ordinances of other jurisdictions and held outreach meetings with developers, affordable housing advocates and the general public to solicit their input on the BMR requirements imposed on new development. Staff has developed new zoning code provisions to make the proposed improvements to the Below Market Rate Housing Requirements. These provisions are provided in the draft ordinance (**Attachment B**).

Staff Recommendations:

1. Adopt the ordinance provided in **Attachment B** to modify the zoning code related to Below Market Rate Housing Requirements and to move the density bonus and single room occupancy subsections from Chapter 19.66 to other chapters of the zoning code.
2. Direct staff to prepare a nexus study to determine the nexus between construction of market-rate rental housing and the demand for affordable rental housing.

3. Direct staff to develop policies and guidelines for Council review to establish criteria for the acceptance of in-lieu fees as an alternative to BMR units.

BACKGROUND

City Council adopted the Ordinance in 1980 in order to ensure that new housing developments were affordable to households with a wide range of incomes. The Ordinance has been amended several times, most recently in 2003. Several study issues papers and non-routines have been prepared in recent years, upon Council and staff recommendations to improve the BMR Program. In addition, in 2008 Council considered a proposed “Affordable Housing Strategy” (RTC 08-309), which included options for improving the BMR Program and other City affordable housing programs. These study issues and non-routines were consolidated into one non-routine in 2009 (CDD HO-01, shown in **Attachment C**). In addition, staff incorporated Council actions outlined in the Affordable Housing Strategy and the Housing and Community Revitalization Sub-element into the same non-routine.

A portion of the BMR Ordinance amendments work plan was completed in 2010, but the remainder of the work plan was put on hold, pending the outcome of litigation by a developer challenging the BMR requirements imposed on one of the developer’s Sunnyvale projects (Trinity Park). In March 2011, the City’s BMR requirements were upheld in court. Staff then prepared a study to quantify the nexus between new residential development in Sunnyvale and the demand for affordable housing that would be created by new development, similar to traffic studies or other studies done to quantify impacts for the purposes of setting impact fee rates or mitigation measures.

Staff contracted with EPS in November 2011 to conduct a nexus study analyzing the impact that development of market-rate housing has on the demand for BMR housing, and to determine the defensible nexus-based fee that could be charged to market rate housing developments. The fee represents the maximum fee that may be charged to new market-rate housing units to mitigate the impacts of market rate housing. These fees are then used by the City to assist in the production of new affordable units for moderate-and lower-income households not accommodated by market-rate projects.

The intent of the BMR program is to enhance the public welfare by ensuring that future housing development includes housing affordable to households of various income levels, from lower to moderate incomes. The existing Ordinance includes requirements for ownership and rental developments, density bonus provisions and single room occupancy (“SRO”) requirements.

Proposed Improvements to the Below Market Rate Housing Program

At the October 14, 2008 City Council meeting, Council considered several changes to the BMR Home Ownership Program as part of its review of the City of Sunnyvale Affordable Housing Strategy (RTC 08-309). Those changes included:

- Allowing developers to acquire and rehabilitate existing housing in other locations to meet their BMR requirements if that would result in more BMR units than otherwise required;
- Allowing developers to provide BMR units at a different site than the market-rate units, if that would result in more BMR units than otherwise required (often referred to as an “off-site” or “transfer of credits” option);
- Increasing BMR ownership requirements from 12.5% to 15%, only where legally required for future redevelopment areas (“RDA”). This change is now legally obsolete due to the dissolution of redevelopment agencies;
- Allowing the maximum resale price of BMR homes to be based on 100%, rather than 33.3%, of the increase in the Consumer Price Index for housing costs during the BMR homeowner’s term of ownership;
- Amend the density bonus section of the Ordinance to be consistent with State Density Bonus Law.

Study Issue CDD 09-12C from 2009, which has since been incorporated into non-routine CDD HO-01, raised the question of how to handle fractional BMR unit requirements (i.e., to continue rounding up or down to the nearest whole units, as the current ordinance requires, or to allow developers to pay a fee for the fractional unit requirement). As part of this particular study issue, staff was asked to analyze the potential costs and/or benefits to the City and developer of modifying this aspect of the Ordinance.

All of the above issues, as well as BMR issues identified during outreach and preparation of the 2008 Affordable Housing Strategy, 2009 Housing Element Update, 2010 Consolidated Plan, and recent case law decisions are addressed in this staff report. Staff recommendations regarding in-lieu fees and on-site construction requirements are supported by the conclusions of the nexus study.

EXISTING POLICY

Sunnyvale General Plan, Housing Element:

Goal A: Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale’s households of all income levels.

Policy A.3: Utilize the Below Market Rate (BMR) Housing requirements as a tool to integrate affordable units within market rate developments, and increase the availability of affordable housing throughout the community.

DISCUSSION

Staff reviewed the below market rate programs of the cities of Santa Clara, Mountain View, Milpitas, Fremont, Hayward, Watsonville, Cupertino, San Jose, Palo Alto, San Leandro and Campbell to identify best practices and to ensure that the recommendations proposed by staff are comparable to those of other cities. The results of that survey indicated that several cities allow developers to pay an in-lieu fee for fractional BMR units and provide offsite options to developers to provide BMR units. Below market rate programs throughout the Bay Area vary greatly. Several programs are similar to Sunnyvale's current program and integrate BMR homes in market-rate developments. Additionally, there are other cities like San Jose that provide developers with a menu of options, including providing onsite and offsite BMR units, while some cities, such as Mountain View, prefer to collect an in-lieu fee and develop affordable rental apartments.

Staff has consolidated all of the prior goals and items identified in the study issues and non-routines noted above into the following five goals:

1. A clear and understandable code that sets forth the basic program structure and key requirements for developers while allowing staff to make reasonable program improvements periodically to ensure effective program operations.
2. A menu of options for developers to use to meet BMR requirements.
3. Greater consistency with state and federal law, including recent case law, and with state and federal terminology.
4. More effective provisions for compliance monitoring and enforcement.
5. Allow developers to pay an in-lieu fee on a wider range of developments, particularly when payment of the fee results in better public policy outcomes, such as providing more units at greater levels of affordability.

In order to effectively implement these changes and comply with recent changes in state law, the proposed code revisions separate the below market rate program requirements into two new chapters: Chapter 19.67: Below Market Rate Ownership Housing Requirements; and Chapter 19.69: Existing Below Market Rate Rental Housing Requirements. Chapter 19.69 is applicable only to existing BMR rental properties developed as a condition of rental project land use approvals issued prior to July 2009, as explained below.

Goal 1: A Clear and Understandable Code

The revised Below Market Rate Housing provisions in draft Chapters 19.67 and 19.69 omit references to outdated administrative processes that are not cost-effective and are more appropriately addressed in the Program Guidelines. The proposed provisions allow staff to administer the program in a more streamlined, cost-effective manner. Compliance and enforcement provisions have also been improved.

Draft Chapter 19.67 sets forth clear requirements for affordability levels and BMR unit standards applicable to new ownership housing developments. It streamlines the process of establishing maximum BMR sale prices by employing a standard formula applicable to all BMR homes, new and resale, to save staff, developers, and BMR home-owners time.

Draft Chapter 19.69 also streamlines and standardizes the process of setting maximum BMR rent limits so that all existing BMR rentals will be subject to the same rent limits, adjusted for unit size, based on current affordability levels rather than market rate rent increases and historic rates. These adjustments have been set to be as cost-neutral as possible to tenants and property owners, while easing the annual administrative burdens on property management and staff. Details of these recommendations are shown in **Attachment D** and in the draft Chapter 19.69 in **Attachment B**.

Goal 2: A Menu of Options

Draft Chapter 19.67 allows ownership housing developers to choose from several new options for providing affordable housing in order to meet their below market rate requirements. The options listed below are commonly used in other jurisdictions with BMR programs. In order to receive approval to use any of these options, applicants would have to demonstrate that the proposed alternative would provide more BMR units, a greater degree of affordability, and/or a more desirable type of unit for the target occupants and/or neighborhood, than would be provided by providing standard BMR homes for sale within the market-rate project. The use of any of these alternatives would require approval of the approving body at the time of entitlement.

- a. *Transfer of Credits:* Allow developers to provide BMR units at an alternative site rather than in the market-rate development. This option (also known as an “off-site” option) may include use of one alternative site for BMR units to satisfy the BMR requirements of one or more market-rate developments. This variation is also referred to as “pooling of credits” option.
- b. *Acquisition/Rehabilitation/Preservation:* Allow developers to acquire and/or rehabilitate a market-rate property and place a long-term affordability covenant on it, thus converting it to affordable housing, or rehabilitate and preserve an expiring affordable housing property and extend the term of affordability for at least 40 years. Using the option, a developer can opt to partner with or assist a non-profit developer on a project. This option is also referred to as the “existing unit conversion” option.
- c. *Alternative Housing Types:* Provide BMR homes within the market-rate development of slightly different housing types and/or sizes than the market rate homes. For instance, in a townhome project, provide BMRs as stacked

flats, or in a single-family subdivision, provide BMRs as duets or townhomes. Design of the BMR structures must be consistent in design and scale with that of the market-rate homes, so as to blend in from the street view. The units must also be of adequate size and quality to be marketable to buyers in the target income groups for the proposed BMR prices, given market conditions at the time of the development, as determined by the Community Development Director.

Goal 3: Greater Consistency with State and Federal Law

- a. *BMR Rental Program*: Due to a court decision rendered in July 2009 regarding the *Palmer/Sixth Street Properties v. City of Los Angeles* case, jurisdictions can no longer require rental housing developers to provide below market rate units unless they request and receive local subsidies for the BMR units. Cities can also justify a BMR requirement or fee through a nexus study. In light of this change, draft Chapter 19.69 is not applicable to new rental developments entitled after July 2009. This draft Chapter includes provisions to maintain the affordability of existing BMR rental units, including one final project currently under construction, for the remainder of their terms of restriction, which range from 30 years to 55 years. It also includes provisions for streamlined administration of existing BMR rental units, and enforcement provisions similar to those in Chapter 19.67, as appropriate for rentals.
- b. *Density Bonus*: State density bonus law provides regulatory incentives to developers for including affordable housing in their developments. It requires local jurisdictions to provide a “density bonus,” which allows the developer to build more dwelling units per acre than otherwise allowed on the site by local zoning codes, if the developer includes qualifying affordable units in the project. State density bonus law was amended by Senate Bill 1818, which took effect in 2005 and set forth more detailed density bonus requirements applicable to developers and local jurisdictions. The current Ordinance includes several density bonus options that are no longer consistent with the new state density bonus law. Rather than reiterate all of the state provisions, which could be amended again in the future, the draft provisions simply refer to the state statutes. In addition, since the density bonus option is available for any residential project, not just those subject to the BMR requirements, the revised density bonus provisions are proposed to be located in Chapter 19.18.020, the section establishing maximum residential densities for each zoning district, rather than in the chapter containing BMR requirements.
- c. Draft Chapter 19.67 applies the residential BMR requirements to all residential zones, including single family and mixed use zoning districts, in order to distribute BMR units as widely as possible throughout the City, in

any new for-sale developments of eight or more homes or condominiums. This change brings the ordinance into greater compliance with fair housing law, and provides greater opportunities to create affordable housing and/or generate BMR in-lieu fee revenues.

Goal 4: More Effective Provisions for Compliance Monitoring and Enforcement

The current Ordinance states that the City may take any appropriate legal actions or proceedings necessary to ensure compliance with the Ordinance. In addition, it states that any individual who sells or rents a restricted unit in violation of the Ordinance is required to forfeit all monetary amounts received. Further, any individual who violates the terms of the Ordinance or any deed restrictions may be forced to vacate or sell the unit to the next eligible program participant. Draft Chapters 19.67 and 19.69 include improved provisions for enforcement related to recovery of excess proceeds in the case of foreclosure or insurance loss payments, and defines conflicts of interest and violations. Additional provisions allow eligible occupants who have been charged amounts in excess of those allowed by the BMR sales price or rent limits to pursue civil actions to recover such amounts, and allow the City to charge violators with a misdemeanor and/or institute various civil actions to enforce the requirements.

Goal 5: Allow Developers to Pay an In-Lieu Fee on a Wider Range of Developments

The results of the nexus study conducted by EPS (**Attachment A**) support an average BMR requirement of 34% of the units in a project, or an in-lieu fee of approximately 7% of the sales price of the market rate units. The scope of this RTC did not include changing the percentage of BMR units required in developments providing the units on-site. Therefore the draft Chapter 19.67 contains the same BMR requirement of 12.5% as the current Ordinance, for those projects that provide BMR units on site. Reconsideration of the in-lieu fee amount was part of study issue 09-12C; however, coincidentally, the percentage supported by the nexus study (7%) is the same as the fee required in the current ordinance, therefore staff recommends essentially maintaining the same fee rate, but expressing it as a percentage of each market rate home's sales price, rather than by the formula currently provided in the Ordinance.

Summary of Changes to In-Lieu Fee Requirements

1. *In-Lieu Fee*: Set the in-lieu fee at 7% of the market rate sales price.
2. *Fractional Units*: Give developers the option to pay an in-lieu fee for the fractional unit or round up to provide an additional unit.
3. *Remove 19-unit Project Limit*: The current Ordinance only allows developers to use the in-lieu fee option in developments of 19 or fewer homes. Draft Chapter 19.67 removes this limit, allowing any

development subject to BMR requirements to pay the fee, as long as the approving body approves this option at the time of entitlement.

Public Outreach Efforts

Staff held outreach meetings on this matter on September 21, 2011 and on May 15, 2012. Those in attendance, including housing advocates, developers, and others generally responded positively to the proposed changes, applauding the City's efforts to streamline the process and provide a menu of options for providing affordable housing.

The Housing and Human Services Commission held a public hearing on this item on May 23, 2012, and recommended that Council approve Alternative 1, as recommended by staff in the Draft RTC. Draft meeting minutes are provided in Attachment E.

Planning Commission held a study session on this item on June 25, 2012 and a public hearing on July 9, 2012. A brief summary of the discussion during the study session is provided in Attachment F, and draft minutes of the July 9th meeting are in Attachment G. Commissioners expressed concern about the findings of the nexus study, which indicated that most of the need generated by new market-rate development is for very low income units. They expressed interest in exploring ways to meet those needs, as well as improving the current BMR program, which primarily serves moderate and low income households.

The Commission recommended that Council adopt the Ordinance provided in Attachment B to: modify the zoning code related to Below Market Rate Housing Requirements; update the density bonus provisions; and move the density bonus and single room occupancy subsections from Chapter 19.66 to chapters 19.18 and 19.68, respectively. They also recommended that Council consider establishing a policy preference for use of the in-lieu fee alternative, rather than provision of BMR ownership units, similar to that implemented by other cities, such as Mountain View, and expressed interest in exploring alternatives for providing very low income units.

FISCAL IMPACT

Adoption of the proposed Ordinance would not directly impact the General Fund. However it could increase the amount of BMR in-lieu fee revenue to the BMR in-lieu fee fund, which can be used to create very low and low income affordable units, provide down-payment assistance loans for income-eligible home buyers, and cover program administrative costs.

PUBLIC CONTACT

Public Contact was made through posting of the Housing and Human Service Commission agenda on the City's official-notice bulletin board, on the City's Web site, and the availability of the agenda and report in the Office of the City Clerk.

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site. One public comment letter was received from the Building Industry Association (Attachment H).

ALTERNATIVES

Staff Recommendations:

1. Adopt the ordinance provided in Attachment B to modify the zoning code related to Below Market Rate Housing Requirements and to move the density bonus and single room occupancy subsections from Chapter 19.66 to other chapters of the zoning code.
2. Direct staff to prepare a nexus study to determine the nexus between construction of market-rate rental housing and the demand for affordable rental housing.
3. Direct staff to develop policies and guidelines for Council review to establish criteria for the acceptance of in-lieu fees as an alternative to BMR units.
4. Adopt the Ordinance with modifications to be determined by Council.
5. Take no action and/or direct staff to study additional options.

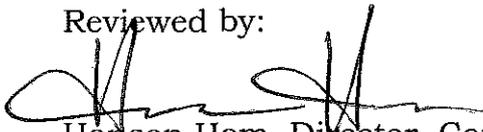
RECOMMENDATION

Staff recommends Alternatives 1, 2 and 3 as stated above. High housing costs are one of the most difficult challenges facing Silicon Valley. The need for more affordable housing is critical. The proposed zoning code modifications will preserve those aspects of the BMR home ownership program that have served Sunnyvale well for over thirty years, while providing developers with a menu of options for satisfying the BMR requirements. Although approval by an approving body is required for a number of these choices, the additional flexibility allows the City to work with developers on appropriate projects to produce a greater number of BMR units and/or units affordable to households with the greatest need for assistance, as indicated by the nexus study. This flexibility also allows for the option of developing rental units through the use of in-lieu fees, in the post-Palmer era, to meet the pressing need for rental units affordable to very low and low income households. In addition, the proposed modifications to the density bonus provisions and single room occupancy requirements improve clarity and organization of the zoning code, and are more consistent with current state law.

Alternative 2 was added to the report following the July 9th hearing, in response to the Planning Commission's recommendation to explore ways to better meet the need for very low and low income housing. Reestablishing a BMR program for rental developments through a nexus study would help address this critical housing need.

Alternative 3 was also added to respond to the Planning Commission's recommendation to establish policies and guidelines for determining when in-lieu fees or BMR units might be more appropriate.

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Attachments

- A. Nexus Study by Economics & Planning Systems, Inc.
- B. Draft Ordinance Modifying the Zoning Code related to Chapter 19.66: Affordable Housing and Single Room Occupancies
- C. Non-Routine CDD HO-01
- D. Summary of Current and Proposed Ordinance Changes
- E. May 23, 2012 Housing and Human Services Commission Draft Meeting Minutes
- F. June 25, 2012 Planning Commission Study Session Notes/Comments
- G. July 9, 2012 Planning Commission Approved Meeting Minutes
- H. BIA Letter dated July 9th, 2012
- I. Response to BIA letter from Economics & Planning Systems, Inc.

Attachment A
Nexus Study – Economics & Planning Systems

The Economics of Land Use



Final Report

Nexus-Based Affordable Housing Fee Analysis for For-Sale Housing

Prepared for:

City of Sunnyvale

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EXECUTIVE SUMMARY

Economic & Planning Systems, Inc. (EPS) was retained by the City of Sunnyvale (City) to conduct a nexus study analyzing the impact that development of market-rate housing has on the demand for below-market-rate housing and, based on the results, to determine the defensible nexus-based fee that could be charged to market-rate housing development.

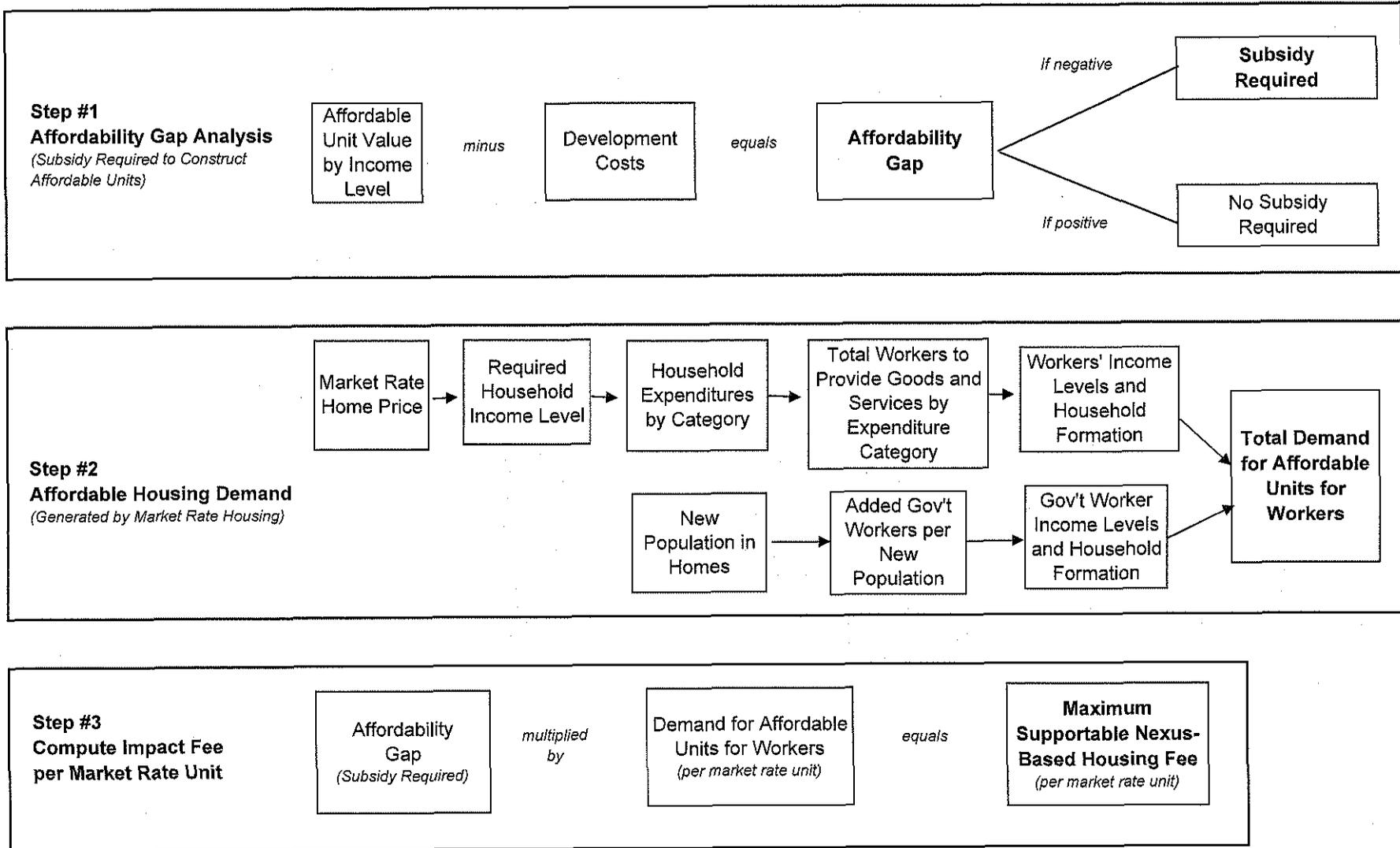
The technical approach used herein quantifies the impacts that the introduction of market-rate units have on the local economy and the demand for additional affordable housing. As new households are added to the community, local employment also will grow to provide the goods and services required by the new households. To the extent that these new jobs do not pay adequate wages for the employees to afford market-rate housing in the community, the new households' spending is creating a need for affordable housing. A nexus-based affordable housing fee is therefore based on the impact of the new market-rate homes on the demand for affordable housing. The fee calculated in this study represents the maximum fee that may be charged to new market-rate housing units to mitigate their impacts on the affordable housing supply. Such fees are then used by the City to subsidize the production of new affordable units for moderate- and lower-income households not accommodated by market-rate projects.

Calculating the impact of market-rate development in the City on affordable housing needs, and the fees needed to mitigate those impacts, involves three main analytical steps:

- **Step #1.** Estimate the typical subsidy required to construct units affordable at various income levels (the "affordability gap").
- **Step #2.** Determine the market-rate households' demand for goods and services, the jobs created by that demand, and the affordable housing needs of workers in those jobs.
- **Step #3.** Combine the affordability gap with the affordable housing demand projections to compute the maximum supportable nexus-based affordable housing fees per market-rate unit.

These technical steps are illustrated in **Figure 1** and detailed in the body of this Report and the attached Technical Appendices. The findings regarding each of these steps are presented below.

Figure 1
Illustration of Nexus-Based Housing Fee Methodology



- 1. The costs to construct affordable housing units affordable to many households exceed those units' values based on the rents or prices that the households can afford to pay. The subsidy required to construct affordable housing units in Sunnyvale range from \$23,600 for a Median Income household to \$262,600 for a Very Low Income (VLI) household. Moderate Income households do not appear to require subsidies, as affordable prices for such households can support the costs of construction.**

An "affordability gap analysis" evaluates whether or not the costs to construct affordable units exceed the values of units that are affordable to lower- and moderate-income households. For each affordable housing income level (Very Low Income [VLI], Low Income [LI], Median Income, and Moderate Income) this analysis estimates the subsidy required to construct affordable housing units.

The affordability gap analysis assumes that the average affordable unit for all income levels will be a 2-bedroom unit in a multifamily development. The estimated costs to construct the prototypical affordable unit are based on recent Sunnyvale development projects and transactions, as well as other development cost data sources. The costs of land acquisition are included in these development cost calculations.

A household's ability to pay is estimated based on standard percentages of income available for housing costs at each household income level. Income available for housing costs is then converted into a monthly affordable rent and a capitalized unit value or an affordable mortgage payment and supportable home price. This unit value is then compared to the costs of development to determine the subsidy, if any, required to make the unit affordable to each income level.

- 2. The demand for affordable housing generated by the expenditures of new households in Sunnyvale increases along with the market-rate home value (and related owner income). For example, a unit that sells for \$500,000 is estimated to create demand for 0.22 affordable housing units, while a unit that sells for \$1,250,000 creates demand for 0.39 affordable units.**

Any justified nexus-based fee is based on the total demand for affordable housing units generated by construction of market-rate homes. The link (or nexus) between market-rate housing and increased demand for affordable housing is that residents of market-rate units demand goods and services that rely on wage earners (for example, retail sales clerks) who typically cannot afford market-rate housing and thus require affordable housing.

Because more expensive housing units require owners to have higher incomes, and higher income households create more jobs through their spending, the nexus impacts and thus the justified fees for units vary in relation to the price of the market-rate units.

This analysis evaluates the demand for affordable housing generated by a range of sale prices. For each unit's price, the demand-based nexus fee calculation involves the following steps:

- A. Market-Rate Household Income Levels.** The required income levels of households occupying new market-rate housing are derived based on the unit's mortgage, property taxes, insurance, and other fees, assuming standard housing cost expenses as a

proportion of overall household income. For example, a typical household owning a market-rate home that was purchased for \$500,000 would have an income of roughly \$119,000, if they spent 30 percent of their income on housing costs.

- B. Household Expenditures.** Based on the household income computed in Step A, Consumer Expenditure Survey data was used to evaluate the spending patterns of the household. This analysis provides an estimate of how much the household spends on specific categories of expenditures, such as "Food at Home." As the households' income increases with the value of the market-rate units, the total spending on goods and services also increases. The Consumer Expenditure Survey also indicates that these relationships are not linear (e.g., a household with twice the income does not necessarily spend twice as much on food).
- C. Job Creation and Worker Households.** Having estimated the households' spending on various items, that spending is then converted into an estimation of jobs created. For each expenditure category, data regarding average worker wages and the ratio between gross business receipts and wages were used to translate these household expenditures into the total number of private-sector workers. For selected public-sector jobs that typically grow in proportion to the local population size (e.g., teachers), the demand for new workers was estimated by relating current levels of employment in such categories to the current population and applying this ratio to future development. Because each new worker does not represent an independent household (Sunnyvale has an average of 1.53 workers per working household), the total number of new households created is somewhat less than the number of new jobs created. EPS has further adjusted the household formation rates to reflect the fact that a certain proportion of workers will *not* form their own households, particularly those of younger ages.¹
- D. Worker Households by Income Category.** Each worker household generated is assigned to an income category—Very Low Income (VLI), Low Income (LI), Median, Moderate, and Above Moderate—based on its estimated gross wages. This provides the total number of households generated at each income level by construction of market-rate units at various price points. The results indicate that residents of lower-priced units generate fewer worker households requiring affordable housing than do residents of higher-priced units.

These steps of the nexus-based fee calculation provide the total number of income-qualified workers required to meet the needs for goods and services generated by market-rate housing. The number of workers servicing market-rate housing (at each price point) is then converted to total income qualified households and each such household is assumed to require one housing unit.

¹ BLS data indicates that 12.5% of retail/restaurant workers are age 16-19, but an average of only 1.9% of workers in other industries. EPS has assumed that such young workers do not form their own households.

- 3. This analysis calculates the fees that could be charged to fully mitigate the impact that new market-rate housing has on Sunnyvale's affordable housing demand at various representative price points. These fees could range from roughly \$45,300 for units selling for \$500,000 to \$88,100 for units selling for \$1,250,000.**

The nexus fee is calculated by applying the number of affordable units needed by income qualified households to the affordability gap for each housing income category. This calculation is made for several different home values. **Table 1** summarizes the maximum nexus-based fees calculated for representative home values. The City may also consider whether to allow developers to provide affordable units within their projects, rather than paying the nexus-based fee. **Table 1** illustrates the proportions of affordable units that correspond to the fee calculation and demands created by the market-rate units. For instance, a project offering only units valued at \$500,000 would effectively mitigate the demand being created by the market-rate units if it provided 0.22 affordable units for each market-rate unit.

Table 1
Summary of Maximum Supportable Nexus-Based Housing Fees or Unit Requirements In-Lieu of Fees
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

	Nexus-Based Fees		Unit Requirements by Income Level				
	<i>Fee per Unit</i>	<i>% of Value</i>	<i>VLI</i>	<i>Low</i>	<i>Median</i>	<i>Moderate</i>	<i>Total</i>
For-Sale Unit Price							
\$500,000	\$45,327	9.1%	15.7%	3.1%	1.1%	2.0%	21.8%
\$750,000	\$54,829	7.3%	19.2%	3.2%	1.1%	2.0%	25.4%
\$1,000,000	\$71,500	7.2%	25.2%	3.9%	1.3%	2.0%	32.4%
\$1,250,000	\$88,172	7.1%	31.2%	4.6%	1.6%	2.0%	39.4%

Source: Economic & Planning Systems, Inc.

1. AFFORDABILITY GAP ANALYSIS

For any nexus-based affordable housing fee calculation, it is necessary to estimate the subsidy required to construct affordable housing units. **Table 2** shows the subsidy needed to produce multifamily for-sale housing that is affordable to median- and moderate-income households, while **Table 3** calculates the subsidies for rental housing affordable to very low-, low-, median- and moderate-income households.

Product Type

While the nexus fees calculated herein are based on demands created by for-sale housing that may be single-family or multifamily, the analysis assumes that new lower-income worker households would actually be housed in multifamily developments in Sunnyvale. Developable residential land in Sunnyvale is very expensive, at approximately \$3 million per acre. Constructing single-family detached or even attached housing would require land costs of several hundred thousand dollars per unit, in addition to the costs of actually building the housing units. Multifamily affordable housing is more financially feasible in this market context because the high land costs can be spread over more units per acre, and the overall prices to develop the affordable units can be closer to the prices that income-qualified households can afford. EPS has assumed that these projects will have an average density of 42 units per acre, and be built in woodframe buildings of three to four stories over parking podiums beneath the building (but not fully underground).

In order to determine the average household size of future affordable housing units, EPS used two estimates from the 2010 Census. The Census indicates that the average household size is 2.61 people and the average family size in Sunnyvale is 3.15 people. Each of these figures rounds to an average of three people per unit, so EPS uses this assumption to determine the applicable income limits for the new units.

California State law (California Health and Safety Code Section 50052.5) assumes that a 2-bedroom unit is occupied by a 3-person household, and this assumption is used in this analysis. Typically, a 2-bedroom unit in the Bay Area has a gross size of about 1,100 square feet (accounting for shared lobbies, hallways, etc.) and a net size of 950 square feet.

This analysis assumes that all new affordable housing for very low- and low-income households would be rental units, rather than for-sale units. This assumption reflects the fact that many households at lower incomes will not have adequate wealth reserves for down payments on homeownership units, and may have further difficulty absorbing the ongoing costs of homeownership (taxes, repairs, etc.) that they can effectively avoid by renting their homes rather than buying. For median- and moderate-income households, EPS has assumed the housing could be either rental or for-sale, as these households are more likely to have wealth reserves for down payments. This analysis assumes homes for these households would be provided in whatever tenure (rental vs. for-sale) required the least subsidy. As shown on **Tables 2 and 3**, for-sale units are estimated to require a lower subsidy under present market conditions.

Table 3
Affordability Gap Analysis – Rental Product Type
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

	3-4 Stories Multifamily Building With Podium Parking			
	Very Low Income (50% AMI)	Low Income (80% AMI)	Median Income (100% AMI)	Moderate Income (120% AMI)
Development Program Assumptions				
Density/Acre	42	42	42	42
Gross Unit Size	1,100	1,100	1,100	1,100
Net Unit Size	950	950	950	950
Number of Bedrooms	2	2	2	2
Number of Persons per 2-bedroom Unit [1]	3	3	3	3
Parking Spaces/Unit	2.00	2.00	2.00	2.00
Cost Assumptions				
Land/Acre [2]	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000
Land/Unit	\$71,429	\$71,429	\$71,429	\$71,429
Direct Costs				
Direct Construction Costs/Net SF [3]	\$200	\$200	\$180	\$180
Direct Construction Costs/Unit	\$190,000	\$190,000	\$171,000	\$171,000
Parking Construction Costs/Space	\$15,084	\$15,084	\$15,084	\$15,084
Parking Construction Costs/Unit	\$30,167	\$30,167	\$30,167	\$30,167
Subtotal, Direct Costs/Unit	\$220,167	\$220,167	\$201,167	\$201,167
Indirect Costs as a % of Direct Costs [4]				
Indirect Costs/Unit	\$88,067	\$88,067	\$80,467	\$80,467
Total Cost/Unit	\$379,662	\$379,662	\$353,062	\$353,062
Maximum Supported Home Price				
Household Income [5]	\$46,650	\$71,450	\$93,300	\$111,850
Income Available for Housing Costs/Year [6]	\$13,995	\$21,435	\$27,990	\$33,555
Less Utility Costs [7]	\$1,560	\$1,560	\$1,560	\$1,560
Income Available for Rent Payments	\$12,435	\$19,875	\$26,430	\$31,995
Operating Expenses per Unit/Year	\$6,000	\$6,000	\$8,800	\$9,200
Net Operating Income [8]	\$6,435	\$13,875	\$17,630	\$22,795
Capitalization Rate [9]	5.5%	5.5%	6.5%	6.5%
Total Supportable Unit Value [10]	\$117,000	\$252,273	\$271,231	\$350,692
Affordability Gap	\$262,662	\$127,390	\$81,832	\$2,370

[1] An average of 3 persons is used for this analysis based on Census data indicating the average family and household size in Sunnyvale is approximately 3 persons, and State law (Health and Safety Code Section 50052.5) indicates that a 2-bedroom unit should be assumed to be occupied by a 3-person household. Thus, EPS has assumed an average unit for income-qualified worker households would be 2-bedrooms.

[2] Based on an appraisal of 485 North Wolfe Rd completed in May of 2011 and corroborated by a calculation of residual land value. Asking prices of recent listings of residential land tend to be higher, so this estimate is considered conservative.

[3] Includes on-site work, offsite work, vertical construction, general requirements, overhead and developer fees. Assumes a for-profit builder of moderate-income homes can build a unit for 10% less per square foot than can a non-profit builder.

[4] Includes costs for architecture and engineering; entitlement and fees; project management; appraisal and market study; marketing, commissions, and general administration; financing and charges; insurance; developer fee and contingency.

[5] Based on 2011 income limits for a three person household in Santa Clara County.

[6] Assumes housing costs to be 30% of gross household income based on maximum rents established under Sunnyvale's current BMR rental program.

[7] Based on Santa Clara County Authority 2011 Utility Allowance Table assuming a low-rise garden apartment and natural gas for heating and cooking.

[8] Moderate income units generate rents similar to market-rate units, so EPS assumes that any moderate income units would be subject to property tax. Units for lower income levels are assumed to be produced by non-profit builders and thus not taxable.

[9] The capitalization rate is used to determine the current value of a property based on estimated future operating income, and is typically a measure of estimated development risk. Capitalization rates assumed herein are based on PwC Real Estate Investor Surveys from recent years. Median- and moderate-income units are assumed to be built by for-profit builders and have more market risk than affordable units, so a higher capitalization rate is used.

[10] The total supportable unit value is determined by dividing the net operating income by the capitalization rate.

Sources: City of Sunnyvale; Affordable housing developers; HUD; PwC; Economic & Planning Systems, Inc.

Development Cost Assumptions

Affordable housing development costs include land costs, direct costs (e.g. labor and materials), indirect or "soft" costs (e.g., architecture, entitlement, marketing, etc.), and developer profit. For rental projects, operating costs also must be incorporated into the analysis. Data from recent Sunnyvale development and recent land transactions have been combined with EPS's information from various market-rate and affordable housing developers to determine appropriate development cost assumptions for use in Sunnyvale. These assumptions are shown on **Tables 2 and 3**.

Please note that the land value assumption is based on a recent appraisal for residential land in Sunnyvale, located at 485 North Wolfe Road, and sums to \$3.0 million per acre. EPS believes this figure is conservative (i.e., low) for two reasons: 1) current asking prices for developable residential land in Sunnyvale are as high as \$4.7 million per acre, and 2) a "residual land value analysis" suggests that developers of market-rate apartments can afford to pay more than \$3.0 million per acre for developable land. This latter assessment is based on the following calculations, using figures for two-bedroom rental units from **Tables 3 and 4**:

Unit Value - Development Costs (excl. Land) = Land Value/Unit X Units/Acre = Land Value/Acre

$$\$365,000 - \$282,000 = \$83,000 \times 42 = \$3,500,000$$

Revenue Assumptions

To calculate the values of the affordable units, assumptions must be made regarding the applicable income level (moderate, median, LI, and VLI) and the percentage of income spent on housing costs. In addition, translating these assumptions into unit prices and values requires estimates of operating expenses, capital reserves, and capitalization rates. The following assumptions were used in these calculations:

- *Income Levels*—The maximum allowable incomes used in each affordable housing income category are consistent with those set forth by both the federal government (U.S. Department of Housing and Urban Development [HUD]) and State government (California Department of Housing and Community Development [HCD]): VLI = 50 percent of Area Median Income (AMI), LI = 80 percent of AMI, Median Income = 100 percent of AMI, and Moderate Income = 120 percent of AMI.
- *Percentage of Gross Household Income Available for Housing Costs*—HCD standards on overpaying for rent indicate that households earning less than 80 percent of AMI should pay no more than 30 percent of their gross income on housing costs. For this analysis, EPS has assumed that VLI, LI, median, and moderate-income rental households shall spend 30 percent of their gross income on housing costs, including rent and utilities in rental projects or mortgage payments, homeowner association fees, insurance, and property taxes for for-sale units.

Table 4
Capitalized Unit Value
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Apartment Size	Average Rent [1]	Estimated Unit Value			
		Gross Revenue/ Year	Operating Expenses/ Year	Property Taxes [2]	Capitalized Value [3]
<i>Formula</i>	A	$F = A * 12$	G	$H = (F - G) / 6.5\% * 0.00994$	$I = (F - G - H) / 6.5\%$
Studio	\$1,700	\$20,400	\$4,000	\$2,508	\$213,724
1-Bedroom	\$2,250	\$27,000	\$4,500	\$3,441	\$293,219
2-Bedroom	\$2,750	\$33,000	\$5,000	\$4,282	\$364,895
3-Bedroom	\$3,320	\$39,840	\$5,500	\$5,251	\$447,517

[1] Based on average rents for new rental project in each unit size category as determined by a survey of the City's most recently developed multifamily projects - Cherry Orchard, Tamarind Square, Via and Villa Del Sol. Because none of these projects have studio units, EPS estimated the price for new studio units to be 75 percent of the cost of new 1-bedroom units, consistent with the ratio of studio vs. 1-bedroom rents found in other, older Sunnyvale apartments.

[2] Formula replicates the calculation of property taxes at 1.1738% of unit value without creating a circular reference.

[3] Though existing and occupied rental projects may have capitalization rates around 5.5% in current market conditions, EPS assumes a slightly higher rate here to reflect the risks associated with construction and marketing of new projects.

Source: City of Sunnyvale; Santa Clara County Housing Authority; Economic & Planning Systems, Inc.

- *Other Costs Included for Rental Units*—In addition to rent payments, the analysis assumes approximately \$130 per month in utility costs based on the Santa Clara County Housing Authority 2011 utility allowance table. This amount is subtracted from the total available housing costs (30 percent of household income) to determine the net amount available for rent payments.
- *Operating Costs for Rental Units*—The analysis assumes that apartment operators incur annual costs of \$6,000 per unit for LI and VLI units, \$8,800 for Median Income units and \$9,200 for Moderate units. EPS has assumed the Median and Moderate income units would be built by for-profit builders and subject to property taxes.

Affordability Gap Results

Table 2 shows the subsidies for construction of for-rent apartments for VLI through moderate-income households. The affordability gap ranges from \$0 for moderate-income households (i.e., moderate-income households can afford home prices adequate to cover the costs of construction) to \$262,600 for VLI households. The affordability gap for VLI households is much higher because these households have significantly less income available for housing costs, while construction costs remain essentially the same.

These affordability gaps then were used to calculate the justified nexus-based fees by multiplying this required subsidy by the number of units required to house workers providing goods and services to new market-rate housing development. This methodology is discussed in more detail in the following section.

2. DEMAND-BASED NEXUS FEE CALCULATION

The maximum supportable nexus-based fees are based on both the affordability gap, calculated in the previous section, and the estimated impact that new market-rate units have on the need for affordable units, as reflected in the number of income-qualified local workers required to support the residents of market-rate units and the total subsidy required to construct housing for those workers. This approach is based on the following logic: (a) residents of market-rate housing have disposable incomes and require a variety of goods and services (including private sector goods and services and government services); (b) the provision of those goods and services will require some workers who make moderate or lower incomes and cannot afford market-rate housing; and (c) fees charged to market-rate projects can mitigate the impact of those projects on the increased need for affordable housing.

Market-Rate Household Income Levels

Households with larger incomes typically spend more on goods and services, therefore creating additional lower income jobs, which in turn generate a greater demand for affordable housing. To assess the impact that market-rate units have on the need for affordable housing, EPS has estimated the household income required to purchase a home at various home values, as shown in **Table 5**. The income required to purchase a unit at a particular price point is based on assumptions of the standard down payment, financing terms, property taxes, and other costs related to owning a home. These housing costs typically account for 30 percent of a household's income, and therefore, by knowing these costs, the required income to purchase each unit can be estimated. As shown, required household incomes range from approximately \$119,000 for a \$500,000 unit to roughly \$281,000 for a \$1,250,000 unit.

Household Expenditures and Job Creation by Income Level

Having established the income requirements for purchasing units at various values, the fee calculation then requires an analysis of the household spending patterns at those required income levels. Consistent with nexus fee calculations and impact analysis for schools, parks, roads, etc., this analysis also assumes that all households purchasing new market-rate units in Sunnyvale are "net new" households to the City. To assume otherwise—for instance, that only those buyers of new housing units relocating from outside Sunnyvale should be counted in the impact analysis—would require assuming that the homes left by those households relocating *within* Sunnyvale would be demolished or left vacant in perpetuity. This would only be the case were the City experiencing a significant loss of population and housing inventory, as has occurred, for instance, in Detroit. Sunnyvale has not experienced such declines.

The Consumer Expenditure Survey from the United States Bureau of Labor Statistics provides data for households at a variety of income levels, detailing the amounts that typical households spend on things like "Food at Home," "Apparel and Services," and "Vehicle Maintenance and Repairs." Interestingly, household expenditures by category are not uniformly proportional to household income levels. For example, households earning around \$119,000 (adequate

Table 5
Required Income by Unit Price - Market-Rate For-Sale Units
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Base Unit Price	Mortgage (Price less 20% Down)	Annual Mortgage Payment	Property Taxes	Estimated Annual HOA Dues	Home-owners Insurance	Minimum Required Income
		[1]	[2]	[3]	[4]	[5]
\$500,000	\$400,000	\$26,021	\$5,869	\$3,300	\$550	\$119,132
\$750,000	\$600,000	\$39,031	\$8,804	\$3,300	\$825	\$173,198
\$1,000,000	\$800,000	\$52,041	\$11,738	\$3,300	\$1,100	\$227,264
\$1,250,000	\$1,000,000	\$65,051	\$14,673	\$3,300	\$1,375	\$281,330

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- [1] Based on mortgage terms of 20% down payment and 5% interest for 30 years.
- [2] Per the City of Sunnyvale, assumes property tax rate of 1.1738%.
- [3] Per the City of Sunnyvale assumes HOA dues are \$275/month.
- [4] Assumes homeowners insurance costs of 0.11% of the assumed unit value.
- [5] Assumes 30% of gross household income spent on housing costs.

Source: City of Sunnyvale; HUD; forsalebyowner.com; Economic & Planning Systems, Inc.

to purchase a \$500,000 unit) spend roughly 9.6 percent of their income on food and drink (at home and eating out), while households earning \$281,000 who can afford to purchase a \$1,250,000 unit spend only about 6.4 percent of their income on food and drink. Because of these and other differences in proportionate spending, the expenditure profile varies at different income levels.

The household's typical expenditures were converted to the number of jobs created by their spending. The first step in this process is to determine how much of an industry's gross receipts are used to pay wages and employee compensation. EPS relied on data from the Economic Census,² which provides employment, gross sales, and payroll data by industry for Santa Clara County. In certain instances, Santa Clara County data was not available for every Economic Census industry—in those cases, EPS relied on statewide Economic Census data for that industry.

To link the Economic Census data and the Consumer Expenditure Survey data, EPS made determinations as to the industries involved with expenditures in various categories. For example, purchases in the Consumer Expenditure Survey's "Food at Home" category would likely involve the Economic Census's "Food & Beverage Stores" industry, where gross receipts were more than 8 times the employees' wages. By contrast, purchases in the Consumer Expenditure Survey's "Entertainment Fees and Admissions" category were attributed to the Economic Census' "Arts, Entertainment, and Recreation" industry, where gross receipts are only about 3 times the employees' wages. Where more than one Economic Census category was attributable to a Consumer Expenditure Survey category, EPS estimated the proportion of expenditures associated with each Economic Census category.

After determining the amount of the household's expenditures that were used for employee wages, EPS estimated the number of employees those aggregate wages represent. EPS calculated the number of workers supported by that spending using the average wage per worker (also from the 2007 Economic Census). These wages ranged from a low of roughly \$16,000 per year for workers in the food services industry to a high of more than \$96,000 average salary for architectural and engineering services.³

This methodology recognizes that a range of occupations and incomes exist in a given industry sector. For instance, the methodology used to generate **Tables A-1 to A-5 in Appendix A** distinguishes between the typical incomes of workers in different types of retail stores (e.g., "food and beverage stores" versus "general merchandise stores"), rather than assuming all retail sector workers earn the same income. However, the average wage is used for each sub-category of industry employment and represents a reasonable proxy for the range of incomes in that group: while some employees will have higher wages and require lower subsidies, others

² Note that the Consumer Expenditure Survey data is based on information current as of 2010. The latest data available for the Economic Census was published in 2007. Because the data sources were from different years, EPS converted the 2010 expenditures to 2007 dollars using the Consumer Price Index (CPI) for the San Francisco Metropolitan Statistical Area (MSA) from the Bureau of Labor Statistics.

³ Note that the average salary reported for architectural and engineering services reflects the full range of workers employed by that industry sector, including administrative staff and entry-level employees, as well as the professional and technical architects and engineers.

will have lower incomes and require higher subsidies. Using the average approximates the total housing subsidy needed by workers in that industry.

To calculate the number of *households* supported by the expenditures of market-rate housing units, EPS estimated the employees' household formation rates. Importantly, employees generated from the increase in housing units do not all form households; some employees, in the retail and food services industries in particular, are young workers and do not form households. Data from the Bureau of Labor Statistics indicates that 12.5 percent of retail/restaurant workers are age 16-19, but an average of only 1.9 percent of workers in other industries. EPS applied these discounts to household formation to get a more accurate calculation of households formed by the employees and the average total incomes of those households.

To get the overall households' income rather than the individual workers', the wages of workers forming households were multiplied by the average of approximately 1.53 workers per working household in Sunnyvale.⁴ This assumption implies the workers in a given household will have roughly equivalent pay per hour. While certainly there will often be some variation in wages per employee within a household, on average this assumption is reasonable because it implies comparable levels of education and training among all workers in a household. The average household incomes then are allocated to various income categories to estimate the number of affordable housing units demanded in each income category (VLI, LI, median, and moderate-income).

A simplified example of these calculations follows:

A.	Number of Households (prototype project)	1,000
B.	Average Household Income (in the project)	\$125,000
C.	Aggregate Household Income (A x B)	\$125 million
D.	Average Income Spent on Retail (Consumer Expenditure Survey)	\$40,000
E.	Aggregate Retail Spending (A x D)	\$40 million
F.	Retail Gross Receipts: Payroll Ratio (Economic Census)	8:1
G.	Estimated Retail Payroll (E ÷ F)	\$5 million
H.	Average Retail Wage (Economic Census)	\$25,000
I.	Estimated Total Retail Jobs (G ÷ H)	200
J.	Average Workers/Household (Census Data)	1.53
K.	Estimated Households Created (I ÷ J)	130
L.	Average Household Income (H x J)	\$38,250
M.	Income Category (HCD Income Standards)	VLI

In this simplified example, 1,000 new market-rate units sold to households earning \$125,000 per year would create demand for 130 VLI housing units for retail workers. Actual calculations and impact distinctions by type of household expenditure for various home values are shown in the series of tables presented in **Appendix A**.

⁴ Workers per working household based on the U.S. 2010 Census data. The average workers per working household estimate is calculated by taking the total number of employed residents and dividing it by the number of households with earnings. This methodology seeks to provide a conservative estimate of household formation by excluding households without workers or earnings (such as those with retired persons).

Demand for Public-Sector Workers

In addition to the jobs created by the spending of the new market-rate households, this analysis also aims to evaluate the number of public-sector employees generated by the public service demands of new market-rate households. Rather than a comprehensive computation of public-sector employment, the analysis aims to be conservative by sampling only certain public-sector jobs (e.g., teachers and transportation providers) that are expected to grow in proportionate measure to household growth.

Data from the 2010 Occupational Employment Survey for the San Jose-Sunnyvale-Santa Clara MSA was used to determine the number of these public-sector employees needed to serve new market-rate development. This data was generated by the California Employment Development Department (EDD) and provides employment and wage information for a variety of occupational categories. EPS reviewed the data and sampled occupations that were public sector-related, as shown in **Table A-6** in **Appendix A**.

Based on the ratio of the selected public-sector jobs to the total households in the MSA, EPS estimates that approximately 47 government jobs or 31 households with a government employee are required per 1,000 total households. These figures are conservative (i.e., low) because numerous types of public-sector jobs are *not* included in this analysis (such as federal postal workers, County health and human services workers, etc.). Also, please note that EPS has no basis to distinguish differences in the number of public-sector workers demanded by households based on different income levels or in different sizes of units, so the same numbers of public-sector jobs are assumed to be generated by units of all sizes and prices.

Combined Demand for Income-Qualified Workers

The total number of income-qualified households required to support the expenditure and public-sector service needs of new market-rate units were determined based on the affordable housing income limits from HUD and HCD for a 3-person household. **Table 6** summarizes the HUD and HCD income limits used to compute the total number of income-qualified households generated by construction of market-rate units.⁵ The number of income-qualified households required to provide goods and services to new housing units summarized in **Table 7** and detailed in **Appendix B**.

The nexus methodology used herein computes the total number of income-qualified households generated by market-rate units and calculates the impact fee based on the estimated cost to subsidize the production of units to meet that affordable housing demand. This methodology does not suggest that all lower income service workers serving City residents reside in the City, but it does assume that new development should mitigate for the new affordable housing demand it creates.

⁵ To correspond to the available data regarding employee wages, the 2007 Santa Clara County affordable housing income limits from HUD and HCD were used to determine the number of income-qualified households, based on household expenditures, while 2011 income limits were used for public-sector employment.

Table 6
HUD Income Limits
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Affordability Category	Percentage of County Median	2007 Max Income 3-person household	2010 Max Income 3-person household	2011 Max Income 3-person household
		[1]	[2]	[3]
Very Low Income (VLI)	< 50%	\$47,750	\$46,600	\$46,650
Low Income (LI)	51% - 80%	\$76,400	\$72,650	\$71,450
Median Income	100%	\$95,500	\$93,200	\$93,300
Moderate Income (Mod) [4]	81% - 120%	\$114,600	\$111,800	\$111,850

[1] 2007 HUD maximum income thresholds are used to relate 2007 economic census data regarding average worker wages and total worker household income to affordable housing categories.

[2] 2010 HUD maximum income thresholds are used to relate 2010 EDD data regarding public sector employment, wages and total worker household incomes to affordable housing categories and to compute supportable housing costs based on household income levels.

[3] 2011 HUD maximum income thresholds are used to estimate the values of units built to house the workers generated by spending from new households.

[4] Moderate Incomes are from the California Department of Housing and Community Development because they are not listed by HUD.

Sources: CA Department of Housing and Community Development; U.S. Department of Housing and Urban Development; Economic & Planning Systems, Inc.

Table 7
Summary of Worker and Household Generation per 100 Market-Rate Units
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Unit Type	Minimum Household Income Requirement	Total Workers Generated	Total Worker Households	Total Income Qualified Households	Income Qualified Households by Income Category			
					VLI Households	LI Households	Median Income Households	Moderate Income Households
		[1]	[2]	[3, 4]				
For-Sale Units								
\$500,000	\$119,132	36.5	22.0	21.8	15.7	3.1	1.1	2.0
\$750,000	\$173,198	42.5	25.7	25.4	19.2	3.2	1.1	2.0
\$1,000,000	\$227,264	54.1	32.7	32.4	25.2	3.9	1.3	2.0
\$1,250,000	\$281,330	65.8	39.7	39.4	31.2	4.6	1.6	2.0

[1] Total workers generated detailed by unit price point and rental apartment size in Tables B-1 through B-4.

[2] Total worker households derived assuming 1.53 workers per household. Includes a 12.5% discount for retail and 1.9% discount for other industries to account for workers under age 20.

[3] Total income qualified households reflects those households eligible for affordable housing based on total household income. Income qualified households therefore exclude households earning above moderate income. See Tables B-1 through B-4 for detail.

[4] Total may not sum due to rounding.

Source: Economic & Planning Systems, Inc.

Fee Calculation

The affordability gap analysis quantifies the subsidy required to construct affordable housing at various income levels (VLI, LI, etc.). Analysis of consumer expenditures that rely on lower wage workers provides an estimate of the total number of income-qualified households generated by new for-sale units. Then for each category of market-rate units, the nexus-based fee is calculated by applying the total number of income-qualified households generated to the affordability gap computed for each affordable household income level. The analysis provides the maximum supportable nexus-based fees for new housing development in the City of Sunnyvale.

Tables 8 through **11** show the impact fee calculation by home value. The total impact fees required for a representative project of 100 units is calculated by multiplying the number of affordable units required per income level by the cost of subsidizing such housing. All income-qualified households are assumed to be housed in multifamily units and the subsidies needed are calculated as the affordability gaps shown in **Tables 2** and **3**. This assumption reflects the lower of the affordability gaps (and therefore fee amounts) associated with providing multifamily rental or for-sale units. The resulting maximum impact fee for market-rate units ranges from approximately \$45,300 for a \$500,000 unit to roughly \$88,200 for a \$1,250,000 unit.

Table 8
Nexus-Based Housing Fee Calculations (\$500,000 Unit)
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	Affordable Units Required Per 100 Market-Rate Units [1]	Affordability Gap per Affordable Unit [2]	Total Nexus-Based Fee Supported	
			Per 100 Market-Rate Units	Per Market-Rate Unit
	(A)	(B)	(C = A * B)	(D = C / 100)
Affordable Units - Very Low Income	15.7	\$262,662	\$4,115,223	
Affordable Units - Low Income	3.1	\$127,390	\$391,995	
Affordable Units - Median Income	1.1	\$23,656	\$25,512	
Affordable Units - Moderate Income [3]	<u>2.0</u>	\$0	<u>\$0</u>	
<i>Total</i>	<i>21.8</i>		<i>\$4,532,730</i>	<i>\$45,327</i>

[1] See Table 7.

[2] See Tables 2 and 3. Assumes low and very low households are housed in multifamily rental housing, while median and moderate income households are in for-sale units.

[3] While market rate development creates demand for affordable housing for moderate income levels, because there is no affordability gap (see Table 2), the impact fee computed does not include a subsidy for moderate-income affordable housing.

Source: Economic & Planning Systems, Inc.

Table 9
Nexus-Based Housing Fee Calculations (\$750,000 Unit)
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	Affordable Units Required Per 100 Market-Rate Units [1]	Affordability Gap per Affordable Unit [2]	Total Nexus-Based Fee Supported	
	(A)	(B)	Per 100 Market-Rate Units (C = A * B)	Per Market-Rate Unit (D = C / 100)
Affordable Units - Very Low Income	19.2	\$262,662	\$5,054,348	
Affordable Units - Low Income	3.2	\$127,390	\$403,273	
Affordable Units - Median Income	1.1	\$23,656	\$25,263	
Affordable Units - Moderate Income [3]	<u>2.0</u>	\$0	<u>\$0</u>	
Total	25.4		\$5,482,884	\$54,829

[1] See Table 7.

[2] See Tables 2 and 3. Assumes low and very low households are housed in multifamily rental housing, while median and moderate income households are in for-sale units.

[3] While market rate development creates demand for affordable housing for moderate income levels, because there is no affordability gap (see Table 2), the impact fee computed does not include a subsidy for moderate-income affordable housing.

Source: Economic & Planning Systems, Inc.

Table 10
Nexus-Based Housing Fee Calculations (\$1,000,000 Unit)
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	Affordable Units Required Per 100 Market-Rate Units [1]	Affordability Gap per Affordable Unit [2]	Total Nexus-Based Fee Supported	
			Per 100 Market-Rate Units	Per Market-Rate Unit
	(A)	(B)	(C = A * B)	(D = C / 100)
Affordable Units - Very Low Income	25.2	\$262,662	\$6,622,636	
Affordable Units - Low Income	3.9	\$127,390	\$496,043	
Affordable Units - Median Income	1.3	\$23,656	\$31,355	
Affordable Units - Moderate Income [3]	<u>2.0</u>	\$0	<u>\$0</u>	
Total	32.4		\$7,150,034	\$71,500

[1] See Table 7.

[2] See Tables 2 and 3. Assumes low and very low households are housed in multifamily rental housing, while median and moderate income households are in for-sale units.

[3] While market rate development creates demand for affordable housing for moderate income levels, because there is no affordability gap (see Table 2), the impact fee computed does not include a subsidy for moderate-income affordable housing.

Source: Economic & Planning Systems, Inc.

Table 11
Nexus-Based Housing Fee Calculations (\$1,250,000 Unit)
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	Affordable Units Required Per 100 Market-Rate Units [1]	Affordability Gap per Affordable Unit [2]	Total Nexus-Based Fee Supported	
			Per 100 Market-Rate Units	Per Market-Rate Unit
	(A)	(B)	(C = A * B)	(D = C / 100)
Affordable Units - Very Low Income	31.2	\$262,662	\$8,190,924	
Affordable Units - Low Income	4.6	\$127,390	\$588,814	
Affordable Units - Median Income	1.6	\$23,656	\$37,447	
Affordable Units - Moderate Income [3]	<u>2.0</u>	\$0	\$0	
<i>Total</i>	<i>39.4</i>		<i>\$8,817,184</i>	<i>\$88,172</i>

[1] See Table 7.

[2] See Tables 2 and 3. Assumes low and very low households are housed in multifamily rental housing, while median and moderate income households are in for-sale units.

[3] While market rate development creates demand for affordable housing for moderate income levels, because there is no affordability gap (see Table 2), the impact fee computed does not include a subsidy for moderate-income affordable housing.

Source: Economic & Planning Systems, Inc.



APPENDICES:

Appendix A: Household Expenditures and
Employment Generation

Appendix B: Income Levels for Worker Households

APPENDIX A:

Household Expenditures and Employment Generation

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Table A-1
Household Expenditures and Employment Generation - \$500,000 Unit
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	% of Household Income Spent per Category [1]	% of Category Expenditure per Type of Business [2]	2010 Expenditures [3]	2007 Expenditures [4]	2007 Expenditures per 1000 Households	Gross Receipts to Wages	2007 Total Wages	2007 Avg. Wages	# of Workers	% Forming HH [5]	Workers/HH [6]	Total Worker HH	2007 Avg. Worker HH Income	Income Category
Calculation	a	b	c	d	e = d * 1000	f	g = e / f	f	i = g / h	j	k	l = j * k	i = h * j	
Entertainment Audio and Visual Equipment and Services	1.2%	100%	\$1,454	\$1,400										
Electronics and Appliance Stores		100%	\$1,454	\$1,400	\$1,400,005	8.18	\$152,282	\$28,142	5.4	87.5%	1.53	3.1	\$43,178	VLI Households
Entertainment Pets, Toys, Hobbies, and Playground Equip.	1.1%	100%	\$1,313	\$1,264										
Sporting Goods, Hobby, and Musical Instrument Stores		40%	\$525	\$506	\$505,539	8.09	\$62,510	\$17,104	3.7	87.5%	1.53	2.1	\$26,242	VLI Households
Miscellaneous Store Retailers [7]		40%	\$525	\$506	\$505,539	7.16	\$70,628	\$19,488	3.6	87.5%	1.53	2.1	\$29,900	VLI Households
Veterinary Services		20%	\$263	\$253	\$252,769	2.59	\$97,640	\$37,233	2.6	98.1%	1.53	1.7	\$57,125	LI Households
Other Entertainment Supplies, Equipment, and Services	0.8%	100%	\$904	\$871										
Sporting Goods, Hobby, and Musical Instrument Stores		85%	\$769	\$740	\$740,136	8.09	\$91,518	\$17,104	5.4	87.5%	1.53	3.1	\$26,242	VLI Households
Photographic Services		15%	\$136	\$131	\$130,612	3.18	\$41,015	\$21,566	1.9	98.1%	1.53	1.2	\$33,088	VLI Households
Personal Care Products and Services	0.9%	100%	\$1,080	\$1,050										
Unspecified Retail [7]		50%	\$545	\$525	\$524,865	7.46	\$70,355	\$26,687	2.6	87.5%	1.53	1.5	\$40,946	VLI Households
Personal Care Services		50%	\$545	\$525	\$524,865	2.83	\$185,598	\$17,009	10.9	98.1%	1.53	7.0	\$26,096	VLI Households
Reading	0.1%	100%	\$174	\$168										
Sporting Goods, Hobby, and Musical Instrument Stores		100%	\$174	\$168	\$168,001	8.09	\$20,773	\$17,104	1.2	87.5%	1.53	0.7	\$26,242	VLI Households
Education	1.4%	100%	\$1,654	\$1,592										
Educational Services		100%	\$1,654	\$1,592	\$1,592,162	2.70	\$89,681	\$23,026	25.6	98.1%	1.53	16.4	\$35,328	VLI Households
Tobacco Products and Smoking Supplies	0.3%	100%	\$335	\$323										
Unspecified Retail [7]		100%	\$335	\$323	\$322,825	7.46	\$43,273	\$26,687	1.6	87.5%	1.53	0.9	\$40,946	VLI Households
Miscellaneous	0.9%	100%	\$1,052	\$1,012										
Accounting		20%	\$210	\$202	\$202,479	2.84	\$71,368	\$51,465	1.4	98.1%	1.53	0.9	\$78,960	Median Income
Architectural, Engineering, and Related [9]		20%	\$210	\$202	\$202,479	2.22	\$91,010	\$96,314	0.9	98.1%	1.53	0.6	\$147,771	Above Mod
Specialized Design Services [7]		20%	\$210	\$202	\$202,479	3.72	\$54,498	\$53,888	1.0	98.1%	1.53	0.6	\$82,678	Median Income
Death Care Services [7]		20%	\$210	\$202	\$202,479	3.47	\$58,273	\$36,983	1.6	98.1%	1.53	1.0	\$56,741	LI Households
Legal Services [7]		20%	\$210	\$202	\$202,479	2.76	\$73,322	\$85,734	0.9	98.1%	1.53	0.6	\$131,538	Above Mod
Total per 1,000 Market Rate Households									318.3			189.3		

[1] Percent of income spent per category is based on the 2010 U.S. Consumer Expenditure Survey data for households at this income level. Note that the sum of the categories included in this analysis is well below the total expenditures of households at this income level, and thus represent a conservative estimate of job creation and housing impacts. Expenditure categories not incorporated due to data constraints include taxes, housing and lodging, most utilities, tobacco, health insurance, personal/life insurance, cash contributions, and financing charges.

[2] Where multiple business types are likely to provide goods and services in the expenditure category, EPS has estimated the proportion accruing to each business type.

[3] 2010 expenditures are based on the estimated household income distributed based on the percent of income spent per the 2010 U.S. Consumer Expenditure Survey. Per Table 3 the purchase of a \$500,000 Unit requires a household income of \$119,132.

[4] 2010 expenditures converted to 2007 dollars using the CPI for San Francisco-Oakland-San Jose from the BLS.

[5] BLS data indicates that 12.5% of retail/restaurant workers are age 16-19, but an average of only 1.9% of workers in other industries. EPS has assumed that such young workers do not form their own households.

[6] Based on the U.S. 2010 Census.

[7] Santa Clara County data not available from 2007 Economic Census. Gross receipts to wages and 2007 average wage thus based on statewide data.

[8] Part of the Utilities, Fuels, and Public Services category, which also includes natural gas, electricity, and telephone services. Natural gas, electricity, and telephone services not estimated because data was not available in the 2007 Economic Census.

[9] Note that average salary reported for architecture, engineering and related industries reflects the full range of employees within the industry, not solely professional and technical staff.

Source: 2010 Consumer Expenditure Survey, U.S. Bureau of Labor Statistics; 2007 Economic Census, U.S. Census Bureau; Census 2010; Economic & Planning Systems, Inc.

Table A-2
Household Expenditures and Employment Generation - \$750,000 Unit
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	% of Household Income Spent per Category [1]	% of Category Expenditure per Type of Business [2]	2010 Expenditures [3]	2007 Expenditures [4]	2007 Expenditures per 1000 Households	Gross Receipts to Wages	2007 Total Wages	2007 Avg. Wages	# of Workers	% Forming HH [5]	Workers/HH [6]	Total Worker HH	2007 Avg. Worker HH Income	Income Category
Calculation	a	b	c	d	e = d * 1000	f	g = e / f	f	i = g / h	j	k	l = j * k	i = h * j	
Entertainment Audio and Visual Equipment and Services	0.7%	100%	\$1,286	\$1,238										
Electronics and Appliance Stores		100%	\$1,286	\$1,238	\$1,237,980	9.19	\$134,658	\$28,142	4.8	87.5%	1.53	2.7	\$43,178	VLI Households
Entertainment Pets, Toys, Hobbies, and Playground Equip.	0.6%	100%	\$958	\$922										
Sporting Goods, Hobby, and Musical Instrument Stores		40%	\$383	\$369	\$368,841	8.09	\$45,607	\$17,104	2.7	87.5%	1.53	1.5	\$26,242	VLI Households
Miscellaneous Store Retailers [7]		40%	\$383	\$369	\$368,841	7.16	\$51,530	\$19,488	2.6	87.5%	1.53	1.5	\$29,900	VLI Households
Veterinary Services		20%	\$192	\$184	\$184,420	2.69	\$71,238	\$37,233	1.9	98.1%	1.53	1.2	\$67,125	LI Households
Other Entertainment Supplies, Equipment, and Services	0.7%	100%	\$1,140	\$1,098										
Sporting Goods, Hobby, and Musical Instrument Stores		95%	\$989	\$933	\$933,227	8.09	\$115,394	\$17,104	6.7	87.5%	1.53	3.9	\$26,242	VLI Households
Photographic Services		15%	\$171	\$165	\$164,687	3.18	\$51,715	\$21,566	2.4	98.1%	1.53	1.5	\$33,088	VLI Households
Personal Care Products and Services	0.6%	100%	\$1,057	\$1,018										
Unspecified Retail [7]		50%	\$528	\$509	\$508,834	7.46	\$89,206	\$26,687	2.6	87.5%	1.53	1.5	\$40,946	VLI Households
Personal Care Services		50%	\$528	\$509	\$508,834	2.83	\$179,930	\$17,009	10.6	98.1%	1.53	6.8	\$26,096	VLI Households
Reading	0.1%	100%	\$212	\$204										
Sporting Goods, Hobby, and Musical Instrument Stores		100%	\$212	\$204	\$204,263	8.09	\$25,257	\$17,104	1.5	87.5%	1.53	0.8	\$26,242	VLI Households
Education	2.4%	100%	\$4,147	\$3,993										
Educational Services		100%	\$4,147	\$3,993	\$3,992,614	2.70	\$1,478,724	\$23,026	64.2	98.1%	1.53	41.1	\$35,326	VLI Households
Tobacco Products and Smoking Supplies	0.1%	100%	\$179	\$172										
Unspecified Retail [7]		100%	\$179	\$172	\$172,165	7.46	\$23,078	\$26,687	0.9	87.5%	1.53	0.5	\$40,946	VLI Households
Miscellaneous	1.0%	100%	\$1,800	\$1,733										
Accounting		20%	\$360	\$347	\$346,664	2.84	\$122,189	\$51,465	2.4	98.1%	1.53	1.5	\$78,960	Median Income
Architectural, Engineering, and Related [9]		20%	\$360	\$347	\$346,664	2.22	\$155,818	\$96,314	1.6	98.1%	1.53	1.0	\$147,771	Above Mod
Specialized Design Services [7]		20%	\$360	\$347	\$346,664	3.72	\$93,306	\$53,888	1.7	98.1%	1.53	1.1	\$82,678	Median Income
Death Care Services [7]		20%	\$360	\$347	\$346,664	3.47	\$99,759	\$36,983	2.7	98.1%	1.53	1.7	\$56,741	LI Households
Legal Services [7]		20%	\$360	\$347	\$346,664	2.76	\$125,534	\$85,734	1.5	98.1%	1.53	0.9	\$131,538	Above Mod
Total per 1,000 Market Rate Households									377.7			226.6		

[1] Percent of Income spent per category is based on the 2010 U.S. Consumer Expenditure Survey data for households at this income level. Note that the sum of the categories included in this analysis is well below the total expenditures of households at this income level, and thus represent a conservative estimate of job creation and housing impacts. Expenditure categories not incorporated due to data constraints include taxes, housing and lodging, most utilities, tobacco, health insurance, personal life insurance, cash contributions, and financing charges.

[2] Where multiple business types are likely to provide goods and services in the expenditure category, EPS has estimated the proportion accruing to each business type.

[3] 2010 expenditures are based on the estimated household income distributed based on the percent of income spent per the 2010 U.S. Consumer Expenditure Survey. Per Table 3 the purchase of a \$750,000 Unit requires a household income of \$173,198.

[4] 2010 expenditures converted to 2007 dollars using the CPI for San Francisco-Oakland-San Jose from the BLS.

[5] BLS data indicates that 12.5% of retail/restaurant workers are age 16-19, but an average of only 1.9% of workers in other industries. EPS has assumed that such young workers do not form their own households.

[6] Based on the U.S. 2010 Census.

[7] Santa Clara County data not available from 2007 Economic Census. Gross receipts to wages and 2007 average wage thus based on statewide data.

[8] Part of the Utilities, Fuels, and Public Services category, which also includes natural gas, electricity, and telephone services. Natural gas, electricity, and telephone services not estimated because data was not available in the 2007 Economic Census.

[9] Note that average salary reported for architecture, engineering and related industries reflects the full range of employees within the industry, not solely professional and technical staff.

Source: 2010 Consumer Expenditure Survey, U.S. Bureau of Labor Statistics; 2007 Economic Census, U.S. Census Bureau; Census 2010; Economic & Planning Systems, Inc.

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Table A-3
Household Expenditures and Employment Generation - \$1,000,000 Unit
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	% of Household Income Spent per Category [1]	% of Category Expenditure per Type of Business [2]	2010 Expenditures [3]	2007 Expenditures [4]	2007 Expenditures per 1000 Households	Gross Receipts to Wages	2007 Total Wages	2007 Avg. Wages	# of Workers	% Forming HH [5]	Workers/HH [6]	Total Worker HH	2007 Avg-Worker HH Income	Income Category
Calculation	a	b	c	d	e = d * 1000	f	g = e / f	t	i = g / h	j	k	l = i * k	i = h * j	
Food at Home	2.9%	100%	\$6,649	\$6,402										
Food & Beverage Stores		100%	\$6,649	\$6,402	\$6,402,004	8.43	\$759,440	\$26,299	28.9	87.5%	1.53	16.5	\$40,350	VLI Households
Food Away From Home	2.9%	100%	\$6,590	\$6,345										
Food Services and Drinking Places		100%	\$6,590	\$6,345	\$6,344,570	3.46	\$1,832,028	\$15,867	115.5	87.5%	1.53	65.8	\$24,345	VLI Households
Alcoholic Beverages	0.6%	100%	\$1,281	\$1,233										
Food & Beverage Stores		50%	\$640	\$616	\$616,461	8.43	\$73,128	\$26,299	2.8	87.5%	1.53	1.6	\$40,350	VLI Households
Food Services and Drinking Places		50%	\$640	\$616	\$616,461	3.46	\$178,006	\$15,867	11.2	87.5%	1.53	6.4	\$24,345	VLI Households
Housing Maintenance, Repairs, Insurance, Other expenses	1.4%	100%	\$3,154	\$3,038										
Personal and Household Goods Repair and Maintenance [7]		45%	\$1,419	\$1,366	\$1,366,361	3.72	\$367,393	\$26,783	13.7	98.1%	1.53	8.8	\$41,092	VLI Households
Building Material and Garden Equipment and Supplies Dealer		45%	\$1,419	\$1,366	\$1,366,361	8.13	\$62,092	\$30,589	2.0	87.5%	1.53	1.2	\$46,932	VLI Households
Real Estate and Rental and Leasing		10%	\$315	\$304	\$303,636	6.91	\$50,476	\$50,476	1.0	98.1%	1.53	0.6	\$77,443	Median Income
Fuel oil and Other fuels [8]	0.1%		\$283	\$273										
Nonstore Retailers [7]		100%	\$283	\$273	\$272,813	10.67	\$25,571	\$48,800	0.5	87.5%	1.53	0.3	\$74,872	LI Households
Water and Other Public Services [8]	0.4%	100%	\$846	\$815										
Waste Management and Remediation Services		100%	\$846	\$815	\$814,609	3.61	\$225,833	\$53,951	4.2	98.1%	1.53	2.7	\$82,776	Median Income
Household Operations Personal Services	0.6%	100%	\$1,266	\$1,219										
Nursing and Residential Care Facilities [7]		40%	\$506	\$487	\$487,425	2.37	\$205,878	\$25,627	8.0	98.1%	1.53	5.1	\$39,319	VLI Households
Social Assistance [7]		60%	\$759	\$731	\$731,136	2.98	\$245,061	\$23,861	10.3	98.1%	1.53	6.6	\$36,609	VLI Households
Household Operations Other Household Expenses	0.8%	100%	\$2,053	\$1,977										
Services to Buildings and Dwellings		100%	\$2,053	\$1,977	\$1,976,695	2.50	\$780,204	\$27,214	29.0	98.1%	1.53	18.6	\$41,754	VLI Households
Housekeeping Supplies	0.6%	100%	\$1,326	\$1,277										
Building Materials and Garden Equipment and Supplies Dealers		10%	\$133	\$128	\$127,695	8.13	\$15,705	\$30,589	0.5	87.5%	1.53	0.3	\$46,832	VLI Households
Food & Beverage Stores		35%	\$464	\$447	\$446,934	8.43	\$53,018	\$26,299	2.0	87.5%	1.53	1.1	\$40,350	VLI Households
General Merchandise [7]		35%	\$464	\$447	\$446,934	11.05	\$40,455	\$21,132	1.9	87.5%	1.53	1.1	\$32,422	VLI Households
Miscellaneous Store Retailers [7]		20%	\$265	\$255	\$255,391	7.16	\$35,680	\$19,488	1.8	87.5%	1.53	1.0	\$28,900	VLI Households

[1] Percent of income spent per category is based on the 2010 U.S. Consumer Expenditure Survey data for households at this income level. Note that the sum of the categories included in this analysis is well below the total expenditures of households at this income level, and thus represent a conservative estimate of job creation and housing impacts. Expenditure categories not incorporated due to data constraints include taxes, housing and lodging, most utilities, tobacco, health insurance, personal life insurance, cash contributions, and financing charges.

[2] Where multiple business types are likely to provide goods and services in the expenditure category, EPS has estimated the proportion accruing to each business type.

[3] 2010 expenditures are based on the estimated household income distributed based on the percent of income spent per the 2010 U.S. Consumer Expenditure Survey. Per Table 3 the purchase of a \$1,000,000 Unit requires a household income of \$227,284.

[4] 2010 expenditures converted to 2007 dollars using the CPI for San Francisco-Oakland-San Jose from the BLS.

[5] BLS data indicates that 12.5% of retail/restaurant workers are age 16-19, but an average of only 1.9% of workers in other industries. EPS has assumed that such young workers do not form their own households.

[6] Based on the U.S. 2010 Census.

[7] Santa Clara County data not available from 2007 Economic Census. Gross receipts to wages and 2007 average wage thus based on statewide data.

[8] Part of the Utilities, Fuels, and Public Services category, which also includes natural gas, electricity, and telephone services. Natural gas, electricity, and telephone services not estimated because data was not available in the 2007 Economic Census.

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Table A-3
Household Expenditures and Employment Generation - \$1,000,000 Unit
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	% of Household Income Spent per Category [1]	% of Category Expenditure per Type of Business [2]	2010 Expenditures [3]	2007 Expenditures [4]	2007 Expenditures per 1000 Households	Gross Receipts to Wages	2007 Total Wages	2007 Avg. Wages	# of Workers	% Forming HH [5]	Workers/HH [6]	Total Worker HH	2007 Avg. Worker HH Income	Income Category
Calculation	a	b	c	d	e = d * 1000	f	g = e / f	f	i = g / h	j	k	l = j * k	i = h * j	
Household Furnishings and Equipment	2.0%	100%	\$4,580	\$4,410										
Furniture and Home Furnishings Stores [7]		40%	\$1,832	\$1,764	\$1,763,997	7.14	\$247,109	\$28,287	8.7	87.5%	1.53	5.0	\$43,400	VLI Households
Electronics and Appliance Stores		40%	\$1,832	\$1,764	\$1,763,997	9.19	\$191,874	\$26,142	6.8	87.5%	1.53	3.9	\$43,178	VLI Households
General Merchandise Stores [7]		10%	\$458	\$441	\$440,999	11.05	\$39,918	\$21,132	1.9	87.5%	1.53	1.1	\$32,422	VLI Households
Miscellaneous Store Retailers [7]		10%	\$458	\$441	\$440,999	7.16	\$61,611	\$19,488	3.2	87.5%	1.53	1.8	\$29,900	VLI Households
Apparel and Services	2.0%	100%	\$4,488	\$4,321										
Clothing and Clothing Accessories Stores		40%	\$1,795	\$1,728	\$1,728,388	7.88	\$219,352	\$19,149	11.5	87.5%	1.53	6.5	\$29,380	VLI Households
General Merchandise [7]		40%	\$1,795	\$1,728	\$1,728,388	11.05	\$166,450	\$21,132	7.4	87.5%	1.53	4.2	\$32,422	VLI Households
Miscellaneous Store Retailers [7]		10%	\$449	\$432	\$432,097	7.16	\$60,368	\$19,488	3.1	87.5%	1.53	1.8	\$29,900	VLI Households
Personal and Household Goods Repair and Maintenance [7]		5%	\$224	\$216	\$216,048	3.72	\$58,092	\$26,783	2.2	87.5%	1.53	1.2	\$41,092	VLI Households
Drycleaning and Laundry Services [7]		5%	\$224	\$216	\$216,048	3.17	\$68,242	\$25,028	2.7	87.5%	1.53	1.6	\$38,399	VLI Households
Vehicle Purchases (net outlay)	2.3%	100%	\$5,282	\$5,086										
Motor Vehicle and Parts Dealers		100%	\$5,282	\$5,086	\$5,085,802	11.17	\$455,366	\$47,758	9.5	87.5%	1.53	5.4	\$79,274	LI Households
Gasoline and motor oil	1.4%	100%	\$3,272	\$3,150										
Gasoline Stations [7]		100%	\$3,272	\$3,150	\$3,150,266	37.73	\$83,504	\$17,786	4.7	87.5%	1.53	2.7	\$27,288	VLI Households
Vehicle Maintenance and Repairs	0.7%	100%	\$1,684	\$1,622										
Repair and Maintenance		100%	\$1,684	\$1,622	\$1,621,560	3.43	\$472,814	\$32,171	14.7	98.1%	1.53	9.4	\$49,358	LI Households
Medical Services	0.7%	100%	\$1,574	\$1,515										
Ambulatory Health Care Services [7]		40%	\$630	\$606	\$606,123	2.67	\$227,197	\$51,890	4.4	98.1%	1.53	2.8	\$79,613	Median Income
General Medical and Surgical Hospitals [7]		30%	\$472	\$456	\$454,592	2.63	\$172,842	\$58,054	3.0	98.1%	1.53	1.9	\$89,070	Median Income
Nursing and Residential Care Facilities [7]		30%	\$472	\$455	\$454,592	2.37	\$192,010	\$25,627	7.5	98.1%	1.53	4.8	\$39,319	VLI Households
Drugs	0.3%	100%	\$693	\$667										
Health and Personal Care Stores		100%	\$693	\$667	\$667,194	7.33	\$90,983	\$28,959	3.1	87.5%	1.53	1.8	\$44,431	VLI Households
Medical Supplies	0.1%	100%	\$270	\$260										
Health and Personal Care Stores		100%	\$270	\$260	\$260,369	7.33	\$35,505	\$28,959	1.2	87.5%	1.53	0.7	\$44,431	VLI Households
Entertainment Fees and Admissions	1.1%	100%	\$2,551	\$2,456										
Arts, Entertainment, & Recreation [7]		100%	\$2,551	\$2,456	\$2,456,271	3.07	\$799,938	\$39,289	20.4	87.5%	1.53	11.6	\$60,295	LI Households

[1] Percent of income spent per category is based on the 2010 U.S. Consumer Expenditure Survey data for households at this income level. Note that the sum of the categories included in this analysis is well below the total expenditures of households at this income level, and thus represent a conservative estimate of job creation and housing impacts. Expenditure categories not incorporated due to data constraints include taxes, housing and lodging, most utilities, tobacco, health insurance, personal life insurance, cash contributions, and financing charges.

[2] Where multiple business types are likely to provide goods and services in the expenditure category, EPS has estimated the proportion accruing to each business type.

[3] 2010 expenditures are based on the estimated household income distributed based on the percent of income spent per the 2010 U.S. Consumer Expenditure Survey. Per Table 3 the purchase of a \$1,000,000 Unit requires a household income of \$227,264.

[4] 2010 expenditures converted to 2007 dollars using the CPI for San Francisco-Oakland-San Jose from the BLS.

[5] BLS data indicates that 12.5% of retail/restaurant workers are age 15-19, but an average of only 1.9% of workers in other industries. EPS has assumed that such young workers do not form their own households.

[6] Based on the U.S. 2010 Census.

[7] Santa Clara County data not available from 2007 Economic Census. Gross receipts to wages and 2007 average wage thus based on statewide data.

[8] Part of the Utilities, Fuels, and Public Services category, which also includes natural gas, electricity, and telephone services. Natural gas, electricity, and telephone services not estimated because data was not available in the 2007 Economic Census.

Table A-4
Household Expenditures and Employment Generation - \$1,250,000 Unit
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	% of Household Income Spent per Category [1]	% of Category Expenditure per Type of Business [2]	2010 Expenditures [3]	2007 Expenditures [4]	2007 Expenditures per 1000 Households	Gross Receipts to Wages	2007 Total Wages	2007 Avg. Wages	# of Workers	% Forming HH [5]	Workers/HH [6]	Total Worker HH	2007 Avg. Worker HH Income	Income Category
Calculation	a	b	c	d	e = d * 1000	f	g = e / f	t	i = g / h	j	k	h = i * k	l = h * j	
Food at Home	2.9%	100%	\$8,231	\$7,925										
Food & Beverage Stores		100%	\$8,231	\$7,925	\$7,925,037	8.43	\$940,110	\$26,289	35.7	87.5%	1.53	20.4	\$40,350	VLI Households
Food Away From Home	2.9%	100%	\$8,157	\$7,854										
Food Services and Drinking Places		100%	\$8,157	\$7,854	\$7,853,940	3.46	\$2,267,866	\$15,867	142.9	87.5%	1.53	81.5	\$24,345	VLI Households
Alcoholic Beverages	0.6%	100%	\$1,585	\$1,526										
Food & Beverage Stores		50%	\$793	\$763	\$763,117	8.43	\$90,525	\$26,289	3.4	87.5%	1.53	2.0	\$40,350	VLI Households
Food Services and Drinking Places		50%	\$793	\$763	\$763,117	3.46	\$220,354	\$15,867	13.9	87.5%	1.53	7.9	\$24,345	VLI Households
Housing Maintenance, Repairs, Insurance, Other expenses	1.4%	100%	\$3,904	\$3,759										
Personal and Household Goods Repair and Maintenance [7]		45%	\$1,757	\$1,691	\$1,691,417	3.72	\$454,796	\$26,783	17.0	98.1%	1.53	10.9	\$41,092	VLI Households
Building Material and Garden Equipment and Supplies Dealer		45%	\$1,757	\$1,691	\$1,691,417	8.13	\$62,092	\$30,589	2.0	87.8%	1.53	1.2	\$46,932	VLI Households
Real Estate and Rental and Leasing		10%	\$390	\$376	\$375,870	6.91	\$50,476	\$50,476	1.0	98.1%	1.53	0.6	\$77,443	Median Income
Fuel oil and Other fuels [8]	0.1%		\$351	\$338										
Nonstore Retailers [7]		100%	\$351	\$338	\$337,715	10.67	\$31,654	\$48,800	0.6	87.5%	1.53	0.4	\$74,872	LI Households
Water and Other Public Services [8]	0.4%	100%	\$1,047	\$1,008										
Waste Management and Remediation Services		100%	\$1,047	\$1,008	\$1,008,404	3.61	\$279,558	\$53,951	5.2	98.1%	1.53	3.3	\$82,776	Median Income
Household Operations Personal Services	0.6%	100%	\$1,567	\$1,508										
Nursing and Residential Care Facilities [7]		40%	\$627	\$603	\$603,384	2.37	\$254,856	\$25,627	9.9	98.1%	1.53	6.4	\$39,319	VLI Households
Social Assistance [7]		60%	\$940	\$905	\$905,075	2.98	\$303,351	\$23,861	12.7	98.1%	1.53	8.1	\$36,609	VLI Households
Household Operations Other Household Expenses	0.9%	100%	\$2,541	\$2,447										
Services to Buildings and Dwellings		100%	\$2,541	\$2,447	\$2,446,950	2.50	\$678,194	\$27,214	35.9	98.1%	1.53	23.0	\$41,754	VLI Households
Housekeeping Supplies	0.6%	100%	\$1,642	\$1,581										
Building Materials and Garden Equipment and Supplies Dealers		10%	\$164	\$158	\$158,074	8.13	\$19,441	\$30,589	0.6	87.5%	1.53	0.4	\$46,932	VLI Households
Food & Beverage Stores		35%	\$575	\$553	\$553,260	8.43	\$65,631	\$26,289	2.5	87.5%	1.53	1.4	\$40,350	VLI Households
General Merchandise [7]		35%	\$575	\$553	\$553,260	11.05	\$50,080	\$21,132	2.4	87.5%	1.53	1.4	\$32,422	VLI Households
Miscellaneous Store Retailers [7]		20%	\$328	\$316	\$316,148	7.16	\$44,169	\$19,488	2.3	87.5%	1.53	1.3	\$28,900	VLI Households

[1] Percent of income spent per category is based on the 2010 U.S. Consumer Expenditure Survey data for households at this income level. Note that the sum of the categories included in this analysis is well below the total expenditures of households at this income level, and thus represent a conservative estimate of job creation and housing impacts. Expenditure categories not incorporated due to data constraints include taxes, housing and lodging, most utilities, tobacco, health insurance, personal life insurance, cash contributions, and financing charges.

[2] Where multiple business types are likely to provide goods and services in the expenditure category, EPS has estimated the proportion accruing to each business type.

[3] 2010 expenditures are based on the estimated household income distributed based on the percent of income spent per the 2010 U.S. Consumer Expenditure Survey. Per Table 3 the purchase of a \$1,250,000 Unit requires a household income of \$281,330.

[4] 2010 expenditures converted to 2007 dollars using the CPI for San Francisco-Oakland-San Jose from the BLS.

[5] BLS data indicates that 12.5% of retail/restaurant workers are age 18-19, but an average of only 1.9% of workers in other industries. EPS has assumed that such young workers do not form their own households.

[6] Based on the U.S. 2010 Census.

[7] Santa Clara County data not available from 2007 Economic Census. Gross receipts to wages and 2007 average wage thus based on statewide data.

[8] Part of the Utilities, Fuels, and Public Services category, which also includes natural gas, electricity, and telephone services. Natural gas, electricity, and telephone services not estimated because data was not available in the 2007 Economic Census.

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Table A-4
Household Expenditures and Employment Generation - \$1,250,000 Unit
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Item	% of Household Income Spent per Category [1]	% of Category Expenditure per Type of Business [2]	2010 Expenditures [3]	2007 Expenditures [4]	2007 Expenditures per 1000 Households	Gross Receipts to Wages	2007 Total Wages	2007 Avg. Wages	# of Workers	% Forming HH [5]	Workers/HH [6]	Total Worker HH	2007 Avg. Worker HH Income	Income Category
Calculation	a	b	c	d	e = d * 1000	f	g = e / f	f	i = g / h	j	k	l = j * k	m = h * j	
Household Furnishings and Equipment	2.0%	100%	\$5,670	\$5,459										
Furniture and Home Furnishings Stores [7]		40%	\$2,268	\$2,184	\$2,183,651	7.14	\$305,896	\$28,287	10.8	87.5%	1.53	6.2	\$43,400	VLI Households
Electronics and Appliance Stores		40%	\$2,268	\$2,184	\$2,183,651	9.19	\$237,521	\$26,142	8.4	87.5%	1.53	4.8	\$43,178	VLI Households
General Merchandise Stores [7]		10%	\$567	\$546	\$545,913	11.05	\$49,415	\$21,132	2.3	87.5%	1.53	1.3	\$32,422	VLI Households
Miscellaneous Store Retailers [7]		10%	\$567	\$546	\$545,913	7.16	\$76,269	\$19,488	3.9	87.5%	1.53	2.2	\$28,900	VLI Households
Apparel and Services	2.0%	100%	\$5,556	\$5,348										
Clothing and Clothing Accessories Stores		40%	\$2,222	\$2,140	\$2,139,571	7.88	\$271,535	\$19,149	14.2	87.5%	1.53	8.1	\$29,380	VLI Households
General Merchandise [7]		40%	\$2,222	\$2,140	\$2,139,571	11.05	\$193,669	\$21,132	9.2	87.5%	1.53	5.2	\$32,422	VLI Households
Miscellaneous Store Retailers [7]		10%	\$556	\$535	\$534,893	7.16	\$74,729	\$19,488	3.8	87.5%	1.53	2.2	\$29,900	VLI Households
Personal and Household Goods Repair and Maintenance [7]		5%	\$278	\$267	\$267,446	3.72	\$71,912	\$26,783	2.7	87.5%	1.53	1.5	\$41,092	VLI Households
Drycleaning and Laundry Services [7]		5%	\$278	\$267	\$267,446	3.17	\$84,477	\$25,028	3.4	87.5%	1.53	1.9	\$38,399	VLI Households
Vehicle Purchases (net outlay)	2.3%	100%	\$6,539	\$6,286										
Motor Vehicle and Parts Dealers		100%	\$6,539	\$6,286	\$6,286,712	11.17	\$563,698	\$47,758	11.8	87.5%	1.53	6.7	\$73,274	LI Households
Gasoline and motor oil	1.4%	100%	\$4,050	\$3,900										
Gasoline Stations [7]		100%	\$4,050	\$3,900	\$3,869,716	37.73	\$103,369	\$17,786	5.8	87.5%	1.53	3.3	\$27,288	VLI Households
Vehicle Maintenance and Repairs	0.7%	100%	\$2,085	\$2,007										
Repair and Maintenance		100%	\$2,085	\$2,007	\$2,007,329	3.43	\$585,296	\$32,171	18.2	98.1%	1.53	11.6	\$49,358	LI Households
Medical Services	0.7%	100%	\$1,946	\$1,876										
Ambulatory Health Care Services [7]		40%	\$779	\$750	\$750,319	2.67	\$281,247	\$51,890	5.4	98.1%	1.53	3.5	\$79,613	Median Income
General Medical and Surgical Hospitals [7]		30%	\$584	\$563	\$562,739	2.63	\$213,961	\$58,054	3.7	98.1%	1.53	2.4	\$89,070	Median Income
Nursing and Residential Care Facilities [7]		30%	\$584	\$563	\$562,739	2.37	\$237,689	\$25,627	9.3	98.1%	1.53	5.9	\$39,319	VLI Households
Drugs	0.3%	100%	\$858	\$826										
Health and Personal Care Stores		100%	\$858	\$826	\$825,920	7.33	\$112,628	\$28,959	3.9	87.5%	1.53	2.2	\$44,431	VLI Households
Medical Supplies	0.1%	100%	\$335	\$322										
Health and Personal Care Stores		100%	\$335	\$322	\$322,310	7.33	\$43,952	\$28,959	1.5	87.5%	1.53	0.9	\$44,431	VLI Households
Entertainment Fees and Admissions	1.1%	100%	\$3,158	\$3,041										
Arts, Entertainment, & Recreation [7]		100%	\$3,158	\$3,041	\$3,040,617	3.07	\$990,240	\$38,299	25.2	87.5%	1.53	14.4	\$60,295	LI Households

[1] Percent of income spent per category is based on the 2010 U.S. Consumer Expenditure Survey data for households at this income level. Note that the sum of the categories included in this analysis is well below the total expenditures of households at this income level, and thus represent a conservative estimate of job creation and housing impacts. Expenditure categories not incorporated due to data constraints include taxes, housing and lodging, most utilities, tobacco, health insurance, personal life insurance, cash contributions, and financing charges.

[2] Where multiple business types are likely to provide goods and services in the expenditure category, EPS has estimated the proportion accruing to each business type.

[3] 2010 expenditures are based on the estimated household income distributed based on the percent of income spent per the 2010 U.S. Consumer Expenditure Survey. Per Table 3 the purchase of a \$1,250,000 Unit requires a household income of \$281,330.

[4] 2010 expenditures converted to 2007 dollars using the CPI for San Francisco-Oakland-San Jose from the BLS.

[5] BLS data indicates that 12.5% of retail/restaurant workers are age 16-19, but an average of only 1.9% of workers in other industries. EPS has assumed that such young workers do not form their own households.

[6] Based on the U.S. 2010 Census.

[7] Santa Clara County data not available from 2007 Economic Census. Gross receipts to wages and 2007 average wage thus based on statewide data.

[8] Part of the Utilities, Fuels, and Public Services category, which also includes natural gas, electricity, and telephone services. Natural gas, electricity, and telephone services not estimated because data was not available in the 2007 Economic Census.

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APPENDIX B:

Income Levels for Worker Households

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Table B-2
Income Levels for Worker Households
Worker Household Generation per 1,000 Market Rate Units - \$750,000 Unit
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Industry	Total Workers	Total Worker Households [1]	VLI Households	LJ Households	Median Income Households	Moderate Income Households	Above Moderate Income Households
Retail							
Unspecified Retail	3.4	2.0	2.0	0.0	0.0	0.0	0.0
Food & Beverage Stores	25.7	14.6	14.6	0.0	0.0	0.0	0.0
Food Services and Drinking Places	96.5	55.1	55.1	0.0	0.0	0.0	0.0
Health and Personal Care Stores	3.3	1.9	1.9	0.0	0.0	0.0	0.0
General Merchandise	8.5	4.9	4.9	0.0	0.0	0.0	0.0
Furniture and Home Furnishings Stores	6.7	3.8	3.8	0.0	0.0	0.0	0.0
Building Material and Garden Equipment and Supplies Dealer	2.4	1.4	1.4	0.0	0.0	0.0	0.0
Electronics and Appliance Stores	10.0	5.7	5.7	0.0	0.0	0.0	0.0
Clothing and Clothing Accessories Stores	8.7	5.0	5.0	0.0	0.0	0.0	0.0
Motor Vehicle and Parts Dealers	7.3	4.1	0.0	4.1	0.0	0.0	0.0
Gasoline Stations	3.6	2.0	2.0	0.0	0.0	0.0	0.0
Sporting Goods, Hobby, and Musical Instrument Stores	10.9	6.2	6.2	0.0	0.0	0.0	0.0
Miscellaneous Store Retailers	8.8	5.0	5.0	0.0	0.0	0.0	0.0
Nonstore Retailers	0.4	0.2	0.0	0.2	0.0	0.0	0.0
Arts, Entertainment, & Recreation	15.5	8.8	0.0	8.8	0.0	0.0	0.0
Medical/Health							
Ambulatory Health Care Services	3.3	2.1	0.0	0.0	2.1	0.0	0.0
General Medical and Surgical Hospitals	2.3	1.5	0.0	0.0	1.5	0.0	0.0
Nursing and Residential Care Facilities	11.8	7.6	7.6	0.0	0.0	0.0	0.0
Social Assistance	7.8	5.0	5.0	0.0	0.0	0.0	0.0
Services							
Personal and Household Goods Repair and Maintenance	12.1	7.6	7.6	0.0	0.0	0.0	0.0
Services to Buildings and Dwellings	22.1	14.1	14.1	0.0	0.0	0.0	0.0
Waste Management and Remediation Services	3.2	2.0	0.0	0.0	2.0	0.0	0.0
Real Estate and Rental and Leasing	1.0	0.6	0.0	0.0	0.6	0.0	0.0
Personal Care Services	10.6	6.8	6.8	0.0	0.0	0.0	0.0
Dry Cleaning and Laundry Services	2.1	1.2	1.2	0.0	0.0	0.0	0.0
Auto Repair and Maintenance	11.2	7.2	0.0	7.2	0.0	0.0	0.0
Veterinary Services	1.9	1.2	0.0	1.2	0.0	0.0	0.0
Photographic Services	2.4	1.5	1.5	0.0	0.0	0.0	0.0
Educational Services	64.2	41.1	41.1	0.0	0.0	0.0	0.0
Accounting	2.4	1.5	0.0	0.0	1.5	0.0	0.0
Architectural, Engineering, and Related	1.6	1.0	0.0	0.0	0.0	0.0	1.0
Specialized Design Services	1.7	1.1	0.0	0.0	1.1	0.0	0.0
Death Care Services	2.7	1.7	0.0	1.7	0.0	0.0	0.0
Legal Services	1.5	0.9	0.0	0.0	0.0	0.0	0.9
Government	46.8	30.5	0.0	8.3	1.8	19.7	0.7
Total Workers and Households	424.5	257.1	192.4	31.7	10.7	19.7	2.7
Total Income-Qualified HH Generated Per 1,000 Market-Rate Units [2]		254.5	192.4	31.7	10.7	19.7	0.0
Total Income-Qualified HH Generated Per 100 Market-Rate Units [2]		25.4	19.2	3.2	1.1	2.0	0.0

[1] Assumes 1.53 workers per worker household in the City of Sunnyvale based on 2010 Census. Includes a 12.5% discount for retail and 1.9% discount for other industries to account for workers under age 20.

[2] Excludes above moderate-income households because these incomes are adequate to acquire market-rate housing.

Source: Economic & Planning Systems, Inc.

Table B-4
Income Levels for Worker Households
Worker Household Generation per 1,000 Market Rate Units - \$1,250,000 Unit
City of Sunnyvale In-Lieu Housing Fee, EPS #21123

Industry	Total Workers	Total Worker Households [1]	VLI Households	LI Households	Median Income Households	Moderate Income Households	Above Moderate Income Households
Retail							
Unspecified Retail	5.6	3.2	3.2	0.0	0.0	0.0	0.0
Food & Beverage Stores	41.7	23.8	23.8	0.0	0.0	0.0	0.0
Food Services and Drinking Places	156.8	89.4	89.4	0.0	0.0	0.0	0.0
Health and Personal Care Stores	5.4	3.1	3.1	0.0	0.0	0.0	0.0
General Merchandise	13.9	7.9	7.9	0.0	0.0	0.0	0.0
Furniture and Home Furnishings Stores	10.8	6.2	6.2	0.0	0.0	0.0	0.0
Building Material and Garden Equipment and Supplies Dealer	2.7	1.5	1.5	0.0	0.0	0.0	0.0
Electronics and Appliance Stores	16.2	9.2	9.2	0.0	0.0	0.0	0.0
Clothing and Clothing Accessories Stores	14.2	8.1	8.1	0.0	0.0	0.0	0.0
Motor Vehicle and Parts Dealers	11.8	6.7	0.0	6.7	0.0	0.0	0.0
Gasoline Stations	5.8	3.3	3.3	0.0	0.0	0.0	0.0
Sporting Goods, Hobby, and Musical Instrument Stores	17.7	10.1	10.1	0.0	0.0	0.0	0.0
Miscellaneous Store Retailers	14.3	8.2	8.2	0.0	0.0	0.0	0.0
Nonstore Retailers	0.6	0.4	0.0	0.4	0.0	0.0	0.0
Arts, Entertainment, & Recreation	25.2	14.4	0.0	14.4	0.0	0.0	0.0
Medical/Health							
Ambulatory Health Care Services	5.4	3.5	0.0	0.0	3.5	0.0	0.0
General Medical and Surgical Hospitals	3.7	2.4	0.0	0.0	2.4	0.0	0.0
Nursing and Residential Care Facilities	19.2	12.3	12.3	0.0	0.0	0.0	0.0
Social Assistance	12.7	8.1	8.1	0.0	0.0	0.0	0.0
Services							
Personal and Household Goods Repair and Maintenance	19.7	12.4	12.4	0.0	0.0	0.0	0.0
Services to Buildings and Dwellings	35.9	23.0	23.0	0.0	0.0	0.0	0.0
Waste Management and Remediation Services	5.2	3.3	0.0	0.0	3.3	0.0	0.0
Real Estate and Rental and Leasing	1.0	0.6	0.0	0.0	0.6	0.0	0.0
Personal Care Services	17.2	11.0	11.0	0.0	0.0	0.0	0.0
Dry Cleaning and Laundry Services	3.4	1.9	1.9	0.0	0.0	0.0	0.0
Auto Repair and Maintenance	18.2	11.6	0.0	11.6	0.0	0.0	0.0
Veterinary Services	3.1	2.0	0.0	2.0	0.0	0.0	0.0
Photographic Services	3.9	2.5	2.5	0.0	0.0	0.0	0.0
Educational Services	104.3	66.7	66.7	0.0	0.0	0.0	0.0
Accounting	3.9	2.5	0.0	0.0	2.5	0.0	0.0
Architectural, Engineering, and Related	2.6	1.7	0.0	0.0	0.0	0.0	1.7
Specialized Design Services	2.8	1.8	0.0	0.0	1.8	0.0	0.0
Death Care Services	4.4	2.8	0.0	2.8	0.0	0.0	0.0
Legal Services	2.4	1.5	0.0	0.0	0.0	0.0	1.5
Government	46.8	30.5	0.0	8.3	1.8	19.7	0.7
Total Workers and Households	658.4	397.5	311.8	46.2	15.8	19.7	3.9
Total Income-Qualified HH Generated Per 1,000 Market-Rate Units [2]		393.6	311.8	46.2	15.8	19.7	0.0
Total Income-Qualified HH Generated Per 100 Market-Rate Units [2]		39.4	31.2	4.6	1.6	2.0	0.0

[1] Assumes 1.53 workers per worker household in the City of Sunnyvale based on 2010 Census. Includes a 12.5% discount for retail and 1.9% discount for other industries to account for workers under age 20.

[2] Excludes above moderate-income households because these incomes are adequate to acquire market-rate housing.

Source: Economic & Planning Systems, Inc.

Attachment B
Amended SMC 19.66: Below Market Rate Housing Requirements

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN CHAPTERS AND SECTIONS OF TITLE 1 AND TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO BELOW MARKET RATE HOUSING REQUIREMENTS

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 19.67 ADDED. Chapter 19.67 (Below Market Rate Ownership Housing Requirements) of Title 19 (Zoning) is hereby added to read as set forth in Exhibit “A” attached and incorporated by reference.

SECTION 2. CHAPTER 19.69 ADDED. Chapter 19.69 (Existing Below Market Rate Rental Housing Requirements) of Title 19 (Zoning) is hereby added to read as set forth in Exhibit “B” attached and incorporated by reference.

SECTION 3. SECTION 1.04.010 AMENDED. Section 1.04.010 of Chapter 1.04 (General Penalty) of Title 1 (General Provisions) of the Sunnyvale Municipal Code is hereby amended to read as follows:

1.04.010. Violation—Misdemeanor or infraction.

(a) It is unlawful for any person to violate any provision or fail to comply with any requirement of this code or any requirements or conditions validly imposed upon such person under the authority of this code. Any person violating any of the provisions of this code, failing to comply with any of the mandatory requirements of this code, or failing to comply with any requirements or conditions validly imposed under authority of this code is guilty of a misdemeanor unless such action or inaction shall be designated and declared to be an infraction. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code or any requirement or condition validly imposed upon such person under authority of this code is committed, continued or permitted by such person and shall be punishable accordingly.

(b) Violations of the following provisions are infractions:

(1) – (7) [Text unchanged.]

(8) Title 19: Entire title except ~~19.48.260 Chapters 19.67 and 19.69; and Chapter 19.76.~~

(c) Violations of the following sections shall not be deemed infractions, but rather shall be subject to civil penalties in accordance with a schedule of penalties established by city, and procedures as set forth in Vehicle Code Section 40203.5 and following, or as the same shall be later amended: Sections 9.24.180, 10.16.020, 10.16.040, 10.16.050, 10.16.060, 10.16.080, 10.16.090, 10.16.110, 10.16.120, 10.16.140, 10.16.150, 10.16.160, 10.16.170, 10.24.010, 10.24.015, 10.24.020, 10.24.030, 10.36.040(b), 10.36.050, 10.36.060, 10.36.065, 10.36.070, and 10.36.090 ~~and 19.48.260.~~

SECTION 4. SECTION 19.12.030 AMENDED. Section 19.12.030 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.030. “B”

(1) – (3) [Text unchanged.]

~~(4) —“Below market rate (BMR) unit” means an ownership or rental housing unit affordable by households with very low, low or moderate incomes.~~

(5) – (15) [Renumber (4) – (14). Text unchanged.]

SECTION 5. SECTION 19.12.050 AMENDED. Section 19.12.050 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.050. “D”

(1) – (9) [Text unchanged.]

(10) “Director of community development” means the director of the department of community development of the city of Sunnyvale or the director’s designee. In this title, the term “director” is the same as “director of community development”.

(11) – (15) [Text unchanged.]

SECTION 6. SECTION 19.12.090 AMENDED. Section 19.12.090 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.090. “H”

(1) – (7) [Text unchanged.]

~~(8) —“Housing costs” means the monthly mortgage principal and interest, property taxes, homeowners insurance, and condominium fees (where applicable, for ownership units) and the monthly rent for rental units.~~

~~(9) —“HUD” means the United States Department of Housing and Urban Development or its successor.~~

SECTION 7. SECTION 19.12.100 AMENDED. Section 19.12.100 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.100. “I”

(1) – (2) [Text unchanged.]

~~(3) —“Income levels” means those income and eligibility levels determined periodically by the United States Department of Housing and Urban Development based on the San Jose Standard Metropolitan Statistical Area (SMSA) median income levels by family size. Such levels shall be calculated on the basis of gross annual household income considering household size and number of dependents, income of all wage earners, elderly or disabled family members and all other sources of household income.~~

~~(a) —“Moderate income” means greater than eighty percent to one hundred thirty percent of the SMSA median;~~

~~(b) —“Low income” means fifty percent to eighty percent of the SMSA median;~~

~~(c) – “Very low income” means under fifty percent of the SMSA median.~~
(4) – (5) [Renumber (3) – (4). Text unchanged.]

SECTION 8. SECTION 19.12.160 AMENDED. Section 19.12.190 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.160. “O”

(1) – (8) [Text unchanged.]

(9) “Ownership housing” means a residential development where each dwelling unit is developed to be sold separately to a home buyer primarily intended for owner-occupancy.

SECTION 9. SECTION 19.12.190 AMENDED. Section 19.12.190 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.190. “R”

(1) – (8) [Text unchanged.]

~~(9) “Resale controls” means legal restrictions by which the price of below market rate units shall be restricted to ensure that the unit remains affordable to very low, low or moderate income households.~~ “Rental housing” means a residential development that is not ownership housing.

(10) – (20) [Text unchanged.]

SECTION 10. SECTION 19.18.020 AMENDED. Section 19.18.020 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.18.020. Residential zoning districts.

Residential zoning districts are reserved for ~~not more than the specified the maximum allowable density specified below, expressed in~~ number of dwelling units per acre, except as ~~otherwise provided for in Article 5 allowed under Section 19.18.025 (Density Bonus).~~ Other uses will be permitted which are compatible with the residential character of the zoning districts.

(a) – (h) [Text unchanged.]

SECTION 11. SECTION 19.18.025 ADDED. Section 19.18.025 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows:

19.18.025. Density Bonus.

A density bonus of up to 35% above the maximum allowable density of a residential zoning district may be granted under California Government Code Sections 65915-65918 and through other development incentives adopted by the city council.

SECTION 12. SECTION 19.30.040 AMENDED. Section 19.30.040 of Chapter 19.30 (Lot Area and Lot Width) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.30.040. Dwelling units allowed in multiple-family zoning districts.

~~Notwithstanding any other provisions of this chapter, Table 19.30.040 (Number of Dwelling Units Allowed: R-3, R-4 and R-5 Zoning Districts) shows the number of dwelling units allowed per minimum lot area in multiple-family zoning districts is as set forth in Table 19.30.040. Additional dwelling units may be allowed under Section 19.18.025 (Density Bonus).~~

SECTION 13. CHAPTER 19.68 AMENDED. Chapter 19.68 (Mobile and Accessory Living Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 19.68

Mobile, ~~and~~ Accessory, ~~and~~ Single-Room Occupancy Living Units

19.68.010. Purpose.

19.68.020. Mobile living units.

19.68.030. Mobile home.

19.68.040. Accessory living units.

19.68.050. Single-room occupancy (SRO) living unit facility.

19.68.060. Single-room occupancy (SRO) residential hotel.

19.68.010. Purpose.

~~This chapter establishes the requirements and standards related to the installation and use of a mobile living unit, mobile home or accessory living unit for alternative housing types.~~

19.68.020 – 19.68.040 [Text unchanged.]

19.68.050. Single room occupancy (SRO) living unit facility.

~~(a) A conditional use permit may be issued for an SRO living unit facility only if the following criteria are met:~~

~~(1) Excluding the closet and the bathroom area, an SRO living unit must be a minimum of one hundred fifty square feet in floor area. The average unit size in a living unit facility shall be no greater than two hundred seventy-five square feet and no individual living unit may exceed four hundred square feet;~~

~~(2) Each SRO living unit shall be designed to accommodate a maximum of two persons;~~

~~(3) An SRO living unit may contain partial kitchen facilities;~~

~~(4) Individual SRO living units may not have separate external entryways;~~

~~(5) The SRO living unit facility must have a management plan approved by the director of community development. The management plan shall contain management policies, operations, rental procedures, maintenance plans, staffing needs and security procedures. An on-site, twenty-four hour manager is required in every living unit project. The rental procedures must allow for both weekly and monthly tenancies and specify deposit requirements for each type of tenancy. A manager's unit shall be a complete dwelling unit and so designated on all plans;~~

(6) Laundry facilities must be provided in a separate room in compliance with Chapter 16.16, at the ratio of one washer and one dryer for every twenty units or fractional number thereof. The laundry facility must be located near the interior common space. Washers and dryers may be coin operated;

(7) A closet and separate storage space, as approved by the director of community development, is required in every SRO living unit facility;

(8) A cleaning supply storeroom and/or utility closet with at least one laundry tub with hot and cold running water must be provided on each floor of the living unit building;

(9) The SRO living unit facility shall provide interior common space at a minimum of four square feet per unit. An SRO living unit facility must provide at least two hundred square feet in area of interior common space, excluding janitorial storage, laundry facilities and common hallways.

(b) The planning commission or the city council shall deny the application for a use permit hereunder where the information submitted by the applicant and/or presented at the public hearing fails to substantiate that the project will comply with these criteria.

19.68.060. Single room occupancy (SRO) residential hotel.

(a) A conditional use permit may be issued for an SRO residential hotel only if the following criteria are met:

(1) Excluding the closet and any bathroom space, an SRO residential hotel unit must be at least seventy square feet in floor area;

(2) An SRO residential hotel room designed to accommodate a maximum of one person shall not exceed one hundred fifty square feet in floor area, and an SRO residential hotel room designed to accommodate a maximum of two persons shall be between one hundred twenty and two hundred nineteen square feet in floor area;

(3) An SRO residential hotel unit may contain partial kitchen and bath facilities. If individual bath and/or kitchen facilities are not provided, common bath facilities and/or common laundry and kitchen facilities must be provided in accordance with Chapter 16.16;

(4) Individual SRO residential hotel units may not have separate external entryways;

(5) The SRO residential hotel must have a management plan approved by the director of community development. The management plan shall contain management policies, operations, rental procedures, maintenance plans, staffing needs and security procedures. An on-site twenty-four hour manager is required in every SRO residential hotel. The rental procedures must allow for both weekly and monthly tenancies and specify deposit requirements for each type of tenancy. A manager's unit shall be a complete dwelling unit and so designated on all plans;

(6) Laundry facilities must be provided in a separate room, at the ratio of one washer and one dryer for every twenty units or fractional number thereof. The laundry facility must be located near the interior common space. Washers and dryers may be coin operated;

(7) A closet and separate storage space, as approved by the director of community development, is required in every SRO residential hotel room;

(8) A cleaning supply storeroom and/or utility closet with at least one laundry tub with hot and cold running water must be provided on each floor of the residential hotel building;

(9) The SRO residential hotel shall provide interior common space at a minimum of four square feet per unit. The SRO residential hotel shall provide a minimum of two hundred square feet of interior common area.

(b) The planning commission or the city council shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate that the project will comply with these criteria.

SECTION 14. SECTION 19.74.080 AMENDED. Section 19.74.080 of Chapter 19.74 (Park Dedication Fees for Rental Housing Projects) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.74.080. Exemption.

~~In any multifamily residential rental housing project otherwise subject to the provisions of this chapter, the number of a~~Any dwelling units designated as affordable housing ~~units for very low, low or moderate income households, as defined in Chapter 19.66, shall be subtracted~~ are exempt from the total number of dwelling units used in the calculations in Section 19.74.070., ~~provided that the proposed project complies in all other respects with the requirements of Chapter 19.66.~~

SECTION 15 CHAPTER 19.66 REPEALED. Chapter 19.66 (Affordable Housing and Single Room Occupancies) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby repealed in its entirety.

SECTION 16. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 17. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 18. EFFECTIVE DATE. This ordinance shall be in full force and effect 30 days from and after the date of its adoption.

SECTION 19. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in *The Sun*, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within 15 days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2012, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2012, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

Michael Martello, Interim City Attorney

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Chapter 19.67 BELOW MARKET RATE OWNERSHIP HOUSING

- 19.67.010 Purpose.**
- 19.67.020 Definitions.**
- 19.67.030 Applicability.**
- 19.67.040 Below Market Rate Housing (BMR) Requirement.**
- 19.67.050 Density Bonus.**
- 19.67.060. Development Standards.**
- 19.67.070. Occupancy and Sale Restrictions.**
- 19.67.080. BMR Housing Agreement.**
- 19.67.090. Alternatives to Satisfy BMR Housing Requirement.**
- 19.67.100. Default, Foreclosure, and Loss of Unit.**
- 19.67.110. BMR Housing Trust Fund.**
- 19.67.120. Annual Report.**
- 19.67.130. Enforcement.**
- 19.67.140. Appeals.**
- 19.67.150. Severability.**

19.67.010. Purpose.

(a) **Findings.** The city council finds that:

(1) A shortage of affordable housing is detrimental to the public health, safety and welfare in the City of Sunnyvale;

(2) Persons with lower to moderate incomes who work or live in the City are experiencing a shortage of affordable housing opportunities and those with very low incomes are increasingly excluded from living in the City;

(3) Federal and state housing subsidy programs are not sufficient by themselves to satisfy the housing needs of lower to moderate income households;

(4) Continued new development without housing at prices affordable to these persons will worsen the shortage of affordable housing; and

(5) It is the City's goal and a public policy of the State of California to ensure there is adequate supply of housing for persons of all economic segments of the community.

(b) **Purpose.** This chapter establishes requirements for below market rate housing in new ownership housing developments. These requirements assure that the City's affordable housing stock increases in proportion to the overall increase in new housing; to achieve the housing objectives contained in state law and in the general plan; and to enhance public welfare.

19.67.020. Definitions.

When used in this chapter, these terms mean the following:

(1) **“Adjacent lots”** means parcels with boundary lines that touch at any point. “Adjacent lots” includes parcels that are separated only by a private or public street, other than highways and expressways, or that are separated only by other parcels owned or controlled by the same owner or applicant.

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(2) “**Area median income (AMI)**” means the median household income of households in Santa Clara County, adjusted for household size, as determined and published by the California Housing and Community Development Department (HCD).

(3) “**Assumed household size**” means, for the purposes of establishing affordable sales prices, a household with a total number of members equal to the number of bedrooms in the below market rate home, plus one. For example, the assumed household size for a 3-bedroom home is a 4-person household.

(4) “**Assisted housing**” means any project that receives development funding from any local, state, or federal governmental or non-profit source, which meets the criteria for below market rate housing.

(5) “**Below market rate (BMR) ownership housing**” means dwelling units developed to be sold and affordable to lower to moderate income households and regulated by this chapter. “BMR unit” means one BMR ownership housing dwelling unit.

(6) “**Decision-making body**” means the planning commission or city council, whichever is authorized to make a final decision on the project application for land use approvals.

(7) “**Eligible buyer**” means a household which meets the requirements of this chapter to buy, or in the case of acquisition of a BMR unit through devise or inheritance, to occupy, a BMR unit; or a public or non-profit housing agency able to acquire and manage dwelling units for rental to eligible persons.

(8) “**Gross annual household income**” means the gross, pre-tax income of all adult occupants of the applicant household, and as may be further defined in the BMR Ownership Housing Guidelines.

(9) “**Housing cost**” means the monthly mortgage payment (principal and interest), property taxes, homeowners’ association dues, and homeowner’s insurance.

(10) “**Lower income household**” means a household with a gross annual household income at or below 80% of AMI for Santa Clara County. This definition corresponds to the definition of lower income household used for state- and federally-assisted housing programs.

(11) “**Market rate unit**” means a dwelling unit that is not subject to the occupancy or sale regulations in this chapter or any other affordability restrictions or covenants.

(12) “**Moderate income household**” means a household with a gross annual household income between 80 to 120% of AMI for Santa Clara County. This definition corresponds to the definition of moderate income household for state-assisted housing programs.

(13) “**Project**” means one or more applications filed for City approval of a residential development. “Project” includes a development across adjacent lots or a multi-phased development, on the same or adjacent lots. “Project” also includes developments on adjacent lots for which applications are filed by the same owner or applicant within a period of 10 years.

(14) “**Very low income household**” means a household with a gross annual household income that does not exceed 50% of AMI for Santa Clara County. This definition corresponds to the definition of very low income household used for state- and federally-assisted housing programs. Very low income households are a subset of lower income households.

19.67.030. Applicability.

(a) **Projects with 8 or more Units.** This chapter applies to any project that would create 8 or more ownership housing units or single-family lots. Projects not deemed complete before the enactment of this chapter are subject to the regulations in this chapter.

(b) **Rental Housing Developments Exempt.** This chapter does not apply to rental housing developments.

(c) **BMR Ownership Housing Guidelines.** The director of community development (director) shall develop detailed procedures and guidelines to ensure the orderly and efficient administration of the requirements of this chapter. These procedures and guidelines are incorporated into this chapter as the BMR Ownership Housing Guidelines.

19.67.040. Below Market Rate Ownership Housing (BMR) Requirement.

At least 12.5% of the total number of ownership housing units or single-family lots in a project shall be developed as BMR ownership housing, unless the decision-making body allows the BMR ownership housing requirement to be satisfied through the alternatives under Section 19.67.090 (Alternatives to Satisfy Below Market Rate Housing Requirement). In calculating the number of BMR units required, any fraction of a whole number shall be satisfied by either developing one additional BMR unit or by paying an in-lieu fee. For example, for a 10-unit project that is required to have 1.25 BMR units, the applicant may develop one BMR unit and pay a fee for the remaining 0.25 units required, or develop a total of 2 BMR units.

19.67.050. Density Bonus.

BMR units developed to satisfy the requirements of this chapter may be counted toward the number of affordable housing units required to earn a density bonus under California Government Code Sections 65915-65918. To earn the density bonus, BMR units shall meet the applicable affordability definitions in California Health and Safety Code Sections 50052.5(b) and Section 50053(b).

19.67.060. Development Standards.

BMR units are subject to the following development standards:

(a) **Location.** BMR units shall be distributed evenly throughout the project. The decision-making body may waive the location requirement if:

- (1) Significant physical site constraints prevent even distribution; or
- (2) Granting the waiver would result in improved site or building design, or a more favorable location of the BMR units than would otherwise be provided.

(b) **Lot Size.** Lot size shall be at least the same size as the smallest lot of a market rate unit within the project;

(c) **Bedroom Count.** Average bedroom count shall be the same as the average bedroom count in the market rate units in the project;

(d) **Unit Size.** Unit size shall be at least 75% of the average size of market rate units with the same number of bedrooms in the project.

(e) **Exterior.** The exterior shall be consistent with the market rate units in the project in terms of details, materials, and visual appeal. There shall be no significant identifiable differences visible from the exterior;

(f) **Interior.** Interiors may be of standard-grade finishes and amenities consistent with those of moderately-priced new market rate units for sale in the region, even if market rate units in the project are of higher-end finishes and amenities.

(g) **Timing of Construction.** BMR units shall be constructed in proportion to the BMR ownership housing requirement applicable to the project. For example, for a project with a

12.5% BMR ownership housing requirement, at least one BMR unit shall be constructed before or concurrently with every 7th market rate unit constructed. The last market rate unit to be completed in the project may not receive a certificate of occupancy until the last BMR unit has received a certificate of occupancy. The director may approve a modified schedule if the timing requirement will create unreasonable delays in the issuance of certificates of occupancy for market rate units.

19.67.070. Occupancy and Sale Restrictions.

(a) **Recordation of Declaration of Restrictions.** Before issuance of any building permit for a BMR unit, the property owner and the City shall execute and record a declaration containing the occupancy and sale restrictions in this chapter. The declaration is binding to the heirs, assigns and successors in interest of the property owner.

(b) **Timing of Sale.** At completion, BMR units shall be listed for sale and occupied before or concurrently with the market rate units in the project. The seller shall accept the first valid offer from a buyer deemed eligible by the director, and shall cooperate to close escrow within a customary time period.

(c) **Term of Restrictions.** BMR units shall be reserved for lower and moderate income households and shall be subject to the occupancy and sale restrictions in this chapter for 30 years. This term begins upon sale to an eligible buyer. If the BMR unit is sold to another eligible buyer during the term, a new term of 30 years shall begin upon resale and shall be secured by a new declaration of restrictions.

(d) **Maximum Sales Price.** The director shall establish and publish annually the maximum sale prices for each BMR unit size in the BMR Ownership Housing Guidelines. The maximum BMR unit sale prices shall not exceed a price affordable to median income households, based on a housing cost of up to 30% of monthly gross household income for the unit's assumed household size. The percentage of AMI used to establish maximum sale prices shall be 100%, except that the director may adjust the percentage within a range of 80% to 110% of AMI to address major shifts in the housing market or other related economic conditions affecting the demand for BMR housing.

(e) **Sale Requirements.** The following requirements shall be met in any sale and resale of a BMR unit during the term of restrictions:

(1) The seller shall notify the director of the intent to sell before offering the unit for sale;

(2) The seller shall notify the director of the proposed sale price before the close of the sale;

(3) The eligible buyer shall execute and record a new declaration of restrictions which incorporates all current occupancy and sale restrictions in this chapter and in the BMR Ownership Housing Guidelines; and

(4) Closing costs and title insurance fees shall be shared equally between buyer and seller. The buyer shall not be charged fees above those imposed on buyers of a market rate unit, except for administrative fees charged by the City.

(5) Certain transfers of title by marriage, divorce proceeding, devise or inheritance shall not be subject to these required sale procedures.

(f) **Eligible Buyers.** The director shall determine the eligibility of prospective buyers of BMR units. It is unlawful for any person to willfully make a false representation or fail to disclose information for the purpose of qualifying as eligible to purchase a BMR unit. Prospective buyers must meet the following requirements:

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(1) **Income Limits.** The prospective buyer's combined household income and assets shall not exceed the limits for a moderate income household, as further defined in the BMR Ownership Housing Guidelines;

(2) **Priority to Purchase.** Applicants who reside or are employed in Sunnyvale at the time of application, including qualified public school employees, city employees, and childcare workers, shall have priority to purchase the BMR units;

(3) **Conflict of interest.** The following individuals, by virtue of their position or relationship, are ineligible to purchase a BMR unit:

(A) Any City official or employee who administers or has policy-making authority over City housing programs;

(B) The developer of the unit; or

(C) The immediate relative or employee of, and anyone gaining significant economic benefit from a direct business association with, City employees, officials, developers, or owners who are not eligible to purchase a BMR unit; and

(4) **Additional Criteria.** The director may further define the eligibility criteria or establish other reasonable eligibility criteria, ownership and occupancy requirements in the BMR Ownership Housing Guidelines to ensure the buyer's ability to close escrow, maintain ownership of the unit, and to ensure effective operation of the program and equitable access to the units among eligible buyers.

(g) **Occupancy and Rental Restrictions.** BMR units shall be occupied as the primary residence of the eligible buyer for the duration of their ownership of the unit and shall not be rented to other occupants at any time, except that:

(1) BMR units that are owned by a public or nonprofit housing agency may be rented to eligible households with prior written approval of the director; and

(2) The director may allow the temporary rental of a BMR unit, subject to the rental and occupancy requirements in Chapter 19.69 (Existing Below Market Rate Rental Housing), upon a finding of hardship beyond the control of the owner.

(h) **Refinancing.** BMR home owners shall not refinance a BMR unit without prior written approval of the director. BMR units shall not be used as collateral to secure liens or debts with a combined loan to value ratio in excess of 95% of the maximum BMR resale price applicable to the unit at the time of the proposed refinancing.

19.67.080. Below Market Rate (BMR) Housing Agreement.

(a) **Required Before Final Map or Building Permit.** Before final recordation of a subdivision map or issuance of any building permits for the project, whichever occurs first, the property owner shall execute and record a BMR Housing Agreement (Agreement) with the City.

(b) **Agreement Provisions.** The Agreement shall include, at a minimum, the following provisions:

(1) **Binding of Persons.** A provision that binds the heirs, assigns, and successors in interest of the property owner to the Agreement;

(2) **Binding of Project Site.** The obligation for the entire project site to fulfill the BMR ownership housing requirement for the project under this chapter;

(3) **Liens.** A lien on each unit identified to meet the BMR ownership housing requirement, or if the alternative to pay an in-lieu fee is approved, a lien on every unit;

(4) **Alternatives.** Any alternatives approved for the applicant to satisfy the BMR ownership housing requirement;

(5) **Project Covenants, Conditions and Restrictions.** Provision that prohibits any amendments to the development's Covenants, Conditions and Restrictions that would increase the proportion of the homeowners' association dues or assessments payable by any BMR unit. This provision shall create a right of judicial enforcement by the City or the owner of any affected BMR unit;

(6) **Enforcement.** A provision that shall require the property owner to pay the City rent for a BMR unit from the date of any unauthorized use of the unit, and for the City's recovery of reasonable attorney fees and costs to pursue legal action in enforcing this agreement; and

(7) **Amendments.** Major amendments to the Agreement, including any proposal to change any approved alternatives shall be reviewed by the decision-making body. Minor amendments to the Agreement may be reviewed by the director. Upon approval, a new Agreement containing the amendments shall be executed and recorded.

19.67.090. Alternatives to Satisfy Below Market Rate (BMR) Housing Requirement

(a) **Decision-Making Body Approval.** The applicant may satisfy the BMR ownership housing requirement of a project using one or more of the alternatives in this section, subject to approval by the decision-making body. The applicant shall identify the required BMR units in the project application materials regardless of a request to use an alternative to meet the BMR ownership housing requirement.

(b) **Payment of In-Lieu Fee.** The applicant may pay an in-lieu fee, as follows:

(1) **Amount of In-Lieu Fee.** The amount of the in-lieu fee shall be equal to 7% of the contract sales price of all units in the project. If the applicant is paying an in-lieu fee for a fractional unit only, the minimum fee rate may be adjusted proportionally.

(2) **Fee Payment.** A lien shall be placed on each ownership housing unit in order to collect payment of the in-lieu fee before close of escrow, as required in the BMR Housing Agreement. The lien shall be released by the City upon receipt of the in-lieu fee at close of escrow.

(c) **Transfer of Credits.** The applicant may provide affordable housing in another residential development in Sunnyvale, preferably in proximity to the project required to provide BMR ownership housing, as follows:

(1) **More Units or Greater Affordability.** Affordable housing provided in another development shall result in more affordable units than the required number of BMR units, or result in the same number of BMR units but at a greater level of affordability. If the other development is a rental housing development, at least 2 rental units shall be provided in lieu of each BMR unit required, unless otherwise approved by the decision-making body.

(2) **Partnership.** The applicant may satisfy the BMR ownership housing requirement through a partnership with another developer providing affordable housing units in another development, if the following requirements are met:

(A) **Proof of Partnership.** Legal agreements between the applicant and the partner show that the applicant is providing reasonable funding, land, development services, or other support to the affordable housing units.

(B) **Financial Contributions.** The applicant's financial contributions to the partnership shall be at least equal to the amount of the in-lieu fee that would otherwise be due from the project, and shall be held in trust by the City until needed by the partner to develop the affordable housing units;

(C) **Site Acquired.** The applicant or the partner has control of or the right to build on the site where the affordable housing units will be developed;

DRAFT

(D) **Affordable Housing Development Application.** The affordable housing development application has been approved or at least deemed complete at the time the project required to provide BMR housing is approved;

(E) **Funding Acquired.** The partner has obtained legal commitments for all necessary financing, or the City has approved the financing plan for the affordable housing development;

(F) **Construction in 2 Years.** The affordable housing units can be constructed and occupied within 2 years of completion of the applicant's project, unless the director approves an extension not to exceed an additional 2 years. If the development is not completed within this time period, the City may transfer the applicant's financial contributions to the BMR Housing Trust Fund; and

(G) **Average Number of Bedrooms per Unit.** The average number of bedrooms per unit of the affordable housing units in the other development is comparable to the average number of bedrooms per unit in the project required to provide BMR ownership housing. This requirement may be modified if the affordable housing units in the other development is designed to serve a special needs population which would not require an equivalent number of bedrooms per unit.

(d) **Unit Conversion Program.** The applicant may convert an existing residential development into affordable housing or rehabilitate an expiring affordable housing development through the City's Unit Conversion Program, as follows:

(1) **Affordability.** Dwellings shall be made affordable to lower to moderate income households;

(2) **2 for 1 Ratio.** For every required BMR unit, at least 2 dwelling units shall be converted or rehabilitated, unless otherwise approved by the decision-making body. Approval shall be based on a finding that a ratio of less than 2 to 1 would satisfy the purpose of the BMR ownership housing requirement;

(3) **Declaration of Restrictions.** Dwellings converted into ownership housing shall be secured by recording a declaration of restrictions to bind the units to the requirements of Section 19.67.070 (Occupancy and Sale Restrictions); and

(4) **Timing of Completion.** Dwellings shall be converted or rehabilitated and available for occupancy before or at the same time the project required to provide BMR ownership housing is available for occupancy, unless a modified schedule is approved by the director.

19.67.100. Default, Foreclosure, and Loss of Unit.

(a) **Option to Purchase.** If a notice of default is recorded on a BMR unit and the homeowner fails to correct it, an eligible buyer, or the director on behalf of the City, may purchase the unit. The unit shall be purchased at a sale price equal to the amount the owner would have received on the date of the foreclosure sale under the BMR Ownership Housing Guidelines. The eligible buyer may purchase the unit by paying any amounts due to lien holders and paying to the owner any balance of funds remaining after payment of the costs of sale and any repairs chargeable to the homeowner. All other resale provisions of the Guidelines apply.

(b) **Loss of Unit.** If the BMR unit is not purchased before the trustee's sale or foreclosure, the unit is free from the restrictions of this chapter and the homeowner will be deemed in compliance with this chapter, with the exception of subsection (c). BMR units which have not been completed or sold to initial eligible buyers, and any affordable rental units developed as an

alternative to BMR ownership units, shall not be released from the restrictions of this chapter through a trustee's sale or judicial foreclosure.

(c) **Distribution of Proceeds.** This subsection applies to any BMR unit lost by sale at a trustee's sale or foreclosure, destruction, condemnation, or by liquidation of the homeowners association. If a BMR unit is restored, the remaining term of occupancy and sale restrictions shall continue upon completion. Any proceeds remaining after payment of encumbrances on the unit shall be distributed as follows;

(1) **Homeowner.** To the homeowner, up to the net amount the homeowner would have received under the sale price in the BMR Ownership Housing Guidelines if the City had purchased the unit on the date of the loss; and

(2) **BMR Housing Trust Fund.** To the City, any surplus remaining after payment to the homeowner. The proceeds shall be deposited into the BMR Housing Trust Fund.

19.67.110. Below Market Rate (BMR) Housing Trust Fund.

This section establishes the BMR Housing Trust Fund for the deposit of all monies collected under this chapter. Trust funds shall be used for developing or preserving affordable housing in the City.

19.67.120. Annual Report.

The director shall provide an annual informational report to the city council on the status of BMR units developed under this chapter. The report shall include the number, size, type, tenure, and general location of each BMR unit completed during the year, as well as the number of BMR resales and BMR rental vacancy rate, if applicable.

19.67.130. Enforcement.

In addition to the provisions in Chapter 19.98.140 (Violations), the following provisions also apply to the enforcement of this chapter:

(a) **Agents, Successors and Assigns.** The provisions of this chapter apply to all agents, successors and assigns of the applicant.

(b) **Penalties and Fines.** Any person, firm, or corporation, whether as principal or agent, violating or causing the violation of this chapter is guilty of a misdemeanor. Each offense shall be punishable by a fine in the amount established in the City Fee Schedule, or by imprisonment in the Santa Clara County jail for a term up to 6 months, or both. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this chapter is commenced, continued, or permitted by such person, firm, or corporation, and may be punishable as provided in this section.

(c) **Civil Action.** Any buyer of a BMR unit for a sale price in excess of that allowed by this chapter, or any tenant who rented a BMR unit for rents in excess of those allowed by Chapter 19.69 (Existing Below Market Rate Rental Housing Requirements), and who has given written notice to the director, may file a civil action to recover the excess costs, whether rental of such BMR unit was prohibited by this chapter or expressly permitted in writing by the director as an exception or alternative to the standard BMR requirement. The buyer or tenant shall have met the income eligibility requirements of this chapter or Chapter 19.69, as applicable, during the period of time for which the individual seeks reimbursement of the excess costs.

(d) **Fines.** If it is determined that sales prices in excess of those allowed by this chapter and the BMR Ownership Housing Guidelines have been charged to a buyer of a BMR unit, or if unauthorized or excess rents have been charged to a tenant or subtenant of a BMR unit of any kind subject to the restrictions of this chapter, the property owner shall be subject to a civil penalty. The civil penalty amount shall be as set forth in Chapter 1.04 or 1.05, as amended from time to time, and any excess sales proceeds not recovered by a buyer or tenant under subsection (c). If the City does not otherwise recover its reasonable attorney fees and other legal costs from the landlord, the City shall deduct these costs from the amounts collected under this section and deposit the balance into the BMR Housing Trust Fund.

(e) **Legal Action.** The City may institute injunction, mandamus, or any appropriate legal actions or proceedings necessary for the enforcement of this chapter, including actions to suspend or revoke any permit, including a development approval, building permit or certificate of occupancy; and for injunctive relief or damages.

19.67.140. Appeals.

Any person aggrieved by a decision on any permit may appeal the decision following the procedures in Chapter 19.98.070 (Appeals).

19.67.150. Severability.

If any portion of this chapter is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Zoning Code. The city council declares that this chapter and each portion would have been adopted without regard to whether any portion of this chapter would be later declared invalid, unconstitutional, or unenforceable.

Chapter 19.69
EXISTING BELOW MARKET RATE RENTAL HOUSING

- 19.69.010 Purpose.**
- 19.69.020 Definitions.**
- 19.69.030 Applicability.**
- 19.69.040 Below Market Rate Housing Requirement.**
- 19.69.050 Occupancy and Rental Restrictions.**
- 19.69.060 Enforcement.**
- 19.69.070 Annual Report.**
- 19.69.080 Severability.**

19.69.010. Purpose.

(a) **Findings.** The city council finds that:

- (1) A shortage of affordable housing is detrimental to the public health, safety and welfare in the City of Sunnyvale;
- (2) Persons with lower incomes who work or live in the City are experiencing a shortage of affordable rental housing opportunities and those with very low incomes are increasingly excluded from living in the City;
- (3) Federal and state housing subsidy programs are not sufficient by themselves to satisfy the housing needs of lower income households;
- (4) It is a public purpose of the City to ensure that housing is available for persons with lower incomes, and that such supply of housing remains affordable to future residents; and
- (5) It is the City’s goal and a public policy of the State of California to ensure there is adequate supply of housing for persons of all economic segments of the community.

(b) **Purpose.** This chapter establishes requirements for existing rental housing developments subject to below market rate requirements that were in effect before July 2009, in order to continue to contribute to the provision of affordable rental housing for lower income households; to achieve the housing objectives contained in state law and in the general plan; and to enhance public welfare.

19.69.020. Definitions.

When used in this chapter, these terms mean the following:

- (1) **“Area median income (AMI)”** means the median household income of households in Santa Clara County, adjusted for household size, as determined and published by the California Housing and Community Development Department (HCD).
- (2) **“Assumed household size”** means, for the purposes of establishing affordable rents, a household with a total number of members equal to the number of bedrooms in the below market rate home, plus one. For example, the assumed household size for a 3-bedroom home is a 4-person household. Household members include all adults and children of any age residing in the same dwelling unit, and functioning as one financial and housekeeping unit.
- (3) **“Assisted housing”** means any project that receives development funding from any local, state, or federal governmental or non-profit source, which meets the criteria for below market rate housing.
- (4) **“Below market rate (BMR) rental housing”** means rental dwelling units affordable to lower income households and regulated by this chapter. A “BMR rental unit” means one BMR rental housing dwelling unit.

(5) “**Eligible tenant**” means a lower income household which meets the eligibility requirements of this chapter to rent a BMR rental unit. Tenant eligibility shall be determined by the property manager prior to occupancy of a BMR rental unit and annually thereafter, and verified by the director through annual audits of the property manager’s leasing files and other related records.

(6) “**Gross annual household income**” means the gross, pre-tax income of all adult occupants of the applicant household, and as may be further defined in the BMR Rental Housing Guidelines.

(7) “**Housing cost**” means the sum of monthly rent and utility costs, not including telecommunications services (telephone, cable television, internet), charged to tenants for rental of a BMR rental unit.

(8) “**Lower income household**” means a household with a gross annual household income at or below 80% of AMI for Santa Clara County. This definition corresponds to the definition of lower income households used for state- and federally-assisted housing programs.

(9) “**Market rate unit**” means a dwelling unit that is not subject to the occupancy or rental restrictions in this chapter or any other affordability restrictions or covenants.

(10) “**Very low income household**” means a household with a gross annual household income that does not exceed 50% of AMI for Santa Clara County. This definition corresponds to the definition of very low income household used for state- and federally-assisted housing programs. Very low income households are a subset of lower income households.

19.69.030. Applicability

(a) **Existing BMR Rental Units.** This chapter applies to rental housing developments subject to a BMR Housing Agreement recorded before the enactment of this chapter and for the term specified in the Agreement.

(b) **BMR Rental Housing Guidelines.** The director shall develop detailed procedures and guidelines to ensure the orderly and efficient administration of the requirements of this chapter. These procedures and guidelines are incorporated into this chapter as the BMR Rental Housing Guidelines.

19.69.040. Below Market Rate Housing (BMR) Requirement.

The BMR housing requirement for any rental housing development subject to this chapter is what is specified in the recorded BMR Housing Agreement.

19.69.050. Occupancy and Rental Restrictions.

(a) **Term of Restrictions.** BMR rental units shall be reserved for rental to and occupancy by lower income households and shall be subject to the occupancy and rental restrictions in this chapter for the term recorded in the applicable BMR Housing Agreement.

(b) **Maximum Rent.** The director shall establish and publish annually the maximum rent amount for each unit size in the BMR Rental Housing Guidelines. The maximum rent for BMR rental units shall not exceed a price affordable to lower income households, and based on a housing cost of 30% of monthly gross household income for the unit’s assumed household size. The percentage of AMI used to establish maximum rents shall be 70%, except that the director may adjust the percentage within a range of 60% to 75% of AMI to address major shifts in prevailing market rate rents for comparable dwellings or other related economic conditions affecting the demand for BMR rental housing. Existing leases with rents within the BMR rent limits in effect when the lease was executed or amended are exempt from this subsection, until the unit is first vacated and leased to a new tenant following enactment of this chapter.

(c) **Eligibility to Rent.** The eligibility of a prospective tenant shall be determined and certified by the property manager before the execution of a lease and occupancy of a BMR rental unit. It is unlawful for any person to willfully make a false representation or fail to disclose information for the purpose of qualifying as eligible to rent a BMR rental unit. Prospective tenants are subject to the following:

(1) **Procedures for Review.** The property owner or manager shall review the assets and income of prospective renters using the forms and procedures provided by the director before executing a lease to rent a BMR rental unit. The director shall audit the eligibility review and leasing files of the property owner or manager annually to determine compliance with this chapter.

(2) **Income Limits.** The prospective tenant's combined household income and assets shall not exceed the limits for a lower income household, and as further defined in the BMR Rental Housing Guidelines.

(3) **Conflict of interest.** The following individuals, by virtue of their position or relationship, are ineligible to rent a BMR rental unit:

(A) Any City official or employee who administers or has policy-making authority over City housing programs;

(B) The developer of the unit; or

(C) The immediate relative or employee of, and anyone gaining significant economic benefit from a direct business association with, City employees, officials, developers, or owners who are not eligible to rent a BMR rental unit; and

(4) **Additional Criteria.** The director may establish other reasonable eligibility criteria to ensure tenants' ability to pay rent when due and comply with standard lease terms, and to ensure effective operation of the program.

19.69.060. Enforcement.

In addition to the provisions in Chapter 19.98.140 (Violations), the following provisions also apply to the enforcement of this chapter:

(a) **Agents, Successors and Assigns.** The provisions of this chapter apply to all agents, successors and assigns of the applicant.

(b) **Penalties and Fines.** Any person, firm, or corporation, whether as principal or agent, violating or causing the violation of this chapter is guilty of a misdemeanor. Conviction may be punishable for each offense by a fine of up to \$500.00 or by imprisonment in the Santa Clara County jail for a term up to 6 months, or by both. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this chapter is commenced, continued, or permitted by such person, firm, or corporation, and may be punishable as provided in this section.

(c) **Civil Action.** Any eligible tenant of a BMR rental unit who has been charged rents in excess of that allowed by this chapter and has given written notice to the director, may file a civil action to recover any excess rents. .

(d) **BMR Rental Fines.** If it is determined that rents and utilities in excess of those allowed by the administration of this chapter and the BMR Rental Housing Guidelines have been charged to a tenant of a BMR rental unit, the landlord is liable for a civil penalty. The civil penalty amount shall be as set forth in Chapter 1.04 or 1.05, as amended from time to time, and any excess rent and utilities not recovered by a tenant under subsection (c). If the City does not otherwise recover its reasonable attorney fees and other legal costs from the landlord, the City shall deduct these costs from the amounts collected under this section and deposit the balance into the BMR Housing Trust Fund.

(e) **Legal Action.** The City may institute injunction, mandamus, or any appropriate legal actions or proceedings necessary for the enforcement of this chapter, including actions to suspend or revoke any permit, including a development approval, building permit or certificate of occupancy; and for injunctive relief or damages.

19.69.070. Annual Report.

The director shall provide an annual report to the city council on the status of BMR rental units maintained under this chapter. The report shall include the number, size, type, compliance status, and general location of each unit, as well as the number of any units released from the program restrictions by the end of the term specified in the BMR Housing Agreement, and the BMR rental vacancy rate.

19.69.080. Severability.

If any portion of this chapter is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, that decision will not affect the validity of the remaining portions of this Zoning Code. The city council declares that this chapter and each portion would have been adopted without regard to whether any portion of this chapter would be later declared invalid, unconstitutional, or unenforceable.

Attachment C
Non-Routine CDD HO-01

Non-Routine

Number CDD HO-01

Name Revise Sunnyvale Municipal Code - 19.66 Affordable Housing and Single Room Occupancies to incorporate recent amendments, modifications or clarifications to the Ordinance and BMR Program.

Description Purpose:
 Revise the existing BMR Ordinance to incorporate Council actions outlined in the Affordable Housing Strategy and the Housing and Community Revitalization Sub-element Update. In addition, the revised BMR Ordinance will provide additional clarity to the process, affordability requirements, and the overall intent of the program.

Overall Benefits:
 Revise the BMR Ordinance so that it is clear and easy to read while providing enhanced options to develop affordable housing and the legal framework needed for staff to enforce the affordability requirements.

Anticipated Results:

1. A comprehensive Report to Council that identifies and outlines the cumulative changes approved by Council over the last several years.
2. A revised BMR Ordinance that includes additional options for developers to build affordable housing in Sunnyvale.
3. A revised BMR Ordinance that specifies the primary affordability requirements and enforcement mechanisms, which provide the legal framework needed to enforce the requirements of the BMR Program.

Lead Department Community Development

Fiscal Year 2011-12

New or Cont. Continuing

Planned Complete Date 11/29/2011

Managers

Role	Manager	Hours	
Lead	De Frenchi, Ernie	Mgr FY1: 100	Mgr FY2: 0
		Staff FY1: 0	Staff FY2: 0
Support	Berry, Kathryn	Mgr FY1: 40	Mgr FY2: 0
		Staff FY1: 0	Staff FY2: 0
Support	Hom, Hanson	Mgr FY1: 20	Mgr FY2: 0
		Staff FY1: 0	Staff FY2: 0
Support	Ise, Suzanne	Mgr FY1: 40	Mgr FY2: 0
		Staff FY1: 0	Staff FY2: 0
Support	Ryan, Trudi	Mgr FY1: 10	Mgr FY2: 0
		Staff FY1: 30	Staff FY2: 0

Interdep	Boco, Robert	Mgr FY1:	40	Mgr FY2:	0
		Staff FY1:	0	Staff FY2:	0

Total Hours FY1: 280

Total Hours FY2: 0

Attachment D
Summary of Current and Proposed Ordinance Changes

Item	Provisions in Current Ordinance	Proposed Provisions
Fractional Units	Fractional units are rounded up or down to the next whole unit to determine number of BMR units to be provided within project.	Allow developers to pay an in-lieu fee or round up to provide an additional unit.
In-Lieu Fee	Allowed for developments of 19 or fewer homes, with Director approval. Fee (for each BMR unit required) is equal to the difference between market rate sales price and BMR sales price.	Allow an in-lieu fee option on any development subject to BMR requirements as long as the approving body approves of this in advance. Fee is equal to 7% of each home's sales price (reconciled to average sales price at end of sales phase).
Geographic Applicability	Applicable to development projects of 9 or more homes in any zoning district other than R-0, R-1, R-1.5 or R-1.7/PD.	Applicable to residential projects of 8 or more homes in all zoning districts where residential development is allowed.
Transfer of Credits	This option is not offered in the current Ordinance	Allow developers to provide BMR units at an alternative site rather than just in the market-rate development.
Acquisition/ Rehabilitation/ Preservation	This option is not offered in the current Ordinance	Allow developers to acquire and rehabilitate a market-rate property and place a long-term affordability covenant on the property, or rehabilitate and preserve an expiring affordable housing property and extend the term of affordability.
Alternative Housing Types	This option is not offered in the current Ordinance	Provide BMR homes within the market-rate development of slightly different housing types and/or sizes than the market rate homes.
Density Bonus	Complex local density bonus provisions in addition to current state law.	Refer to current state density bonus law and adopt any local policies needed to implement or augment state law.
BMR Unit Standards	BMR units shall not be distinguished by interior or exterior design, amenities, construction, or materials.	Require BMR units have a minimum floor area of 75% of average size market rate units with the same number of bedrooms. Allow developers to install standard grade or better interior finishes and amenities in BMR units, even if market-rate units include luxury or high-end finishes.
Timing of Units Offered for Sale	Developer is required to notify to the City when unit will be ready for occupancy.	Require developers sell BMR units in proportion to timing of market rate unit sales.

<p>BMR Initial Sales Prices</p>	<p>19.66.040(c) BMR Sales Price:</p> <p>Established by the city or its designee at levels affordable to households at eighty percent to one hundred twenty percent of area median income with consideration for construction costs.</p>	<p>BMR Sales</p> <p>Establish the maximum BMR sales price at a price affordable to households at to 100% AMI, subject to periodic shifts within a range of 90-110% of AMI, at Director's discretion.</p> <p>This maximum price limit would also apply to resales (see below).</p>
<p>Resale Prices and Procedures</p>	<p>BMR Resale Price:</p> <p>The original purchase price, plus a .33% increase (if applicable) in the housing component of the Bay Area Consumer Price Index, plus substantial capital improvement expenditures. Or the fair market value, whichever is less.</p> <p>Tolling of Time (Time limit for resales): City has 180 days to accept the homeowner's offer to resell the home, and 90 days to close escrow after accepting the offer. If unit is not sold within this time frame, the unit converts to market rate.</p>	<p>Allow homes to be resold for a price mutually agreed to between buyer and seller, provided it does not exceed the current maximum BMR sales price as published annually by the City (based on a target affordability level of 100% of AMI). This allows for potential equity growth roughly equivalent to what would occur if the resale price was based on 100% of the CIP increase during homeowner's term of ownership, but is a more streamlined method of setting resale prices. Homeowner's resale and occupancy restrictions also limit the resale price to the lesser of the BMR price, or the appraised value of the unit, to encourage good maintenance of the unit.</p> <p>Time limit for resales: If a BMR unit is unable to be sold at the established sales price within 180 days of being listed for sale, seller required to pay excess proceeds to city (this is in resale & occupancy agreement).</p>

Attachment E
May 23, 2012 Housing and Human Services Commission Draft Meeting
Minutes



DRAFT MINUTES

SUNNYVALE HOUSING AND HUMAN SERVICES COMMISSION May 23, 2012

The Housing and Human Services Commission met in regular session in the City Hall West Conference Room, 456 W. Olive Avenue at 7:00 p.m. with Chair Dietrich presiding.

The meeting was called to order at 7:05 p.m.

ROLL CALL

Board/Commission Members Present:

Eric Anderson, Hannalore Dietrich, Younil Jeong, and Mathieu Pham.

Board/Commission Members Absent: Patti Evans (unexcused)

Council Liaison: Councilmember Patrick Meyering (present).

Staff Present: Community Development Director Hanson Hom, Assistant City Attorney Kathryn Berry, Housing Officer Suzanne Isé and Housing Programs Technician Edith Alanis.

Others: Councilmembers Jim Griffith and Tara Martin-Milius, MidPen Housing Project Manager Abigail Goldware, MidPen Housing Project Manager Robert Baca, Bill Hawkes, resident, other members of the public.

SCHEDULED PRESENTATION

Service Recognition

Councilmember Jim Griffith presented Commissioners Younil Jeong and Mathieu Pham with a certificate and thanked them for their service during their term that is to expire on June 30, 2012. He also announced the Commissioner Jeong would be continuing with the Housing and Human Services Commission for another term starting in July and thanked her for continuing her service.

PUBLIC ANNOUNCEMENTS

None.

CONSENT CALENDAR

Chair Dietrich asked for a motion to approve the consent calendar.

Commissioner Anderson moved and Commissioner Pham seconded to approve the Consent Calendar.

Motion passed unanimously 4-0-0.

PUBLIC COMMENTS

Councilmember Tara Martin-Milius also thanked all the Commissioners for their service.

PUBLIC HEARINGS/GENERAL BUSINESS

Chair Dietrich asked if there were any objections to moving agenda item 4 - Continuation of Item 3 from April 25 meeting: Public Hearing: Proposed Housing Mitigation Fund Affordable Housing Project Awards, to the top of the Public Hearings/General Business section. There were no objections.

2. Continuation of Item 3 from April 25 meeting: Public Hearing: Proposed Housing Mitigation Fund Affordable Housing Project Awards.

Officer Isé gave a recap. In January the City issued a Request for Proposals for Affordable Housing Capital projects. The City received two proposals. MidPen requested the full amount of \$5 million dollars in Housing Mitigation funds for a comprehensive interior and exterior rehabilitation of Homestead Park Apartments. St. Anton requested \$3.75 million for construction of a new rental housing project, known as Pastoria Central.

This item was continued from the last meeting because the Commissioners only allocated half of the available funds and hoped to be able to partially fund both projects; however, St. Anton was unable to produce a viable project for \$2.5 million in housing funds, and withdrew their proposal.

Officer Isé noted that the Commissioners could now reconsider MidPen's original request and could opt to fully fund it if desired.

Chair Dietrich opened the public hearing at 7:13 p.m.

Project Manager Robert Baca asked the Commission to recommend awarding the \$5 million to fully fund the proposed rehabilitation project.

He reviewed the scope of work for the project and highlighted the benefits of rehabilitating the interiors of Homestead Park now rather than in phases or in the future when the cost of labor and materials will increase. The residents would only be inconvenienced once by the construction work, rather than several times, and the bidding will be more competitive with the full scope of work.

Chair Dietrich closed the public hearing at 7:18 p.m.

Commissioner Jeong asked why St. Anton couldn't move forward with the Pastoria Central Project.

Director Hom explained that it had to do with the density of the project not being compatible with the surroundings and also with its design. He also noted that St. Anton has decided to move forward with a reduced project that will not include affordable housing units.

Officer Isé asked Project Manager Robert Baca to comment on the additional matching funds that MidPen has secured. Robert mentioned that MidPen is receiving \$500,000 from the California Solar Initiative and has expanded the scope of work to include solar thermal for water heating for up to 9 buildings. The funding for the rest of the 25% match will come from the property reserves and a loan from MidPen.

There was some discussion and more questions about the scope of work.

Chair Dietrich asked for a motion.

Commissioner Anderson moved and Commissioner Pham seconded to recommend approval of a conditional loan commitment of \$5 million for the rehabilitation of Homestead Park.

Motion passed unanimously 4-0-0.

3. Public Hearing: B/C Draft RTC: Consider Adding Criminal Background Checks to Below Market Rate (BMR) Program Qualification Process (Study Issue CDD 12-11).

Officer Isé gave an overview of the draft Report to Council scheduled for hearing on July 17th. She noted that this was one of the study issues approved to be studied this year and that it was initiated at the request of a member of the public regarding a neighbor in a BMR home who was arrested and charged with committing a crime. That case is still awaiting trial.

Officer Isé also gave a quick overview of the BMR Program and its requirements. She explained that the City administers the BMR ownership program and determines whether the applicants are eligible to apply to purchase the homes, but it does not own or sell the homes, the developers do.

The City doesn't screen rental applicants for eligibility for the BMR rental program, as that was delegated by Council to the property owners/managers, but it does conduct annual audits to ensure compliance with the program.

Staff consulted with the Office of the City Attorney to determine whether a criminal background check could be added to the process for eligibility screening of home buyer applicants. The Office of the City Attorney has indicated a variety of reasons why it would be highly risky for the City to attempt to do criminal background checks.

The process that would be most reasonable and preferable is prohibited by the California penal code, because the City cannot access the criminal background database that is administered by the Department of Justice for this purpose. The alternative of using private third-party providers is risky as their data is highly error-prone.

Officer Isé noted that the City is not a party to the BMR sales transactions, which are between the seller and the buyer, just like any market rate home sales, which also do not generally involve any type of background check. The City's role is to determine that the buyers are income-eligible and that they live or work in Sunnyvale, or in some instances in the County of Santa Clara.

Officer Isé also noted that the circumstances that initiated this study issue are quite unique and an anomaly, as it is the first time such a case has come up in 30 years of the BMR program. As unfortunate as this situation is, in practical terms there is little that can be done to either prevent or predict when and where alleged crimes like this domestic violence case may happen, as they are crimes of passion.

Chair Dietrich opened the public hearing at 7:39 p.m.

Mr. Bill Hawks explained that he is the member of the public that initiated this study issue. He passed out a hand out that outlined his rationale for his request.

He noted that the City of Sunnyvale uses background checks for other issues such as in hiring new employees and doesn't understand why it cannot be incorporated in the BMR eligibility process.

He mentioned that he doesn't think that the City is enforcing the BMR guidelines that can force the owner to sell the property if it's not occupied by the home owner, and characterized the BMR program as public housing.

An unidentified member of the public agreed with Mr. Hawks' point of view and supported background checks.

Chair Dietrich closed the public hearing at 7:53

Commissioner Anderson asked for clarification of the intent of this study. Director Hom explained that it is to explore the possibility of including criminal background checks as part of the BMR eligibility screening process. Commissioner Jeong pointed out that this study issue explored the requirement, but did not address what would be done with the data that would be obtained.

After some discussion and questions, the Commissioners determined that they didn't feel comfortable taking any formal action on this item, but opted to state their individual opinions the City Council.

Commissioner Jeong expressed that the BMR program expands the social and economic diversity of the community and she does not recommend adding a criminal background check to the BMR process.

Commissioner Mathieu Pham recommended not adding the criminal background check on this type of program. He feels the City would be exposed to law suits and allegations.

Commissioner Eric Anderson felt that there is a valid concern, and he would like to be able to do something that would provide, if not a perfect system, some type of diligence. He supports the staff's recommendation that the City is not able to do a specific background check, however, he think that there should be some time spent on finding some form of enforcement and also to adopt any specific guidelines being used by the Housing Authority or other parties that are using background information in a way that is safe and supportable for the City.

Chair Dietrich expressed that after initially learning about the specific situation that brought about this study issue, she felt that background checks were appropriate. However, she acknowledges that this situation is an anomaly. She also expressed that background checks are not always reliable; she suggested exploring other options to handle such situations when they present themselves to provide some relief or peace of mind to the neighbors.

4. Public Hearing: B/C Draft RTC: Modifications to the Zoning Code Related to Chapter 19.66: Affordable Housing and Single Room Occupancies (Study Issue CDD 09-12C and Non-Routine HO-01).

Officer Isé noted that tonight's slide presentation was the same as the one used during the public outreach meetings on this matter.

Officer Isé noted that this Report to Council consolidates all the suggestions that have been received through multiple channels over the last few years. The majority of the recommendations focus on the BMR ownership program. The goal is to make the BMR ordinance easier to read, easier to implement, provide more options for compliance, and improve provisions for enforcement applicable to both the potential buyers and the developers, and to make the current municipal code compliant and consistent with existing state and federal laws and regulations related to density bonus issues. She then presented the slides with an outline of the proposed amendments.

Chair Dietrich opened the public hearing at 9:41 p.m.

There were no comments from any member of the public.

Chair Dietrich closed the public hearing at 9:42 p.m.

After some discussion, Chair Dietrich asked for a motion.

Commissioner Anderson moved and Commissioner Jeong seconded to recommend Alternative 1: Adopt the Ordinance provided in Attachment B to: modify the zoning code related to Below Market Rate Housing Requirements; update the density bonus provisions; and move the density bonus and single room occupancy subsections from Chapter 19.66 to Chapters 19.18 and 19.68, respectively.

Motion passed unanimously 4-0-0.

5. Budget Review

Officer Isé briefly reviewed the materials that were included in the commissioner's packet, and noted that City Council asks that the Boards and Commissions take a look at the proposed budget each year and provide comments before its adoption. She also explained that they could choose to make a formal motion to recommend approval or modification of the budget, provide comments or not take any action at all.

She pointed out that the housing mitigation line item will be replaced with the Commission's recommendation to allocate those funds to MidPen for the Homestead Park Rehabilitation.

Commissioner Anderson moved and Commissioner Pham seconded to recommend approval of the Budget as presented by staff and ask that Council maintain the \$100,000 in General Fund support for CDBG related activities.

Motion passed unanimously 4-0-0.

6. Creation of a Citizen Advisory Committee (CAC) for the Lawrence Station Area Plan

Director Hom explained that the Lawrence Station Area Planning project was awarded a grant by the Metropolitan Transportation Commission to help finance the planning efforts to establish

a transit-oriented type of development around the Caltrain Station. The program guidelines for this grant require the City to establish a CAC to provide community input. During Phase I, three development options were already identified for the plan area. One emphasizes mostly residential, the second office and employment development, and the third one is a mix of both. The CAC's goal is to help further refine the options for Council. This committee is expected to meet once a month for a twelve-month period.

Commissioner Jeong expressed interest in participating.

Commissioner Anderson moved and Commissioner Dietrich seconded to nominate Commissioner Jeong to be part of the CAC

Motion passed unanimously 4-0-0.

NON-AGENDA ITEMS AND COMMENTS

B/C Members Oral Comments

STAFF Oral Comments

INFORMATION ONLY ITEMS

None.

ADJOURNMENT

The meeting adjourned at 9:53 p.m.

Respectfully submitted,

Suzanne Isé
Housing Officer

Attachment F
June 25, 2012 Planning Commission Study Session Notes/Comments

CITY OF SUNNYVALE
Planning Commission Study Session Notes/Comments
June 25, 2012

Modifications to the Zoning Code Related to Chapter 19.66:
Affordable Housing and Single Room Occupancies

PLANNING COMMISSIONER COMMENTS

Comment: Would like to see the math on how the fractional units and in-lieu fee are calculated.

Staff Response: Please see the example provided below.

Example: If a developer wants to build a 10-unit development, the BMR requirements would be 1.25 units (10 units multiplied by 12.5%).

The developer has two options with the in-lieu fee:

1. To request to pay an in-lieu fee for the entire BMR requirement
2. To pay an in-lieu fee for any fraction of a dwelling unit

The proposed in-lieu fee is 7% of the sales price for each unit proposed to be built in the development.

Example:

- 10 unit development
- Average sales price = \$700,000
- $10 \times \$700,000 = \$7,000,000$
- $7\% \text{ of } \$7,000,000 = \$490,000$ (in-lieu fee due for the entire project)
- $\$490,000 / 1.25 = \$392,000$ (in-lieu fee for one unit)
- $\$490,000 - \$392,000 = \$98,000$ (fee for 0.25 unit)
- Developer can provide either:
 - \$490,000 (total in-lieu fee)
 - One BMR unit +\$98,000
 - Two BMR units

Comment: If the developer requests to provide off site affordable units instead of BMR units in the development, would those units be built in Sunnyvale?

Staff Response: Yes

Comment: Would the BMR units be required to implement the Green Building requirements, and if so, is there a financial impact to the developer for doing so.

Staff Response: Green Building requirements apply to an entire project, including BMR units. These requirements should not affect the BMR units as many of the “points” are related to the site and project as a whole.

Comment: Clarify how the 7% in-lieu fee was calculated.

Staff Response: The study calculated the fee required to fully mitigate the impact of the new market rate housing at various prices would have on local affordable housing demand. The study is based on the theory that the price of a home reflects the income of its occupants, and the household’s income is related to the household’s spending on a variety of goods and services that require workers. Some of those workers will not be able to afford market-rate housing and thus generate new demand for affordable housing. The in-lieu fee is calculated by multiplying the number of affordable units needed (by new income qualified workers) by the subsidy needed to provide the affordable units needed to meet the demand generated by the market-rate development. Figure 1 in the Nexus Study provides a graphic illustration of these calculations. The calculations are made for several different home values, ranging from \$500,000 to \$1,250,000. The nexus-based fee per market-rate unit was an average of 7.7% of the homes price across the range of prices.

Sunnyvale’s current in-lieu fee is expressed as the difference between the BMR sales price and the market rate sales price; however, if the resulting fee amount is expressed as a percentage of the prices of the new market-rate homes, it is averaged at 7%, using current typical market-rate and BMR home prices.

Comment: Not in favor of allowing different design types for BMR units (example: in a single-family project, BMR units could be duets instead of single family homes) unless some of the market rate units would also be of the different design.

Comment: In favor of BMR units being constructed onsite.

Comment: If the final approving body is charged with determining whether a developer is required to build the BMR units onsite or can choose to provide an in-lieu fee, what determining factors should the approving body use to make their decision?

Staff Response: The in-lieu fee option is favorable, from a public policy perspective, in high-end /high cost home project (single-family and higher priced townhome projects) where more housing can be provided with the fees than with a small number of BMR homes. Providing the BMR units onsite is the preferred approach for moderately priced condos and townhomes. Staff will provide a recommendation in the staff report as to which options is preferable for a particular project.

Comment: Provide clarification on how the in-lieu funds will be spent.

Staff Response: Generally, the funds can be expected to be used to provide affordable housing through alternate means, such as new construction, preservation and/or rehabilitation of affordable units, generally by non-profit

developers, or through first-time homebuyer loans to eligible home buyers. A small percentage of the funds (3%) will be used for program administration.

Comment: Does the developer adjust their proforma to cover the cost of the BMR units? Does the developer increase the cost of the market rate units to cover the cost BMRs?

Why do we need to increase the sales prices to 100% Area Median Income (AMI)? Shouldn't the BMR units stay as low as possible (80% of AMI) so they are affordable? Doesn't a higher sales price make it harder to purchase these units?

Staff Response: The price of the market rate units will only go as high as the market will bear, and therefore cannot be raised to arbitrarily cover costs of the BMR units. Construction costs and fees are fairly fixed, however the cost of land can be negotiated to make the project "pencil" with BMR units. During times of high market demand, market-rates will shift upward beyond the amount required to provide the BMR units they are required, as homes are sold to the highest bidder.

Most jurisdictions price the BMR home buyer units at 100% of median because it is often financially infeasible for any developer to provide them at prices affordable to lower income household (80% or less); and because many lower-income buyers struggle to qualify to buy at any price, due to low credit scores, income instability, and/or lack of savings. Requiring units at 80% affordability can serve as a constraint to new development and/or increase the risk of litigation by the building industry, as the City recently experienced.

Comment: It appears that we are making this easier for the developer. How does this benefit the purchaser at all?

Staff Response: The current ordinance faced increasing opposition and threats of litigation by builders and was not flexible enough to make desired program improvements that would provide better public outcomes. As the nexus study shows, the majority of need is for rental units for very low income households, not moderate-income buyer household's. Allowing developers to pay fees and/or provide more affordable units at greater levels of affordability (i.e., very low) and in the form most accessible to these households (rental) will allow the City to meet more of the actual need for affordable housing as shown by all recent need analyses.

Comment: Not in favor of the 75% minimum floor area size for BMR units. Prefers that BMR units be approximately the same size as market rate units.

Comment: If approved, would the smaller units (built @ 75%) be sold for less than the current sales price?

Staff Response: The units would be priced using the proposed price formula, if that formula is approved by Council.

COMMUNITY COMMENTS

Comment: If the offsite option is allowed, would like to see a tight radius around the original development.

Comment: In favor of the acquisition/preservation/rehabilitation as an option to providing BMR units onsite.

Attachment G
July 9, 2012 Planning Commission Approved Meeting Minutes



**APPROVED MINUTES
SUNNYVALE PLANNING COMMISSION
July 9, 2012
456 W. Olive Avenue, Sunnyvale, CA 94086**

**SPECIAL START TIME
7:15 PM - Study Session – West Conference Room**

- 1. **File #:** 2012-7112
Location: City-wide
Proposed Project: Telecommunication Update and Facilities in the Public Right-of-Way (Study Issue)
Staff Contact: Andrew Miner, 408-730-7707
aminer@ci.sunnyvale.ca.us
Notes: (35 minutes)

- 2. **Public Comment** on Study Session Agenda Items (5 minutes)

- 3. **Comments** from the Chair (5 minutes)

- 4. **Adjourn Study Session**

8:00 PM - Public Hearing – Council Chambers

The Planning Commission met in regular session with Chair Hendricks presiding.

CALL TO ORDER/SALUTE TO THE FLAG

ROLL CALL

Members Present: Chair Glenn Hendricks; Vice Chair Gustav Larsson; Commissioner Bo Chang; Commissioner Maria Dohadwala; Commissioner Arcadi Kolchak; Commissioner Russell W. Melton; and Commissioner Brandon Sulser.

Staff Present: Trudi Ryan, Planning Officer; Kathryn Berry, Senior Assistant City Attorney; Suzanne Ise, Housing Officer; Ernie DeFrenchi, Affordable Housing Manager; Recording Secretary, Debbie Gorman.

SCHEDULED PRESENTATION - none

PUBLIC ANNOUNCEMENTS/PUBLIC COMMENTS

Speakers are limited to three (3) minutes. If you wish to address the Planning Commission, please complete a speaker's card and give it to the Recording Secretary or you may orally make a request to speak. If your subject is not on the agenda, you will be recognized at this time; but the Brown Act (Open Meeting Law) does not allow action by Planning Commission Members. If you wish to speak to a subject listed on the agenda, you will be recognized at the time the item is being considered by the Planning Commission.

CONSENT CALENDAR

1.A. APPROVAL OF MINUTES of June 25, 2012.

ACTION: Vice Chair Larsson moved to approve the consent calendar with modifications. Comm. Kolchak seconded. Motion carried, 5-0, with Comm. Dohadwala and Comm. Melton abstaining.

PUBLIC HEARINGS/GENERAL BUSINESS

2. **File #:** 2012-7463
Location: City-wide
Proposed Project: Modifications to the Zoning Code Related to Chapter 19.66, Pertaining to the Below Market Rate Housing Program Requirements for New For-Sale Residential Projects.
Staff Contact: Ernie DeFrenchi, 408-730-2784
edefrenchi@ci.sunnyvale.ca.us
Notes: *This item is scheduled to be considered by City Council on July 31, 2012.*

Trudi Ryan, Planning Officer, introduced **Suzanne Ise**, Housing Officer and **Ernie DeFrenchi**, Affordable Housing Manager. Ms. Ise introduced **Darin Smith** with Economic & Planning Systems (EPS), and said he is present to answer any questions on the Nexus Study Draft (Attachment A). Ms. Ise presented the staff report providing corrections to two ordinance chapter numbers referenced in the report.

Vice Chair Larsson asked staff about the Palmer lawsuit that affected Below Market Rate (BMR) rental programs. Ms. Ise discussed the Palmer decision. Ms. Ise said the proposed new ordinance chapter would separate rental requirements from ownership requirements. Ms. Ise discussed what the City could do in the future to create affordable rental units. **Kathryn Berry**, Senior Assistant City Attorney, added further comment about the Palmer decision and the effects on cities. Vice Chair Larsson commented about policy tension between programs, rental and ownership, and asked staff about prioritizing. Ms. Ise confirmed that there is policy debate about prioritizing one over the other. Ms. Ise said the Nexus Study identifies the greatest need in the very low-income group where it is easier to provide rentals rather than ownership to those with very low income. Ms. Ryan added that whatever action the City takes, there is interest and advocacy groups at the state level for possible legislation to allow cities to have inclusionary zoning for rentals. Vice Chair Larsson asked about housing for special needs groups. Ms. Ise explained that the BMR program is not usually used to meet housing for special needs groups and explained various housing funded programs for elderly, disabled and other groups.

Comm. Chang said that currently 12.5% of the number of for-sale units are required to be BMR and asked staff to discuss the in-lieu fees program and how it would affect numbers. Ms. Ise discussed the in-lieu fee program in detail.

Comm. Melton discussed with staff the BMR program and how to prevent owners from flipping properties. Comm. Melton asked about the Nexus Study, the maximum in-lieu fee, and whether the fee in Sunnyvale has ever been too much for a developer to bear. Ms. Ise said in the history of the program developers for only two projects have ever opted to pay the in-lieu fee. Ms. Ise noted that if the fees were set too high, builders would avoid building in the community. Comm. Melton and staff discussed the quality standards on new BMR units.

Comm. Sulser commented about the menu of options and expressed concern about Option C regarding alternative housing types and his concern about stigmatizing the BMR owner. Ms. Ise discussed that there would be standards to meet for the outside of the units and that the

alternative housing types would be analyzed and discussed with the applicant. She said the Planning Commission would be given the analysis and be able to see the implementations.

Chair Hendricks commented that included with report are notes from the study session clarifying for the public that these are notes and not approved minutes. Chair Hendricks asked staff to discuss the funding for BMR units. Ms. Ryan and Mr. Smith with EPS confirmed that the standard response is that the money comes out of the price of the land. Mr. Smith and staff discussed other factors affecting land values explaining that the developer still needs to make their return threshold to make the project work. Chair Hendricks discussed with staff in-lieu fees, the new language in the ordinance, and how the in-lieu fees are used. Staff discussed how current in-lieu fees would be used with the emphasis on production of units. Chair Hendricks discussed with staff details in calculations of the fees and that the Nexus Study indicates that the City is currently not asking enough for in lieu fees. Chair Hendricks discussed with staff alternative housing types and why the BMR units may be different from non-BMR units.

Vice Chair Larsson discussed with staff the proposed requirement for the BMR units to be at least a minimum of 75% of the average sized market units. Vice Chair Larsson discussed with staff alternative options in the ordinance. Vice Chair Larsson asked about the different commissions that would be reviewing the proposals with staff discussing different documents used in making decisions about projects. Ms. Ryan acknowledged the proposed requirements would be another policy to balance with the housing element and the Consolidated General Plan. Vice Chair Larsson had staff comment about outreach meetings staff held with various groups.

Comm. Melton asked staff about the Nexus Study and the inferring that 34% of properties should be BMR units. He asked whether staff thinks this would deter developers from building in Sunnyvale. Ms. Isé said yes, and Mr. Smith discussed that 34% level could be a breaking point and would be very onerous. Comm. Melton discussed with staff the concept of transfer of credits.

Comm. Dohadwala said she likes the idea of the many options for staff to come up with a good solution for affordable housing. She expressed concern about applicants spending a lot of time on a project and then having to make changes far along in the process with alternatives being proposed by staff or the Planning Commission. Ms. Isé explained the project review process and that staff would be providing the applicant guidance and feedback from the start and along the way so the applicant does not spend a lot of time redesigning. Comm. Dohadwala discussed with staff the different purviews of the Housing and Human Services Commission vs. the Planning Commission.

Chair Hendricks opened the public hearing and there were no speakers. Chair Hendricks closed the public hearing.

Vice Chair Larsson discussed with staff the 7% in-lieu fee, the BMR rental price, and the problem of the BMRs being unaffordable for the targeted group. Ms. Isé discussed market rate rents and the percentage of income needed to rent.

Chair Hendricks asked staff if there are more issues that should be considered or changed related to this ordinance. Ms. Isé discussed items that might be studied or changed in the future and commented about issues that the legislature may consider.

Vice Chair Larsson discussed with staff the gap between 12.5% and 34% and whether the in lieu fees would allow additional units to be built to get closer to the 34%.

Comm. Melton confirmed with staff that the Planning Commission would be providing a recommendation on the ordinances to Council.

Vice Chair Larsson moved for Alternative 1 to recommend to City Council to adopt the Ordinance provided in Attachment B to: modify the zoning code related to Below Market Rate Housing Requirements; update the density bonus provisions; and move the density bonus and single room occupancy subsections from Chapter 19.66 to Chapters 19.18 and 19.68, respectively. Comm. Sulser seconded the motion. Ms. Ryan confirmed that the previously mentioned corrections regarding chapter numbers do not have to be included in the motion. Ms. Berry confirmed the errors mentioned for correction are in the report, not the ordinance.

Vice Chair Larsson said a lot of work and thought have gone into this study and probably only a portion of what is in this ordinance has been touched. He said the draft ordinance pulls together many things that need to happen including clarifications, certainty for developers and flexibility for staff. He said there is a tremendous need for affordable housing and this provides many options. He said the Nexus Study was very helpful and compelling yet he had a few questions; however, he does not think he needs to mess with staff's work.

Comm. Sulser said he is excited about moving forward on this. He said the Palmer decision knocked a hole in our affordable housing program and he thinks the greater flexibility will potentially give more people a chance for affordable housing.

Comm. Melton said he would be supporting the motion. He said he echoes Vice Chair Larsson's comments and agrees this was quite an effort from staff. He said he is a believer of market forces, yet this serves well for affordable housing and will benefit all of Sunnyvale.

Comm. Dohadwala said she would be supporting the motion. She said likes having options for the staff and developers to explore and meeting the needs of our citizens.

Comm. Kolchak said he would be supporting the motion and that he said he agrees with Comm. Melton's comments serving societal need. He said he is happy to see this going forward.

Comm. Chang said he would be supporting the motion. He said he likes the clarifications, the flexibility for developers, and the ability to maintain or increase the number of units. He said the fees would be put to good use for affordable housing for residents of Sunnyvale.

Chair Hendricks said he supports this motion enthusiastically. He commented about the 75% minimum number, saying he is worried that developers would build only to the minimum

number. He said the City would need to communicate that we want higher than 75%, not just the minimum. He said also, maybe the Council could look at the in-lieu fee and the rental piece. He said he likes the changes.

ACTION: Vice Chair Larsson made a motion on 2012-7463 to recommend to City Council to adopt the Ordinance provided in Attachment B to: modify the zoning code related to Below Market Rate Housing Requirements; update the density bonus provisions; and move the density bonus and single room occupancy subsections from Chapter 19.66 to Chapters 19.18 and 19.68, respectively. Comm. Sulser seconded. Motion carried, 7-0.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at their July 31, 2012 meeting.

Vice Chair Larsson said he would like to make an additional policy recommendation to Council regarding encouraging collection of in-lieu fees over ownership BMR unit. He said the Nexus Study provides compelling evidence that the greatest need is at the lowest income levels, which are best served by rental housing and best brought about by in lieu fees. Staff said this could be discussed.

Comm. Sulser said he agrees and would be supportive of this endeavor.

Chair Hendricks asked staff for procedural direction with staff discussing options and other city's efforts and experiences related to Vice Chair Larsson's recommendation. Staff and the Commission discussed various options of how this recommendation or statement could be expressed to Council.

Ms. Berry said looking at the agenda and the alternatives, that one of the alternatives can include modifications and the Council could be asked to consider these modifications as long as the modification fit within the agenda item and in context of the ordinance, one of the policy items is in-lieu fees. Ms. Berry said the first motion stands.

Vice Chair Larsson moved to recommend City Council consider language that prioritizes collection of an in-lieu fee over providing BMR ownership units within the context of this topic. Comm. Sulser seconded the motion.

Vice Chair Larsson said that the Nexus Study shows a need for the low-income segments of the community and the in lieu fee is the best way to address this need. He said other communities have considered this and he thinks it is appropriate for Council to consider this modification.

Chair Hendricks said he would be supporting the motion and he would like to see Council discuss this.

Comm. Melton said he appreciates Vice Chair Larsson's recommendation, however he would not be supporting the motion as he is a believer of market forces and that this is a great program allowing developers to either build a unit or pay and in-lieu fee. He said to further

consider the recommendation he would want more study and with an abundance of caution he cannot support the motion.

Comm. Chang confirmed with the maker of the motion that the Commission would just be sending a message to Council to look at the in-lieu fee. He confirmed with Vice Chair Larsson that this recommendation is not to change the mechanism, but to express a preference on a project and that the Council considers that the stated policy would be to prefer collection of the in-lieu fees.

Comm. Dohadwala said she would not be supporting the motion as she thinks the menu of options allows staff to look at projects and see what is most appropriate for the project. She said she does not feel the recommendation is required.

Ms. Ryan said this information would be provided to the Council in the staff report.

ACTION: Vice Chair Larsson made a motion on 2012-7463 to recommend City Council consider language that prioritizes collection of an in-lieu fee over providing BMR ownership units within the context of this topic. Comm. Sulser seconded. Motion carried 5-2, with Comm. Dohadwala and Comm. Melton dissenting.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at their July 31, 2012 meeting.

3. **Standing Item: Potential Study Issues**

Chair Hendricks suggested a study issue to consider whether new development of taller buildings should be required to include in the architecture and design, accommodations for wireless telecommunication facilities so future cell equipment does not visually look like an add-on. Ms. Ryan said staff would write up a summary and let the Commission take action on the item at a future meeting.

4. **Election of Chair**

Chair Hendricks opened the floor for nominations for Chair of the Planning Commission.

Comm. Kolchak nominated Vice Chair Larsson to be the Planning Commission Chair. Comm. Melton seconded the motion. Staff said a nomination does not need a second.

Vice Chair Larsson accepted the nomination and said he would be honored to be the Chair.

ACTION: Comm. Kolchak nominated Vice Chair Larsson to be the Planning Commission Chair for the 2012-2013 year. Motion carried 7-0.

5. **Election of Vice Chair**

Chair Hendricks opened the floor for nominations for Vice Chair of the Planning Commission.

Vice Chair Larsson nominated Comm. Dohadwala to be the Planning Commission Vice Chair.

Comm. Dohadwala accepted the nomination and said she would be honored.

ACTION: Vice Chair Larsson nominated Comm. Dohadwala to be the Planning Commission Vice Chair for the 2012-2013 year. Motion carried, 7-0.

6. **Selection of Seats**

Ms. Ryan explained the seating selection process and said the seniority of the Commissioners is: Comm. Sulser, Comm. Chang; Comm. Dohadwala, Comm. Hendricks, Comm. Larsson, Comm. Kolchak and Comm. Melton.

The commissioners selected their seats for the 2012-2013 year. The results of the selection resulted in the following seating arrangement (numbered from left to right facing the dais): Comm. Hendricks, seat one; Comm. Kolchak, seat two; Comm. Sulser, seat three; Chair Larsson, seat four; Vice Chair Dohadwala, seat five; Comm. Chang, seat six; and Comm. Melton, seat seven.

Ms. Ryan said the new seating arrangement would begin at the July 23, 2012 Planning Commission meeting.

NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS ORAL COMMENTS

Vice Chair Larsson thanked Chair Hendricks for his service this year. Chair Hendricks said it has been fun and an honor.

- STAFF ORAL COMMENTS

City Council Meeting Report

Other Staff Oral Report –

Ms. Ryan congratulated Vice Chair Larsson and Comm. Dohadwala on being elected to serve as Chair and Vice Chair, respectively, this year. She thanked Chair Hendricks for his service.

INFORMATION ONLY ITEMS

Kathryn Berry, Senior Assistant City Attorney, discussed a law suit filed against the City of Sunnyvale regarding park in-lieu fees. She said she would keep the Planning Commission informed on the status of this item.

ADJOURNMENT

With no further business, the Commission meeting adjourned 10:10 p.m.

Respectfully submitted,

Trudi Ryan
Planning Officer

Attachment H
BIA Letter dated July 9th, 2012



July 9, 2012

Brad Speers
Associate Director

Sunnyvale Planning Commission
456 W. Olive Avenue
Sunnyvale, CA 94086

RE: Modifications to the Zoning Code Related to Chapter 19.66, Pertaining to the Below Market Rate Housing Program Requirements for New For-Sale Residential Projects.

Members of the Sunnyvale Planning Commission,

The Building Industry Association South Bay, which represents residential and commercial builders in Santa Clara, Santa Cruz, Monterey, and San Mateo Counties, understands the desire to provide Sunnyvale with affordable housing. However the BIA strongly encourages Planning Commissioners to study the actual effects of below market rate programs.

As a result of the Patterson and Palmer decision, cities around the state have sought out new methodologies to create a legal nexus between new residential construction and the need for affordable housing. The BIA maintains that these studies contain flawed methodologies relating to population growth estimates, future job creation and does not meet the legal nexus requirements. A comprehensive analysis of the nexus between market rate homes and the corresponding need for low incoming housing revealed some concerning issues. Primarily that the data used in these studies are unreliable and that cities are including job creation estimates that are county wide not city wide. Another flaw in the Nexus is the concept that the purchase power of your residents automatically translates to new consumption, and that goods and services provided to meet that consumption will translate into new jobs, and that those new jobs create a need for affordable housing. There are many false assumptions present in the Nexus reasoning; particularly that all consumption leads to job creation and that people who have those jobs require affordable housing.

Issues like these and others call into question the validity of such studies. Simply put, the causation concept presented in the nexus study is a departure from previous affordable housing methodology and should not be endorsed by the City of Sunnyvale.

Mailing Address:
150 S Almaden Blvd.,
#1100
San Jose, CA 95113

Tel (408) 961-8133
BSpeers@biabayarea.org
<http://www.biabayarea.org>

Moreover California's Department of Housing and Community Development (HCD) has detailed that an inclusionary housing program which mandate builders provide limited affordable units at considerable cost only hurts the city and market rate buyer. HCD does not recommend the adoption of inclusionary zoning to provide communities with significant affordable housing. HCD understands that subsidizing affordable units increases the purchase price of market rate homes, becoming a barrier for potential homebuyers already struggling to qualify for a market rate mortgage. Any constraint on the supply of housing will artificially increase the cost of current housing stock.

In a letter written by the Director of Housing Policy Development for the Department of Housing and Community Development, Lynn Jacobs strongly encourages cities to study how any housing impact fee or inclusionary housing policy affects the market rate price of housing. The BIA also maintains that inclusionary programs do not address the root of the affordable housing issue which is a supply and demand issue. The market rate price of a home would not be as high if cities built the necessary amount of housing needed.

The pressures on the cost of living in the Bay Area are already high enough that adding an additional burden to them is not productive. The BIA supports the development of affordable housing and understands its importance which is why we want to build more housing, to meet demand for all income levels.

Thank you for your consideration,
Sincerely,

A handwritten signature in blue ink, appearing to read "Brad Speers". The signature is fluid and cursive, with the first name "Brad" and last name "Speers" clearly distinguishable.

Bradford Speers
Associate Director of Governmental Affairs
Building Industry Association, South Bay

Attachment I
Response to BIA letter from EPS

July 18, 2012

Ernie DeFrenchi
Affordable Housing Manager
City of Sunnyvale
456. W. Olive Avenue
Sunnyvale, CA 94086

Subject: Response to Building Industry Association letter;
EPS #21123

Dear Ernie:

You have requested that we provide a response to the letter the City received from the Building Industry Association (BIA) regarding the proposed changes to the BMR program. I offer this initial response. As the BIA letter raises legal questions I suggest you consult with the City Attorney regarding legal issues (such as the third paragraph below), as EPS is not a law firm. We are aware that the City has had some experience addressing the legal issues of the BMR program:

In a letter to the Sunnyvale Planning Commission dated July 9, 2012, the BIA has raised several issues regarding the methodology of the nexus study upon which the proposed in-lieu fees are based. The same group has raised these issues in numerous jurisdictions throughout California where recent studies have been commissioned in response to the evolving legal environment for inclusionary housing policies (after the Patterson and Palmer cases). Economic & Planning Systems (EPS) is pleased to respond to the BIA's issues here.

EPS understands that in 2011, the BIA commissioned a study by Adam Cray, a UC Berkeley graduate student, to compare the nexus study assumptions and methodologies used by three different consulting companies, including EPS. Mr. Cray's study correctly noted that each of the three firms used the same general approach to conducting the analysis—the same approach employed by the EPS study for Sunnyvale. However, the author also correctly noted that there was variation in the different companies' assumptions, including different construction costs, unit values and resulting subsidies from jurisdiction to jurisdiction, and different models used to estimate jobs and worker households generated by household spending. Mr. Cray concluded that the variation among specific assumptions used by different firms indicates a lack of an "industry standard" which he then asserts invalidates the results of all the consultants' studies. In EPS's experience, there is always some variation in approaches and assumptions used among consulting firms and among their clients for otherwise similar studies, and such variation does not in itself make any one study and certainly not all studies inherently invalid.

The Economics of Land Use



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Further, the BIA's letter to Sunnyvale states that "the causation concept presented in the nexus study is a departure from previous affordable housing methodology and should not be endorsed by the City of Sunnyvale." EPS does not dispute the fact that "previous affordable housing methodology" used a different approach to setting affordable housing requirements and in-lieu fees. Before the Patterson decision, most jurisdictions simply adopted a land use policy requiring housing development to provide a certain percentage of affordable units and targeted income levels for those units, without regard to the "reasonable relationship" between the production of market-rate units and the need for the affordable units. Though some jurisdictions have maintained this previous standard practice, some more conservative jurisdictions have interpreted the Patterson case to suggest that they should conduct a study to establish this "reasonable relationship." As EPS understands it, the standard for establishing this "reasonable relationship" is generally understood to have a lower technical threshold than would be required for development impact fees under the Mitigation Fee Act, and the general methodology used by EPS and collegial firms is considered to reflect the expected standard. The alternative to adopting a fee based on a nexus study such as EPS's would be to maintain a policy-based affordable housing program that makes no attempt to establish a "reasonable relationship" and which thus may be susceptible to a future Patterson-based challenge by the same BIA group advocating against the nexus study approach.

Finally, while respecting the BIA's theoretical position that added costs of development can create challenges to production of housing, and that higher production may have a moderating effect on home prices and make housing more affordable, EPS believes the recent history of home prices in the Bay Area suggest the relationship between production and price is not so simple. The rapid escalation of home prices in the years 2000 through 2006 was coterminous with extraordinary housing production, and the decline in prices that followed was coterminous with negligible housing starts. These facts suggest there is more involved in price-setting than just scarcity or abundance of housing stock, with factors such as interest rates and other lending practices being major influences in the most recent boom despite anemic population growth at the same time. For example, home prices increased by over 50 percent in most Bay Area counties between 1999 and 2006 despite just a 3 percent Bay Area population increase, according to the Department of Finance. During this same time of rapid home price escalation, ABAG reported that 211,959 housing building permits were issued in the Bay Area from 1999 to 2006, enough for nearly each one of the 228,118 new Bay Area residents added during the same period to have their own individual new home. Certainly the economics of the overall housing market are very complex and involve national and local policies as well as private business practices and consumer demands, but these data points suggest that simply building more housing is not a sufficient assurance that prices will be affordable to lower-income workers and households.

Sincerely,

ECONOMIC & PLANNING SYSTEMS, INC.



Darin Smith
Managing Principal