



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 24-765

January 07, 2025

Introduced: 11/19/2024

Current Status: Agenda Ready

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Matter Type: General Agenda Item

Consider a request from Janet Fischer to reduce or waive accrued interest on Inclusionary Housing Ordinance In-Lieu Fees related to a 1996 subdivision off Old Stage Road, Salinas (File Number: PC 07475).

It is recommended that the Board of Supervisors deny the request by Janet Fischer to reduce or waive accrued interest on Inclusionary Housing Ordinance In-Lieu Fees related to PC 07475

SUMMARY:

Janet and Charles Fischer subdivided a lot on Old Stage Road into four residential lots in 1996. The subdivision was subject to the Inclusionary Housing Ordinance and required to pay an in-lieu fee of \$10,740, plus accrued interest if not paid at the time the Final Map was recorded. The in-lieu fee and accrued interest is now \$19,904.60 and Ms. Fischer is requesting the Board of Supervisors reduce the amount of accrued interest due because she was unaware of the lien.

DISCUSSION:

In 1990, Janet Fischer (aka Janet Phillips) and Charles Fischer applied for a four-lot residential subdivision on Old Stage Road in the Greater Salinas Planning Area (PC 07475). The application was deemed complete in July 1990 and subsequently approved. Based on the deemed complete date, the project was subject to Inclusionary Housing Ordinance 3093, adopted by the Board of Supervisors on September 17, 1985. At the time, the Ordinance required projects with 4 units or lots to pay an in-lieu fee equal to 12% of the median price of a home sold in the planning area, or other established planning boundaries in a planning area. In May 1996, the Final Map was recorded along with a Deed of Trust for the purpose of securing payment of the \$10,740 Inclusionary In-Lieu Fee.

Ms. Fischer is now seeking to sell the property and pay the Inclusionary In-Lieu Fee but is requesting the Board reduce the amount of the accrued interest. Staff is unaware of any other requests to reduce the amount of accrued interest on deferred inclusionary in-lieu fees. Ms. Fischer's request is attached to this staff report. It appears, based on the Redfin Real Estate website, that the property is currently listed for sale at \$1,195,000.

Ordinance 3093, Section I.1.c. required that "The balance with interest shall be secured by second trust deeds on each lot in the development". At the time, the County was not requiring applicants to execute promissory notes or requiring repayment within a specified period. Without a promissory note, staff does not have clear guidance on what interest rate should be applied to this project. Without this guidance, staff transmitted a payoff demand in the amount of \$19,904.60, of which \$9,164.60 is interest accrued at three percent, to Ms. Fischer. This interest rate is the same as what was charged by the County when it lent in-lieu fees to

affordable housing developers.

The Ordinance intended for interest to be assessed when in-lieu fee payment was deferred but is silent on what interest rate is to be charged. Since 2004, the County has required repayment of deferred in-lieu fees within five-years of Final Map recordation and charged simple, but variable, interest based on the Prime Rate plus three percent. If staff applied the current interest calculation to this project, the accrued interest would be \$25,655.21.

Staff is recommending that the Board deny Ms. Fischer's request. Staff believes that payment of the accrued interest is appropriate, even if Ms. Fischer was not aware of the debt, because the intent of the Inclusionary Ordinance is to construct or finance construction of affordable housing. By deferring payment of the inclusionary in-lieu fee, the Fischer's have deprived the County of financial resources needed to create affordable housing. Staff believes that by using the three percent fixed interest rate rather than the current floating rate, the County has already offered a significant concession on accrued interest of approximately \$16,500.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed this staff report and Ms. Fischer's request.

FINANCING:

This action does not change the current FY2024-25 appropriations, revenues, or positions. The in-lieu fee and accrued interest is not enough to warrant a request to increase revenue and appropriations for FY2024-25 at this time and will be included in the FY 2025-26 Requested Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

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Approved by: Craig Spencer, Director of Housing & Community Development, x5233

The following attachment is on file with the Clerk of the Board:

Attachment A - Waiver Request