



County of Monterey

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

Legislation Details (With Board Report)

File #:	21-774	Name:	Inclusionary Housing Ordinance Update
Type:	General Agenda Item	Status:	Passed
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On agenda:	9/14/2021	Final action:	9/14/2021
Title:	a. Receive a progress report on potential revisions to the County's Inclusionary Housing Ordinance (Chapter 18.40 of the Monterey County Code); b. Provide direction regarding existing affordable housing policies in the 2010 General Plan; c. Provide input and suggestions regarding the level of stakeholder involvement on potential revisions to County affordable housing policies and regulations; and d. Provide direction on the potential Jobs-Housing Nexus Analysis.		
Sponsors:			
Indexes:			
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Attachments:	1. Board Report, 2. Attachment 1- Agreement A-14097 with LeSar Development Consultants, 3. Attachment 2 - Amendment 1 to Agreement A-14097, 4. Attachment 3 - Amendment 2 to Agreement A-14097, 5. Attachment 4 - Engagement Guide, 6. Attachment 5 - Annual Housing Progress Table, 7. Item No. 14 - PowerPoint Presentation, 8. Completed Board Order Item No. 14		

Date	Ver.	Action By	Action	Result
9/14/2021	1	Board of Supervisors	approved	Fail

- a. Receive a progress report on potential revisions to the County's Inclusionary Housing Ordinance (Chapter 18.40 of the Monterey County Code);
b. Provide direction regarding existing affordable housing policies in the 2010 General Plan;
c. Provide input and suggestions regarding the level of stakeholder involvement on potential revisions to County affordable housing policies and regulations; and
d. Provide direction on the potential Jobs-Housing Nexus Analysis.

RECOMMENDATIONS:

It is recommended that the Board of Supervisors:

- a. Receive a progress report on potential revisions to the County's Inclusionary Housing Ordinance (Chapter 18.40 of the Monterey County Code);
b. Provide direction regarding existing affordable housing policies in the 2010 General Plan;
c. Provide input and suggestions regarding the level of stakeholder involvement on potential revisions to County affordable housing policies and regulations; and
d. Provide direction on the potential Jobs-Housing Nexus Analysis.

SUMMARY:

The County's Inclusionary Housing Ordinance (Ordinance), which is codified at Chapter 18.40 of the Monterey County Code, addresses the provision of housing affordable to very low, low and moderate income households as part of new development projects. In reviewing potential revisions to the Ordinance, a review of the existing affordable housing policies of the 2010 General Plan policies is also warranted since the Ordinance is one of the tools for implementing General Plan policies.

On August 28, 2018, the Board of Supervisors approved an agreement with LeSar Development Consultants (Agreement A-14097) ("Agreement") (**Attachment 1**) in an amount not to exceed \$195,100 to provide

technical assistance to update the County's Inclusionary Housing Ordinance. Two amendments to the Agreement have been executed extending the term of the Agreement to December 31, 2021 (**Attachments 2 and 3**). Work progress was slowed due to the transition of housing-related functions to the newly formed Housing and Community Development Department, the global COVID-19 pandemic, and limited staff resources. As such, it is likely that a fourth amendment may be necessary in the future to complete the work remaining.

County staff provided progress reports to the Board on October 23, 2018 and February 5, 2019 on the matter. Following the Board's discussion on February 5, 2019, the Board directed staff to engage stakeholders in the process to update the Inclusionary Housing Ordinance prior to returning the Board with a formal recommendation.

DISCUSSION:

Stakeholder Meetings

Due to the reasons cited above, work was delayed on the Ordinance, and input of the stakeholders has not been sought to date. However, the departmental transitions have been completed, and workloads within the Department have shifted, freeing up staff resources to further the work. With a renewed spirit, staff plans to involve key stakeholders using Appendix B, Community Engagement Guide, of the Title VI Countywide Implementation Plan (**Attachment 4**) as a tool.

To date, staff has followed the "Informed level of community engagement" as described in the Community Engagement Guide. At the February 5, 2019 Board of Supervisors meeting, the Board expressed a desire to increase community engagement. As such, staff is seeking direction on what level of stakeholder engagement is desired. For example, the Board may direct an increased engagement level of "Consult" or an "Involved" level of community engagement.

The "Consult" level of community engagement is the basic minimum opportunity for public input. Consult simply means to ask. There is no invitation to sit down together and work on things in a cooperative way. Staff would merely ask the public for their opinions and consider the input they receive as they make recommendations. "Consult" is generally an ask for input at set points in the process, but does not provide an ongoing opportunity for input.

The "Involved" level of community engagement is more than a consultation. To involve means to include. At the Involve level, the public is invited into the process, usually from the beginning, and is provided multiple if not ongoing opportunities for input as decision-making progresses. However, the Board remains the decision-maker and there is no expectation of building consensus with the stakeholder. If this level of community engagement is the Board's desire, staff would involve stakeholders through a series of public meetings that would also include meetings with the Housing Advisory Committee and Planning Commission. Staff proposes that the stakeholders would include those in the development community, including designers, builders and non-profit housing organizations, as well as members of the public, community organizations and environmental preservation groups. Also, if the Board desires to explore the possibility of expanding the Inclusionary Housing ordinance to require a fee for affordable housing as a condition of approval of nonresidential development, staff would involve other sectors including hospitality, retail industrial and agricultural (e.g., growers and shippers) operators.

Should the Board direct the "Involved" level of engagement, staff anticipates these discussions could commence in late September and run through October.

General Plan Policy and Inclusionary Housing Ordinance Evaluation

The 2010 General Plan, 2015-2023 Housing Element, County certified coastal Local Coastal Program, and the County Code contain a variety of policies and regulations that stipulate levels of affordability based upon location and project type. For example, the General Plan has several policies (Policy LU-1.19 and Policies LU-2.11 through LU-2.13) that address the percentage of affordable/workforce housing required as part of new development and other aspects of affordable housing. The Inclusionary Housing Ordinance generally requires that new residential development of five or more units provide inclusionary housing affordable to very low, low and moderate income households in an amount equal to or greater than 20% of the total number of units, although the Ordinance provides for other options such as payment of in-lieu fee or varying the percentage allocation among income levels if particular findings are made.

The complexity, variety of circumstances and implementation of the policies present challenges.

The Inclusionary Housing Ordinance is not the main tool for County meeting its Regional Housing Needs Allocation (RHNA). The Inclusionary Housing Ordinance coupled with other tools help to address the housing demand. That said, there are a lack of tools to meet the RHNA and County's affordable housing needs generally. As of January 1, 2021, to meet the RHNA under Housing Element Cycle 2014-2023 (5th Cycle), the County would need an additional 155 very low units, 55 low income units and 248 moderate rate units (**Attachment 5**).

To meet the remaining obligation in the 5th Cycle and to achieve the anticipated units in the 6th Cycle, staff seeks the Board's direction to evaluate County's existing affordable housing land use policies. Some options which staff is investigating and will explore in the stakeholder process include reducing the required Inclusionary Housing percentage level to 15% from 20%, which may reduce the constraints on housing developments but could also reduce the number of price-restricted units built as part of a market rate development. Also, staff seeks direction from the Board regarding "Workforce I" and "Workforce II" housing policies. The General plan includes a policy for new development to provide 5% Workforce housing in addition to 6% very low, 6% low, and 8% moderate, but staff has found that "Workforce" housing as defined (affordable to households earning 120% to 180% of County median income) does not address the "missing middle" in housing because the fair market in some areas of the County is less than the Workforce I or Workforce II deed-restricted rental rate. As such, staff seeks the Board's direction whether to explore, through the stakeholder meetings, a reduction in the required Inclusionary Housing percentage levels and revision of the Workforce housing provisions.

Under the current contract, LeSar would assist staff in the public engagement, further the data/economic analysis and study the suggested revisions to the Ordinance. Additionally, LeSar may assist the County with a Jobs-Housing Nexus Study as discussed below.

Jobs-Housing Nexus Analysis

To date, the County's inclusionary housing requirements have placed the burden of affordable housing on residential developments. To distribute this burden equitably upon all sectors, staff requests the Board's input and direction regarding the need to address the demand for affordable housing resulting from non-residential developments.

If the Board desires to explore the possibility of requiring non-residential development to contribute to the development of affordable housing through the payment of commercial linkage fees, staff would recommend the preparation of a Non-Residential Jobs-Housing Nexus Analysis. The purpose of a Non-Residential Jobs-Housing Nexus Analysis is to quantify and document the impact of the construction of new workplace buildings (office, retail, hotel, growers and shippers, and industrial) and the employees that work in them, on the demand for affordable housing. Since jobs in all buildings cover a range in compensation levels, and the households of the workers range in size, there are needs at all affordability levels. This analysis would quantify

the need for moderate and lower income housing created by each type of workplace building.

Collecting inclusionary funds on non-residential projects would further the policy direction of the County's 2015-2023 Housing Element. Implementation Measure H-2.f of the Housing Element indicates that the County will use inclusionary housing funds to buy back inclusionary units with expiring deed restrictions at risk of foreclosures or from owners opting out of the program, and resell the units to income-qualified households, as the opportunity presents itself. The funds may also be used to leverage other funds to support the development of affordable housing.

If the Board directs the preparation of a Non-Residential Jobs-Housing Nexus Analysis, staff will seek a scope of work from LeSar Development Consultants. Upon obtaining the scope of work, staff would return to the Board for consideration of a contract amendment to address the additional scope.

NEXT STEPS:

Upon completing the stakeholder meetings, staff would present the findings to the Housing Advisory Committee, the Monterey County Planning Commission, and the Board of Supervisors' Health, Housing, Homelessness and Human Service Committee for input. Upon conclusion of these discussions, staff would return to the Board with its recommendation(s) on an update to the Inclusionary Housing Ordinance and possible amendment to the General Plan policies.

FINANCING:

There is no impact on the General Fund. The agreement with LeSar Development Consultants has \$82,560 remaining and is funded using funds deposited into the Inclusionary Housing Fund (Fund 009, Organizational Unit 8544, Appropriations Code HCD003). These funds would support the foreseeable work except for the suggested Jobs-Housing Nexus Study, which may warrant an augmentation. The County may also use funding from the Permanent Local Housing Allocation (PLHA) authorized by SB2 to augment the available funding.

Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Evaluating the County's affordable housing policies and considering revisions to County's Inclusionary Housing Ordinance will support the implementation of the 2010 General Plan and facilitate the development of additional, income restricted housing units for Monterey County residents.

Mark a check to the related Board of Supervisors Strategic Initiatives:

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

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Approved by: Erik Lundquist, Director, Housing and Community Development

The following attachments are on file with the Clerk of the Board:

Attachment 1 - Agreement A-14097 with LeSar Development Consultants

Attachment 2 - Amendment 1 to Agreement A-14097

Attachment 3 - Amendment 2 to Agreement A-14097

Attachment 4 - Appendix B of the Community Engagement Guide

Attachment 5 - Annual Housing Progress Table