

SUBJECT: ZONE TEXT AMENDMENT CLARIFYING THE AFFORDABLE HOUSING FEE LISTED IN CHAPTER 19.64 DEVELOPMENT FEES IS THE AFFORDABLE HOUSING IMPACT FEE FOR NON-RESIDENTIAL PROJECTS

INITIATED BY: PLANNING & DEVELOPMENT SERVICES DEPARTMENT  
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### STATEMENT ON THE SUBJECT

The Planning Commission will hold a public hearing to consider a zone text amendment clarifying the affordable housing fee listed in Table 4-3 of Chapter 19.64 Development Fees is the affordable housing impact fee for non-residential projects.

### RECOMMENDATION

Staff recommends that the Planning Commission hold the public hearing, consider all pertinent testimony, and recommend approval to the City Council by adopting the following:

- 1) Draft Resolution No. PC 18-1295: **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING THE CITY COUNCIL APPROVE A ZONE TEXT AMENDMENT AMENDING CHAPTER 19.64 (DEVELOPMENT FEES) TO CLARIFY THE FEE LISTED IN TABLE 4-3 IS THE AFFORDABLE HOUSING IMPACT FEE FOR NON-RESIDENTIAL PROJECTS, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA. (EXHIBIT A)**

### BACKGROUND/ANALYSIS

The WHMC lists the applicable impact fees for development projects. Currently there is an ambiguity in the code that needs to be cleaned up. At its meeting of March 18, 2013, the City Council considered a request by the owner/applicant of an approved 11-unit residential project located at 612-616 Croft Avenue for an adjustment of the affordable housing in-lieu fee under 19.64.040 amongst other "development" fee adjustment requests. The City Council formally denied the affordable housing fee adjustment request at their April 15, 2013, meeting for the following reasons:

- The affordable housing in-lieu fee is the product of generally applicable legislation and cannot reasonably be likened to a project-specific condition forced upon a developer in the midst of trying to secure project entitlements.

- The requirement that developers of new residential units include an affordable housing component is not a development "exaction" intended to mitigate impacts caused by the development. Rather, the affordable housing requirement is more akin to traditional land use regulations imposing minimum setbacks, landscaping requirements, building material requirements, design requirements, etc.

Through this proceeding, an ambiguity in the code was identified which the proposed code amendments in this item will clarify.

For background, the City of West Hollywood has three fees for affordable housing. Two of the fees are for the residential portions of projects. The third fee is for commercial portions of projects. The fees are as follows:

- Affordable Housing In-Lieu Fee. This fee applies to projects with 2-10 residential units. The City's affordable housing requirement for 2-10 unit projects is one lower income unit, or payment of the affordable housing fee in-lieu. This fee is based on costs for constructing an affordable unit. Currently the fee is structured on a scale, with projects with fewer units responsible for a lower dollar per square foot of new floor area.
- Affordable Housing Impact Fee - Residential Projects – This fee has been removed from the code as of November 14, 2018. The fee applied to projects of 11 or more units when the project didn't include a tract map and the applicant was not requesting a state housing bonus (Gov. Code 65915). This fee was established in 2014 when the code was amended to comply with the Palmer Decision. The fee was based on a 2014 nexus study of impact new residential development could have on the need for affordable housing. Following enactment of AB1505 (2017) by the State of California, WHMC 19.22.030 was amended removing the option to pay this fee and again requiring projects with 11 or more units to provide affordable housing units on-site or propose an off-site option for consideration.
- Affordable Housing Impact Fee - Non-Residential (commercial) Projects – This fee applies to commercial portions of projects (including hotels, motels, and other transient accommodations, live/work units) and is based on the impact the new non-residential development could have on the need for affordable housing in the community. The most recent nexus study of impact was conducted in 2014 and the fee is currently \$8.63 per square foot new non-residential floor area. Projects with less than 10,000 square feet of new non-residential floor area are exempt from development fees (WHMC 19.64.030).

Since this last fee is the only remaining impact fee, this is the fee that should be listed in Chapter 19.64. The code amendments propose to remove the ambiguity about the affordable housing fee listed in in Table 4-3 of Chapter 19-64, clarifying that the fee listed is the affordable housing impact fee for non-residential projects. These fees exist and this amendment is a clean-up only.

The proposed amendments follow. Language to be removed is struck out. New language proposed is underlined.

WHMC 19.64.020 Applicability

TABLE 4-3  
REQUIRED DEVELOPMENT FEES

Type of Fee	Type of Project Requiring Fee Payment	
	Residential <sup>1</sup>	Non-Residential
<del>Affordable Housing Fee (see Section 19.22.040)</del>	■	■
<u>Affordable Housing Impact Fee</u>		■
Child Care Facilities Development Fee		■
Quimby Fee <sup>2</sup>	■	
Public Beautification and Art Fee (see Section 19.38.040)	■	■
Public Open Space Development Fee		■
Sunset Median Fee <sup>3</sup>		■
Transportation Facilities and Programs Development Fee	■	■

**PUBLIC OUTREACH**

The staff team has not conducted public outreach since no new zoning provisions are proposed and the purpose of the item is to correct the Zoning Ordinance for clarification purposes only.

**PUBLIC NOTICE**

The City published a legal notice in the *Beverly Press* and *West Hollywood Independent* on November 1, 2018; and by a mailing to neighborhood watch groups and other neighborhood organizations.

## **ENVIRONMENTAL REVIEW**

The proposed zone text amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines. Section 15061 states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. No possibility exists that the proposed zone text amendments will have a significant effect on the environment. The zone text changes are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines.

## **NEXT STEPS**

Planning Commission comments will be forwarded to the City Council for their information prior to taking action on the proposed ZTA.

## **EXHIBITS**

- A. Draft Resolution No. PC 18-1295

PC REPORT