

Late Backup

Item 48
Alternative
Compliance -
Chestnut N.A.

4.3.2.E. Alternative Compliance Credit for Certain Public Benefits

1. In the event City Council finds a compelling reason to approve a property owner/developer to pay a fee in-lieu in accordance with Subsection D above, City Council may, in lieu of the full fee-in-lieu payment to the Housing Assistance Fund, credit the property owner/developer the Alternative Compliance Amount, as defined below, for certain Public Benefits, as defined below, provided by the property owner/developer, or an affiliate thereof. No credit shall be granted until after submission of the property owner/developer's site plan for the property and after an opportunity for public input.

2. For purposes of this Subsection E, a Public Benefit shall mean:

(i) a contribution or donation of an interest in real property, including costs of improvements, within the TOD District to a 501(c)(3) organization for the purpose of directly or indirectly benefiting affordable housing, to the extent such affordable housing is provided within a ½ mile radius of the TOD District and is provided by a CHDO having previously provided affordable housing within a ½ mile radius of the TOD District within the two-year period ending on December 31, 2008,

(ii) a contribution or donation of an interest in real property, including costs of improvements, within the TOD District to a 501(c)(3) organization that enables a permanent Cultural Services use on such donated land, or

(iii) a contribution or donation of an interest in real property, including costs of improvements, within the TOD District to a 501(c)(3) organization for the permanent location of such 501(c)(3) organization within the TOD District on such donated land.

Any contributions or donations of land for specific uses, or to a 501(c)(3) as provided for in Sections (ii)-(iii), above, shall contain granting language, recorded in the deed records of Travis County, limiting any future use of such donated land to the specific use provided for herein, or, in the event of a donation to a 501(c)(3), for the occupancy of such 501(c)(3); provided, however, that in the event such 501(c)(3) ceases to occupy such donated land, the land and any improvements thereon will revert to the City of Austin to be occupied by a 501(c)(3) benefiting the Neighborhoods surrounding the TOD District as determined by City Council in consultation with such Neighborhoods, and at no cost to such 501(c)(3) other than general maintenance and upkeep.

3. For purposes of this Subsection E, the Alternative Compliance Amount shall be an amount determined by the City Council to be the value to the City of Austin of the Public Benefit, less the following discounts, at City Council's discretion: (a) any benefits estimated to be received by the property owner/developer for such Public Benefits, including, but not limited to, federal or state tax deductions and public infrastructure provided to the property owner/developer by a recipient of the Public Benefit, and (b) the estimated difference between the cost to the property owner/developer to provide the 10% on-site affordable housing required under Subsection C, above, and the otherwise required fee-in-lieu payment required under Subsection D. For purposes of estimating the Public Benefit, the City Council may include considerations of any appraisals of the donated land provided by the property owner/developer and testimony of Neighborhood(s) bordering the TOD.

4. Any property owner/developer seeking alternative compliance must provide City Council with evidence that such Public Benefit has been irrevocably received by the recipient prior to the grant of any alternative compliance.

5. The total credit available to the property owner/developer pursuant to this Subsection E shall not exceed 50% of the total affordability requirements of Subsections C and D. For example, if the property owner/developer is otherwise required to provide a fee in lieu pursuant to Subsection D in an amount of \$1,000,000, the total credit available pursuant to this Subsection E shall not exceed \$500,000.