M E M O R A N D U M

TO: Mayor and Council Members

FROM: Rosie Truelove, Director, Housing and Planning Department

DATE: May 27, 2022

SUBJECT: May 19th City Council Agenda Item #19: Proposed Fee-In-Lieu for 1205 E 4th Street

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The Housing and Planning Department (HPD) has reviewed the request to provide a fee-in-lieu for a residential mixed-use development located at 1205 East 4th Street, Austin, TX 78702. A request to provide a fee-in-lieu payment is permitted as part of the density bonus section of the Plaza Saltillo Transit-oriented Development (TOD) Regulating Plan, specifically Section 4.3.3(D) and requires the approval of the City Council. The fee-in-lieu authorization is set for Council consideration as Item #19 on the May 19th City Council Agenda.

The 0.903-acre property is located within the Live/Work Flex subdistrict, which requires minimum residential density of 17 units per acre. The proposed site plan includes commercial office space and provides the 9,096 square feet of residential net rentable area. The applicant has requested to opt into the Plaza Saltillo development exemptions, including density requirements, the maximum floor-to-area ratio (FAR), and compatibility standards, which requires that 10% of the entire square footage of the development be reserved as onsite affordable housing.

The Plaza Saltillo TOD Regulating Plan permits the donation of a fee-in-lieu of on-site affordable housing under Section 4.3.3(D) if the property owner/developer can demonstrate a compelling reason not to provide the required on-site housing. The TOD regulating plan establishes a fee-in-lieu of $13 per square foot of bonus area. The fee-in-lieu shall be calculated in accordance with the Plaza Saltillo Regulating Plan, Section 4.3.3(D)(2).

Applicant Justification

The applicant has provided the following justifications as compelling reasons for providing a fee-in-lieu rather the onsite affordable units:

- The project is planned to be constructed with mass timber. Mass timber is more expensive than traditional concrete and steel construction but is more environmentally sustainable.
- The project is pre-certified LEED Gold.
- The project is required to include the residential units per the TOD Live/Work subdistrict requirements.

The City of Austin is committed to compliance with the American with Disabilities Act.
Reasonable modifications and equal access to communications will be provided upon request.

- The on-site affordable units required under the density bonus program would account for all the residential square footage that is currently proposed.
- The required on-site affordable units will generate a monetary loss for the project and render it financially infeasible.

Staff Recommendation

HPD does not recommend approval of the request to provide a fee-in-lieu of the on-site affordable units. The Live/Work Flex subdistrict, where the proposed development is located, requires a minimum residential density of 17 dwelling units per acre. Per the regulating plan, the Live/Work Flex Subdistrict imposes a minimum density, as it is intended to function primarily as a residential district due to its proximity to existing lower density neighborhoods adjacent to the TOD.

The applicant has designed an office project. To comply with the minimum required residential density, which equates to 15 dwelling units, the project includes 9,096 square feet of residential net rentable area. Additionally, the applicant has elected to participate in the voluntary density bonus program. This voluntary density bonus program grants exemptions from density and FAR requirements, height limitations, and setbacks but requires that habitable space equal to 10% of the entire square footage of the development be reserved as affordable housing. According to the applicant's letter, the project is proposed to be 103,656 square feet. Per the density bonus requirements, a total of 10,365 square feet of residential area would be required to be reserved as affordable housing.

In order to be eligible for a fee-in-lieu, the applicant must demonstrate a compelling reason not to provide housing on-site and is subject to the approval of the City Council. If approved, the fee-in-lieu would be based on the square footage of bonus area. The bonus area square footage would be determined by the greater of the following:

- The increase in gross building area above that established by the maximum FAR as described in Subsection 4.2.8 of the regulating plan; or
- The number of additional dwelling units above that established in Section 2.3 of the regulating plan multiplied by the average unit square footage of the entire development seeking the development bonus; or
- The amount of gross building area constructed within a space previously restricted by compatibility standards.

The applicant has proposed to reserve two units as affordable and to contribute a fee-in-lieu.

HPD has not found that the applicant has demonstrated a compelling reason for not providing housing on-site. The applicant has designed an office project to the meet the minimum residential density requirements of the Live/Work Flex subdistrict and has elected to participate in the voluntary density bonus program. However, the applicant has not designed the site to be consistent with the subdistrict goals nor have they allocated enough residential area to be eligible for the density bonuses that they are requesting. The code does not prohibit the applicant from designing a project that reserves a greater proportion of the site as residential nor is the applicant required to participate in the density bonus program. The applicant has not indicated any other conflicts or prohibitions that restrict their ability to include more residential square footage, aside from their own design decisions. Furthermore, the City offers additional funding opportunities to help finance income-restricted rental and ownership units. The applicant is not prohibited from participating in these housing development assistance programs, should they choose to apply, and their development be chosen for funding. The next call for projects opens in the summer of 2022.

Should you have questions, please contact Rosie Truelove, Director, at (512) 974-3064 or rosie.truelove@austintexas.gov.