



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members
FROM: Ben Luedtke
Budget & Policy Analyst
DATE: October 16, 2018
RE: **Expanded Fee Waivers for Mixed-Income Housing Developments**

Project Timeline:

1st Briefing: October 16
2nd Briefing: TBD
Public Hearing: November 13
Potential Action: November 27

ISSUE AT-A-GLANCE

In the Growing SLC Housing Plan, adopted by the Council December 2017, the first goal is to “Reform City practices to promote a responsive, affordable, high opportunity housing market.” The specific objectives under the goal include removing impediments within existing City processes and creating an expedited system for affordable housing developments. To advance this goal, the Administration is requesting the Council approve an ordinance amendment, *Salt Lake City Code Chapter 18.98.060*, to expand eligibility for impact fee exemptions of affordable housing developments. The Administration also suggests changes to the existing process for waiving building permit and plan review fees but did not propose an ordinance amendment to *Salt Lake City Code Chapter 18.20.220*.

Exemptions for Impact Fees

The existing ordinance completely waives impact fees for the share of units (not the whole housing development) *rented* to households earning 60% or less of AMI and provides a sliding scale discount to units *sold* at 100% AMI or below (see table in Additional Info section). The proposed ordinance would expand the exemption to ALL units in the housing development if at least 20% of the total units are at some level of affordability (sliding scale of exemption based on level of affordability). The expanded waiver may incentivize housing developers to add more affordable units to existing mixed-income developments and, potentially add affordable units to market rate housing developments.

Exemptions for Building Permit and Plan Review Fees

The Administration suggests several changes to the existing process including:

- a. Align Eligibility – Broadening eligibility requirements (currently limited to non-profit developers) to match impact fee exemptions. The non-profit requirement excludes limited liability corporations (LLCs) which are commonly used by developers for affordable housing developments and is required by some tax credit programs.
- b. Use Same Affordability Definition – Existing ordinance limits waivers to housing at or below 80% AMI and receiving less than 75% total financing from state and federal funding sources unless the housing is targeted at 50% AMI or below. The proposed impact fee ordinance amendment would expand the exemption to ALL units in the housing development if at least 20% of the total units are at some level of affordability up to 100% AMI (sliding scale of exemption based on level of affordability) and does not have a government funding limitation.



- c. **Create Grant Pilot Program** – For some construction-related fees Utah Code requires a “case-by-case study and public hearing for each waiver request” (impact fee waivers for affordable housing are specifically exempted). The Administration suggests a faster process would be an annually funded grant program that avoids requirements of waiving fees under Utah Code. This grant program could be funded through the ongoing housing portion of the increased sales tax revenue (“Funding Our Future”) and would be administered by HAND.

Budget Impact

The Administration estimates an annual revenue reduction of \$421,7546 to implement the building permit and plan review fees expanded waivers (does not include cost of expanded impact fee waiver). The estimate is based on applying the expanded waiver to the 11 housing developments that would have qualified over the three-year period FY15 – FY17. Over the same period, the average qualifying development was 140 total units and would’ve saved \$115,025 in fee reductions. Development community feedback indicates the incentive would “help produce dozens, maybe hundreds of units.”

Goal of the briefing: *Review the proposed ordinance amendments and discuss with the Administration how the changes advance the City’s goal of incentivizing affordable housing construction.*

POLICY QUESTIONS

1. **Waivers for All Construction-related Fees** – The Council may wish to ask the Administration what other construction-related fees are paid by affordable housing developers and if the waiver approach should be expanded to include more or all the fees. The Administration states impact fees, building permit fees and plan review fees are the largest City fees impacting affordable housing developments. Other construction-related fees could include demolition, engineering, fire inspection, utilities and zoning.
2. **Amending Salt Lake City Code Chapter 18.20.220** – The Council may wish to discuss with the Administration if the suggested changes to building permit and plan review fee exemptions should be done through amending City Code or if it can be accomplished through Administrative policy changes.
3. **Grant Pilot Program** – The Council may wish to ask the Administration if other municipalities in Utah operate similar programs for affordable housing construction-related fees. In the FY19 budget for increased sales tax (“Funding Our Future”), the Council approved \$320,000 to reimburse the General Fund instead of charging fees to developers for expediting affordable housing developments. These funds could be used for the pilot program. The Administration indicates reports will be provided at six-month intervals detailing requests, approved waivers and number of affordable units created.
4. **Minimum Affordability Term** – The Council may wish to discuss with the Administration if the ordinance amendment should identify a minimum term for housing affordability and how long would be appropriate. The Community and Neighborhood Development Department currently requires a 15-year or longer land use restriction agreement (LURA) before approving impact fee exemptions.
 - a. **Incentivizing Longer Affordability Terms** – The Council may wish to discuss with the Administration whether, and how, to incentivize affordability terms more than 15 years.
 - b. **Coordinating RDA and HAND Financed Housing** – The Council may wish to continue the discussion from the annual budget about how to coordinate housing funds between the RDA and HAND. Acting as the RDA Board, the Council expressed a preference for affordable housing financed through the RDA to have a 50-year affordability term but developments with shorter terms have received funding. Longer affordability terms typically require larger financial subsidies upfront. Setting affordability terms for each affordable housing tool may be appropriate to help reach different program goals. See the RDA Board’s legislative interim study item in the Additional Info section below.
5. **Monitoring and Enforcement of Affordability Term** – The Council may wish to ask the Administration how compliance is monitored and enforced for land use restriction agreements (LURA). Housing developments funded with low income housing tax credits and/or state housing trust funds are subject to the Utah Housing Corporation’s compliance program.

6. **Revenue Decrease from Expanded Impact Fee Waiver** – The Council may wish to ask the Administration for an estimate of reduced impact fee revenues if the proposed ordinance is adopted. The Administration reports eight requests were approved since 2010 under the existing ordinance. The utilization was impacted by the almost 19-month long impact fee moratorium which temporarily stopped collection of General Fund impact fees (fire, parks, police and streets).
7. **Single Application for Multiple Fee Exemptions** – The Council may wish to discuss with the Administration if a single application could be used for a development to apply for multiple affordable housing exemptions. Aligning eligibility requirements across fee waivers could simplify the information an applicant must provide and speed up the evaluation process.
8. **Role of the Housing Advisory & Appeals Board (HAAB)** – The Council may wish to discuss with the Administration why HAAB reviews some requests to waive construction-related fees for affordable housing but not others. The Council may also wish to ask if HAAB reviewed and provided feedback on the suggested changes to affordable housing fee waiver procedures and ordinances. Per City Code, requests to waive over \$500 of building permit and plan review fees for affordable housing developments are reviewed by HAAB. The Board makes a recommendation to the Community and Neighborhood Development Department Director who issues a decision. Similar requests for impact fee waivers are reviewed by CAN staff who make a recommendation to the Department Director. HAAB is a formal City advisory board with 10 members that meet monthly.
9. **Role of City Parking Requirements in Housing Affordability** – The Council may wish to ask the Administration to review the extent to which other requirements in City Code, such as parking requirements (particularly in areas where land is more expensive), are passed along through the price of housing. The Council may wish to ask for a briefing on this research and consider altering these requirements to further encourage affordability.

ADDITIONAL & BACKGROUND INFORMATION

Existing Impact Fee Exemptions per 18.98.060 Salt Lake City Code

Amount Waived per Affordable Unit	Affordability Requirement
100%	Unit <u>rented</u> to household earning 60% or less of AMI (currently \$48,000 per year for household of 4)
100%	Unit <u>sold</u> to household earning 80% or less of AMI (currently \$64,000 per year for household of 4)
75%	Unit <u>sold</u> to household earning 90% or less of AMI (currently \$72,000 per year for household of 4)
50%	Unit <u>sold</u> to household earning 100% or less of AMI (currently \$80,000 per year for household of 4)

Comparing Impact Fees Exemption Existing vs. Proposed Expanded Waiver

The table below provides a hypothetical comparison of a 200-unit multifamily affordable housing development.

	Impact Fees on a 200 Unit Development								
	No affordable units	20% affordable (60% AMI rental)		20% affordable (80% AMI sold)		20% affordable (90% AMI sold)		20% affordable (100% AMI sold)	
		Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current
Parks	\$615,600	\$0	\$492,480	\$0	\$492,480	\$153,900	\$523,260	\$307,800	\$554,040
Fire	\$34,200	\$0	\$27,400	\$0	\$27,400	\$8,550	\$29,100	\$17,100	\$30,800
Police	\$11,800	\$0	\$9,440	\$0	\$9,440	\$2,950	\$10,030	\$5,900	\$10,620
Trans.	\$46,200	\$0	\$36,960	\$0	\$36,960	\$11,550	\$39,270	\$23,100	\$41,580
Total Impact Fees Paid by Developer									
	\$707,800	\$0	\$566,280	\$0	\$566,280	\$176,950	\$601,660	\$353,900	\$637,040

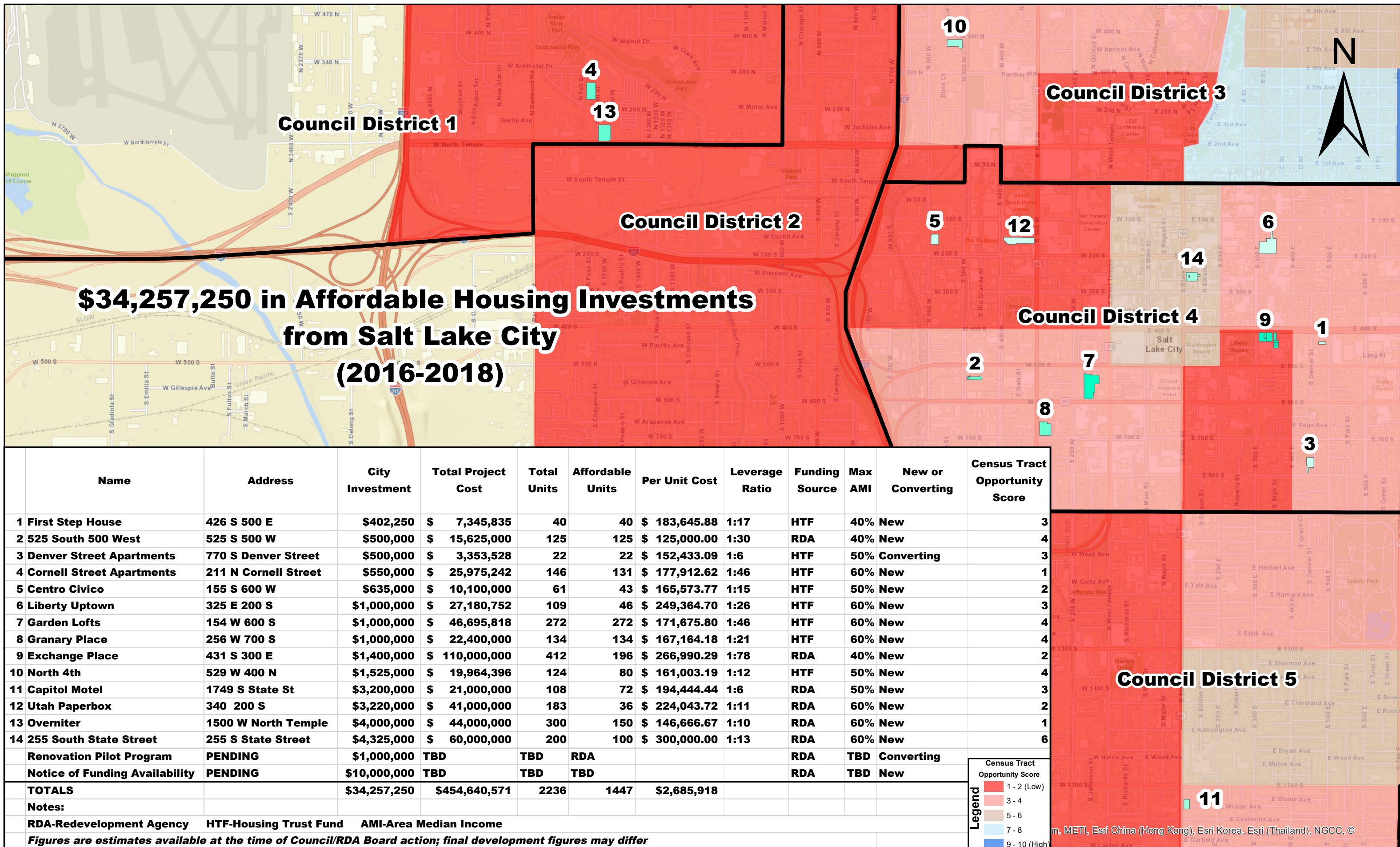
RDA Interim Study Item – Housing Funding Coordination:

The Board asks that the Administration study, on an interim basis, the City's efforts in various departments for funding affordable housing, and report back to the Board mid-year. The Board requests that the Administration look to coordinate program components and targets between Housing and Neighborhood Development (HAND) Division and the Redevelopment Agency (RDA) to ensure that the various programs and their targeted goals, like area median income (AMI) targets, are complementary of each other. To the extent that programs overlap, the Board requests the Administration evaluate how best to coordinate activities, so efforts are not duplicated.

- a. Funding History – As a part of this effort, the Board requests data showing the actual investments/loans to projects from both HAND and RDA housing programs, the number of units and what AMI targets those projects met for the past 5 years.

Mapping Affordable Housing Investments from Salt Lake City

As a part of a separate project, Council Staff created the attached map showing recent City investments in affordable housing. This map displays 16 affordable housing investments made by Salt Lake City leveraging external funding between 2016 and 2018, totaling \$34,257,250. These investments reflect the city's ongoing commitment to facilitate the development of affordable housing units for residents earning less than the area median income or AMI. Funds are distributed through either the RDA (Redevelopment Agency) or HTF (Housing Trust Fund). The map includes an overlay of census tract opportunity scores, which scores each census tract on a 1-10 scale by 5 indices that denote access to opportunity. The five indices are access to opportunities for school proficiency, poverty, labor market engagement, housing stability and job access. The Gardner Policy Institute created the opportunity dataset for Salt Lake City and County. The map also includes each project's leverage ratio, which is how much private investment is leveraged per \$1 of city funds.



**\$34,257,250 in Affordable Housing Investments
from Salt Lake City
(2016-2018)**

Name	Address	City Investment	Total Project Cost	Total Units	Affordable Units	Per Unit Cost	Leverage Ratio	Funding Source	Max AMI	New or Converting	Census Tract Opportunity Score
1 First Step House	426 S 500 E	\$402,250	\$ 7,345,835	40	40	\$ 183,645.88	1:17	HTF	40%	New	3
2 525 South 500 West	525 S 500 W	\$500,000	\$ 15,625,000	125	125	\$ 125,000.00	1:30	RDA	40%	New	4
3 Denver Street Apartments	770 S Denver Street	\$500,000	\$ 3,353,528	22	22	\$ 152,433.09	1:6	HTF	50%	Converting	3
4 Cornell Street Apartments	211 N Cornell Street	\$550,000	\$ 25,975,242	146	131	\$ 177,912.62	1:46	HTF	60%	New	1
5 Centro Civico	155 S 600 W	\$635,000	\$ 10,100,000	61	43	\$ 165,573.77	1:15	HTF	50%	New	2
6 Liberty Uptown	325 E 200 S	\$1,000,000	\$ 27,180,752	109	46	\$ 249,364.70	1:26	HTF	60%	New	3
7 Garden Lofts	154 W 600 S	\$1,000,000	\$ 46,695,818	272	272	\$ 171,675.80	1:46	HTF	60%	New	4
8 Granary Place	256 W 700 S	\$1,000,000	\$ 22,400,000	134	134	\$ 167,164.18	1:21	HTF	60%	New	4
9 Exchange Place	431 S 300 E	\$1,400,000	\$ 110,000,000	412	196	\$ 266,990.29	1:78	RDA	40%	New	2
10 North 4th	529 W 400 N	\$1,525,000	\$ 19,964,396	124	80	\$ 161,003.19	1:12	HTF	50%	New	4
11 Capitol Motel	1749 S State St	\$3,200,000	\$ 21,000,000	108	72	\$ 194,444.44	1:6	RDA	50%	New	3
12 Utah Paperbox	340 200 S	\$3,220,000	\$ 41,000,000	183	36	\$ 224,043.72	1:11	RDA	60%	New	2
13 Overniter	1500 W North Temple	\$4,000,000	\$ 44,000,000	300	150	\$ 146,666.67	1:10	RDA	60%	New	1
14 255 South State Street	255 S State Street	\$4,325,000	\$ 60,000,000	200	100	\$ 300,000.00	1:13	RDA	60%	New	6
Renovation Pilot Program	PENDING	\$1,000,000	TBD	TBD				RDA	TBD	Converting	
Notice of Funding Availability	PENDING	\$10,000,000	TBD	TBD				RDA	TBD	New	
TOTALS		\$34,257,250	\$454,640,571	2236	1447	\$2,685,918					
Notes:											
RDA-Redevelopment Agency	HTF-Housing Trust Fund	AMI-Area Median Income									
<i>Figures are estimates available at the time of Council/RDA Board action; final development figures may differ</i>											

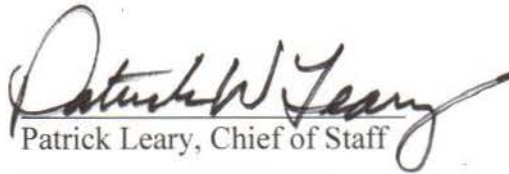
Legend

Census Tract Opportunity Score

- 1 - 2 (Low)
- 3 - 4
- 5 - 6
- 7 - 8
- 9 - 10 (High)



CITY COUNCIL TRANSMITTAL


Patrick Leary, Chief of Staff

Date Received: July 3, 2018
Date sent to Council: July 11, 2018

TO: Salt Lake City Council
Erin Mendenhall, Chair

DATE:

FROM: Mike Reberg, Department of Community & Neighborhoods Director

SUBJECT: Expanded Fee Waivers for Mixed-Income Development
Growing SLC: Goal 1, Objective 2, Solution 1.2.1

STAFF CONTACT:

Melissa Jensen, HAND Director, Melissa.Jensen@slcgov.com, 801.535.6035

DOCUMENT TYPE: Ordinance

RECOMMENDATION: Amend Ordinance and appropriate funds

BUDGET IMPACT: Estimated General Fund impact detailed in brief, Estimated impact is \$420,000 per year

BACKGROUND/DISCUSSION:

Based on feedback from affordable housing developers, and guidance outlined in *Growing SLC*, HAND is proposing changes to the City's fee structure for developments that include affordable units. The policy and ordinance changes detailed here are directly related to *Goal 1: Objective 2* and *Solution 1.2.1* of the housing plan:

Goal 1: Reform City practices to promote a responsive, affordable, high-opportunity housing market.

Objective 2: Remove impediments in City processes to encourage housing development.

The City consistently hears that internal permitting and licensing procedures add to the total cost of all projects, especially affordable housing developments. Adjusting this process to incentivize affordable units may serve as an incentive for housing developers to engage with the City on how to integrate affordability into projects. Further, the savings

from fee waivers and time could function as a subsidy for some developers, increasing the number of affordable units throughout Salt Lake City.

1.2.1 Create an expedited processing system to increase City access for those developers constructing new affordable units. To encourage the construction of affordable units, the City will create an expedited administrative process that will oversee the permitting, licensing, and inspection process of projects that meet a minimum threshold of long-term affordable units. Providing developers who build affordable units with a fast-tracked permitting process will decrease the cost of those projects, increasing the likelihood that such projects make it to the market. The process will empower the administration with the authority to waive fees and expedite City procedures.

In response to this guidance, HAND Staff, in conjunction with the Building Services Division, have developed this proposal to advance affordable housing objectives through an expansion of fee exemptions. HAND is also working with Building Services to evaluate options to streamline processes. That information will appear in a separate transmittal.

These proposed changes also align with the *Guiding Principles for Evaluating and Appropriating City Funds on Housing Developments* established by City Council in the adoption of *Growing SLC*, specifically:

- *Adhere to federal-level efforts to encourage a mix of income in individual projects and neighborhoods.*
- *Incentivize affordable housing within areas of high opportunity.*

Affordable housing developers have identified development fees as one of the barriers to building more income-restricted units in the city. This message was relayed at various times during the housing plan outreach events and voiced during workshops that HAND staff led with the Affordable Housing Finance Working Group (“AHFWG”). Of the fees collected by the City in the development process, three individual types of fees have been identified as imposing the most significant cost on development of new multi-family construction: (1) **impact fees**, (2) **building permit fees**, and (3) **plan review fees**.

One of the AHFWG’s recommendations was to focus City resources on expanding and expediting fee exemptions or reduced fees for constructing affordable developments. This transmittal addresses that need specifically by reviewing the most significant fees imposed on multi-family residential construction included in the Consolidated Fee Schedule. The transmittal also considers current processes for exempting or waiving development fees and proposes ordinance changes that will advance City-wide goals and provide meaningful incentives to developers of affordable housing.

This proposal focuses on those fees that are most costly to constructing affordable units¹:

- (1) Impact Fees
- (2) Building Permit Fees & Plan Review Fees

¹ The City assesses other fees during the development process such as utility and engineering fees.

1. Impact Fees

Since 2010, the City has approved eight (8) requests to reimburse or exempt impact fees for affordable units under City Code [18.98.060](#).² After reviewing the frequency of requests for exemption of impact fees and the total number of developers who have applied, it appears that the impact fee exemption process is functioning as intended and that qualifying projects are receiving impact fee waivers; however, HAND has identified an opportunity to expand the waiver eligibility to increase the production of mixed-income housing.

Eligibility

The criteria for determining whether or not a project is eligible for an impact fee exemption is set forth in [18.98.060.E](#) of City Code. This section of City Code states the extent to which an exemption from impact fees is available is based upon the affordability level of each rented or sold unit as shown below:

Impact Fee Exemption Eligibility (current)

Amount Waived per Affordable Unit	Affordability Requirement
100%	Unit rented to household earning 60% or less of AMI (currently \$48,000 per year for household of 4)
100%	Unit sold to household earning 80% or less of AMI (currently \$64,000 per year for household of 4)
75%	Unit sold to household earning 90% or less of AMI (currently \$72,000 per year for household of 4)
50%	Unit sold to household earning 100% or less of AMI (currently \$80,000 per year for household of 4)

Current Process

As per the ordinance, the Director of CAN determines whether a development activity is eligible for an exemption. Administratively, the process has generally been:

1. Developer requests an exemption based on affordability as written in the ordinance.
2. HAND Staff reviews exemption request and passes along to CAN Director.
3. CAN Director reviews and determines approval or disapproval of the exemption in consultation with the City Attorney's office.
4. CAN Director approval is sent to Building Services, or the CAN Director issues an exemption disapproval in writing to the developer.
5. To issue approval, CAN requires a recorded Land Use Restriction Agreement ("LURA") with a minimum 15-year duration of affordability. CAN requires the developer to submit documentation evidencing that the property will remain affordable without the City being required to do audits/compliance reviews.

² Two important factors to consider here: (1) the City would not have received waiver requests for projects that were permitted during the 19-month impact fee suspension from 11/2/2015 to 4/23/2017, and (2) developers working on permitted projects may be waiting until project completion to request an exemption.

Advancing Objective 2 of *Growing SLC*

In the past, the City has exempted impact fees for the individual affordable units being constructed in a development, per the table above. HAND proposes modifying that exemption to create stronger affordability incentives for mixed-income housing by exempting every unit in a building (both affordable units *and* market-rate units), if the number of affordable units meets or exceeds 20% of the total units in the building. The percentage of fees exempted for each unit would conform to the same requirements in the existing ordinance.

The Council has repeatedly voiced its desire to promote mixed-income housing developments. HAND Staff met with local for-profit and non-profit housing developers who confirmed that this change to the impact fee exemption structure could act as a helpful incentive for organizations considering a mixed-income development.

Impact Fee Exemption Eligibility (proposed)

Amount Exempted per Unit if 20% of all Units meet Affordability Requirement	Affordability Requirement
100%	Unit rented to household earning 60% or less of AMI (currently \$48,000 per year for household of 4)
100%	Unit sold to household earning 80% or less of AMI (currently \$64,000 per year for household of 4)
75%	Unit sold to household earning 90% or less of AMI (currently \$72,000 per year for household of 4)
50%	Unit sold to household earning 100% or less of AMI (currently \$80,000 per year for household of 4)

Impact of Proposed Changes

The table below provides context for what these changes could mean in the city by depicting the current and proposed impact fees for a 200-unit hypothetical development under each of the four scenarios above. For reference, the current impact fee schedule is also provided. As can be seen in the feedback from the development community in Exhibit B, they projected that this incentive is likely to create additional affordable units.

Impact Fee Schedule for Residential Multi-Family (adopted December 2016)

Fee Category	Current Fees per Unit
Parks	\$3,078
Fire	\$171
Police	\$59
Transportation	\$231

Impact Fee Exemptions for Residential Multi-Family (current and proposed)

Impact Fees on a 200 Unit Development									
	No affordable units	20% affordable (60% AMI rental)		20% affordable (80% AMI sold)		20% affordable (90% AMI sold)		20% affordable (100% AMI sold)	
		Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current
Parks	\$615,600	\$0	\$492,480	\$0	\$492,480	\$153,900	\$523,260	\$307,800	\$554,040
Fire	\$34,200	\$0	\$27,400	\$0	\$27,400	\$8,550	\$29,100	\$17,100	\$30,800
Police	\$11,800	\$0	\$9,440	\$0	\$9,440	\$2,950	\$10,030	\$5,900	\$10,620
Trans.	\$46,200	\$0	\$36,960	\$0	\$36,960	\$11,550	\$39,270	\$23,100	\$41,580
Total Impact Fees Paid by Developer									
	\$707,800	\$0	\$566,280	\$0	\$566,280	\$176,950	\$601,660	\$353,900	\$637,040

2. Building Permit & Plan Review Fees

The other category of fees considered in this transmittal are building permit fees and plan review fees.

A Useful Model

The existing affordable housing exemptions for impact fees provides a useful model to consider for other fee exemptions or reductions. HAND proposes changing the exemptions or fee reductions for other construction-related fees to match the impact fee exemption process. This will create a unified system for all fee exemption or reduction requests related to affordable housing development. As indicated above, based on input from the affordable housing development community, HAND also suggests some possible changes to the current eligibility requirements for impact fee exemptions to have greater impact in incentivizing mixed-income affordable housing.

Current Process

The current process for requesting waivers from other fees required to be paid to the City under Chapter 18 in amounts over \$500 is to submit a petition to the Housing Advisory & Appeals Board (“HAAB”) who will hold a hearing on the request. HAAB makes a recommendation to the Director of CAN, who then issues a decision of the Department in writing to the developer. Since 2010, HAAB has returned \$81,601 in fees on nineteen individual petitions under this process.

Eligibility

There is currently a process for requesting waivers or deferrals on other construction fees codified in 18.20.220 in City Code, however, it is more cumbersome and more restrictive than the process for impact fee exemptions. To begin with, the current ordinance only allows non-profit developers to apply for construction fee waivers. This is problematic for two reasons:

1. For liability and financing purposes, many non-profit developers will incorporate as a separate limited liability corporation during the development of their affordable housing building. Tax credit developments require a Limited Partnership structure which is not compatible with the ordinance language.
2. Many of the city’s most productive builders of affordable housing are private, for-profit companies.

Affordability is also defined differently than in the impact fee exemption process. The ordinance specifies that housing serving those at 80% of Area Median Income and below may be eligible to seek a waiver. The ordinance also specifies that waivers shall not be granted for projects that are receiving 75% or more of their funding from state and federal sources, except for projects for very low income households (50% AMI and below).

Recommendation

HAND recommends creating a clear, easy to understand process for the development community that bases eligibility for fee exemptions on affordability levels and the duration of those affordability levels. If the eligibility and approval process for building permit and plan review fee exemptions is consistent with the impact fee exemption process, the City would have a more streamlined process for exempting those fees. This would simplify the process considerably: if a developer is eligible for impact fee exemption, that developer would likely also be eligible for a permit and plan review fee exemption.

To comply with Utah law, HAND is proposing that the exemption for permit and plan review fees be administered as a grant program via an annual appropriation. The State statute governing impact fees specifically permits exemptions for affordable housing, which controls over Utah Code section 10-8-2, but this is not the case for other building permit fee waivers. A case-by-case study and public hearing for each waiver request would be required which could be both administratively burdensome and slow down the process for developers. This would defeat the intent of pursuing such an expansion. Therefore, HAND is proposing that City Council appropriate funds for a building permit fee grant program. HAND would then develop policies that establish specific criteria for grant applications to match the expanded impact fee exemption policy described above so that the City may effectively incentivize developers of affordable housing.

In the Mayor's FY 18-19 Budget, part of the Sales Tax Funding Proposal is "Fee Waiver Program for Affordable Housing Developers" which, if adopted, could provide the funding necessary for this proposed expansion. Alternatively, City Council could appropriate funds separately for this purpose.

Advancing Objective 2 and Solution 1.2.1 of *Growing SLC*

The goal of this fee review by HAND is to evaluate opportunities to create incentives that will increase the number of affordable units being built. Expanding fee exemptions could both incentivize new affordable units as well as help to create a more sustainable financing model for affordable housing developments.

Over the last three fiscal years, all projects in the city that have been constructed with at least 20% affordable units have averaged 140 total units. The average permit fee for these projects was \$69,712 and the average plan review fee was \$45,313 over the same amount of time. So, for an average 140-unit mixed-income development, HAND anticipates this fee reduction savings to affordable housing developers to be approximately \$115,000 in total costs. As can be seen in the feedback from the development community in Exhibit B, they projected that this incentive is likely to create additional affordable units in a typical project.

Budget Impact

While impact fees have no direct bearing on the General Fund, construction-related fees do. HAND has worked closely with CAN, Building Services, and the Finance Department to determine the overall projected General Fund impact of reducing permit and plan review fees. For an example of how such a policy change would affect the General Fund, HAND and Building Services Staff looked at the fee revenue generated by the residential projects that received permits from FY2015 to FY2017.³ Staff then calculated the potential impact of eliminating all building permit and plan review fees for the 11 developments producing 20% or more affordable units.

Building Permit and Plan Review Fees for Residential Developments (FY15-FY17)

	Building Permit & Plan Review Fees (FY15-FY17)		
	All Residential Construction	Multi-Family Projects (20+ units)	Affordable Projects (20% or more affordable units)
Building Permit	\$4,236,531	\$3,509,009	\$766,830
Plan Check	\$2,674,850	\$2,275,098	\$498,439
Total Units	6,575	6,264	1,540*
Total	\$6,911,381	\$5,784,107	\$1,265,269

* Total units in the project, not just affordable units. Affordable units at these projects totaled 1,101.

From FY15-FY17, a total of \$6,911,381 was collected for plan review and building permit fees on new residential construction. Of that, \$5,784,107 was collected for multi-family developments (over 20 units), and **\$1,265,269** of that was collected from projects that designated at least 20% of the units to be income-restricted. It is important to note that given the impact fee moratorium during this period, there was an artificial spike in the number of projects that the City permitted and received fees from. Based on this, the potential lost revenue shown is likely to be conservative.

Eliminating building permit and plan review fees for affordable projects in the future should be weighed against the impact to the General Fund budget. By this measure, we estimate that lost revenue to the City would be approximately **\$421,756**. It is recommended that the City prepare to track these losses in Accela so that this revenue shortfall can be accurately reflected in the General Fund budget. As mentioned previously, the Mayor's proposed FY 18-19 Budget includes a \$400,000 allocation of sales tax revenue to offset budget impacts from new incentives.

The proposed changes to impact fees, outlined in Section 1 above, would not result in any direct change to the General Fund.⁴

Compliance

One potential concern over creating new incentives for building affordable units is that the City will be unable to track whether those units remained affordable. If a developer utilizes tax credit

³ The three-year fiscal year review was recommended by the Finance Department, Building Services Division, and CAN Finance as the most accurate method for calculating the future budget impacts of reducing building fees.

⁴ Impact Fees require matching funds before the fees can be spent on projects, so reducing overall impact fees does tangentially affect the General Fund, but not directly.

financing or State Housing Trust Funds, as the majority of rental affordable units in the City have, then the State housing finance agency (Utah Housing Corporation, “UHC”) is responsible for ensuring income and rent compliance for the affordable units for the duration of their affordability. The concern is that if a developer wanted to leverage City incentives exclusively and not use traditional affordable housing financing for their project, then the City would have no way to track whether the units remained affordable over time.

However, as described in this transmittal, the current impact fee exemption process requires recorded land use restriction agreements that require the same number of units to remain affordable for a minimum fifteen year period. In practice, the waiver of impact fees for those affordable units has not been a sufficient incentive to generate market-rate developers to consider including affordable units in their projects (unless they receive additional primary financing assistance).

Based on developer feedback, this expanded fee waiver is unlikely to convince pure market-rate housing developers to provide affordable units, but instead will increase the number of affordable units built by developers that specialize in affordable and mixed-income housing (see developer feedback in Exhibit B). It seems unlikely that the building permit and plan check fee waivers proposed in this transmittal would provide enough incentive on their own for new developers to pursue affordable projects without additional affordable housing resources. However, should that occur, the City would look to negotiate project specific compliance as part of the approval process with the assistance of UHC.

Review Process

If an ordinance change is approved to amend the fee waivers available for affordable and mixed-income projects, HAND will work with the Finance Department and the Building Services Division to report on the results of that change at six month intervals. This will provide the Mayor and the Council with enough information to determine success of the program, whether or not these incentives are being utilized by developers, and most importantly, what the City is seeing in return on its investment of waived fees.

The review will include the following details:

1. Projects requesting fee waivers over the reporting period,
2. Projects and total fees waived by the CAN Director over the reporting period, and
3. Number of affordable units created through the waiver over the reporting period.

This information will be updated on HAND’s website as part of the housing metrics reporting under the housing plan.

Recommendation

1. Expand the eligibility of the impact fee exemption and for reduced building permit and plan review fees to include all units for projects if at least 20% of the total number of units in the development is affordable (18.98.060.E) (Attached).
2. Approve proposed FY 18-19 Sales Tax allocation for “Fee Waiver Program for Affordable Housing Developers,” offsetting General Fund impact from the Building Permit and Plan Review fee waivers described in the transmittal or approve a separate appropriation of funds for this purpose.
3. Prepare to track and monitor the shortfall to General Fund revenue created by waiving Building Permit and Plan Review fees for mixed-income developments.

EXHIBITS:

A. Current Language and Proposed Changes to Impact Fee Exemption

B. Notes from Meeting with Development Community

Exhibit A: Current Language and Proposed Changes to Impact Fee Exemption

SALT LAKE CITY ORDINANCE

No. _____ of 2018

(Amending Section 18.98.060 Regarding Exemptions to Impact Fees)

An ordinance amending Section 18.98.060 of the Salt Lake City Code regarding exemptions from the payment of impact fees.

WHEREAS, Salt Lake City is in the midst of a mounting housing crisis that impacts our residents' ability to reliably find safe secure housing options for themselves and their families; and

WHEREAS, Salt Lake City must lead by example and investigate every barrier to the creation of new affordable housing in the city and steward solutions that will bring this crisis to a close; and

WHEREAS, Salt Lake City is committed to creating financial incentives that promote the construction of new affordable units, especially in mixed-income developments.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending Section 18.98.060(E) of the Impact Fee Chapter. That section 18.98.060(E) of the Salt Lake City Code, shall be, and hereby is, amended to read as follows:

E. The following housing may be exempt from the payment of impact fees, to the following extent:

1. A one hundred percent (100%) exemption shall be granted for all units in the development if a minimum of 20% of those units are rental housing for which the annualized rent per dwelling unit does not exceed thirty percent (30%) of the annual income of a family whose annual income equals sixty percent (60%) of the median income for Salt Lake City, as determined by HUD;
2. A one hundred percent (100%) exemption shall be granted for all units in the development if a minimum of 20% of those units are nonrental housing for which the annualized mortgage payment does not exceed thirty percent (30%) of the annual income of a family whose annual income equals eighty percent (80%) of the median income for Salt Lake City, as determined by HUD;

3. A seventy five percent (75%) exemption shall be granted for all units in the development if a minimum of 20% of those units are nonrental housing for which the annualized mortgage payment does not exceed thirty percent (30%) of the annual income of a family whose annual income equals ninety percent (90%) of the median income for Salt Lake City, as determined by HUD; and
4. A fifty percent (50%) exemption shall be granted for all units in the development if a minimum of 20% of those units are nonrental housing for which the annualized mortgage payment does not exceed thirty percent (30%) of the annual income of a family whose annual income equals one hundred percent (100%) of the median income for Salt Lake City, as determined by HUD.

SECTION 2. Effective Date. This ordinance shall become effective on the date of its first publication. (Check that this doesn't need to be a specific date or timeframe.)

Passed by the City Council of Salt Lake City, Utah, this ____ day of _____, 2018.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

<p>APPROVED AS TO FORM Salt Lake City Attorney's Office Date: _____ By: _____ Megan J. DePaulis, Senior City Attorney</p>
--

Bill No. _____ of 2018.

Published: _____.

HB_ATTYY-#68255-v1-Ordinance_amending_18_98_060(E)_Exemptions.doc

SALT LAKE CITY ORDINANCE

No. _____ of 2018

(Amending Section 18.98.060 Regarding Exemptions to Impact Fees)

An ordinance amending Section 18.98.060 of the Salt Lake City Code regarding exemptions from the payment of impact fees.

WHEREAS, Salt Lake City is in the midst of a mounting housing crisis that impacts our residents' ability to reliably find safe secure housing options for themselves and their families; and

WHEREAS, Salt Lake City must lead by example and investigate every barrier to the creation of new affordable housing in the city and steward solutions that will bring this crisis to a close; and

WHEREAS, Salt Lake City is committed to creating financial incentives that promote the construction of new affordable units, especially in mixed-income developments.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending Section 18.98.060(E) of the Impact Fee Chapter. That section 18.98.060(E) of the Salt Lake City Code, shall be, and hereby is, amended to read as follows:

E. The following housing may be exempt from the payment of impact fees, to the following extent:

1. A one hundred percent (100%) exemption shall be granted for all units in the development if a minimum of 20% of those units are rental housing for which the annualized rent per dwelling unit does not exceed thirty percent (30%) of the annual income of a family whose annual income equals sixty percent (60%) of the median income for Salt Lake City, as determined by HUD;
2. A one hundred percent (100%) exemption shall be granted for all units in the development if a minimum of 20% of those units are nonrental housing for which the annualized mortgage payment does not exceed thirty percent (30%) of the annual income of a family whose annual income equals eighty percent (80%) of the median income for Salt Lake City, as determined by HUD;

3. A seventy five percent (75%) exemption shall be granted for all units in the development if a minimum of 20% of those units are nonrental housing for which the annualized mortgage payment does not exceed thirty percent (30%) of the annual income of a family whose annual income equals ninety percent (90%) of the median income for Salt Lake City, as determined by HUD; and
4. A fifty percent (50%) exemption shall be granted for all units in the development if a minimum of 20% of those units are nonrental housing for which the annualized mortgage payment does not exceed thirty percent (30%) of the annual income of a family whose annual income equals one hundred percent (100%) of the median income for Salt Lake City, as determined by HUD.

SECTION 2. Effective Date. This ordinance shall become effective on the date of its first publication. (Check that this doesn't need to be a specific date or timeframe.)

Passed by the City Council of Salt Lake City, Utah, this ____ day of _____, 2018.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.
Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

ATTEST AND COUNTERSIGN:

CITY RECORDER

(SEAL)

<p align="center">APPROVED AS TO FORM</p> <p align="center">Salt Lake City Attorney's Office</p> <p>Date: <u>6/5/2018</u></p> <p>By: <u>Megan J. DePaulis</u></p> <p align="center">Megan J. DePaulis, Senior City Attorney</p>
--

Bill No. _____ of 2018.

Published: _____.

Developer feedback meeting, 1.16.18

Impact Fee Reduction, Expansion for Mixed-Income:

- The proposal will incentivize those already working in mixed-income development.
- The incentives will help to help close the gap (or does close the gap) on 4% tax credit deals.
- This would produce more units by reducing the financing gap. The order of magnitude is incremental but helpful. Is likely to help produce dozens, maybe hundreds of units.
- Will get more units in a project that was already designed for mixed income. Not enough of a reduction to incentivize a market-rate developer build affordable at the 20% threshold of affordable units. Would need to be a much smaller amount to incentivize market rate developers (i.e., 5%).
- The City should not impose a geographic restriction for the expanded impact fee waiver for mixed-income. Developers suggested that this may create unintended consequences and it should apply to the whole city for maximum impact.
- To be most effective, would be best if part of a larger package of tools such as density bonuses, parking reductions, etc. Recommendation in putting together a package of tools from the viewpoint of removing barriers and addressing the ways we make development of affordable housing difficult.

Permit/Plan Review Fee Reductions:

- Generally, a good idea to have this exemption match the definition/requirements of the impact fee exemption.
- Will help affordable housing developers squeeze in finance one or two more affordable units on a typical project.