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Council Meeting Date: August 3, 2015

Agenda Item: 8(a)

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**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Discussion of Fee Waiver for Affordable Housing		
<b>DEPARTMENT:</b>	Community Services		
<b>PRESENTED BY:</b>	Rob Beem, Community Services Manager		
<b>ACTION:</b>	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

**PROBLEM/ISSUE STATEMENT:**

The City has strong policy and regulatory support to develop incentives for the construction and maintenance of affordable housing. This support is contained in the Housing Element of the Comprehensive Plan, the Comprehensive Housing Strategy, the Property Tax Exemption Program, the Transportation Impact Fee Program and most recently, in the planning, zoning and Development Code for the 185<sup>th</sup> Street Station Area.

Cities have the authority to waive certain building and development fees in order to encourage the development of affordably priced housing. In implementing any such program there are policy choices regarding income limits/affordability targets, geographic focus, fit with other incentives, type of developer the program applies to (non-profit only or all developers), fees affected and level of waiver granted. Implementing this program will require amendments to the Development Code and the Fee Schedule. State statute requires the Planning Commission to review and recommend any Development Code amendments.

Staff is bringing this item to Council for discussion and direction on the policy issues prior to the Planning Commission's review. Should Council wish to proceed with the fee waiver, the matter will be directed to the Planning Commission and brought back to Council in the fourth quarter of 2015 for action.

**RESOURCE/FINANCIAL IMPACT:**

The chart in Attachment A illustrates the range of potential costs to implement this program. At the high end, 100% of the City imposed fees could be waived if all units in a project meet the City's affordability requirements. For example, this would have equated to \$96,218 in permit fees for the Ronald Commons. If the waiver were applied to the private developments to be built under the Station Area regulations the cost ranges from \$147/unit to \$190/unit. Using these developments as an example and assuming that the waiver applies to just 20% of the units, this equates to foregone revenue of \$21,000 - \$28,500 for a 150 unit building. Development of even all three of these prototype projects would result in foregone revenue of approximated \$150,000.

The City's overall permit revenue has averaged \$1.29M per year in the past three years. In this unlikely event, this would equate to roughly 12% of total fee revenue.

In the past decade, there have only been two new housing developments, Polaris and Ronald Commons, where 100% of the units are affordable and therefore 100% of the fees could potentially have been waived. Prior to that, Compass Housing's Veterans Center, which was constructed over 10 years ago, was the next most recent project that would have met this threshold. Given the nature of the affordable housing development market, it is unlikely that Shoreline would be home to another such development in less than five years. These projects take a minimum of three years to pull together and are very visible as they go through the funding and review process, and therefore staff should be able to anticipate workload and budget impacts of such projects

There are also several ways that the financial impact of this program can be either limited or moderated if the program is adopted. These include placing a cap on the fees waived annually, adjusting the percentage of fees waived or limiting the program to housing at 60% Adjusted Median Income (AMI) and below. Staff does not see the need to further mitigate any impacts this would have but seeks Council's direction as to limits for this waiver program. Ultimately, the cost is shifting general fund revenue from other areas to support affordable housing.

### **RECOMMENDATION**

Staff recommends that Council discuss the affordable housing fee waiver program and refer this matter to the Planning Commission for a public hearing, review and recommendation of the affordability level and other conditions for application of a fee waiver for affordable housing.

Approved By:           City Manager **DT**   City Attorney **MK**

## **INTRODUCTION**

Both staff and members of the City Council have expressed an interest in developing a provision to waive building and development fees as one element of the City's overall strategy to encourage the development and maintenance of affordably priced housing in Shoreline. Overall, the intent of a fee waiver is to encourage and support the development of affordably priced housing. By enacting a fee waiver program the City can achieve three general objectives:

- 1) to provide direct financial support to a project,
- 2) to provide visible policy and political support to a project, and
- 3) to improve the financial viability of a project in terms of the project's ability to attract other funding partners.

The City has strong policy and regulatory support to develop incentives for the construction and maintenance of affordable housing. This support is contained in numerous plans and ordinances including the Housing Element of the Comprehensive Plan, the Comprehensive Housing Strategy, the Property Tax Exemption Program, the Transportation Impact Fee Program and most recently in the planning, zoning and Development Code for the 185<sup>th</sup> Street Station Area.

Within the Station Area there are a variety of incentives and requirements designed to generate affordably priced housing and to encourage a mix of housing prices and types. The Transportation Impact Fee Program (TIF) allows for a reduction in fees for certain affordable housing developments. The Property Tax Exemption (PTE) program is available in certain areas of the City for housing that is affordable as defined in the implementing ordinance. And, finally, the City uses Community Development Block Grant funds to support home repair and to make direct investments in housing development/redevelopment for low and moderate income residents. In addition to these tools, State statutes allow cities to waive or reduce building permit and development fees to further the development of affordably priced housing.

If the Council is interested in adding this tool to help further incentivize affordable housing development in Shoreline, the basic policy choice in front of the Council is whether to develop a program that benefits housing developed primarily with government funding, such as Housing Trust fund, Community Development Block Grant (CDBG) or other local, state or federal housing funds, or whether to make this waiver available to all affordable housing as defined by the City? The latter principally includes a percentage of housing typically developed as part of increased density provisions of the Development Code or with the PTE.

Staff is bringing this item to Council to seek direction whether Council would like to further explore the development of this program and, if so, what the scope of the fee waiver program should be. This discussion is intended to provide guidance for staff and the Planning Commission regarding the Council's policy preferences and, where necessary, to identify questions Council would like to see answered or choices to be

explored in greater depth. The following sections of this staff report identify elements to be considered in shaping a fee waiver program.

### **BACKGROUND**

In the past year, the City has been approached by affordable housing developers seeking local support for their projects. Specifically, they have asked the City to explore the potential for waiving permit fees. Currently, the City has no provision allowing this to occur. In the same time frame, the City Council has taken action to support the development of affordable housing through the 185<sup>th</sup> Station Area planning process, the adoption of the Transportation Impact Fee (TIF) with provisions for affordable housing and amendments to the PTE program requiring affordability. And most recently the City Council has initiated action to exempt qualified service agencies from the payment of TIF fees in their entirety.

Under the Growth Management Act, the City has the option of enacting an affordable housing incentive program which includes fee waivers. Pursuant to RCW 36.70A.540(1)(a)(iii), a fee waiver or exemption is one type of incentive that the City can offer. These incentives can be through development regulations or as conditions on rezoning or permit decisions, or both, as in the Station Area. In establishing an incentive program the City needs to determine if it will keep the income level for rental units at 50% or less of the county median as set in State Statute or adopt a different level. If set at a different level, the City may do so after holding a public hearing. Other elements of the program are left to the discretion of the City.

The City's Comprehensive Plan and Housing Strategy support the use of fee waivers to encourage and support the development of affordably priced housing. Waivers are an effective way to reduce the development costs for affordable housing and can be seen by the developer and other funders as a sign of the City's strong policy and financial support for a project. As an element of Station Area planning, the Development Code has been updated to include strong incentives for the development of affordably priced housing within the 185<sup>th</sup> Station Area. Because fee waivers can have citywide application, they were not considered as an element of the Station Area planning.

### **DISCUSSION**

The City assesses fees for building and development permits. Some fees are collected for the City and some for other jurisdictions and permit authorities. For purposes of this discussion we are only addressing fees that the City assesses.

Should the Council wish to proceed with this fee waiver, the implementing action will be in the form of an amendment to the Development Code. The Planning Commission must review and recommend such amendments to the City Council. If directed, the current schedule has the Planning Commission considering these amendments this fall and bringing them to Council late in the year.

**Income Limits for the Waiver**

State Statute enables cities to enact incentive programs that benefit projects seeking to provide rental housing affordable to households earning less than 50% of the Area Median Income (AMI). In Shoreline this equates to a household income of \$31,400 for a one person household and \$44,800 for a four person household. However, as noted above, cities have the authority to adopt a different AMI percentage threshold (higher or lower) and must hold a public hearing before doing so.

The 50% AMI threshold does not align with the income levels set for the City's other incentives nor does it reflect the realities of other funding support for affordable housing development. The City's own and other County and State direct funding programs set the ceiling for participation at 60% AMI. The various existing incentives the City uses apply differing income thresholds ranging from 60% AMI to 80% AMI. The policy choice then is whether to limit the waiver to 50% or 60% AMI and below or to increase the ceiling to match other City programs.

Within the housing development industry the divide between what is considered to be publicly financed or privately financed housing occurs at affordability levels of 60% AMI. Projects that are affordable to people earning 60% AMI and less are typically funded through the public sector. They utilize local, state, federal and private grants, direct contributions and some loans to accomplish this, as their ability to finance debt for these projects is extremely limited. The 60% AMI threshold is the highest limit for state and county financing programs such as the State Housing Trust Fund and King County Housing Program. Projects with rents affordable above this level generally have access to private capital.

With both the PTE and the increased density contained in the Station Area regulations, the City has sought to provide incentives to spur the development of housing within the conventionally-financed private market. These projects do not seek other direct public support. This is generally assumed to be housing that is marketed at rents affordable to those earning at least 70% of AMI. Typically, these projects do not receive other public funding in the form of direct investment, such as CDBG.

The practical impact of setting the income threshold at 60% AMI is to focus the program on the segment of the housing market that is being developed principally with governmental resources. However, setting the threshold at 70 or 80% AMI would make the fee waiver available to some projects financed in the private market. It would also allow the waiver to be applicable to many of the affordable units developed within the Station Area. Given these trade-offs, staff recommends that if an affordable housing permit fee waiver program is developed, that a 60% AMI threshold is used for affordability.

**Waiver Eligibility – All Developers or Not-for-Profits Only**

When cities allocate funds or set up programs to achieve human services goals they frequently limit eligibility for the program to not-for-profit organizations. This is done to assure that the program's long term benefits will remain in place as they are secured by

the organization's mission and purpose. Thus, an additional policy question before Council is whether this waiver should be available to any project that meets the affordability targets or only to not-for-profits.

When the waiver of the TIF for affordable housing was first being considered, the waiver was proposed to be limited to non-for profit entities only. Testimony from the King County Housing Authority and the Housing Development Consortium indicated that this limitation would exclude entities engaged in developing affordable housing that had other corporate structures. Ultimately the TIF was amended to provide a fee waiver for Housing Authorities. The Housing Development Consortium noted that there were entities working in partnership with non-profits to develop housing that met the affordability targets but that were not under the IRS code for non-profits. At the time there was not sufficient information available and Council decided to keep the TIF waiver limited to non-profit organizations.

Limiting the waiver to non-profits will result in a program that primarily benefits development at the 60% AMI and government funded portion of the market. The intent of this limitation would be to ensure that the benefits of this waiver accrue to developers who have an agency mission to develop and maintain affordable housing. To the extent that such a provision is meant to provide a long term assurance of affordability this limitation is not necessary. In all instances where government funding is used, developers enter into an agreement that is recorded and follows the property. This type of agreement is also used in our PTE and the Station Area density bonus programs. This is a straight forward approach and result in more affordable housing units being developed. And should the program include application to developments meeting higher income thresholds, such a limitation would interfere with those developments. Based on this, staff recommends that if an affordable housing permit fee waiver program is developed that it allow a broader range of entities to develop affordable housing and not limit the waiver to not-for-profits.

### **Stand Alone or In Addition to Other Incentives**

The City offers a number of incentives to encourage development of affordable housing. Given this, a key policy question is whether the waiver should be applied to projects that are also making use of other incentives or should it apply only if other incentives are unavailable or unusable?

Table 1 below shows the variety of incentives available. Some are available in certain zones only, such as PTE and in the 185<sup>th</sup> Street Station Area. Others, such as parking reductions and waiver of the TIF, are available citywide. Thus in the Station Area a development could take advantage of all these tools to increase affordability. In other areas, only one may be available. It is unlikely that a project will not be able to utilize at least one of the incentives. Most non-profit affordable housing developers construct projects that are tax exempt and therefore will not benefit from the use of PTE. They will however be able to benefit from the TIF waiver. It is unlikely that a project which would qualify for a fee waiver would not also qualify for another incentive.

**Table 1 – Affordable Housing Incentives**

Incentive	Income Target	Term of Affordability	Area of Application
Property Tax Exemption (PTE)	70% AMI	12 Years	Certain Areas
Reduced Parking	60% AMI	30 – 99 Years	Citywide
Increased Density	70-80% AMI	99 Years	185th Station Area
TIF Exemption	60% AMI	30 – 99 Years	Citywide
Direct Investment	60% AMI	50	Citywide

Additionally, the table in Attachment A, which is a comparison of fee waivers, impact fees and PTE incentives, shows the potential fee waiver’s value, though significant, is worth far less than other incentives. Thus, making it a condition that a development could only use if it did not use another incentive would virtually eliminate its effectiveness and use. Staff therefore recommends that if an affordable housing permit fee waiver program is developed that it be structured to be used in conjunction with other incentives.

The City charges fees at the time of application for a building permit. These fees cover the City’s cost for review and inspection of the development. They typically represent slightly less than 1% to 1.5% of the construction value of a project. Using recent developments the chart in Attachment A models the effect of the proposed permit fee waiver, the PTE and TIF waiver for affordable housing were applied to these projects. Note that this is an illustration only and that none of these projects were assessed all these fees, nor have they requested the PTE. The top three developments are all private, conventionally financed developments. For purposes of this illustration staff has assumed that they were being built in a station area and subject to the requirement that 20% of the units be affordable. The two projects at the bottom of the table are being developed by non-profits or governmental organizations. These entities are already exempt from property tax and thus the PTE does not provide a special benefit.

**New Construction Only or Remodel/Renovation?**

A significant element of the City’s Housing Strategy involves preserving existing affordable housing. Recent examples of this include the King County Housing Authority’s properties such as the Westminster, 18026 Midvale and Paramount House, each of which have had significant renovation work done. These preservation and renovation projects are typically financed with public funding. This comes in the form of grants, subsidized low cost loans or tax credits. When the Housing Authority purchased the Westminster, the City provided CDBG funds, and the renovation of 18026 Midvale was funded with grants from the federal government. Staff recommends that if an affordable housing permit fee waiver program is developed that it be applied to renovation projects where the owner/developer is able to provide long term guaranteed assurances of affordability.

**Application in Mixed Income Developments**

If this waiver is intended to apply in the Station Area it will apply to mixed income projects. Should this waiver apply to all units, as does the PTE or just to the units meeting income targets? The PTE, which is available in the Station Area, is structured so that a developer meeting the affordability requirements is able to apply the PTE to the entire building. The policy intent is to assist and stimulate the development of affordable housing. As such, staff recommends that the waiver, if applied at all, only apply to units that meet affordability guidelines. Thus in the Station Area the 20% of units built that meet affordability standards would be eligible for this waiver.

**RESOURCE/FINANCIAL IMPACT**

The chart in Attachment A, illustrates the range of potential costs to implement this program. At the high end 100% of the City imposed fees would have been waived for Ronald Commons at a cost to the City of \$96,218. If the waiver were applied to the private developments to be built under the Station Area regulations the cost ranges from \$147/unit to \$190/unit. Using these developments as an example and assuming that the waiver applies to just 20% of the units, this equates to foregone revenue of \$21,000 - \$28,500 for a 150 unit building. Development of even all three of these prototype projects would result in foregone revenue of approximated \$150,000. The City's overall permit revenue has averaged \$1.29M per year in the past three years. In this unlikely event this would equate to roughly 12% of total fee revenue.

In the past decade, there has only been one new housing development, Ronald Commons that would meet the 100% waiver threshold. Prior to that Compass Housing's Veterans Center constructed over 10 years ago was the next most recent project that would have met this threshold. Given the nature of the affordable housing development market, it is unlikely that Shoreline would be home to another such development in less than five years. These projects take a minimum of three years to pull together and are very visible as they go through the funding and review process. Should there be concern that the waiver will have a significant impact on overall permit revenues there will be sufficient time to evaluate and to adjust to this circumstance.

There are also several ways that the financial impact of this program can be either limited or moderated if the program is adopted. These include placing a cap on the fees waived annually, adjusting the percentage of fees waived or limiting the program to housing at 60% AMI and below. Staff does not see the need to further mitigate any impacts this would have but seeks Council's direction as to limits for this waiver program.

**SUMMARY**

In implementing a fee waiver program the Council is being asked to consider a number of elements to such a program. Should Council wish to proceed with development of this program, the Planning Commission will review and recommend a final proposal reflective of Council's direction.



The overall policy goal of the proposed program is to apply the waiver in such a way as to support and encourage the development and retention of housing that is affordable to households earning at least up to 60% of AMI. This discussion also presents the option of extending this program to affordability levels of 80% of AMI, which would allow its application to mixed income developments within the Station Area. Such a program may operate with other incentive programs. There appears to be little need to limit the applicability of this waiver to non-profit entities as the City's interest in long term affordability will be secured by recording documents that run with the property.

In summation, staff recommends that Council initiate an affordable housing fee waiver program that:

- has a 60% AMI threshold for affordability,
- is available to both non-profit and for-profit developers,
- can be used in conjunction with other affordable housing incentives,
- can be used for both new construction and remodels/renovations,
- only applies to units that meet the affordability requirements and not to the entire development if some of the units in a development are market rate, and
- is available citywide.

### **RECOMMENDATION**

Staff recommends that Council discuss the affordable housing fee waiver program and refer this matter to the Planning Commission for a public hearing, review and recommendation of the affordability level and other conditions for application of a fee waiver for affordable housing.

### **ATTACHMENTS**

Attachment A: Comparison of Fee Waivers, Impact Fees and PTE Incentives