



Linda Maio
Councilmember District 1

ACTION CALENDAR

December 18, 2007

To: Honorable Mayor and Members of the City Council
 From: Councilmember Linda Maio and Councilmember Laurie Capitelli
 Subject: Fee Deferral Request: 1800 San Pablo Avenue

RECOMMENDATION

Approve a deferral of permit fees and sewer fees for the approved 51-unit condo project at 1800 San Pablo (at Delaware) until completion of construction, on condition that the developer pay 6% interest on the amount of the deferred fees, and that the debt be secured by a deed of trust on a property owned by the developer subject to the Manager's approval.

FINANCIAL IMPLICATIONS

The amount of the fees to be deferred is \$315,588. This includes \$99,990 in sewer connection fees that are not normally deferred per BMC, plus permit fees, filing fees, fire plan check, toxics plan review, technology fee, sustainable development and Title 24 for an estimated total of \$315,588. This amount, plus 6% interest, would be payable fifteen days after the project receives its occupancy permit. Note, the inclusionary in-lieu payment for this 51-unit condominium project would generate approximately **\$1.1 million to the Housing Trust Fund.**

CURRENT SITUATION AND ITS EFFECTS

1800 San Pablo is a 51 unit mixed-use project located at San Pablo and Delaware. The project is well designed, stepping back considerably toward the neighborhood and was approved without a State Density Bonus several years ago. The permit must be executed soon. The applicant made a number of concessions to the neighbors that were costly, and the confluence of that and increases in construction costs has delayed the project.

Staff has been working with the applicant and brought the emergency need for a permit fee deferral for this project to our attention recently. The applicant, Said Adeli, is at a critical stage in realizing this project and, although he has been able, finally, to acquire financing he is unable to cover building permit fees until point of sale of the condo units. **He faces losing a considerable investment he has made in predevelopment expenses if he cannot pull a building permit and quickly get under construction.** Mr. Adeli has paid \$122,580.35 in plan check fees and owes an estimated \$315,588 in additional permit fees.

Note, this project will pay an in-lieu fee of \$1.1M rather than providing the 20% inclusionary units. Building permit fee deferrals have not been granted in the past for projects that do not

build affordable units on site. However, the in-lieu fee option should be considered interchangeable with building the units.

BACKGROUND

The Zoning Adjustments Board approved this project on May 13, 2004. The applicant subsequently decided to change the project to condominiums. The project is eligible to pay an in-lieu fee to the Housing Trust Fund rather than supplying ten inclusionary units on site because he did not receive a density bonus. Mr. Adeli has chosen to pay the in-lieu fee. These fees become due when units are sold. Staff estimates that the project would generate in the range of \$1.1 million in in-lieu fees, with the overall amount depending on actual sales prices when the units are sold.

Some circumstances apply to this project that make a fee deferral desirable:

A· During the application review process, the applicant reduced the size of the project from 55 (43 1- bedroom and 12- 2-bedroom) to 51units (3 studio, 36 1-bedroom and 12 2-bedroom and increased the number of parking spaces from 50 to 67 to address neighborhood objections. The size of the building is somewhat smaller and more respectful of its neighbors than the maximum envelope allowable on the site.

B· Since the developer did not request a density bonus, he was eligible to pay in-lieu fees for the required condominium inclusionary units. When the units are sold, they will yield approximately \$1.1 million for the City's Housing Trust Fund.

C· **The building permit application has been extended three times and currently expires on December 21, 2007. The developer has paid for plan check and the building permit is ready to be issued.**

D· A bank has committed funds to construct the project but will not cover certain soft costs, including the permit fees. The bank has also assigned a bank-approved construction manager to the project. With banks reducing commitments in the wake of the sub-prime lending crisis, the bank could abandon its financing if the developer does not start construction.

Given these circumstances, and because the building is of reasonable size and well-designed, it is in the City's interest that the project receive its building permit and start construction. If the fee deferral is not granted, the applicant may be forced to sell the project and lose much, if not all, of the equity he has invested in it. If he is forced to sell his land and entitlement, a new purchaser may well decide to invoke the State Density Bonus law and additional density and further controversy with the neighborhood would be the result.

CONTACT PERSONS

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