STAFF REPORT

MEETING DATE: September 23, 2024

AGENDA ITEM TITLE: Discussion Regarding Acceptance of a Deed-Restricted ADU to satisfy the Inclusionary Housing requirements for Minor Subdivisions

AGENDA SECTION: Work Session

Currently, upon approval of an application with five (5) or fewer lots or units that triggers compliance with the City of Salida Municipal Code, Article VIII, Inclusionary Housing requirements, the developer has two options for compliance:

a) Build and deed-restrict (for both income and workforce) a primary unit within the development; and
b) Pay a fee-in-lieu of building a deed-restricted primary unit based on the current fee schedule.

Per the request of Planning Commission, this memo provides possible criteria for a program that offers a third option: to allow a built income and workforce deed-restricted ADU to meet the IH requirements for projects of 5 or fewer lots or units. Additionally, staff has provided a basic assessment of another option that Planning Commission may want to consider for projects of 5 or fewer lots or units – a workforce-only deed restriction on a primary unit.

A potential ADU restriction program to meet IH requirements for developments of 5 or fewer lots or units:

Opportunities identified:

1) For a development of 5 or less, it is an opportunity to provide a built unit rather than receiving a fee-in-lieu. Built units are preferred over fee payments.

Challenges identified:

1) Timing of the delivery of the restricted ADU. Ensuring the development builds a restricted ADU is probably the biggest challenge. This is due to two primary reasons – the timing of permits / certificates of occupancy (CO's), and the potential challenges of a lot owner to finance building both a primary unit and ADU at the same time. The lot owner may have the best of intentions, but if they

are unable to obtain financing to build both units, it affects the Inclusionary Housing commitment for all of the lot owners in the development. Once a primary unit receives its CO, there's no administratively realistic way to claw-back a fee-in-lieu payment. If that primary unit was relying on the commitment of an owner of a different lot to build the restricted ADU that covered all the lots, and then the financing didn't work, there's no realistic way to go back and get the FIL payment.

We've thought about requirements to 'front-load' the ADU. It would take some administrative coordination with the County Building Department that is potentially feasible, but the biggest challenge would be to the developer. The first lot would have to contain a primary home and ADU, and receive CO before any other lot could receive CO. This scenario is possible but would be an extra challenge to the developer when selling those lots.

2) <u>Conflicts with the Inclusionary Housing Ordinance.</u> A program such as this goes against some requirements of our current Inclusionary Housing requirements, and one of the primary tenets of the general purpose of Inclusionary Housing Programs, in that the unit does not create parity with the other units in the development, such as:
   a. It creates a rental opportunity only, whereas the development would presumably be for-sale units.
   b. An ADU is a subordinate unit to a primary, so this is creating a "less-than" unit for the workforce / affordable unit, rather than parity across units.

   To this end, staff would suggest an ordinance such as this contain Design Standards for the ADU that make it more on par with primary units both visually and functionally. Such as:
   a. Interior staircases only.
   b. Minimum of one bedroom.
   c. Minimum size (maximums would still apply).
   d. Windows on all sides.
   e. Appliances, kitchens, and HVAC that are functionally equivalent to the primary unit.
   f. Require a minimum amount of preserved outdoor space for the ADU tenants.

3) <u>Administrative challenges to ensuring compliance with the deed-restriction.</u>
   There are challenges to ensuring compliance when the property being rented is in someone's backyard. However, it is in this specific area that we find a handful of examples around the state that we can learn from. The Municipal Code can leave the detailed rules of managing this program and requirements to ensure

compliance to CHA's Housing Guidelines - a living document that can be modified to meet current needs and challenges without having to modify Municipal Code.

A potential workforce-only *primary unit* deed restriction (i.e. non-income based workforce housing) to meet IH requirements for developments of 5 or fewer lots or units:

Note: Non-income based workforce housing was approved for 25% of the units in South Ark, but that was on top of a 50% requirement for Income-restricted workforce housing.

Opportunities identified:

1) For a development of 5 or fewer lots or units, it is an opportunity to provide a built unit rather than receiving a fee-in-lieu.
2) The unit would meet the parity requirements of the IH ordinance.
3) Less onerous administration and enforcement

Challenges identified:

1) Timing of provision of the restricted unit. While this was also a challenge in the ADU program, it is less of a challenge in this scenario. Because it is a single primary unit, presumably the financing challenge should not be as big of a hurdle. There would also not need to be the same sort of coordination with the building department on the timing of issuing a CO. However, the timing is still an issue. The restricted unit would likely need to be the first unit CO'ed, since collecting an FIL deposit is likely not practical – it would be tens of thousands of dollars the City would hold, the return of which would be reliant on *someone else* building and CO'ing the deed restricted unit – which could lead to very difficult situations between neighbors.

2) Community Buy-in. This type of deed restriction is popular in other mountain community housing markets where housing is even more expensive and virtually none of the workforce can afford to buy a home. Is the market in Salida at a point where this would be useful to the workforce? How might the community feel if IH commitments allowed units that have no income-restriction to them?
   Not easily comparable to communities with similar programs, since so reliant on local housing markets. I.e., when looking from the outside in, one can look at expensive communities where this already occurs and, as an outsider, be shocked at the cost of what is 'workforce' housing. But if the restriction is in place and the owner/developer has any intention of renting or selling the property, the price is effectively determined by what the workforce is willing to pay, whether or not that price 'shocks' onlookers.