



Briefing Memo

HOUSING and NEIGHBORHOOD DEVELOPMENT DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: Lani Eggertsen-Goff, Deputy Director, Housing and Neighborhood Development Division, (801) 535-6240, lani.eggertsen-goff@slcgov.com, and Tony Milner, Housing Project and Policy Manager, Housing and Neighborhood Development Division, (801) 535-6168, tony.milner@slcgov.com

Date: March 21, 2019

Re: PLNPCM2019-00070, Revisions to Ordinance 18.97, Mitigation of Residential Housing Loss

Ordinance Revisions

PROPERTY ADDRESS: Citywide
PARCEL ID: Citywide
MASTER PLAN: *Growing SLC: 2018-2022, A Five-Year Housing Plan, and the Council's 20 Guiding Principles on Housing Development*
ZONING DISTRICT: Citywide

ACTION REQUIRED: City Staff is seeking input from the public and Planning Commission regarding proposed changes to the housing mitigation ordinance. No formal action is required by the Planning Commission at this time.

REQUEST:

The City's Housing and Neighborhood Development Division (HAND) is proposing revisions to code 18.97, Mitigation of Residential Housing Loss.

The purpose of the revisions is to:

- a. Clarify the ordinance language to focus on the net loss of housing, from residential to non-residential use that would result in a net loss of dwelling units and;
- b. Simplify replacement parameters or fee assessment processes.

HAND is pursuing this update for the citywide ordinance to more effectively mitigate future net loss of housing. The loss of residential use (housing) can cause displacement of residents and increase pressure on the housing market. HAND held an Open House on February 21, 2019 and is now seeking input from the Planning Commission toward future action by the Planning Commission and City Council.

BACKGROUND:

This proposed ordinance revision will address the impacts of housing units being demolished and replaced with non-residential development.

It is important to note that housing replacement is not currently occurring in significant numbers. In 2017, there were 5 housing units demolished and not replaced with housing. However, as shown in both the research behind Growing SLC and a recent report by the Kem C. Gardner Policy Institute “What Rapidly Rising Prices Mean for Housing Affordability,” there is an ongoing housing shortage and housing supply is not keeping up with demand, putting more pressure on housing costs.

Given the shortage, loss of housing must be taken seriously and mitigated. The current ordinance is supposed to mitigate the loss of residential units. However, there are several fundamental flaws which need to be addressed in order for it to be effective. Addressing the issues outlined here will place the City in the best position to mitigate future loss of housing which can cause displacement and increase pressure on the housing market.

Current Procedure – Mitigation of Residential Housing Loss (18.97)

The current ordinance and process flow is structured this way:

Step 1

A petitioner applies for a demolition permit with Building Services. The mitigation loss process is triggered if any of the following are included in the petitioner’s application:

- a. Petition to demolish one or more conforming residential units,
- b. Request for a conditional use permit for parking in a residential or mixed-use zone, or
- c. Request for a zoning change from residential to non-residential on a parcel that includes housing units.

Step 2

The Petitioner prepares a “Housing Impact Statement” (18.97.020.C) and Planning staff is assigned to review the petition and impact statement to determine whether or not housing stock will be adversely affected by issuing the demolition permit.

Step 3

If it is determined that housing units will be lost, then the petitioner must select one of the following options to mitigate that loss (18.97.030):

- a. Construct replacement housing,
- b. Pay a fee based on the difference between current housing value and replacement cost, or
- c. In the case of unintentionally deteriorated housing, pay a flat fee.

The staff in HAND worked to identify and address the ongoing loss of housing stock in the city, in coordination with Planning Division staff, Building Services Division staff (Civil Enforcement and the HAAB Board, and Development Review Team). This group had the goal of identifying measures that would improve City ordinances and result in a decrease of loss of housing units.

These measures are supported by *Growing SLC: 2018-2022, A Five-Year Housing Plan* and the Council’s 20 Guiding Principles of Housing Development.

PROPOSED ORDINANCE CHANGES

HAND is seeking to revise the ordinance with the following considerations:

1. Revise language and process to focus on the change of use from residential to non-residential use.
2. Remove the term “affordable,” because it is not defined in current language. Additionally, HAND is encouraging all housing demolition permits and other permits that would change from residential use to non-residential use be required to undergo evaluation for any potential loss. If housing loss mitigation for the removal/demolition will result in any residential unit loss, a Housing Mitigation Plan will be required.
3. A building permit will be the mechanism to determine if there is a requirement for a Housing Mitigation Plan.
4. If a Housing Mitigation Plan is required, it will be submitted to the Building Services Division (Civil Enforcement Manager), rather than the directors of Planning or Community and Neighborhoods, as in the current ordinance.
5. Expand exemptions to include:
 - Is not a net loss of residential dwelling units; or
 - Is not a permitted or conditional use in the zoning district as listed in 21A.33 Land Use Tables; or
 - Is replaced by other uses through an adaptive reuse process.
6. Expand options for replacement housing by including placement in areas of the city with an equivalent or higher Opportunity Index score.
7. Replace the ineffective fee structure with a simple calculation. Utilize the current fair market value of the housing units planned to be eliminated or demolished multiplied by .04 (4 percent). The formula will be listed in the Consolidated Fee Schedule and updated as the CFS updated, usually annually.
8. Simplify the process for the HAAB board to review and make determinations on Housing Loss Mitigation Plans.

CONSIDERATIONS:

The following topics have been identified through the analysis of the process, during the preparation of the Growing SLC Plan Objectives, and through public comment.

A. Removing the term Affordable:

If the ordinance is to focus more narrowly on the loss of affordable housing, this term would need to be clearly defined. While this typically refers to income-restricted units, the more pressing current problem in our community is the pressure on “naturally occurring affordable housing” which is unprotected by deed restrictions and much harder to define.

Given the way that the policy has been enforced, HAND’s recommendation is to keep it more broadly focused on the loss of housing. HAND recommends that City Council consider and provide input on whether there is a need to proactively create additional policies around loss of affordable housing and/or condo conversions. Should there be interest in either of these policies, HAND would bring them back in a separate presentation.

B. The revised fee structure:

Prior to 2012, proposed residential demolitions without residential reuse plans in place went to HAAB for review and approval. Unfortunately, no calculations were prepared for presentation to the HAAB board. Since 2012, there have been 14 plans created, representing 17 residential units that have gone through the process described in 18.97.030, Options for Mitigating Residential Loss. Two of the 14 plans had no fee calculations included, and of the total only three cases resulted in a fee payment.

HAND staff could not find any examples of constructing replacement housing of the above 17 properties. All cases that selected to pay the fee based on the difference between current housing value and replacement cost resulted in a negative calculation, and thus produced no fees for the City. The three cases which selected the flat fee option generated a total of \$9,967.

C. Role of Civil Enforcement Manager and HAAB Board:

Concerns were voiced about perceptions of Civil Enforcement staff and HAAB Board required for review of each Housing Mitigation Plan. The written comments that were received via email can be provided if desired.

DISCUSSION:

1. Current ordinance is inefficient, there has been no evidence that the Housing Mitigation Plans and fee have resulted in a net increase in funds for the Housing Trust Fund or reduction in number of units lost since 2012.
2. Affordable – Community and Neighborhoods Director supports mitigation for any housing/residential unit loss. Affordable is defined in separate ordinance language for affordable qualifications, for example in Impact Fee Exemption and Non-Profit Building Permit Fee Waivers (Section 18.20 Permits and Inspections)
3. Legal – Land Use issue, Planning Commission and public process. The current ordinance language has been shown to be problematic, specifically related to property rights.

NEXT STEPS:

1. HAND Staff will consider the feedback received from the Planning Commission, and the public hearing March 27, 2019, and update the proposed revisions to 18.97 accordingly with our attorney.
2. HAND Staff will provide an updated briefing document that will be brought to the Planning Commission for a public hearing and review by the Planning Commission. We anticipate a recommendation from the Planning Commission can then be provided for the City Council.
3. Proposed ordinance changes would then be transmitted to the City Council for review and final decision.

ATTACHMENT:

Redlined Ordinance Draft