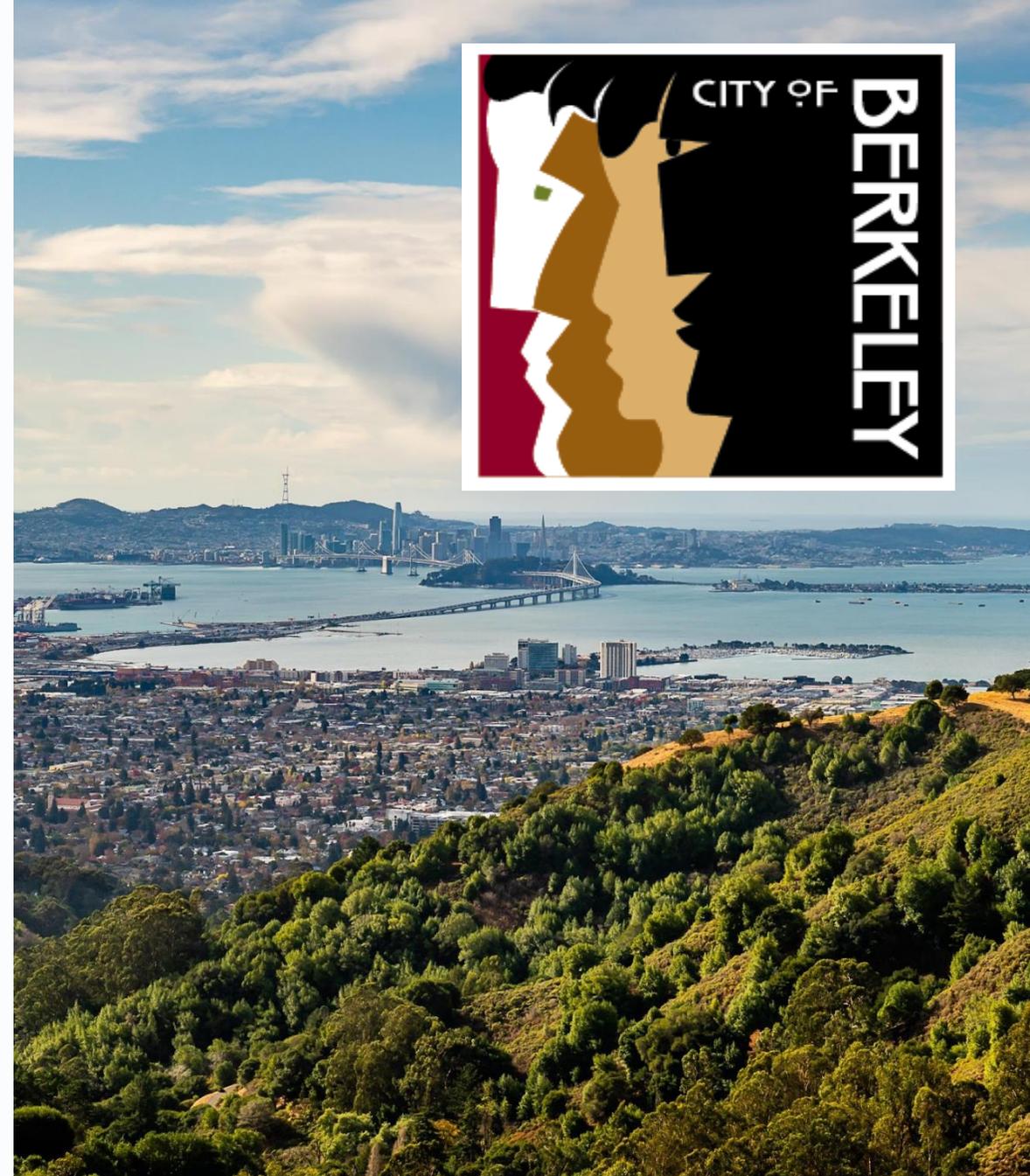
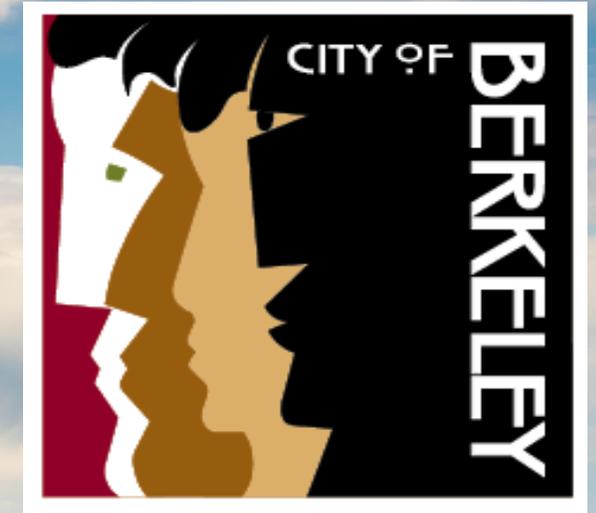


In-Lieu Fee Recommendations

February 25, 2025

Health, Housing, & Community Services
Planning & Development

Strategic Economics
Street Level Advisors



Agenda

Introductions

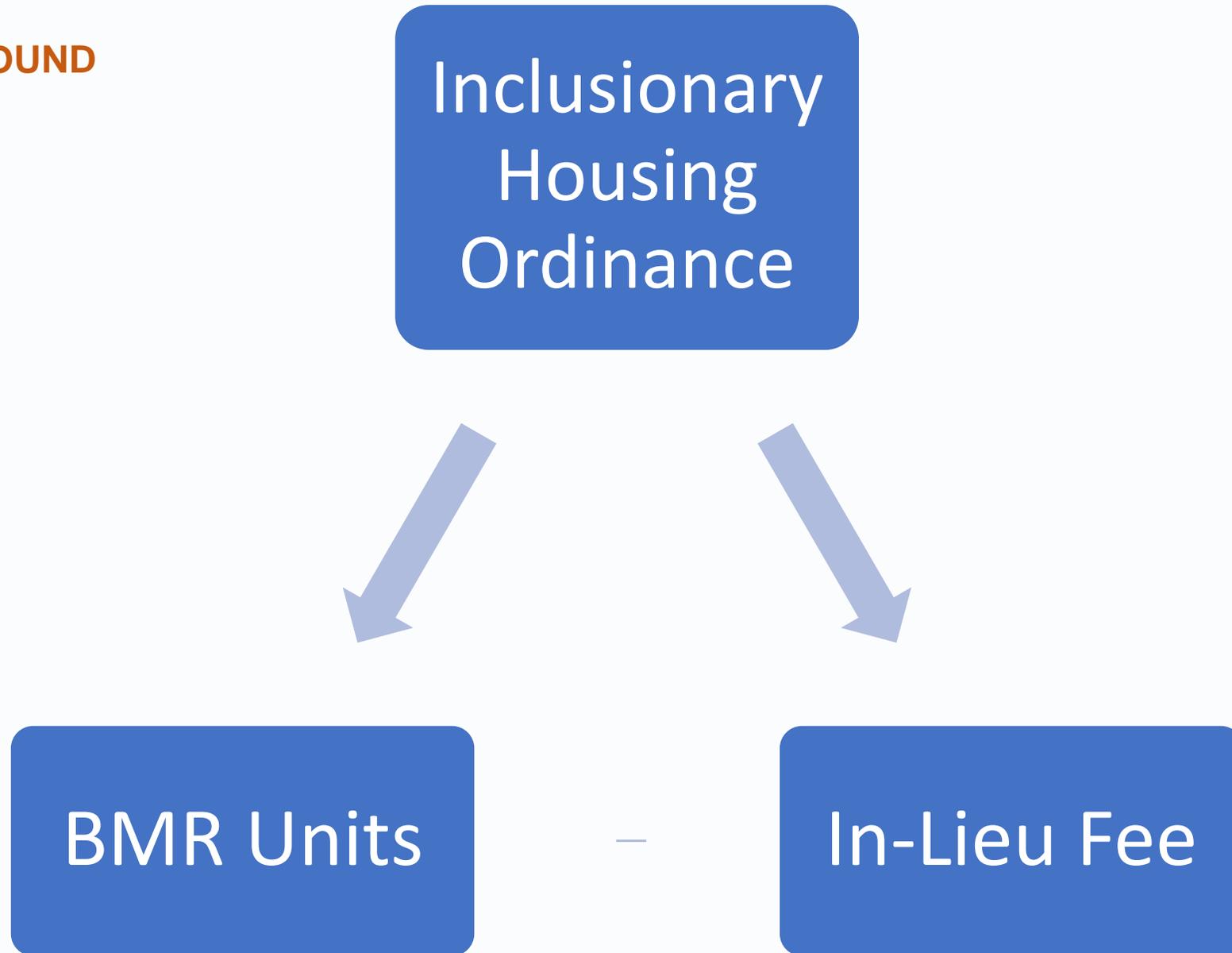
Background

Goals

Findings & Recommendations

Questions

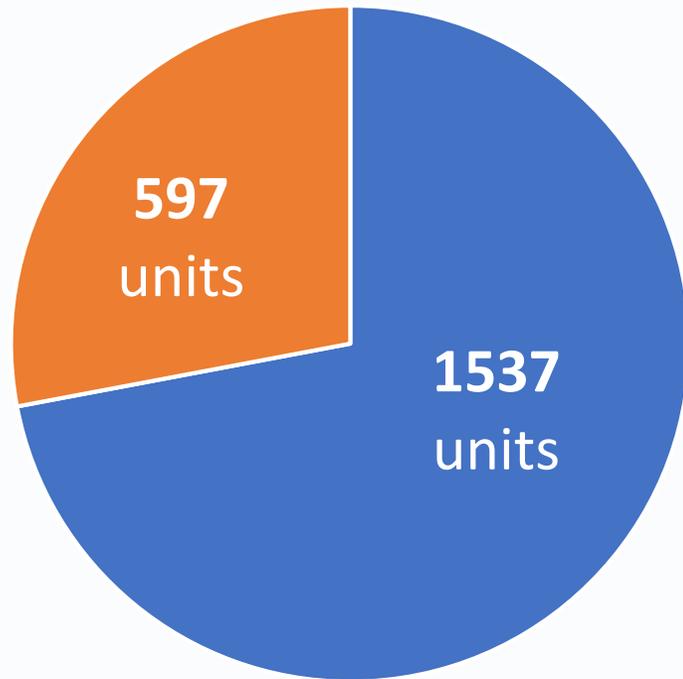
BACKGROUND



BACKGROUND

Berkeley's Affordable Housing Portfolio

Affordable Housing by Type



- Subsidized Units (HTF)
- Unsubsidized Units (BMR)

Local Sources

- **Housing Trust Fund**
AHMF/In Lieu Fees
CHMF
Condominium Conversion Fees
HOME Funds
- **Tax Measures (P, U1)**
- **Bond Measure (O)**
- **State PLHA and LHTF**

BACKGROUND

Feb 2023 IHO Revisions

- Ownership and rental fees coordination
- Square footage In-Lieu Fee (RUFA)
- Covid/Inflation consideration
- Tiered fee + 5,000 sq ft exemption\
- Direction to Conduct Residential Feasibility Study

Current Fee Policy	
12,000 sq. ft. or more	\$56.25
11,000-11,999 sq. ft.	\$53.75
10,000-10,999 sq. ft.	\$51.25
9,000-9,999 sq. ft.	\$48.75
8,000-8,999 sq. ft.	\$46.25
7,000-7,999 sq. ft.	\$43.75
6,000-6,999 sq. ft.	\$41.25
More than 5,000-5,999 sq. ft.	\$38.75
Less than 5,000 sq. ft.	\$0.00

Purpose of Study

- **Analyze the In-Lieu Fee**
- **Recommend fee levels & policy options**
- **Incorporate HARD HATS, Bird Safe Building impacts**

BACKGROUND & REVIEW

Policy Goals

Continue producing affordable housing

Support the financial feasibility of the housing market

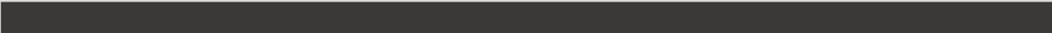
Offer flexibility

Promote Middle Housing product types

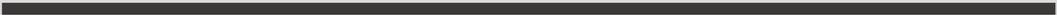


Study Findings and Recommendations

Findings and recommendations were previously discussed at a May 2024 City Council worksession



Findings



Used Multiple Approaches to Assessing In-Lieu Fee Adjustments

Financial Feasibility Analysis

Examined 7 development prototypes of different sizes, densities, heights, construction types, tenures

Maximum Fee Level Analyses

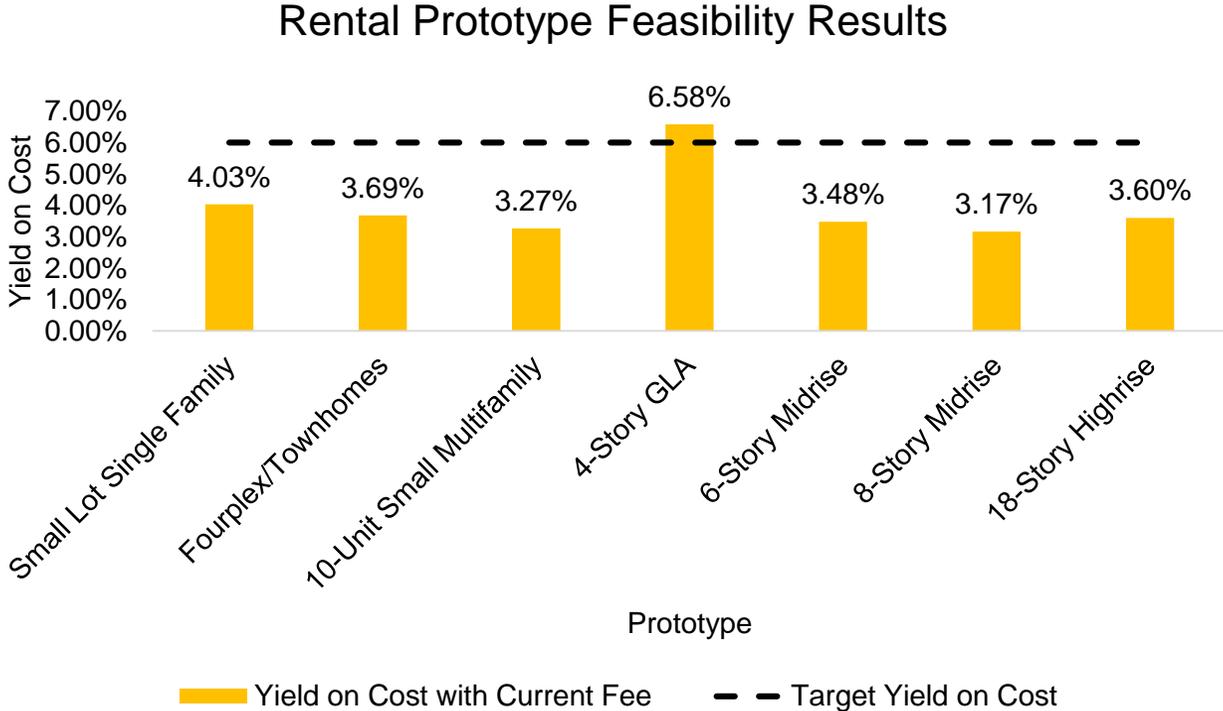
Examined potential maximum reasonable fee levels through three additional metrics

Peer Cities

Reviewed fees and policies in nearby communities

Current development conditions limit the rental prototypes' feasibility

- Only the 4-Story GLA is feasible under current development conditions and the current in-lieu fee

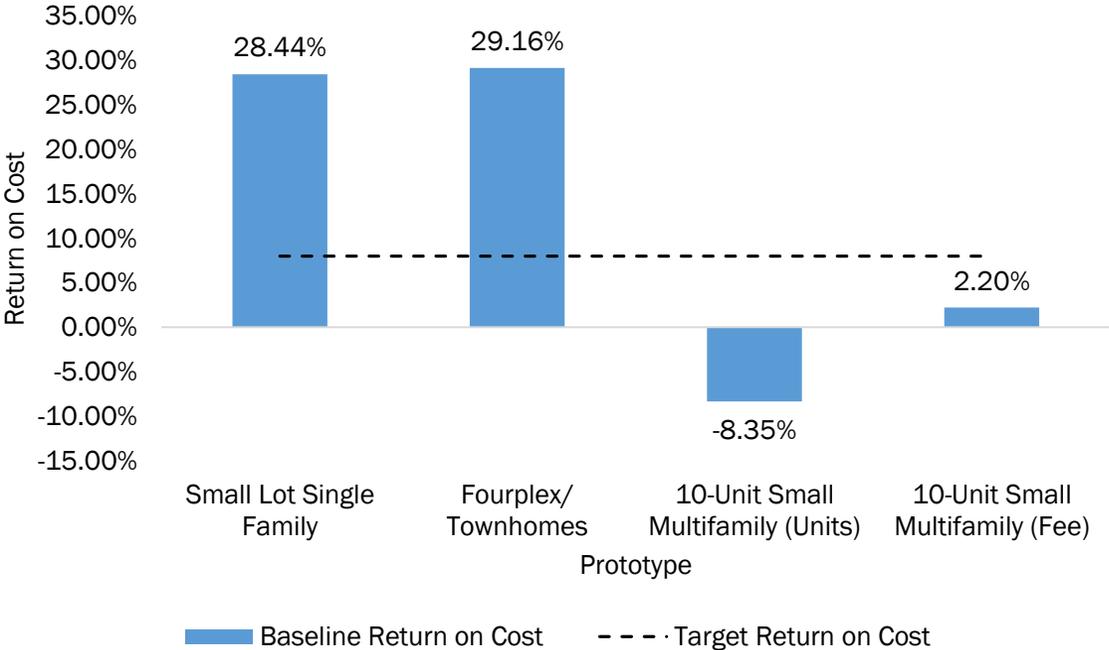


Source: Strategic Economics, 2024.

Some ownership Missing Middle products are currently feasible, but face other challenges

- Feasible:
 - Small Lot Single Family
 - Fourplex/Townhomes
- Feasibility supported by high sales prices as a luxury ownership product
 - BUT, challenged by limited site opportunities and pool of developers pursuing small projects
- Infeasible:
 - 10-Unit Small Multifamily

Ownership Prototype Feasibility Results



Source: Strategic Economics, 2024.

Maximum reasonable in-lieu fees range from \$59 to \$118 per square foot

- Affordability gap: comparable to cost of meeting inclusionary requirement
- Production cost affordability gap: cost gap to produce an affordable unit
- Local contribution: average City contribution to produce an affordable unit

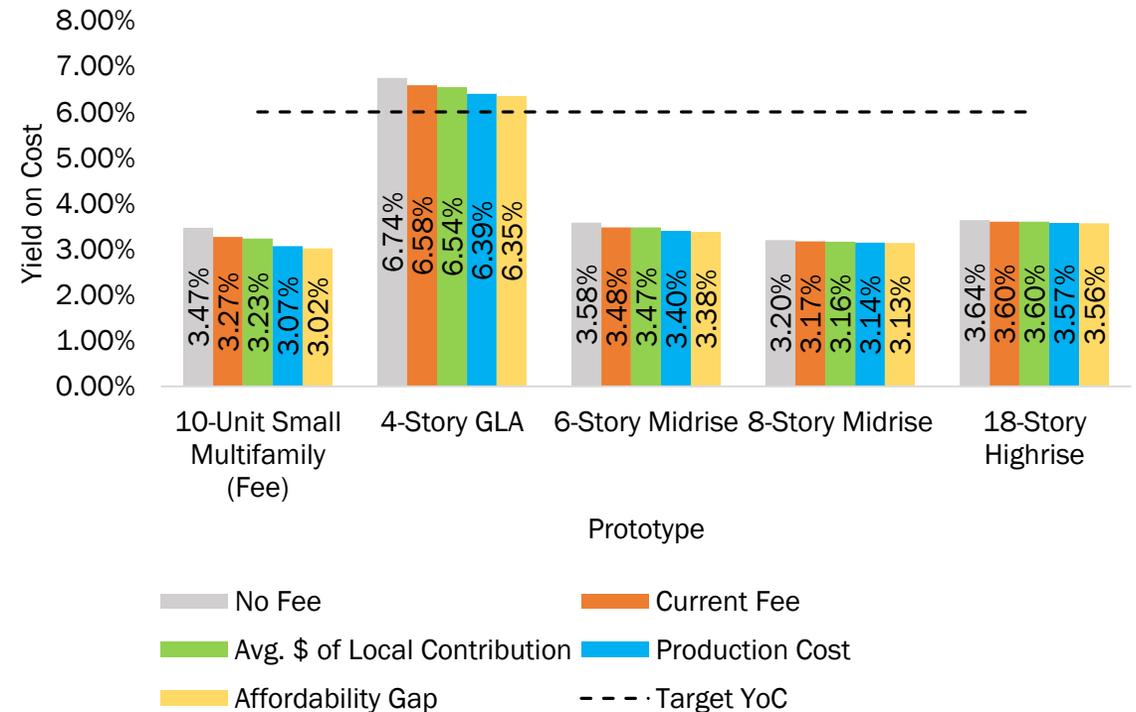
In Lieu Fee Results by Approach			
	Affordability Gap	Production Cost	Local Contribution
Average per Unit	\$388,374	\$342,432	\$193,348
Average per Square Foot of Market Rate Project RUFA	\$117.69	\$103.77	\$58.59

Source: Strategic Economics, 2024.

Market conditions limit feasibility for most residential prototypes, regardless of fee level

- All but the GLA prototype are infeasible even without the fee
- Infeasibility driven by elevated construction & financing costs and slower rent growth
- The impact of the in-lieu fee is low for Density Bonus projects
 - Fee is only charged to non-bonus square footage
 - Fee is prorated for remaining obligation above the mandatory on-site BMR units

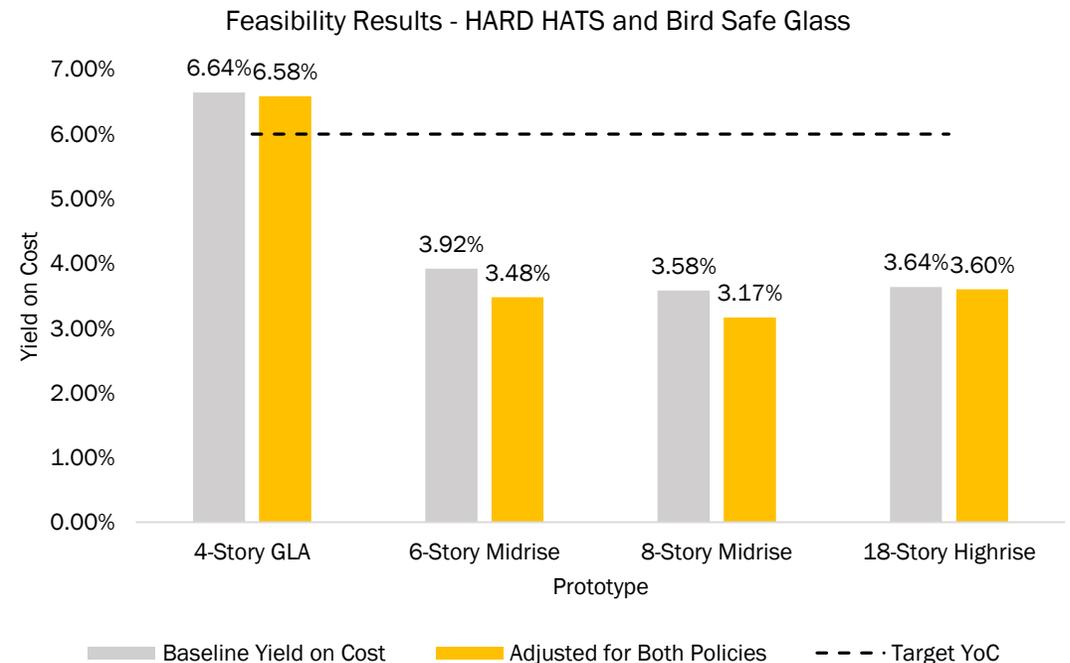
In Lieu Fee Analysis Sensitivity Results



Source: Strategic Economics, 2024.

Findings and follow-up work for HARD HATS

- HARD HATS:
 - Applies to 50,000+ sq. ft. projects
 - Requires contractors to make health care contributions and satisfy apprenticeship requirements
- Original research found potential 18% to 25% increase in hard cost component of projects for *midrise projects currently*
 - Minimal cost impact on high rise
 - HARD HATS is *not* main driver of infeasibility
 - Apprenticeship requirements are readily met
 - Health care prequalification currently limits the pool of contractors; this may change over time
- Suggest assessing the policy's impact when development conditions improve and projects move forward



Source: Strategic Economics, 2024.

Considerations for adjusting the in-lieu fee level / policy

- Most of the tested prototypes are currently infeasible
 - Most prototypes cannot support current in-lieu fees
 - BUT, in-lieu fees are not the primary driver of feasibility challenges
 - Some projects still developed due to unique circumstances
- In-lieu fees are a critical source of affordable housing funding
- Developments that pay the full fee—typically smaller and Missing Middle projects—are more sensitive to changes in fee level
- Most larger projects pay a prorated fee to satisfy remaining inclusionary requirements; these projects provide on-site BMR units to receive State Density Bonus

Study Recommendations

Apply the same in-lieu fee to all residential development projects

- Eliminate the phased in fee for projects between 5,001-12,000 sf

Current Fee Policy		Recommended Fee Policy
12,000 sq. ft. or more	\$56.25	First 5,000 square feet are exempt from the fee \$56.25 fee applies to all square feet above 5,000 Exemption does not apply to any project choosing “mixed compliance” of providing on-site inclusionary and fee payment
11,000-11,999 sq. ft.	\$53.75	
10,000-10,999 sq. ft.	\$51.25	
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Exempt the first 5,000 sf of RUFA for projects paying full in lieu fee

- This exemption supports the production of Missing Middle housing, as these project types are less likely to be providing on-site units to gain access to the Density Bonus
- This reduces the fee per square foot of project area for these development types
- Projects that select mixed-compliance, would pay a residual fee based on the full RUFA (no exemption)

Current Fee Policy		Recommended Fee Policy
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Maintain the existing \$56.25 maximum fee level as the universally applicable fee

- While the fee could justifiably be increased, maintaining the current maximum level supports the production of new housing by not increasing the fee when market conditions are challenging
- This fee level is approximately equivalent to the City’s direct contributions to the cost of leveraging an off-site affordable housing unit
- Therefore, maintaining the fee at the current maximum allows the City to continue supporting off-site affordable developments

Current Fee Policy		Recommended Fee Policy
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Continue to adjust the in-lieu fee based on the California Construction Cost Index

- Regular adjustment of the fee increases the likelihood that the revenue collected will continue to support a comparable number of affordable units in future 100 percent affordable housing projects.
- The in-lieu fee increases every two years since its last adoption in 2023; the next increase is proposed to still occur July 1, 2025

Include a provision in the resolution dedicating 80% of Very Low-Income Units for Section 8 and Shelter Plus Care voucher holders

- Resets the voucher distribution to the original level adopted under the AHMF ordinance
- Supports displaced households under the preference policy and non-voucher income qualifying households

Commission Recommendations

Commission Recommendations

Housing Advisory Commission

- Supported staff's recommendation with:
 - Excluding detached homes from the 5,000 square feet exemption
 - Conduct an economic feasibility study within three years of Middle Housing zoning amendments

Planning Commission

- Supported staff's recommendation

Summary of Recommended Actions

BACKGROUND & REVIEW

Recommendations

Recommend the City Council take the following actions:

- Adopt a Resolution setting the Inclusionary Housing in-lieu fee at \$56.25 per square foot of the Residential Unit Floor Area (RUFA) of a Housing Development Project; and
- Include a provision in the resolution to allow a project paying the full in-lieu fee instead of providing Affordable Units to deduct 5,000 square feet from the RUFA calculation in order to continue to exempt projects under 5,000 square feet in full and proportionally reduce the fee for projects above 5,000 square feet; and
- Include a provision in the resolution dedicating 80% of very low-income Units for Section 8 and Shelter Plus Care voucher holders; and
- Include a provision in the resolution to adjust the fee biennially by the Construction Cost Index (CCI) starting on July 1, 2025; and
- Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 23.328 (F) to remove the exemption for projects with 5,000 square feet or less of RUFA.



Questions

