

**Board Report**

File #: 2021-0192, **File Type:** Policy**Agenda Number:** 15.

**PLANNING AND PROGRAMMING COMMITTEE
JUNE 16, 2021****SUBJECT: JOINT DEVELOPMENT POLICY UPDATE****ACTION: ADOPT UPDATED JOINT DEVELOPMENT POLICY****RECOMMENDATION**

ADOPT updated Joint Development Policy (Attachment A).

ISSUE

In order to strengthen Metro's response to the housing crisis, staff recommends adoption of the updated Joint Development (JD) Policy which will increase the effectiveness of delivering JD projects and supporting equitable transit-oriented communities (TOCs). To inform the recommended JD Policy update, staff consulted key stakeholders, researched best practices, and analyzed the pipeline of future JD sites using a custom financial model, all of which informed a Joint Development Affordable Housing Policy Paper (Policy Paper) which was presented to the Board in January 2021. The findings of the Policy Paper informed a virtual community event with over 300 attendees, an online survey, and additional conversations with key stakeholders, all of which have been reflected in the updated JD Policy (Attachment A). Key changes to the JD Policy are summarized in the Matrix of Changes (Attachment B).

BACKGROUND

The Metro JD Program is a real estate management program that creates partnerships with private sector developers to build developments on Metro properties. The JD Program is guided by the existing JD policy document, the Joint Development Program: Policy ("JD Policy"), which was last updated in January 2017. The Metro JD Program has generated nearly 2,200 units of housing on Metro property to date, more than 1/3 of which are affordable. The number of units will more than double in the next few years bringing more than 1,000 affordable units online. Yet the issue of housing undersupply, affordability and homelessness have only worsened in LA County, and the Metro Board directed JD staff to assess what more Metro could do to address this regional crisis. Staff convened an internal working group, a series of roundtables with external stakeholders, issued several on-line surveys and hosted a Metro Conversations virtual event to broaden public input into the project. In January 2021, staff filed a Policy Paper (Attachment C) with the Metro Board that evaluated the potential policies under consideration. The draft Policy was posted on metro.net from May 7 to June 1 along with a survey to gather feedback and comments.

DISCUSSION

Metro Housing Nexus

As Metro builds out the Measure M transit system, achieving equitable outcomes from this investment will depend in large part on the ability to ensure the availability of affordable housing near the stations. Metro JD provides the opportunity to demonstrate community-driven, equitable development that advances TOC goals. Furthermore, Metro transit investments have the potential to increase land values near transit; in order to protect lower income residents and core riders from displacement and serve vulnerable populations, transit-oriented affordable housing is essential to equitable TOCs.

Policy Update Process

Throughout 2020, JD staff collected more than 150 suggestions for changes to the JD Policy from Board Directors, community stakeholders, advocates, industry experts, and colleagues. Precedent research scanned the national policy landscape for lessons learned and best practices. The tools that could be analyzed quantitatively were tested in a custom financial model that allowed staff to evaluate the impact of potential changes on the feasibility of development on future JD sites. Staff distilled the findings from this research and analysis into a Policy Paper which was delivered to the Metro Board in January 2021 and served as a basis for further stakeholder discussions and feedback.

Outreach

To build an equitable and successful Policy, staff sought input through a variety of stakeholder groups and formats. Key outreach included:

- Roundtable listening sessions with affordable housing and market rate developers, community-based organizations, institutional partners, local government partners, and academics. Participating organizations included UCLA, Abundant Housing, ACT LA, West Angeles Community Development Corporation, Enterprise Community Foundation, Abode Communities, Watt Companies, City of Los Angeles, Thomas Safran Housing, the Southern California Association of Non-Profit Housing (SCANPH), Community Power Collective and Little Tokyo Service Center, among others.
- An on-line survey of existing and prospective development partners, which sought to test the sensitivity of certain policies on project feasibility and invited comments on opportunities to streamline our process.
- Presentations to the Metro Policy Advisory Council, local organizations and neighborhood councils.
- An online comment form and survey soliciting feedback from the public.
- A virtual community event hosted April 7, 2021 to invite feedback on the Policy Paper and spur discussion with stakeholders.

- The public posting of the draft JD Policy for 24 days on Metro.net for review and comment.
- Eblasts to Metro's Joint Development stakeholders with updates on the policy and opportunities for feedback.
- Posting "Frequently Asked Questions" to the website and distributing to stakeholders to provide public responses to questions received.

Portfolio Model

A consultant was retained to assess the impact of various policies on the aggregate potential to develop affordable units on Metro-owned land. Among other things, the model revealed that

- establishing a threshold affordability requirement is feasible insofar as it aligns with local and state density bonuses that increase the development potential of a property;
- discounting Metro property has a diminishing benefit beyond 15%; and,
- because the cost to construct and maintain parking is a major component of development cost, limiting parking can substantially improve project feasibility (and hence the potential to develop more affordable units overall).

Staff used the findings from this model to inform the recommendations that follow. Assuming the implementation of these policies, in the next decade the JD portfolio could expand from its current size of 2,221 units to approximately 10,000 units, approximately half of which would be income restricted.

Staff will report the percentage and total units of the portfolio that is income restricted. Staff considered recommending a new portfolio-wide percentage goal for affordable units. However, staff does not recommend adopting a percentage goal as it may distract from the core need of delivering as many affordable housing units as possible, as quickly as possible. Further, in some cases, the current percentage goal has led to the misunderstanding that each JD project must achieve this goal, when the focus should instead be placed on projects' ability to maximize the number of affordable units near transit. For example, plans to construct 80 units of affordable housing (100% affordable) at one site faltered because there was not enough project revenue to cover the cost to construct over Metro's infrastructure. Today, Metro is negotiating for the construction of approximately 668 units on and adjacent to its property, of which 234 units (35%) would be income restricted. In this, and many other instances, it has been essential to focus not on the percentage of affordable units, but instead on the absolute number that may be delivered.

Policy Changes

After a year of careful analysis, outreach, and consideration, staff has prepared an updated JD Policy that describes the policy tools that best position Metro JD to combat the LA housing affordability crisis on Metro-owned land. The updated JD Policy includes, among other updates, the following key provisions:

Affordability

- Require that all JD sites first be pursued for 100% income-restricted housing. Income restriction guidelines are established each year by the United States Department of Housing and Urban Development (HUD) and published annually by the California Department of Housing and Community Development (HCD).
- HUD guidance determines income restrictions based on county-level area median income (AMI). JD projects will align affordability levels with neighborhood incomes and rents using a Neighborhood AMI analysis.
- Where a 100% income-restricted project is not feasible, require that a minimum of 25% of housing units be affordable to households earning 80% or less of AMI (or an equivalent minimum, to be determined by an affordability score).

Resources

- Adjust the existing policy that allows up to 30% proportional land discount to require that any discount provided is expressed as a dollar subsidy, with no percentage cap, when required for feasibility or specific benefits.
- Limit parking to 0.5 parking spaces per bedroom.
- Prioritize projects where need is highest, and the greatest benefit may be realized fastest.
- Reinvest JD proceeds into TOC activities.
- Use the Metro Acquisition Policy as a general guideline to pursue fair and open competition and seek best value for the public; manage developer solicitation within the JD department.

Unsolicited Proposals

- Only accept unsolicited proposals from developers who bring unique benefit to a Metro site such as adjacent property.
- Consult impacted stakeholders before advancing unsolicited proposals for Board consideration.

Metrics

- Expand the metrics used to track the delivery of affordable homes. The portfolio-wide affordability percentage would continue to be tracked and reported, however the metrics would be expanded to track the total number of units, the speed at which they are delivered, and other outcomes such as job generation and community benefits.
- Analyze outcomes using a program database and tenant surveys.
- Establish a Metro “Housing Lab” to drive innovation around transit-oriented housing and pursue new methods of engagement, financing, and construction in order to deliver projects faster and more equitably.

All of the recommended changes were evaluated in detail in the January 2021 Policy Paper and are summarized in Attachment B.

Proposed TOC Reinvestment

The updated JD Policy would allow for proceeds from JD projects to be reinvested in TOC activities. By strategically leveraging a relatively modest revenue stream, Metro can amplify returns and maximize community benefits. For example, JD revenues could be used to acquire additional property in what might otherwise be a partial take to support a new transit station, and in so doing unlock a transit-oriented development and affordable housing opportunity that might not otherwise be feasible.

Proposed Housing Lab

While delivering on its core program, Metro may also explore housing innovations, on a pilot basis, to test new methods for achieving outcomes quicker, more cost-effectively, and more equitably. This Housing Lab would consist of a partnership with academic and private sector interests, other non-profit partners and/or legal advisors to test and evaluate housing strategies, such as:

- Land banking or community land trusts
- Partnerships with public or private entities to provide equity or debt
- Modular, prefabricated, or 3-D printed units
- Micro units, co-housing, live/work or interim use housing
- Passive house, net zero, or geothermally powered buildings
- Design contests, publications, or speaker series

Updated Policy Applicability and Legal Framework

If adopted, the updated JD Policy would apply to all new JD projects that are not yet in negotiations. While the spirit of the JD Policy may influence deal points that have yet to be determined on Projects for which Exclusive Negotiations Agreements or Joint Development Agreements with developers are in place, key disposition terms or scope definition on several of these projects have already been negotiated and would not necessarily be changed to conform to the updated JD Policy. Properties acquired with Federal resources are subject to Federal Transit Administration guidance on Joint Development. The updated JD Policy requires compliance with applicable Federal, State and local regulations.

Equity Platform

The updated JD Policy reflects the four pillars of the Equity Platform:

- I. Enhanced processes for community outreach will ensure staff can listen and learn;
- II. Targeted analysis of potential JD sites and ongoing metrics of JD projects will define and measure;
- III. New affordability priorities will enable staff to focus and deliver housing to low-income households and historically marginalized communities; and
- IV. The on-going system for monitoring outcomes and innovative housing pilots will allow staff to train and grow.

DETERMINATION OF SAFETY IMPACT

The updated JD Policy will have no impact on safety.

FINANCIAL IMPACT

The recommended JD Policy specifies that JD proceeds are reinvested into TOC activities. JD proceeds currently are considered general revenue and are eligible for transit operations. JD revenues are typically received in the form of one-time capitalized ground lease payments, or as annual payments that currently average approximately \$3 million per year.

Impact to Budget

Adoption and implementation of the updated JD Policy would not impact the Fiscal Year 2021 Budget.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The updated JD Policy is fulfilling Strategic Plan Goal 3.2 by seeking to catalyze TOCs with affordable housing and stabilize neighborhoods, and Goal 3.4 by playing a leadership role in addressing homelessness.

NEXT STEPS

Upon the Board's approval, the JD Policy will take effect immediately. Staff will revisit the pipeline of future joint development projects to ensure consistency with the adopted guidelines for project prioritization and new project solicitations will follow the updated procedures and requirements. Internal operating procedures, templates, informational media, and training resources will be updated, and staff will implement a "dashboard" to track the number and percentage of affordable units in Metro's JD portfolio and other new performance metrics, with results communicated annually to the Board. Finally, staff will explore potential partnerships and initiate program design for the proposed Housing Lab.

ATTACHMENTS

Attachment A - Joint Development Policy

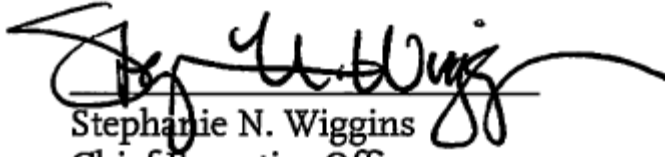
Attachment B - Joint Development Policy Matrix of Changes

Attachment C - Metro Joint Development Affordable Housing Policy Paper

Attachment D - Stakeholder Feedback Summary

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