City of Santa Clara
The Center of What's Possible

Affordable Housing Working Group Meeting 4 Minutes

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Wednesday, May 31, 2017, 6:30 PM

City Council Chambers

Affordable Housing Working Group Members	
Vice Mayor Dominic J. Caserta, Chair	Kiyomi Yamamoto, Greenbelt Alliance
Councilmember Patricia M. Mahan	Vincent Rocha, Realtors Association
Councilmember Patrick Kolstad	Jim Mather, SV Housing Trust
Planning Commissioner Suds Jain	Sarah McIntire, Mid Pen Housing
Andrew Crabtree, Director of Community Development	Jean Cohen, Local 393
Curtis Leigh, Hunter Storm	Chris Horton, SC Chamber of Commerce
Dennis Martin, BIA	Sarah McDermott, Local 19
Jeffrey Buchanan, Working Partnerships	Roma Dawson, League of Women Voters
Joe Head, Summerhill Home	Pat Sausedo, NAIOP
Jon White, Abode	Hamid Taeb, Habitat for Humanity
Pilar Lorenzana, SV@Home	Carlene Matchniff, Irvine
Steve Edwards, Rethink Development	Kerry Williams, Kerry Williams Consulting LLC

1. Call to Order/Welcome

Vice Mayor Caserta served as chair of the Working Group. Councilmembers Mahan and Kolstad were also present. Staff present included Andrew Crabtree, Director of Community Development, Lee Butler, Planning Manager, and Anna McGill, Associate Planner.

Vice Mayor Caserta commenced the Affordable Housing Working Group Meeting and noted that this would be the final meeting for the Working Group to make recommendations for the City Council's consideration at an upcoming meeting.

Two new participants, Carlene Matchniff from Irvine and Kerry Williams
Kerry Williams from Kerry Williams Consulting, LLC introduced themselves to the Working Group.

2. Review Meeting Minutes 4.25.2017

Approved with no comments.

3. Public Presentation

Vice Mayor Caserta asked if anyone wished to provide a public comment. No public comments were made.

4. Discussion

Mr. Crabtree introduced the Agenda and meeting materials. He referenced the Policy Considerations document and noted that this was staff's best attempt to capture the middle point of viewpoints from the group's prior discussions as well as reflect the prior recommendations of the Planning Commission. He also introduced the meeting materials provided to support the Group's discussion, including a summary of the affordable housing impact fees and fee implementation grace periods for other Santa Clara County jurisdictions.

Non- Residential Impact Fees
Mr. Crabtree suggested starting the discussion with non-residential impact fees but first asked the group if there were any particular topics that were missing from the Policy Considerations that should be discussed by the Group. Vice Mayor Caserta noted that he wanted to get views from the group on the non-residential fees, starting with retail.

Ms. Sausedo noted that non-residential and commercial business types should be a part of the solution for affordable housing and explained that she felt the suggestions are fair and reasonable. Ms. Sausedo said she would be happy to make a motion to accept this proposal for non-retail use fees, unless others have comments to make.

Mr. Edwards stated that his only concern was that for the proposed fee for the retail over 20,000 square feet category and recommended that this fee be reduced to $5 per square foot (psf).

Councilmember Mahan asked if the determination of category would be based on the size of the overall development or based on individual tenant square footages. Mr. Crabtree confirmed that it would be determined based on the project as a whole.

Councilmember Mahan noted that larger retailers will have a hard time paying the fees and stated that we need to think about this strategically if we want to attract the type of retail that the city wants. A larger retail space will likely include a number of tenants. Mr. Crabtree noted that this would be difficult to implement and provided an example after approval of tenants combining retail space. He suggested instead adopting a lower overall flat rate fee to address this concern.

Ms. Lorenza noted that while she supports no fee for retail uses under 5,000 square feet, she doesn't think lower the retail fees as proposed are consistent with nearby jurisdictions.

Mr. Head noted that retail space of various sizes offers opportunities for those who are entering the market (e.g., that middle and larger spaces aren't exclusively being used by large chain retailers) and suggested a flat rate for retail at $5 psf regardless of the size.

Ms. Matchniff highlighted added development costs, including increase in minimum wage. She suggested no fee for retailers in the 5,000-20,000 square feet and starting the fee for retail at 20,000 square feet. She noted the costs of signage, tenant improvements, etc. are already expensive and this would add an extra burden.

Councilmember Mahan reminded the group that she does not want to discourage local “ma and pop” shops. She queried the average size of a small retail shop, like a bagel shop. Mr Crabtree and Ms. Matniff confirmed that it would be about 1,500 sq ft.

Mr. Buchanan noted that these small businesses will not likely own their own space or are not likely to bring a brand new development project on their own to Council for approval. As such, the group should be considering what neighboring jurisdictions have adopted and are proposing and recommended sticking to the numbers proposed by staff.

Councilmember Mahan noted that however that those development costs will be passed onto the tenant.

Ms. McDermott stated that while we think of these jobs being filled by teenagers or young adults, in reality, research shows that retail workers tend to have these jobs as their full time jobs throughout their adult life. We need to consider that this is the reality of low wage jobs.

Mr. Rocha warned against trying to solve all of society’s problems but coming up with a reasonable solution.

Mr. Head put out a formal motion to accept staff’s proposal but modified so that uses over 20,000 sq ft would also be charged $5 per sq ft. Ms. Sausedo seconded the motion.

Vice Mayor Caserta asked the other Councilmembers how they would like to proceed with motions being made and voting. Councilmembers Kolstad and Mahan expressed that they would happy for the group to vote and the Councilmembers to vote as well.

Ms. Lorenzana asked for clarification in the voting process. Vice Mayor Caserta confirmed there would be a motion, the motion would be seconded and finally a vote would take place. If the vote fails a new motion would need to be made.

Ms. Dawson queried why the group is giving the larger developer a break in the fee level and wondered if someone could explain the rational behind this. She noted the fees already seem to be reasonably low. She reminded the group that just as we can’t ask developers so solve affordable housing problems, we also can’t give breaks to every retail development as there are a number of factors such as rental yield per square foot and other complex factors that go into these decisions.

Vice Mayor Caserta asked for a developer to clarify Ms. Dawson’s questions. Mr. Edwards noted that online buying is dramatically changing the dynamics of local retail yet people want local retail near them.

Vice Mayor Caserta asked for Mr. Buchanan to provide his thoughts. Mr. Buchanan suggested lowering the high retail fee but increasing the office space fees as a compromise as these building types area more able to take on such fees.

Ms. McIntire addressed Vice Mayor Caserta's previous questions and noted that staff recommendations were reasonable and comparable to other jurisdictions and finally that we want to incentivize local retail, not larger retail.

Ms. Sausedo proposed raising the fee for office above 20,000 square feet (sf) to $20 psf and to lower the fee for retail over 20,000 sf to $5 psf. Councilmember Kolstad noted that this would be a fair compromise.

A motion was raised and seconded. The motion passes to recommend staff's proposal with two minor changes, lowering the fee on retail over 20,000 sf to $5 and increasing the fee for office over 20,000 sf to $20 psf.

Grace Period

Mr Crabtree introduced the proposal for the grace period (in some cases referred to as a roll out period).

Mr Edwards noted that the staff recommendation was reasonable, but asked if the use of building permits being issued as the determining threshold could be changed to entitlements or planning approval.

Councilmember Mahan suggested that it could be changed to planning permits within three years, or come back to Council for an extension on the project.

Ms. Williams queried if this grace period would apply to sites that are zoned industrial that are already designated for residential or developers that are in the process of looking toward residential development. Vice Mayor Caserta said that it would apply to all developments.

Ms. Lorenzana noted that the coalition supported no fees for the six month grace period, but noted that they would prefer a shorter roll out period.

Councilmember Mahan noted that some developers may already have entered into a contract with a land owner and agreed on a price but still need to gain site control. She queried what a reasonable time period would be. Ms. Williams requested clarification as to whether the six month period included filing an application or what step in the process it would be. Councilmember Mahan asked Mr. Crabtree to clarify.

Mr. Crabtree clarified that other jurisdiction had decided exemption from fees based on approval but that the group can structure it as they see fit. Ms Matchniff noted that a lot of developers use 'deemed complete' as a mechanism to determine. Mr Crabtree noted that this is the approach that was used during adoption of the City's parks fees.

Mr. Head asked for clarification of site control mechanism. Mr. Crabtree noted that as proposed there are two separate categories for projects to take advantage of the grace period. The first is for projects that already have site control and which then have three years to gain entitlements or planning approval. The second category is for projects that do not have site control and which would then be assessed an impact fee based on when they reach the selected milestone (e.g., completeness, approval, etc).

Councilmember Mahan noted that she now understood the proposal and thought it seemed reasonable.

Ms. McIntire asked if the 12-18 months implementation period would be necessary and what projects would be affected if it wasn't included in the roll out period. Mr. Crabtree clarified that if the determining factor for a project is whether it has been deemed complete, then projects affected would be those that come through the door about a year after the effective date. Ms. McIntire noted that she does not think the third implementation period (12-18 months) is necessary.

Ms. Sausedo stated that there are a number of large complex mixed use projects that may take this long. Ms. McIntire noted that these projects would fall under the site control mechanism path and Ms. Sausedo and the group agreed.

Mr. Butler added that the deemed complete timeline can vary substantially based on the complexity of the project. The average timeline for a project to be deemed complete is 3-4 months. However, if the project is complicated or has an Environmental Impact Report (EIR), it could take longer, but would usually still be deemed complete within 18 months.

Ms. Lorenzana queried when the fees would be collected. Mr. Crabtree noted that in previous meetings this had been discussed and that the Group had generally supported a suggestion by developer members of the Group to delay fee collection to prior to occupancy..

Mr. Edwards queried what the determination would be in a scenario like a project within the Tasman East Focus area where a developer wouldn't be able to get a project deemed complete if the precise plan isn't complete.

Councilmember Mahan noted we need to be practical with this grace period and noted that developers want to get approvals quickly and the largest complaint we hear is that the planning process is very slow. If CEQA is needed, the process can be longer and you may need 18 months to get to that deemed complete stage. She emphasized, though, that not many projects will be in this scenario.

Ms. Cohen asked Vice Mayor Caserta the process if a member from the public wanted to speak. Vice Mayor asked the group is anyone wanted to make any more comments.

Shaunn Cartwright, from the South Bay Tenants Union, warned the group about the need to prevent abuse of existing policies to displace those who live locally by new development or conversion of housing to affordable housing, as has recently happened when a property is purchased and converted to one that requires Veteran vouchers. She reminded the group of the 92 year old man who was recently evicted from his home, which she discovered after going door to door to get information.

A member from the public, Gene, shared with the group his experience where he and his family were recently evicted from their rental property due to a new development that only housed veterans under a voucher program. He noted the importance of housing veterans, but warned that these programs could displace local families and their children. He shared with the group that he has worked from the same company for over 27 years in Santa Clara, but has been recently displaced and cannot now find a place to live.

Vice Mayor Caserta thanked Gene for sharing his experience with the group and asked if staff could speak with the gentleman following the meeting for more information.

No further public comments were made. To advance the discussion, the Vice Mayor made a motion to forward a recommendation for an 18 month graduated grace period as described in the Policy Considerations memo. Nine group members voted in favor of this motion. Ten group members voted in favor of Ms. Lorenzana's alternative motion to implement the full effective fee after a 12 month grace period. Councilmember Mahan advised that due to the close vote, this issue should be brought to Council for a decision. The Working Group agreed to forward these two options to the City Council.

Residential Impact Fees (For Sale and Rental)

Mr. Crabtree introduced the next topic for discussion, Residential Impact Fees (For Sale and Rental). He highlighted the group's previous recommendation to do better than the current 10% inclusionary requirement as well as the desire to include levels of affordability lower than moderate, 80-120% Area Median Income (AMI), with a goal to provide units affordable for people at 60% AMI and lower. He noted that the proposed approach is an attempt to find a middle ground from previous discussions by using 12.5% as the target for affordable units with a fee level that is high enough to incentivize units on site, but also at a level that won't impeded housing production overall. Accordingly the proposed fees were tiered to product type based on the ability of each product to bear fees. Mr Crabtree emphasized that the recommendations do not intend to unduly burden rental units, so $20 psf is proposed in line with other jurisdictions or an onsite provision to 10% to not completely disincentivize units on site.

Councilmember Kolstad noted that he supported this recommendation. Councilmember Mahan noted that she would have liked to see a for-sale in lieu fee more comparable with other jurisdictions.

Ms. Matchniff asked what affordability level would be necessary for a project to meet the requirement for inclusionary units and Mr. Crabtree stated that he assumed it would need to be based on units affordable for moderate income. Ms. Matchniff recommended a sliding scale with the required percentage of inclusionary units tied to the level of affordability for inclusionary rental projects and a $17 psf in lieu fee. She also recommended that flexibility be provided to allow provision of units offsite to meet the inclusionary requirement. She suggested onsite being deed restricted for 20-30 years and offsite being restricted for up to 55 years.

Councilmember Mahan queried if a decision to provide units off-site could be brought forward in partnership with an affordable housing builder. Ms. Matchniff noted that we should allow flexibility for such considerations and to determine whether we want units on site or money to leverage other funding.

Ms. McIntire and Ms. Lorenza agreed with the option of partnering with a developer to provide offsite units and also supported more flexible options, including the ability to dedicate land. Ms. Lorenza also noted the importance of setting fee levels at different levels of AMI to provide housing in those various ranges.

Mr. Head noted the biggest changes in the residential development industry are with for-sale products. He said that the for-sale market is declining rapidly and what is being built is primarily condominiums. He stated that for-sale residential no longer has the ability to absorb new costs and that the proposed requirements will be a dead stop for creation of for-sale housing.

Vice Mayor Caserta queried the number of for-sale units recently approved/built in the City of Santa Clara. Mr. Butler confirmed the City approved a 55 unit project on El Camino and 45 other units, equating 100 recent units, mostly consisting of townhouses or condominiums.

Mr. Tersini proposed reducing the 12.5% inclusionary requirement back to 10% for projects over 100 dwelling units per acre (du/ac). Mr Rocha added that the group think in ter terms of the number of units being created as rather than just the percentage that would be designated affordable, emphasizing that a lower percentage of more units could produce in total more designated affordable units that a higher percentage that stifles housing production. He noted that if the percentage of affordable units is lowered but density increased, the City could net more units overall, which would better benefit the community.

Vice Mayor Caserta noted that the Group had come to consensus supporting flexibility in use of offsite units and land dedication as alternatives to meet an inclusionary requirement. He asked the group to comment on the target percentage for affordable units. Ms. Lorenzana noted that a supply side approach will work for middle income households but not low income households, and recommended setting the percentage at 15% comparable to the rest of the region. Ms. McDermott added that an approach focused merely on supply doesn't provide a solution to all, especially not with lower income groups.

Mr. Buchanan noted a density discount would not necessarily work because low income families, on average three persons or larger, would not fit in these micro units. He further noted the large disparity between for-sale and rental fees, and suggested a compromise to lower the for-sale fees while slightly increasing the rental impact fee to $25 psf with a 15% inclusionary requirement. He suggested a coupon or discount system be implemented as it has in other cities, whereby the developer signs an agreement to contribute to local workforce development by offering apprenticeships or particular wage levels in return for receiving a 25% discount on impact fees. Such an approach could potentially bring that fee down to $17 in line with what Ms. Matchniff had proposed.Councilmember Mahan noted that while it is important to evaluate this type of policy, it is outside of the scope of the Working Group's current charge, and the City Council should take it up separately.

Mr. Rocha noted we need to consider the net benefit of the City's policies. He stated that Santa Clara is in danger of becoming a majority renter city and that we need to think about how we can get the most units and benefit to the community.

Ms. Dawson noted that she wanted to discuss the justification for a 10% or 12.5% inclusionary requirement in more detail as 15% appears to be the regional standard.

Mr. Head proposed a 10% inclusionary requirement and a $20 psf rate for both for-sale and rental residential units.

Councilmember Mahan noted that her desire is to get affordable units, especially now that the City does not have use of redevelopment funding. She stated that it is necessary for the City to collect fees from developers that can afford it and the City must use these fees to fund affordable housing units. She said that a mix of onsite requirements and fees are necessary and noted her support for Mr. Head's proposal. She also agreed with providing flexibility to meet the requirements such as offsite provision and land dedication.

Mr. Taeb agreed with allowing for policy flexibility but recommended reducing the fee level and increasing the inclusionary requirement in a different way, such as requiring 15% at the moderate AMI level, but perhaps only 10% when a lower AMI is achieved, such as 80% AMI or lower.

Ms. Lorenzana prefaced her comments by noting that the affordable advocates within the Working Group have demonstrated a willingness to compromise by allowing alternative compliance options and then emphasized that a 10% inclusionary standard was not a compromise between varying views and that similarly that the proposed lowering of fees for sale units is also not a compromise. She noted that 15% should be the standard inclusionary requirement but agreed with Mr. Taeb on the ability for flexibility based on AMI.

Ms Yamamoto noted that from the environmental perspective a solution is needed that allows for more housing within existing cities, at higher densities and particularly with access to transit, in order to reduce commutes and traffic, and that the affordable component needs to be there and has a significant impact.

Mr. Edwards noted that we need to incentivize density to meet the needs of a broader community. A single family home will not be an affordable housing product. As a proposal he suggested a graduated fee system with condominium as $20, townhome $35 and $45 or $50 for a single family home.

Councilmember Mahan noted her concern that those fees would add over $72,000 to a single family home in costs. She emphasized that tech workers in Santa Clara also have a need to find housing within the city.

Ms Sausedo noted that she agreed with Councilmember Mahan's comments regarding the tech industry that keeps adding to their employment base that are in need of housing as well.

Vice Mayor Caserta suggested keeping 12.5% as the affordability level and setting in lieu fees at $30 for single family home, $25 for townhomes and $20 for condominiums.

Mr. Head noted that he would continue to share the development community's experiences and continue to work through the fees as they are reviewed. He agreed with the direction that Mr. Edwards was proposing.

Mr. Tersini noted that he wanted to address Ms. Dawson's comments about traffic and noted that the city has an opportunity to build higher density near transit and commuter hubs, but explained that financing high rise projects is extremely difficult.

Ms. Cartwright highlighted that high density housing can also displace local people who cannot afford to stay in the area. In West San Jose, a large amount of people were displaced with the loss of 216 rent controlled units when a property was redeveloped at higher density and that the City should be careful of the scenario where older low density projects get replaced with higher density projects.

Ms. Lorenzana requested a one-year review period for the Fee. Vice Mayor Caserta agreed.

Vice Mayor Caserta suggested his original proposal with a revision of $30 psf for single family home in lieu fee, following Councilmember Mahan's concern about $40 psf.

The group agreed to recommend fees of $30 psf for single family home, $25 psf for townhomes and $20 psf for condominiums, with fees being reviewed after one year.

Ms. McIntire queried if the for sale and rental fees would go into the same fund for affordable housing projects and Mr. Crabtree confirmed that it would.

Ms. Dermott emphasized that the comments regarding trades and employment requirements should be discussed at another venue or meeting with the City Council. Vice Mayor Caserta asked Ms. McGill to note this request in the minutes.

Mr. Edwards queried if the 10% for rental would be at the moderate scale and Mr. Crabtree confirmed that was the intent. Mr. Edwards noted that with an option of 10% at moderate in Tasman East, it would be financially advantageous to develop these units on site.

Ms. Matchniff proposed $17 psf fee and noted that the City has always been business friendly and warned against looking at other jurisdictions because they aren't building a lot of housing, such as Cupertino. Additionally, she recommended allowing for flexibility such as 10% at moderate or 5% or low, very low AMI.

Vice Mayor Caserta asked for comments on $17 instead of $20. Ms. Sausedo agreed with Ms. Matchniff's proposal.

Vice Mayor Caserta suggested $18.50 psf as a compromise between recommendations. Ms. Lorenzana noted that the coalition original proposal was $25 and a 15% inclusionary requirement at low or very low AMI. She said would be willing to compromise on $20 per sq ft and 12.5% but at low or very low, not moderate AMI.

Councilmember Kolstad reminded the group that this is not the only fee that Developers pay and that a 10% inclusionary requirement is better than no project being delivered at all.

Ms. McIntire noted that she could agree to a rental inclusionary reqiorement of 12.5% in line with the for sale and the fee at $20 psf instead of $17 psf. She continued that the targeted AMI for rental on site should be 60% or below. She also agreed with flexibility of affordability levels and decreasing percentage requirement. Lastly, she queried the length of time onsite units would need to be deed restricted at their affordability level. Mr Crabtree clarified that he thought units would be maintained at their affordability levels for 55 years.

Mr. Buchanan agreed with Ms. Lorenzana's proposal.

Ms. Williams noted that she agreed with Ms. Matchniff, Ms. Sausedo and Councilmember Mahan's proposals to continue a 10% onsite requirement and a $17 per square foot rental impact fee consistent with nearby jurisdictions.

Ms. Matchniff reminded the group that the Mission Town Center project lost 318 units because of the affordability requirement.

Vice Mayor Caserta recommended that the group agree on a range that could be brought to Council for a decision. He suggested the range of 10-12.5% and $17-20psf. Ms Lorenzana asked that 10-15% range be considered by Council and a vote was held within the group.
10-12.5%: 5 votes
10-15%: 15 votes
Vice Mayor Caserta confirmed that the range of $17-20 and 10-15% would be brought to the City Council as part of the Group's recommendations.

5. Other Business

No other business was identified

6. Identification of Next Steps

Vice Mayor Caserta clarified that a summary of recommendations from the Affordable Housing Working Group would be brought back to the City Council on June 27, 2017. (Following the meeting, it was agreed that recommendations would be brought back to the City Council on July 11, 2017).

7. Adjournment

The meeting adjourned at 8:40pm.

8. Summary of Recommendations

Category 1: For Sale Residential Development Impact Fee

Inclusionary Requirement: 12.5% at Moderate AMI

The Affordable Housing Impact Fees for For-Sale Residential Development are as follows:

Tenure Type	$ per square foot
Single-Family Home	$30
Townhome	$25
Condominium	$20

Requirements can be met through a combination of units onsite, offsite and impact fees. A lower inclusionary requirement can be accepted if units are provided at a lower AMI level (e.g. 10% for units affordable to 80% AMI or lower, 6% for units affordable to very low income, etc.).

Category 2: Rental Residential Development Impact Fee

Inclusionary Requirement: 10-15% (range to be considered by City Council)

Rental Impact Fee: $17-$20 per square foot (range to be considered by City Council)

Requirements can be met through a combination of units onsite, offsite and impact fees. A lower inclusionary requirement can be accepted if units are provided at a lower AMI level (80% or lower). Projects will have a restriction to retain rental status for a minimum agreed period or will be subject to the applicable For-Sale Residential Development Impact Fee if converted to a for-sale project within an agreed time period of initial development.

Category 3: Non-Residential Development Impact Fee

New non-residential construction will be subject to the following fee requirements.

- Retail
    - < 5,000 square feet: No Fee
    - >5,000 square feet: $5 per square foot
- Hotel
    - $5 per square foot
- Office (including Industrial Office, R&D and Commercial Office)
    - ≤ 20,000 square feet: $10 per square foot
    - > 20,000 square feet: $20 per square foot
- Other Commercial
    - $5 per square foot
- Light Industrial
    - < 20,000 square feet: $5 per square foot

- ≥ 20,000 square feet: $10 per square foot
- Low-Intensity Uses (e.g., Data Centers and Warehouses): $2 per square foot

Exemptions

The following types of development are exempt from the provision of inclusionary housing units and/or payment of the Affordable Housing Impact Fee.

- Additions, remodeling or construction of a single residential unit or duplex unit on an existing lot of record, including Accessory Dwelling Units.
- Commercial square footage within a vertical mixed-use development where the commercial space is integrated into a single structure that also includes residential development at a density of 30 units per acre or greater and does not exceed 20,000 square feet.
- Assembly uses (such as lodges, clubs, youth centers and religious assemblies)
- Day care, nursery and school facilities
- Hospitals
- Other non-residential uses determined by the City Council to have a minimal impact upon the demand for affordable housing.

Implementation

To allow market based development to adjust to the new fee requirements, the Impact Fee will be implemented as follows:

1. On-going projects – any project with demonstrated site control at time of the Fee Adoption will not be subject to the impact fee provided that Planning Approval has been granted for the construction of that project within three years after adoption.
2. When a project has been deemed complete, it will be subject to the fee about within the effective dates:
    a. 0-6 Months: No Fee
    b. 6-12 Months: 1/3 of total fee applicable
    c. 12-18 months: 2/3 of total fee applicable [OR] full fee applicable after 12 months (to be considered by City Council)

Other Considerations

1. Fees due prior to occupancy (temporary or final)
2. Fees subject to a Cost Escalator
3. Credit for existing floorspace
4. Fees to be reviewed one year after effective date