

## Development fees stacking

By: Chuck Slothower in Real Estate and Development July 25, 2016 10:50 am



(Illustration by Brett Murray)

As Portland developers consider new projects, they are increasingly seeing a gathering storm of mounting and unpredictable up-front costs that could threaten bringing a close to the bustling development cycle.

A 1 percent construction-excise tax. Inclusionary housing requirements. Looming property taxes to pay for affordable housing

and schools.

"You add all of those up, it's going to impact the viability of projects; there's no doubt," said Tom DiChiara, co-founder and principal of Slabtown developer Cairn Pacific. "It's counterproductive when you're trying to build affordable housing. There's a limit to what we can absorb, and it gets passed on to renters at the end of the day."

Developers said they have never seen so many new costs in effect or working their way toward public approval at one time.

Most immediately, developers are preparing for the impact of a construction excise tax that will take effect August 1. The tax will be levied on 1 percent of a commercial or residential project's permit valuation. That will be six or seven figures for some projects. For example, a commercial building permit issued last week for a four-story mixed-use building at 7428 N. Charleston Ave. was valued at nearly \$13.7 million. If the application hadn't been submitted until after Aug. 1, the developer would have been required to pay a \$137,000 construction excise tax.

For Cairn Pacific's Leland James mixed-use project, the permit valuation of \$100 million would have required a \$1 million excise tax payment, DiChiara said.

Developers are rolling the cost of the construction excise tax into their pro forma evaluations for future projects.

Meanwhile, inclusionary housing requirements are being developed by city staff and consultants, and are likely to be presented to the City Council for adoption in December.

Greg Goodman, co-president of Downtown Development Group, sits on the committee convened by Commissioner Dan Saltzman to consider possible inclusionary housing regulations. He told fellow members that the affordable housing requirements should be "revenue neutral" for developers, or nothing will get built.

"Inclusionary zoning is not bad if there's offsets," he added in an interview. "If there's not offsets, it's going to shut the industry down because margins are so thin."

City officials are considering what incentives to offer developers in exchange for building affordable units. Permission for a 3-to-1 floor-to-area ratio, or FAR, bonus is one element under discussion. That would allow developers to build taller or larger buildings filled with more revenue-producing apartments. The city is also discussing a range of incentives that are laid out in the state law passed in March; these could include property tax exemptions, fee waivers or density adjustments.

Also, Portland voters in November will be asked to approve \$1 billion in bonds for affordable housing and Portland Public Schools. A rise in property taxes would repay the bonds, hitting owners of highly valued properties particularly hard.

Taken together, the fees, taxes and new rules add up to a potentially devastating hit to development.

"We're just waiting and watching to see what the effects are going to be," DiChiara said.

To hedge against the excise tax and inclusionary zoning rules, Cairn Pacific recently requested a pre-application meeting with the Bureau of Development Services for a major makeover of the George Morlan Plumbing Supply building in Northwest Portland. Planners will have plenty of lead time – construction isn't scheduled to begin until 2019, when the plumbing retailer's lease expires.

Cairn Pacific's initial plans, submitted by SERA Architects, call for 178 apartment units, ground-floor retail space and underground parking. The project is the next step of Cairn Pacific's remake of the Slabtown neighborhood kicked off by the L.L. Hawkins and Leland James buildings.

DiChiara said he wanted to begin the entitlement process "while we know what the rules are."

Portland's robust design review process also figures heavily into developers' pre-development costs. Developers are the level of detail called for by the city's design review application means they have to spend dearly on architectural and other plans before they know whether a project will be approved.

For Downtown Development Group's next project, a half-block development on Block 31 at Southwest Second Avenue and Ash Street, Goodman expects to spend half a million dollars to go through design review.

Goodman expects to spend \$2 million to navigate design review for a subsequent downtown project that he said he's not ready to reveal publicly.

Portland is analyzing its design review process with the help of Walker Macy. Consultants are looking at how design review is done in other fast-growing cities, including Denver, Seattle, San Francisco, Milwaukee and Austin, Texas.

Mark Hinshaw, a principal at Walker Macy, said few cities ask their design review board to scrutinize project details as Portland does. In many comparable cities, more details are reviewed by staffers, with the design review board left to look at how projects fit with citywide policies and goals.

Some of Portland's guidelines are too vague, Hinshaw said. For instance, one urges designs to "integrate the riverfront" even for projects proposed several blocks from the Willamette. It's unclear what that means, he said.

"It makes it unpredictable for people," he said.

The Bureau of Development Services has already taken steps to streamline design review, including introducing a "Type IIX" process for projects that include affordable units.

DiChiara said it may make sense to give city staff more discretion on project elements such as signage.

"Do we really need to be looking at the minutiae of detail?" he said.

Creation of another commission to handle some of the Design Commission's responsibilities may make sense, DiChiara said.

"As the city's gotten busier, having one commission trying to do everything has become a challenge and has been part of the discussion of how long it takes to get things done," he said.