



Agenda Report

August 19, 2019

TO: Honorable Mayor and City Council

FROM: Planning & Community Development Department

SUBJECT: ZONING CODE AMENDMENTS RELATING TO INCLUSIONARY HOUSING AND AFFORDABLE HOUSING CONCESSION MENU AND ADJUSTMENTS TO INCLUSIONARY IN-LIEU FEE RATES

RECOMMENDATION:

It is recommended that the City Council:

1. **Find** that the Zoning Code Amendments are exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15305 (Class 5 – Minor Alterations to Land Use Limitations) and that there are no features that distinguish this project from others in the exempt class, there are no unusual circumstances, and none of the exceptions to the exemptions apply;
2. **Adopt** the Findings of Consistency with the General Plan (Attachment A);
3. **Approve** the amendments and direct the City Attorney to prepare an ordinance amending Section 17.42.040 and adding Section 17.43.055 to Title 17 (Zoning Code) of the Pasadena Municipal Code to raise the inclusionary percentage requirement from 15 percent to 20 percent, eliminate trade-downs, and create an affordable housing concession menu for eligible density bonus projects (Attachment B); and
4. **Approve** the recommended changes to the inclusionary housing in-lieu fee rates as set forth in the David Rosen & Associates Study and direct staff to prepare a resolution amending the Schedule of Taxes, Fees, and Charges accordingly.

EXECUTIVE SUMMARY:

At prior meetings, the City Council directed staff to develop policy options to address the intensity and impacts of Density Bonus Projects and to increase the production of affordable housing City-wide. This report provides background, analysis, and recommendations for Zoning Code Amendments that would make changes to the inclusionary housing ordinance to raise the inclusionary percentage, eliminate trading

down of inclusionary units, and raise the inclusionary in-lieu fee. Additionally, the Zoning Code Amendments would create a new provision in the local density bonus ordinance to incentivize production of the additional inclusionary units by offering a menu of concessions for developers to choose from in order to streamline the approval process for density bonus projects.

**ADVISORY COMMISSION/BOARD/CITY COUNCIL COMMITTEE
RECOMMENDATION:**

After public hearings held on May 8, 2019, June 26, 2019 and July 24, 2019 the Planning Commission recommended that the City Council find that the Zoning Code Text Amendments are exempt from CEQA and to approve amendments that would raise the inclusionary housing requirement to 20 percent; eliminate trade-down provisions; and raise the inclusionary in-lieu fee to levels recommended in the David Rosen & Associates Study prepared in August 2018 (DRA Study).

The Planning Commission also recommended that the City Council approve amendments to create an affordable housing concession menu for projects that provide a 25 percent inclusionary housing component, making such projects exempt from the requirement to obtain an Affordable Housing Concession Permit. The Planning Commission recommended that the City Council allow eligible projects to select up to two concessions from the following menu:

1. Increase in maximum allowable height up to 12 feet beyond current standards over no more than 60 percent of the building footprint;
2. Increase in the maximum allowable floor area ratio up to 0.5 beyond current standards;
3. Reduction of side or rear setbacks by up to 50 percent, provided that the proposed setback is not adjacent to a single family residential zoning district or an eligible or designated historic resource
 - Setback reductions pursuant to this concession shall not result in the removal of a protected tree, nor shall they exempt a project from meeting the requirements of the Tree Protection Ordinance, which shall be applied based upon setback requirements in place prior to any reduction
4. Elimination of loading requirements;
5. Reduction of minimum parking requirements by up to 50 percent if the project site is located within the Central District Transit Oriented Development area, or within a one-half mile radius of the Metro Fillmore or Allen Gold Line stations

With respect to raising the base inclusionary requirement to 20 percent and requiring a 25 percent inclusionary set-aside for projects to become eligible to use the concession menu, the Planning Commission did not specify the income breakdown within those percentages, and deferred to staff to make recommendations to the City Council on that particular issue.

BACKGROUND:

Framing the Issue

Over the course of various study sessions focused on recent growth and development

trends in Pasadena, the City Council and the community have expressed concerns regarding higher-intensity development projects that have been recently completed or are currently under review, especially those that received affordable housing concession permits for additional height and/or density in exchange for providing affordable housing units. A major concern that was voiced is that in taking advantage of State density bonus law and associated concessions, projects have been approved that are inconsistent with the scale and character of surrounding neighborhoods and have gone beyond what was anticipated in the General Plan. At the same time, these projects have included comparatively little public benefit in the form of affordable housing production. As a result, the City Council directed staff to propose policy changes that could address the imbalance between increased development intensity and inadequate housing affordability, without rendering housing development infeasible in the City.

Policy and Regulatory Context

City of Pasadena Inclusionary Housing Ordinance (IHO)

The City of Pasadena first adopted its IHO in 2001. The IHO currently in effect requires projects with 10 or more units to set aside 15 percent of those units as affordable to moderate and low-income households¹. In rental projects, the requirement consists of 10 percent low-income and 5 percent moderate-income units, while for-sale projects require 15 percent moderate-income units. Currently, the IHO allows projects to substitute units at lower affordability levels at lower inclusionary rates. For example, one very low-income unit would be equivalent to 1.5 low-income units or 2 moderate-income units. This provision is also referred to as “trading down,” and while it results in units with deeper levels of affordability, it also reduces the total number of affordable units produced. The IHO also provides various alternatives for projects to comply, including paying an in-lieu fee, providing units off-site, or dedicating land to the City.

State Density Bonus Law (SDBL)

State density bonus law, also referred to as SB 1818, has been in place since 1979, and in recent years, has been updated to make denial of density bonus projects by local governments increasingly difficult. SDBL is based on the principle that absent incentives, requirements, or subsidies, the private market will not produce units at affordability levels below market-rate. SDBL is structured such that a project is entitled to additional density beyond local standards based on the amount of affordable housing included in the project, as well as the level of affordability of those units. Tables showing the corresponding density bonus for each level of affordability are included in Attachment C for reference. For example, a project that includes a minimum of five percent very low-income units or 10 percent low-income units qualifies for a 20 percent density bonus, while a project that includes 10 percent moderate-income units qualifies for a density bonus of five percent. The maximum increase provided under current

¹ In the context of this report and the AECOM Study, affordability tiers are defined as being affordable to households with the following maximum percentages of Area Median Income (AMI): Extremely Low Income (30% AMI); Very Low Income (50% AMI); Low Income (80% AMI); Moderate Income (120% AMI); Workforce B (150% AMI); and Workforce A (180% AMI).

SDBL is 35 percent, and to achieve this maximum, a project must include at least 11 percent very low-income units, 20 percent low-income units, or 40 percent moderate-income units.

In addition to the increased density itself, SDBL also enables a developer to request concessions and incentives in order to offset the additional cost of providing the affordable units. These concessions typically take the form of increased height or floor area ratio beyond existing development standards, and can also include deviations from setback, open space, and parking requirements. According to SDBL, in order for a local jurisdiction to deny a request for a concession, it must demonstrate that the requested concession does not result in identifiable cost savings for the project.

State Oversight of Inclusionary Requirements

After a series of legal challenges relating to local governments' ability to enforce inclusionary requirements, the California Supreme Court ruled in favor of local governments in *Building Industry Association v. City of San Jose*. In 2017, Assembly Bill 1505 was passed, effectively reinstating local governments' authority as it stood prior to the lawsuits. Additionally, AB 1505 included a provision that requires the California Department of Housing and Community Development (HCD) to review any ordinance adopted or amended after September 15, 2017 that has an inclusionary requirement higher than 15 percent if the following criteria are met:

- Jurisdiction fails to meet at least 75% of its share of the regional housing needs allocation for the above-moderate income category over at least a five-year period; and
- Jurisdiction has not submitted the annual housing element report as required by State law for at least two consecutive years.

Pursuant to such review, HCD may require an economic feasibility study, the format and content of which has not yet been specified.

These provisions were included in recognition of the fact that overly burdensome inclusionary requirements could result in slowing or stopping housing development in a given market due to the additional costs to developers to comply. At this time, the City of Pasadena does not meet the criteria to make it subject to HCD review. However, it is possible that the City may be subject to these types of reviews if there is a slow-down in market-rate housing development resulting from a higher inclusionary requirement, or any other reason. Although it is not fully certain, HCD review could result in loss of local control over the approval of new residential development projects.

Furthermore, as the City Council was considering potential action to reduce development capacity throughout the City last year, HCD sent a draft letter to staff outlining reasons why such an action would be contrary to various goals and policies in the City's Housing Element, and that if further action was taken to reduce development capacity, that HCD would consider de-certifying the Housing Element. While the proposed amendments to the IHO are not intended to reduce development capacity or

stifle housing development overall, it should be noted that any action the City takes that will have an effect on housing development will likely be under close scrutiny by HCD.

Market and Feasibility Study

In order to inform potential changes to the City's IHO and better understand the effects of any increase on market dynamics, the City retained AECOM to prepare a market and feasibility study (AECOM Study), included as Attachment H to this study. The AECOM Study provided a literature review and analyzed comparable cities' inclusionary ordinances to understand best practices and share any lessons learned that Pasadena could benefit from. Other cities in southern California that have inclusionary requirements include Santa Monica, West Hollywood, Glendale, and Burbank, each with their own unique provisions on applicability, percentages, and alternatives for compliance. The variability in inclusionary ordinances highlights one of the key findings from the literature review, which is that each jurisdiction's inclusionary ordinance should be based on local market dynamics and structured to accomplish policy goals unique to the local community. With these findings in mind, the major component of the AECOM Study was to test the financial feasibility and market impacts of changing the IHO requirements in order to calibrate any potential increase in the inclusionary percentage requirement to a point where the market would continue to support private development while obtaining the maximum amount of affordable housing possible. The following provides an overview of the methodology and findings for this financial analysis.

Base Case Prototypes

In order to establish a baseline against which to test potential increases in inclusionary requirements as well as incentives, staff worked with AECOM to identify projects in Pasadena that had been recently built, approved, or are currently under review. Information from these projects was then used to develop nine project prototypes that are intended to reflect a range of product types, geographic locations, and densities. Product types include mixed-use and residential-only projects, as well as rental and for-sale units. Geographic locations include three areas: half-mile radius around transit stations (TOD), the Central District Specific Plan Area, and the balance of the City. These geographies were selected to reflect the observed differences in land values, rents, sales prices, and development standards across these areas. Finally, the prototypes were calibrated to represent a variety of project densities, taking into account existing development standards, potential future development standards based on the General Plan, and increases in density resulting from SDBL.

Outreach

An important component of the study consisted of focused outreach to a variety of interested parties and stakeholders. These included meetings with market-rate developers and development representatives, affordable housing developers, housing administrators and planners from other jurisdictions, financing professionals, and local affordable housing advocates who had expressed interest in this topic and submitted recommendations during early Planning Commission meetings. Findings from this outreach informed the underlying assumptions in developing pro forma models for the

base case prototypes, the various inclusionary scenarios that were tested, as well as recommendations on potential incentives.

Testing Feasibility

Once the base case prototypes were established and underlying assumptions verified through outreach, various inclusionary housing increases were tested to understand the effects they would have on project feasibility across all nine prototypes.

The first test was to determine the effect of paying the maximum justifiable in-lieu fee as determined by a study conducted in August 2018 instead of providing the current inclusionary requirement on-site. It was observed that for all prototypes but the lowest density rental prototype, on-site units present an economically stronger option than paying the increased in-lieu fee. However, according to developers interviewed, sometimes prolonged processing for on-site units with density bonus concessions makes paying the in-lieu fee more fiscally preferable.

The base case was then compared to eight alternative inclusionary set-aside scenarios, as follows:

Scenario	Total %	Income Breakdown
1	20%	10% Low 5% Moderate 5% Workforce A (180% AMI)
2	15%	15% Low
3	20%	10% Low 10% Workforce B (150% AMI)
4	20%	10% Low 5% Moderate 5% Workforce B (150% AMI)
5	20%	10% Low 10% Moderate
6	20%	5% Very Low 5% Low 10% Moderate
7	20%	5% Very Low 10% Low 5% Moderate
8	20%	20% Low

The various scenarios were then evaluated against a financial feasibility threshold of 10 percent return on cost to determine if the various project prototypes would be feasible under the higher inclusionary requirements. While staff and AECOM believe that 10 percent return on cost is a reasonable and defensible threshold for evaluating project viability, it is still possible that some developers would consider moving forward on a project with a higher or lower return depending on a variety of factors. Nonetheless, for purposes of the AECOM Study and staff's recommendations, the 10 percent return on cost threshold was used.

Incentives

The results of the feasibility testing demonstrated that raising inclusionary requirements results in decreased financial returns that in most cases pushed the baseline projects below the established 10 percent return on cost feasibility threshold. In order to offset these reductions in returns, the AECOM Study considered a variety of incentives that could be implemented in varying degrees and combinations. These include additional density, expedited processing, fee reduction, and parking reduction. Some of these incentives, such as additional density and parking reduction, are already provided to some extent by SDBL. Expedited processing results in lower carrying costs and more certainty, thus making it a compelling incentive for developers. Finally, while development review and impact fees can add a notable cost to development projects, staff does not recommend using fee reduction as an incentive due to the importance of development impact fees to the City's overall budget and ability to provide adequate services to applicants and residents. Instead, incentives can be focused on a combination of additional density, expedited processing, and reductions in parking minimums, particularly in areas near transit. This analysis of various incentive structures offered guidance toward developing the affordable housing concession menu as an implementation tool for increased inclusionary housing and incentivizing less impactful concessions.

DISCUSSION:

Balancing the Scale

Raising the Base Inclusionary Housing Percentage

The primary strategy to improving the balance between concessions and increased affordable housing production is to increase the required percentage of inclusionary units for proposed housing developments. Currently, the City's IHO requires 15 percent of all multi-family units to be set aside as affordable housing for any project with 10 or more units. The 15 percent inclusionary requirement is further broken down by affordability level for projects with rental units and those with for-sale units, as follows:

Current Base Inclusionary Requirement	
Rental Projects	
Moderate	5%
Low Income	10%
<i>Total:</i>	<i>15%</i>
For-Sale Projects	
Moderate	15%
<i>Total:</i>	<i>15%</i>

While staff initially recommended maintaining the base inclusionary requirement at 15 percent based on the findings of the AECOM Study, it should also be noted that the AECOM Study found significant variability within the observed land costs throughout the City, and therefore assumed an average for the financial feasibility testing. The variability could be attributed to many factors, and lower land cost can have a significant impact on project feasibility. With passage of higher inclusionary requirements, it is expected that land costs will adjust over time to account for the additional cost of the higher inclusionary requirements. Additionally, while the 10 percent return on cost feasibility threshold used in the analysis is an industry-accepted standard, it is also possible that some developers may move forward on projects with higher or lower return on cost expectations. Finally, the feasibility testing generally showed somewhat higher returns for higher density project prototypes.

Thus, Planning Commission's recommendation that the City Council raise the base inclusionary requirement to a total of 20 percent could be supportable under certain conditions, particularly for zones that allow higher densities and are located near transit. While the Planning Commission did not specify the affordability levels within the total 20 percent, there was considerable discussion and some support for allocating the affordability levels with the goal of achieving the targets set forth in the City's Regional Housing Needs Assessment (RHNA) allocation. Furthermore, the AECOM Study looked at a variety of potential inclusionary scenarios that totaled 20 percent to determine the effect on project feasibility. Combining the analysis in the AECOM Study with the policy goal of achieving RHNA, staff recommends that the 20 percent base inclusionary requirement be broken down as follows:

Recommended Inclusionary Requirement	
Rental Projects	
Moderate	10%
Low Income	5%
Very Low Income	5%
<i>Total:</i>	<i>20%</i>
For-Sale Projects	
Moderate	20%
<i>Total:</i>	<i>20%</i>

Under the current inclusionary housing requirements, a developer of a rental housing project that provides the required 10 percent low-income units on-site is automatically qualified for a 20 percent density bonus under State density bonus law. A developer of a for-sale project that provides the required 15 percent moderate-income units on-site is automatically qualified for a 10 percent density bonus under State density bonus law. Thus, the existing inclusionary requirement already puts projects over the threshold to receive a State density bonus and become eligible for concessions without substantially more affordable housing being produced for the City. Increasing the required inclusionary units would increase the City's stock of affordable units.

Increasing Inclusionary In-Lieu Fee

Pursuant to State law, Pasadena provides developers alternative ways to satisfy their affordable housing obligation. A common option is to pay a fee in lieu of on-site production. In-lieu revenues are deposited into the Inclusionary Housing Trust Fund, and are used to help finance a variety of affordable housing activities, including the rehabilitation of existing affordable housing developments and the development of ground-up projects that are not produced by the market.

The City contracted with David Paul Rosen & Associates (DRA) to prepare an analysis of the City's inclusionary in-lieu fee structure and propose updates to the fee rates to reflect current housing market conditions in Pasadena (DRA Study). The calculation of the updated in-lieu fee rates is derived from an affordability gap analysis that considers the differential between market prices of new housing units and the prices that low and moderate income households can afford to pay. Using market analysis methodology similar to the AECOM Study, DRA quantified the rental and condominium affordability gaps for each in-lieu fee sub-area to determine the maximum supportable rates. The results demonstrate that increasing rates in all project types and through all sub-areas would be supportable, and in some cases, significant increases were supportable. The DRA Study is included as Attachment I to this report.

At the time the recommendations from the DRA Study were presented to the City Council for consideration, the direction was to combine the analysis of the in-lieu fee rates with overall recommendations to the entire IHO. The staff report regarding adjustments to the in-lieu fee rates is included as Attachment G. As a result, the AECOM Study assumes the maximum in-lieu fee rates from the DRA Study for comparing project feasibility between the base case scenario and the in-lieu fee scenario.

Over the course of the outreach conducted to affordable housing developers, advocates, and from discussions with staff from the Housing Department, it has become clear that maintaining some form of revenue for the City's affordable housing trust fund will be essential in order to maintain the City's ability to leverage those funds and provide the types of affordable housing that the market will not create, or is not outfitted to operate, such as permanent supportive housing or transitional housing. Financial modeling from the AECOM Study shows that implementation of the maximum supportable in-lieu fee would be less financially preferable than building the affordable units on-site and benefitting from the corresponding density bonus. However, based on conversations with developers, the incentive for saving time and cost from going through the necessary approval processes to obtain the density bonus and concessions would likely still result in some projects opting to pay the in-lieu fee.

Should the Council agree to raise the in-lieu fee, it would also need to identify when (to which projects) the fee would be applied. Currently, the in-lieu fee, similar to other construction fees, is required to be paid at the time of building permit issuance and any increase in the fee would not change that. However, the question arises as to whether or not consideration should be given to developers that have already started the entitlement process. Thus, three options were considered as follows:

1. The first option would be to make the new fee applicable to all projects that have not yet submitted a complete application for a building permit. From a "fee collection" viewpoint, this approach would be preferred, because it acknowledges the need to place the affordability gap burden on all projects that are in the pipeline that have not yet submitted building construction plans. However this approach does not account for the time, money, investment and financial planning undertaken by a developer to get to the point where they are allowed to submit for building permit (PPR, discretionary planning application, CEQA clearance, etc.)
2. The second option would require that the increased fee become effective at a certain designated time in the future, such as six months or a year from the date of adoption. If a complete building permit application was submitted to the City before the effective date, the applicant would be locked into the current rate. This option allows time for applicants who are nearing the end of the process to apply for building permits within a specified timeline and ensures the City that, after a certain specified date, the fee would apply to all projects.

3. The third option is to require that the new fee be applicable to any project which has not yet submitted a complete planning application. This ensures that the fee, cost, and revenue projections assumed during the planning phase of the project are carried through to building permit issuance. The drawback of this approach is that it may take six months to a year to process one of these complete planning applications. The entitlement would then be good for up to five years from the approval date and the project would be locked into the current in-lieu fee for a project that wouldn't begin construction for many years from now.

Eliminating Trade-Downs

As described earlier in this report, the existing IHO allows projects to substitute units at lower affordability levels at lower inclusionary rates. For example, one very low-income unit would be equivalent to 1.5 low-income units or 2 moderate-income units. This provision is also referred to as "trading down," and while it results in units with deeper levels of affordability, it also reduces the total number of affordable units produced.

A recent trend in the City is for developers utilizing SDBL to maximize the density bonus while limiting the total number of affordable units on-site by including 11 percent very low-income units in exchange for a 35 percent density bonus. State law also precludes local jurisdictions from counting inclusionary housing units separately from SDBL units. Therefore, the same very low-income units that a developer provides pursuant to SDBL also count toward the City's IHO requirement. Combined with the trade-down provisions, most projects that qualify for the maximum density bonus under SDBL do not need to include additional affordable units to satisfy IHO obligations.

This is demonstrated in the example of a hypothetical rental project with 100 units as its base density. Following recent trends, a developer chooses to include 11 very low-income units (11 percent) in order to qualify for the maximum 35 percent density bonus. Those 11 percent very low-income units would also be counted toward meeting the developer's 15 percent IHO obligation. The table below shows how trading down reduces the IHO obligation from 15 percent to 10 percent, thus allowing the 11 very low-income density bonus units to satisfy the IHO obligation without providing any additional affordable units:

	Inclusionary %	Inclusionary Units	Trade-Down Units	Trade-Down %
	10% Low	10 Low	7 Very Low	7% Very Low
	5% Moderate	5 Moderate	3 Very Low	3% Very Low
Totals:	15% Low/Mod	15 Units	10 Units	10% Very Low

Eliminating the ability to trade down units would result in a greater number of overall units being produced, which is consistent with the City Council's direction.

Affordable Housing Concession Menu

As discussed earlier in this report, SDBL allows developers to request concessions that would result in cost savings in exchange for incorporating affordable units in density bonus projects. Most jurisdictions, including Pasadena, require discretionary review in order to grant these concessions. Often times, this discretionary review adds considerable time and cost to the development process as projects are subjected to completeness review, environmental review, and financial analysis. The discretionary review process also creates uncertainty for development projects due to the additional scrutiny they must undergo during public hearings, which can lead to appeals and potentially litigation.

As a way to reduce processing time and increase certainty for both the City and applicants, one tool that other jurisdictions have implemented is an affordable housing concession menu. Typically, the menu consists of a number of pre-determined concessions that a jurisdiction has deemed acceptable to the community as a legitimate means for achieving cost savings. Since these concessions are pre-determined to meet the findings for granting discretionary approvals, developers choosing concessions from the menu are no longer subject to the discretionary review process, and are able to proceed through the Zoning entitlement process by-right. A developer would continue to be able to choose the current process of requesting concessions without the benefit of the menu, provided that they complete the discretionary process and the necessary findings can be made pursuant to SDBL. Overall, while the concession menu tool provides time and cost savings for developers, it also provides certainty for both the local jurisdiction and developers alike.

Given the findings from the feasibility testing and analysis of the various types of incentives that would be necessary to make projects with increased inclusionary housing feasible, a concession menu would be a useful tool for Pasadena to obtain additional affordable housing while also encouraging new development to better fit within the scale and context of existing neighborhoods. The following is a list of concessions that were developed over the course of numerous Planning Commission meetings based on analysis of past concession permit projects as well as input from the community, that were ultimately recommended by the Planning Commission for the City Council to adopt:

1. Increase in maximum allowable height up to 12 feet beyond current standards over no more than 60 percent of the building footprint;
2. Increase in the maximum allowable floor area ratio up to 0.5 beyond current standards;
3. Reduction of side or rear setbacks by up to 50 percent, provided that the proposed setback is not adjacent to a single family residential zoning district or an eligible or designated historic resource
 - Setback reductions pursuant to this concession shall not result in the removal of a protected tree, nor shall they exempt a project from meeting

the requirements of the Tree Protection Ordinance, which shall be applied based upon setback requirements in place prior to any reduction

4. Elimination of loading requirements;
5. Reduction of minimum parking requirements by up to 50 percent if the project site is located within the Central District Transit Oriented Development area, or within a one-half mile radius of the Metro Fillmore or Allen Gold Line stations

Given the Planning Commission's recommendation to raise the base inclusionary percentage to 20 percent, staff recommends maintaining the 20 percent inclusionary requirement regardless of whether the project chooses to utilize the menu or SDBL. This would create a stronger incentive for applicants to choose the concession menu, as they would have no additional affordable housing obligation, but would benefit from the streamlined review process, resulting in more applicants choosing to limit their requests for concessions to those items on the concession menu, and thus reducing the impact of large density bonus projects on the character of neighborhoods.

The Planning Commission recommended that applicants provide a total of 25 percent inclusionary housing in order to become eligible for the concession menu, and deferred to staff to make a recommendation regarding the income breakdown. Staff does not support this recommendation, however, should the City Council choose to follow the Planning Commission's recommendation, staff recommends that the 25 percent inclusionary requirement include 5 percent very low-income, 5 percent low-income, and 15 percent moderate-income on rental projects, and 25 percent moderate-income on for-sale projects.

Regardless of which inclusionary requirement is established in order to make projects eligible for the menu, staff and the Planning Commission recommend that eligible applicants have the ability to select no more than two out of the five concessions to apply to their project. It should also be noted that any density bonus project, regardless of whether they qualify for the concession menu or not, would still be subject to Design Review.

CONCLUSION AND SUMMARY OF RECOMMENDATIONS:

Pursuant to the direction provided by the City Council, staff sought to identify policy recommendations that would achieve the multiple goals of increasing affordable housing production and minimizing impacts resulting from density bonus concessions, while avoiding over-burdening the market to the point where housing development would not be feasible. These goals were pursued within the context of existing and potential State legislation that is increasingly oriented toward boosting housing production at all levels, and limiting local jurisdictions' discretion in order to do so. Given these parameters, staff considered the following issues and developed recommendations for each:

Increase base inclusionary percentage requirement

Planning Commission Recommendation: Raise base inclusionary requirement from 15 percent to 20 percent. Defer to staff to recommend income breakdown.

Staff Recommendation: Same as Planning Commission - raise base inclusionary requirement from 15 percent to 20 percent, consisting of:

- 5 percent very low-income, 5 percent low-income, and 10 percent moderate income on rental projects, and
- 20 percent moderate-income on for-sale projects.

Increase inclusionary housing in-lieu fee

Planning Commission Recommendation: Raise in-lieu fee to maximum levels supported by DRA Study.

Staff Recommendation: Same as Planning Commission - raise in-lieu fee to maximum levels supported by DRA Study, with further clarification that the fee be applied to all projects that have not been issued a valid building permit within six months from the effective date of the new fee.

Eliminate trade-down provisions in the existing IHO

Planning Commission Recommendation: Eliminate trade-down provisions, resulting in all affordable units counting the same regardless of income level.

Staff Recommendation: Same as Planning Commission - eliminate trade-down provisions, resulting in all affordable units counting the same regardless of income level.

Establish an affordable housing concession menu process

Planning Commission Recommendation: Create the concession menu as an alternative for applicants, with a requirement that a project include 25 percent affordable units to be eligible for the menu, deferring to staff to recommend income breakdown. Allow eligible projects to select no more than two of the five concessions listed in this report, and exempt such projects from the requirement to obtain an affordable housing concession permit.

Staff Recommendation: Create the concession menu as an alternative for applicants, with a requirement that a project include 20 percent affordable units, with the same income breakdown as recommended for the base inclusionary requirement, to become eligible for the menu. Allow eligible projects to select no more than two of the five concessions listed in this report, and exempt such projects from the requirement to obtain an affordable housing concession permit.

Should the City Council choose to follow the Planning Commission recommendation of 25% inclusionary, staff recommends an income breakdown consisting of:

- 5 percent very low-income, 5 percent low-income, and 15 percent moderate-income on rental projects; and
- 25 percent moderate-income on for-sale projects.

ENVIRONMENTAL ANALYSIS:

The Zoning Code Amendments have been assessed in accordance with the criteria contained in the CEQA Guidelines, and qualify for Categorical Exemption pursuant to Section 15305 (Class 5 – Minor Alterations in Land Use Limitations), and there are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. Section 15305 exempts projects that consist of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density. The properties affected by these Zoning Code Amendments have an average slope of less than 20 percent. Furthermore, the Zoning Code Amendments would result in changes to the City's inclusionary housing requirements and the way in which the City implements State density bonus law, and would not result in any changes to regulation of land uses or base density standards in the Zoning Code. Finally, at a public hearing on July 24, 2019, the Planning Commission voted unanimously to recommend that the City Council find the proposed Zoning Code Amendments exempt from CEQA pursuant to Section 15305. Therefore, staff recommends that the City Council find that the proposed Zoning Code Amendments are exempt from further review under the provisions of CEQA.

FISCAL IMPACT:

The proposed increase to the inclusionary housing in-lieu fee would result in additional revenue from those projects that choose to pay the fee rather than build units on-site or comply by other means. There is a possibility that the increased fee would incentivize developers to build on-site units rather than pay the higher fee, however it is anticipated that the higher fee revenues from those who choose to pay the fee would offset the loss of revenue from those who choose to build on-site units.

Respectfully submitted,



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Attachments: (10)

- Attachment A – Findings of General Plan Consistency for Zoning Code Amendments
- Attachment B – Draft Language for Affordable Housing Concession Menu
- Attachment C – State Density Bonus Tables
- Attachment D – July 24, 2019 Planning Commission Staff Report (without attachments)
- Attachment E – June 26, 2019 Planning Commission Staff Report (without attachments)
- Attachment F – May 8, 2019 Planning Commission Staff Report (without attachments)
- Attachment G – August 27, 2018 City Council Staff Report Re: In-Lieu Fees (without attachments)
- Attachment H – Revised Market and Feasibility Study for Raising the Inclusionary Housing Percentage Requirement (AECOM Study)
- Attachment I – Inclusionary Housing In-Lieu Fee Study, August 2018 (DRA Study)
- Attachment J – Correspondence Received