

**ATTACHMENT A**

**FINDINGS FOR ZONING CODE TEXT AMENDMENT**

## FINDINGS FOR ZONING CODE TEXT AMENDMENT

Prior to the approval of a Zoning Code Text Amendment, the following findings must be made:

1. *The proposed amendment is in conformance with the goals, policies and objectives of the General Plan, and other adopted goals and policies of the City.*

The proposed amendment to the Zoning Code is consistent with the goals and policies of the General Plan as follows:

### Land Use Element

- Goal 2. Land Use Diversity. A mix of land uses meeting the diverse needs of Pasadena's residents and businesses, fostering improved housing conditions, offering a variety of employment and recreation opportunities, and supporting a healthy population while protecting the environment.
  - Policy 2.1 (Housing Choices). Provide opportunities for a full range of housing types, densities, locations, and affordability levels to address the community's fair share of regional, senior, and workforce housing needs and provide a strong customer base sustaining the economic vitality of Pasadena's commercial land uses. The types, densities, and location of housing shall be determined by the Land Use Diagram and reflect the projected needs specified in the Housing Element.
- Goal 4. Elements Contributing to Urban Form. A safe, well-designed, accessible City with a diversity of uses and forms. These diverse forms include distinct, walkable districts, corridors, and transit and neighborhood villages and cohesive, unique single and multi-family residential neighborhoods and open spaces where people of all ages can live, work, shop, and recreate.
  - Goal 4.11 (Development that is Compatible). Require that development demonstrates a contextual relationship with neighboring structures and sites addressing such elements as building scale, massing, orientation, setbacks, buffering, the arrangement of shared and private open spaces, visibility, privacy, automobile and truck access, impacts of noise and lighting, landscape quality, infrastructure, and aesthetics.
- Goal 21. Desirable Neighborhoods. A City composed of neighborhoods with a variety of housing types that are desirable places to live, contribute to the quality of life, and are well maintained.

- Policy 21.1 (Adequate and Affordable Housing). Provide a variety of housing types (i.e. small subdivisions, row housing, and condominiums), styles, densities, and affordability levels that are accessible to and meet preferences for different neighborhood types (e.g. mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Housing Element.
- Policy 21.2 (Equitable Distribution of Affordable Housing). Providing for the equitable distribution of affordable housing throughout the City, as defined by the Housing Element goals and policies, capitalizing on opportunities for new development allowed by the densities permitted in the Central District and Transit Villages.
- Policy 21.4 (New Residential Development). Attract new residential development that is well-conceived, constructed, and maintained in a variety of types, densities, locations and costs.

### Housing Element

- Goal HE-1. Sustainable neighborhoods of quality housing, parks and community services, infrastructure, and other associated services that maintain and enhance neighborhood quality, character, and the health of residents.
  - Policy HE-1.1 (Neighborhood Character). Encourage, foster, and protect a balanced mix, density, and form of residential and mixed-use districts and neighborhoods. Preserve the character, scale, and quality of established residential neighborhoods.
- Goal HE-2. An adequate supply and diversity of quality rental and ownership housing opportunities suited to residents of varying lifestyle needs and income levels.
  - Policy HE-2.1 (Housing Diversity). Facilitate and encourage diversity in types, prices, ownership, and size of single-family homes, apartments, town homes, mixed-uses, transit-oriented developments, and work/live housing, among others.
  - Policy HE-2.4 (Affordable Housing). Facilitate a mix of household income and affordability levels in residential projects and the appropriate dispersal of such units to achieve greater integration of affordable housing throughout the City.
  - Policy HE-2.6 (Housing Incentives). Facilitate the development of affordable housing through regulatory concessions, financial assistance, density bonuses, the inclusionary housing program, and other City and outside agency programs.



- Policy HE-2.7 (Entitlement Process). Explore continued improvements to the entitlement process to streamline and improve coordination of the processing of development permits, design review, and funding of affordable housing.
- Program #10: Inclusionary Housing
  - 2014-2021 Objectives: By 2016, review current ordinance to determine if inclusionary requirements can and should be increased in TOD districts.

The proposed amendments include changes to the Inclusionary Housing Ordinance (IHO) that would raise the optional inclusionary in-lieu fee and eliminate trade-downs. The amendments also include the creation of an affordable housing concession menu to streamline projects utilizing State density bonus law (SDBL). The elimination of trade-downs would result in a higher number of on-site affordable units being produced at both the low-income and moderate-income levels as opposed to current trends, wherein developers utilize the trade-down provision to provide fewer total units all at the very low-income level. Although increasing the in-lieu fee would make it less of an attractive option to developers, it is still anticipated that many will choose to pay the in-lieu fee rather than face the uncertainties of providing on-site affordable units, thereby increasing the revenues to the Affordable Housing Trust Fund. These revenues can be used to fund other types of affordable housing that would not otherwise be produced in the market, such as permanent supportive housing or transitional housing. These outcomes are consistent with Housing Element Policies 1.1, 2.1, 2.4, 2.6, and 2.7. Additionally, as part of this effort, a study was conducted that analyzed whether increased inclusionary percentages could be justified in TOD districts. The study did not produce strong evidence that increased inclusionary percentages in TOD areas would be more financially feasible than areas outside of TOD districts. Nevertheless, this study was undertaken specifically pursuant to Housing Element Implementation Program #10, and thus has satisfied that measure.

Although some housing development projects continue to be financially feasible today, development trends indicate that as time goes on, land prices and development costs will result in projects relying on greater density bonuses and increasingly larger concessions for height and floor area ratio being required in order to make projects financially feasible. This has resulted in newer projects being out of scale and incompatible with existing neighborhoods. The creation of an affordable housing concession menu will offer an alternative for developers that meets the City's goals of providing additional affordable housing while maintaining compatibility of new projects with existing character. In exchange for a higher set-aside of affordable units, projects will be eligible to take advantage of a set of concessions from a pre-determined menu and a streamlined review process. The result would be increasing the production of various types of affordable housing while maintaining compatibility with neighborhood character without limiting the development of market-rate housing overall. Therefore,

these amendments would be consistent with Land Use Policies 2.1, 4.11, 21.1, 21.2, and 21.4.

2. *The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.*

The proposed amendments are consistent with numerous policies in the Land Use and Housing Elements of the General Plan. The proposed changes to the IHO would result in a higher number of on-site affordable units and additional financial resources for the Affordable Housing Trust Fund. The creation of the affordable housing concession menu would require additional affordable housing while incentivize preservation of neighborhood character without stifling market-rate housing production overall. Therefore, the proposed amendments would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

**ATTACHMENT B**

**DRAFT LANGUAGE FOR AFFORDABLE HOUSING CONCESSION MENU**

## DRAFT LANGUAGE FOR AFFORDABLE HOUSING CONCESSION MENU

The following section shall be added to the Zoning Code:

### 17.43.055 – Affordable Housing Concession Menu

- A. **Eligibility.** An applicant who utilizes the density bonus provisions of this chapter and complies with the following shall not be subject to the application requirements, procedures, or findings set forth in Section 17.43.050 – Concessions and Other Incentives:
1. The project includes at least 5 percent of the units for very low-income households, 5 percent of the units for low-income households, and 10 percent of the units for moderate-income households; and
  2. The applicant does not request any concession or incentive except for those specified within the affordable housing concession menu in this section.
- B. **Concession Menu.** An eligible applicant shall be entitled to utilize no more than two of the following concessions:
1. Increase in maximum allowable height by up to 12 feet beyond otherwise applicable standard over no more than 60% of the building footprint.
  2. Increase in maximum allowable floor area by up to 0.5 beyond otherwise applicable standard.
  3. Reduction of side or rear setback requirements by up to 50% beyond otherwise applicable standard, provided that the proposed setback is not adjacent to a single family residential zoning district or a Historic Resource, including designated or eligible districts, landscapes, objects, signs, sites, or structures. 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 Chapter 8.52 - City Trees and Tree Protection Ordinance, the requirements of which shall be based on setback requirements in place prior to any reduction pursuant to this section.
  4. Exemption from any of the requirements set forth in Section 17.46.260 – Number, Location, and Design of Off-Street Loading Spaces.
  5. Reduction of minimum parking requirements by up to 50% below otherwise applicable standards, provided that the project site is located within the Central District Transit Oriented Development area, or any portion of the project site is located within a one-half mile radius of the Metro Fillmore or Metro Allen Gold Line Stations.

**ATTACHMENT C**

**STATE DENSITY BONUS TABLES**



**STATE DENSITY BONUS TABLES**

<b>% Very Low-Income Units</b>	<b>% Density Bonus</b>
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

<b>% Low-Income Units</b>	<b>% Density Bonus</b>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

<b>% Moderate-Income Units</b>	<b>% Density Bonus</b>
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
...	...
40	35

**ATTACHMENT D**

**JULY 24, 2019 PLANNING COMMISSION STAFF REPORT  
(WITHOUT ATTACHMENTS)**



**PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT**

**STAFF REPORT**

**DATE:** JULY 24, 2019

**TO:** PLANNING COMMISSION

**FROM:** DAVID M. REYES, DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

**SUBJECT:** ZONING CODE AMENDMENTS TO UPDATE INCLUSIONARY HOUSING REQUIREMENTS AND ESTABLISH AN AFFORDABLE HOUSING CONCESSION MENU

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**RECOMMENDATION:**

It is recommended that the Planning Commission:

1. **Find** that the Zoning Code Amendments are exempt from the California Environmental Quality Act (CEQA);
2. **Adopt** the Findings for Zoning Code Amendments in Attachment A; and
3. **Recommend** that the City Council approve the Zoning Code Amendments as outlined in this report.

**BACKGROUND:**

In October 2018, the City Council directed staff to study and prepare an ordinance to address an imbalance between increasing impacts of density bonus concessions and the public benefits received by the City. To achieve this, the City Council directed staff to look at increasing production of affordable housing by increasing inclusionary housing requirements, and creating an affordable housing concession menu to incentivize use of concessions that would have lesser impact on the character of neighborhoods. In December 2018, staff held a study session with the Planning Commission to discuss this issue and receive input and direction for further study. In February 2019, staff held another study session with the Planning Commission regarding the scope, methodology, and approach to preparing a market and feasibility study to be prepared by AECOM (AECOM Study) to inform potential changes to the Inclusionary Housing Ordinance (IHO) and creation of an affordable housing concession menu (Menu). In May 2019, the Planning Commission held a public hearing wherein staff presented findings from the AECOM Study and staff's initial recommendations. Input was received by the public and Commissioners, and the meeting was continued to allow for further analysis and opportunities for public input. At the June 26, 2019 Planning Commission meeting, staff presented additional analysis and sought a recommendation from the Commission. After additional public comment, the Commission discussed various issues and reached consensus on most, but not all aspects of the proposed

ordinance. The Commission requested further clarification regarding details on the Menu, including how much additional inclusionary would be required to be eligible, what concessions would be on the Menu, and the process for using the Menu, and continued the hearing.

This report summarizes the various components of the proposed ordinance, identifies those issues on which the Commission reached consensus, and provides clarification and staff recommendations on outstanding issues. Prior staff reports, studies, and conceptual ordinance language are attached for reference.

## **ANALYSIS:**

### **Issues With Consensus**

At the June 26, 2019 Planning Commission meeting, Commissioners considered a variety of issues comprising the proposed changes to the IHO and creation of the Menu, and were able to reach consensus on the following:

#### In-Lieu Fee

When the City Council directed staff to study potential changes to the IHO, the Council also asked that these changes be considered alongside an increase in the inclusionary in-lieu fee pursuant to the study prepared by David Rosen & Associates, updated in 2018 (DRA Study). The AECOM Study analyzed the effects of the existing and proposed in-lieu fees, and found that raising the in-lieu fee to the maximum justifiable rates identified in the DRA Study would result in on-site production being a more financially attractive choice. However, based on interviews with developers, it is anticipated that some will still choose to pay the in-lieu fee rather than build units on-site.

*Action Taken:* The Planning Commission voted to recommend raising the in-lieu fee to the maximum justifiable level identified in the 2018 DRA Study.

#### Trade-Downs

The existing IHO includes a provision that allows for a developer to "trade down" the required affordable units to deeper levels of affordability. For example, one Very Low-Income unit would count as one and a half Low-Income units or two Moderate-Income units. Although these provisions have resulted in more Very Low-Income units being produced, the trade downs have resulted in a lesser overall number of affordable units being produced. Furthermore, the incentive for providing more Very Low-Income units also enables a project to qualify for a higher density bonus and more concessions under State law. Staff recommended eliminating this provision, and this recommendation also received support from numerous members of the public.

*Action Taken:* The Planning Commission voted in support of eliminating trade-downs.

#### Raising Base Inclusionary Requirement

The existing IHO requires all projects with 10 or more units to set aside a total of 15% of units for affordable housing, broken down at 10% Low- and 5% Moderate-Income for rental projects, and 15% Moderate-Income for for-sale projects. One of the key questions that staff sought to answer was how much this requirement could be increased without hindering market-rate housing development. The AECOM Study demonstrated that any meaningful increase to the base inclusionary requirement without accompanying incentives to off-set those costs would result in the majority of projects becoming financially infeasible. This would make it likely that many housing development projects would either not move forward, or would be forced to take



advantage of State Density Bonus Law at higher densities and request larger concessions that would be more impactful to existing neighborhood character. As a result, staff recommended against an outright increase to the base inclusionary percentage requirement, and instead recommended the creation of the affordable housing concession menu to combine an increased inclusionary requirement with a set of incentives to offset the costs of the additional inclusionary.

*Action Taken:* The majority of the Planning Commission voted in favor of maintaining the existing 15% base inclusionary requirement with no outright increase.

### **Outstanding Issue**

By the conclusion of the June 26, 2019 Planning Commission meeting, while there was consensus on adopting a Menu in concept, the Commission did not reach a consensus on the details of implementing the Menu. Components of the Menu that require a recommendation include the amount of additional inclusionary housing required for a developer to become eligible for the Menu, and the specific concessions that would be on the Menu.

### Optional Inclusionary Scenarios

At the June 26, 2019 Planning Commission meeting, staff presented a total of eight possible scenarios with increased inclusionary requirements for the Commission's consideration. These scenarios are summarized in the staff report for that meeting (Attachment C), with full analysis provided in the AECOM Study (Attachment E).

The scenarios were informed by the Planning Commission's input from prior meetings, and represented a variety of policy goals, such as increasing Workforce Housing or supporting Regional Housing Needs Assessment allocation targets. Each inclusionary scenario was also tested in the AECOM Study to determine the effect it would have on project feasibility, and how much incentive would be required in order to offset the financial impacts of a higher inclusionary requirement. In summary, a combination of density bonus, time savings, and concessions would provide enough flexibility for the Commission to recommend an inclusionary requirement.

*Staff Recommendation:* Select the scenario that will create the most affordable housing units while also contributing to the City's State-mandated RHNA allocation. The scenario that best aligns with these goals is Scenario 6, which would require 5% Very Low, 5% Low, and 10% Moderate, resulting in a total inclusionary requirement of 20%.

### Affordable Housing Concession Menu

At the May 8, 2019 Planning Commission meeting, staff recommended a set of concessions that would be available as part of the optional Menu. After receiving public comment and direction from the Commission, staff returned at the June 26, 2019 Planning Commission meeting with revisions addressing concerns about protecting historic resources and trees, as well as granting additional flexibility with regard to parking and loading. Additional public comment was received, and the following represents staff's current recommendation for the list of concessions:

- Increase in maximum height of up to 12 feet beyond current standards over no more than 60% of the building footprint
- Increase in maximum floor area ratio of up to 0.5 beyond current standards
- Reduction of side or rear setbacks by up to 50%, provided that the proposed setback is not adjacent to a single family residential zoning district or a Historic Resource (including designated or eligible districts, landscapes, objects, signs, sites, or structures)

- Setback reductions do not exempt a project from meeting the requirements of the Tree Protection Ordinance, which shall be based on setback requirements in place prior to any reduction
- Eliminate loading requirements
- Reduction of minimum parking requirements by up to 50% 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

By the conclusion of the June 26, 2019 meeting, the Planning Commission did not reach a consensus on the final list of concessions to recommend to City Council.

*Staff Recommendation:* Recommend the inclusion of the five concessions listed above, which represent a balance between what has been historically requested, the feedback received by the Commission and members of the public, and reasonable limitations intended to protect the most important aspects of neighborhood character.

### **Implementation and Process**

Under the current IHO and zoning regulations, a project that meets the inclusionary requirement by providing units on-site automatically qualifies for up to 20% density bonus under State Density Bonus Law by providing 10% of units at low-income. This also makes the project eligible for one concession of any type or size, which has typically been additional height or floor area ratio. If a developer seeks to use the concession, they must first obtain an Affordable Housing Concession Permit. This process typically requires hiring of a consultant to conduct financial analysis to determine if the concession is necessary, and approval by the Hearing Officer through a public hearing. If approved, the decision is subject to appeal to the Board of Zoning Appeals, and ultimately to the City Council. Typically, this entire process can take approximately 6 to 12 months, and sometimes even longer if appeals are filed. Once the project successfully obtains the Affordable Housing Concession Permit, the project would then proceed to Design Review, followed by building plan check, and finally permit issuance.

Should the Planning Commission choose to recommend the implementation of a Menu, this would create an alternative option for a developer seeking to use concessions. As long as the developer agrees to provide additional on-site inclusionary beyond the base requirement and selects no more than two concessions from the established Menu, they would not be required to obtain the Affordable Housing Concession Permit, thereby saving 6 to 12 months of processing time.

The Concession Menu process would be the mechanism through which the incentives identified by the AECOM Study would be implemented. Where the AECOM Study identified additional density as an incentive, the project would get the additional density through the State Density Bonus, which provides at least 20% density bonus just for complying with the base inclusionary requirement. Where the AECOM Study identified time savings as an incentive, the project would obtain that time savings by avoiding the Affordable Housing Concession Permit process, thus saving approximately 6-12 months. Where the AECOM Study identified parking reductions as an incentive, the project would be able to take advantage of State Density Bonus Law parking rates, which in some cases would be less than the City's base requirements, or choose the 50% parking reduction concession from the Menu.

In exchange for granting these incentives to the developer, the City would benefit from a higher inclusionary set-aside, and the fact that the developer would be limited to choosing from the pre-determined set of concessions rather than requesting concessions that would potentially result in



more height, FAR, or other deviations from standards that could negatively impact neighborhood character.

Thus, staff's recommendation is for the Planning Commission to recommend that the City Council create a Menu as an optional process for eligible projects as described above.

**Conclusion**

The proposed zoning code amendments consist of four main issues for the Planning Commission to make recommendations on. The Commission reached consensus on three of these issues at the June 26, 2019 meeting, and there is one outstanding issue for the Commission to make a determination on. The issues, staff's recommendations, and the Planning Commission's decisions, are summarized in the following table:

Issue	Staff Recommendation	Planning Commission Status
Raise inclusionary in-lieu fee	Raise to maximum justifiable under DRA Study	Majority consensus on Staff Recommendation
Eliminate trade-downs	Eliminate Trade-Downs	Majority consensus on Staff Recommendation
Increase base inclusionary percentage requirement without offsetting with incentives	Do not raise base inclusionary percentage requirement without offsetting incentives through a Menu process	Majority consensus on Staff Recommendation
Create an optional Affordable Housing Concession Menu to incentivize additional inclusionary housing.	Require Scenario 6 (5% Very Low, 5% Low, and 10% Moderate) for a project to become eligible for the Menu. Include five concessions on the Menu, as listed in this report.	No consensus, recommendation needed

**ENVIRONMENTAL DETERMINATION**

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%, 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%. 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. Therefore, staff recommends that the Planning Commission find that the proposed Zoning Code Amendments are exempt from further review under the provisions of CEQA.


Respectfully Submitted,

  
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Development

Prepared by:

  
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Reviewed by:

  
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Attachments:

- Attachment A: Findings for Zoning Code Amendments
- Attachment B: Potential Ordinance Language for Affordable Housing Concession Menu
- Attachment C: June 26, 2019 Planning Commission Staff Report (without attachments)
- Attachment D: May 8, 2019 Planning Commission Staff Report (without attachments)
- Attachment E: Revised Market and Feasibility Study for Raising the Inclusionary Housing Percentage Requirement  
(Revised AECOM Study)
- Attachment F: Inclusionary Housing In-Lieu Fee Study (DRA Study)
- Attachment G: Correspondence Received