

ATTACHMENT E

**JUNE 26, 2019 PLANNING COMMISSION STAFF REPORT
(WITHOUT ATTACHMENTS)**



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: JUNE 26, 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

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:

On May 8, 2019, staff shared key findings and analysis from the Inclusionary Housing Market and Feasibility Study prepared by AECOM (AECOM Study), and presented recommendations for establishing an affordable housing concession menu. At the meeting, members of the public and the Planning Commission provided comments on the study and staff's recommendations, and the Planning Commission directed staff to prepare additional analysis and revisions to the AECOM Study. This report focuses on those revisions and new insights provided by the additional work. The May 8, 2019 staff report, which includes further background and analysis, is attached for reference.

ANALYSIS:

Revisions and Additional Analysis

The Planning Commission provided direction to staff to prepare revisions and additional analysis with regard to the Market and Feasibility Study for Raising the Inclusionary Housing Percentage Requirement (AECOM Study). The following specific comments were provided and addressed in the revisions (Revised AECOM Study):

- Revise the definition of Workforce Housing to a maximum household income of 150% of the Area Median Income (AMI), rather than the 180% that was previously analyzed. The 180% AMI Workforce definition is referred to as Workforce A, and the 150% AMI definition is referred to as Workforce B.
- Study an additional scenario in which a higher rate of Workforce Housing is required. The additional scenario studied reflects the Base Case + 10% Workforce B.
- Analyze the returns on cost for projects assuming current in-lieu fee requirements and compare to the returns based on the highest supportable increase recommendation.
- Add a glossary to define key terms used throughout the AECOM Study and staff report.

In addition to the direction from the Planning Commission, staff also directed AECOM to add two additional inclusionary scenarios in response to public comments and to provide additional insight for the Planning Commission to consider as part of their recommendation. These additional scenarios are as follows:

- 20% total inclusionary requirement, consisting of 10% Low-Income and 10% Moderate-Income.
- 20% total inclusionary requirement, consisting of 5% Very Low-Income, 5% Low-Income, and 10% Moderate-Income.

Finally, incentive options have also been revised or newly developed for each of these scenarios to include a combination of expedited processing and parking reduction, and additional background information has been added to the study regarding the inclusionary housing requirements of the Cities of Burbank and Glendale.

In-Lieu Fee

As directed by the Planning Commission, the Revised AECOM Study includes a comparison of the base case scenarios with both the currently adopted inclusionary in-lieu fee as well as the increased in-lieu fees proposed by the Inclusionary Housing In-Lieu Fee Study prepared by David Rosen & Associates, as updated in August 2018 (DRA Study). The comparison demonstrated that the existing in-lieu fee schedule offers developers substantially better returns than for on-site development of affordable housing. On the other hand, the increased fees proposed by the DRA Study, would generate returns significantly lower than those available for on-site affordable units. This indicates that if the in-lieu fee were increased, it is likely that some projects that would have otherwise chosen to pay the in-lieu fee will instead choose to build the inclusionary units on-site. However, it is still anticipated that in practice, some developers would still prefer the in-lieu fee to manage entitlement risk because of the longer entitlement timeframe required for building units on-site and obtaining an affordable housing concession permit.

Inclusionary Scenarios and Incentives

A summary of all scenarios, including revised and new scenarios, is provided in the table below:

Scenario	Total %	Income Breakdown	Offsetting Incentives*
1	20%	Base Case + 5% Workforce A 10% Low 5% Moderate 5% Workforce A (180% AMI)	- Density increase ranging from 2-6% - Expedited processing plus parking reduction of up to 23% for some prototypes - Parking reductions of up to 11%, with one prototype requiring 36% reduction
2	15%	15% Low	- Density increase ranging from 1-5% - Expedited processing for some prototypes - Fee reductions ranging from 5-28% - Parking reductions of up to 12%, with one prototype requiring 30% reduction
3	20%	10% Low 10% Workforce B (150% AMI)	- Density increase ranging from 2-6% - Expedited processing for some prototypes - Fee reductions ranging from 4-34% - Parking reductions of up to 11%, with one prototype requiring 36% reduction
4	20%	Base Case + 5% Workforce B 10% Low 5% Moderate 5% Workforce B (150% AMI)	- Density increase ranging from 2-7% - Expedited processing plus parking reduction of up to 28% - Fee reductions ranging from 12-41% - Parking reductions of up to 15%, with one prototype requiring 43% reduction

5	20%	Base Case + 5% Moderate 10% Low 10% Moderate	<ul style="list-style-type: none"> - Density increase ranging from 5-10% - Expedited processing plus parking reduction of up to 37% for all prototypes - Fee reductions ranging from 19-48% - Parking reduction of up to 20%, with one prototype requiring 50% reduction
6	20%	5% Very Low 5% Low 10% Moderate	<ul style="list-style-type: none"> - Density increase ranging from 8-20% - Expedited processing plus parking reduction of up to 45% for all prototypes - Fee reductions ranging from 16-55% - Parking reduction of up to 24%, with one prototype requiring 50% reduction
7	20%	Base Case + Very Low 5% Very Low 10% Low 5% Moderate	<ul style="list-style-type: none"> - Density increase ranging from 10-25% - Combination of increased density of up to 27.5%, expedited processing, and up to 3% parking reduction - Parking reduction up to 66%
8	20%	20% Low	<ul style="list-style-type: none"> - Density increase ranging from 9-35% - Expedited processing plus parking reduction ranging from 11-76% - Parking reduction up to 88%
<p><i>*Each point represents a distinct incentive or package of incentives that would achieve feasibility.</i></p>			

Affordable Housing Concession Menu

Many of the comments received at the May 8, 2019 Planning Commission meeting related to the list of potential concessions that would be available as part of the Affordable Housing Concession Menu (Concession Menu). Specifically, concerns were raised about potential impacts to historic resources and protected trees, and there was direction to further reduce parking requirements and loading requirements as additional incentives. As a result, staff has revised the recommended list of concessions as follows, with changes underlined:

- Increase in maximum height of up to 12 feet beyond current standards over no more than 60% of the building footprint
 - Alternatively, based on the median of all height concessions requested to date, the maximum increase can be raised to 15 feet.
- Increase in maximum floor area ratio of up to 0.65 beyond current standards
- Reduction of side or rear setbacks by up to 50%, provided that the project site 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
 - (Eliminated requirement that the reduction cannot result in less than one space per unit and one half space per affordable senior citizen unit)

Conclusions and Recommendation

As made evident by the feasibility studies and incentive options, any inclusionary scenarios that require a total of 20% affordable housing would require incentives to offset the costs of the additional inclusionary. All of these scenarios may be achieved through a density bonus incentive alone. However, the deeper the levels of affordability required, the higher the density bonus needed in order to achieve feasibility. The highest density bonus required to achieve feasibility would be Scenario 8, which would require all 20% of units to be set aside for Low-Income households. In order to make this scenario feasible, a density bonus of up to 35% would be necessary. According to SDBL, the 20% Low-Income set-aside would automatically qualify a project for a 35% density bonus.

A key consideration is the number and amount of concessions that would be required in order to accommodate the additional density required. For example, a 35% density bonus would make a project eligible for up to two concessions under SDBL. Typically, these concessions would take the form of increased height and floor area ratio. Due to the variability of lot sizes and configurations, it is difficult to predict whether the limits established in the Concession Menu would be sufficient to allow projects with 35% density bonus to be built, and it is possible that some projects will be forced to request larger concessions in order to become feasible. Thus, while the 20% Low-Income scenario would achieve the goal of increasing affordable housing production, it is possible that some projects will seek larger concessions than would be allowed under the menu, or alternatively, would not be built at all. On the other hand, it is also possible that a different combination of concessions available through the menu, such as height increase and parking reduction, or FAR increase and setback reduction, along with the time savings of streamlined review, would allow a project to remain feasible within the limits of the Concession Menu.

Based on the findings of the AECOM study and the uncertainties surrounding which concessions a project might need in order to achieve feasibility, staff continues to recommend against an outright increase in the inclusionary housing requirement, and continues to support the creation of the Affordable Housing Concession Menu as a mechanism to incentivize the creation of additional affordable housing. Previously, staff recommended that the inclusionary requirement

to become eligible for the Concession Menu should be either Scenarios 1 or 2 as identified in this report. However, based on comments from the Planning Commission and members of the public, staff finds that Scenarios 3, 4, 5, and 6 could also meet the goals of increasing affordable housing production while limiting impacts on neighborhood character. However, although Scenarios 7 and 8 could also potentially meet these goals, they are more likely to result in off-menu concession requests, which may not be consistent with the desire of limiting impacts on neighborhood character.

Finally, staff continues to recommend elimination of the trade-down provisions and increasing the in-lieu fee to the maximum supportable rates identified by the DRA Study.

ENVIRONMENTAL DETERMINATION

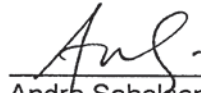
The Zoning Code Amendments have been assessed in accordance with the criteria contained in the CEQA Guidelines, and qualify for Categorical Exemption pursuant to Section 15305 (Class 5 – Minor Alterations in Land Use Limitations), and there are no features that distinguish this project from others in 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,

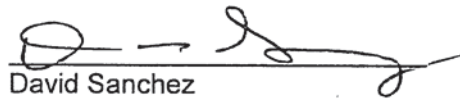


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Attachments:

- Attachment A: Findings for Zoning Code Amendments
- Attachment B: May 8, 2019 Planning Commission Staff Report (without attachments)
- Attachment C: Revised Market and Feasibility Study for Raising the Inclusionary Housing Percentage Requirement
(Revised AECOM Study)
- Attachment D: Inclusionary Housing In-Lieu Fee Study (DRA Study)

ATTACHMENT F

**MAY 8, 2019 PLANNING COMMISSION STAFF REPORT
(WITHOUT ATTACHMENTS)**



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: MAY 8, 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

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.

EXECUTIVE SUMMARY:

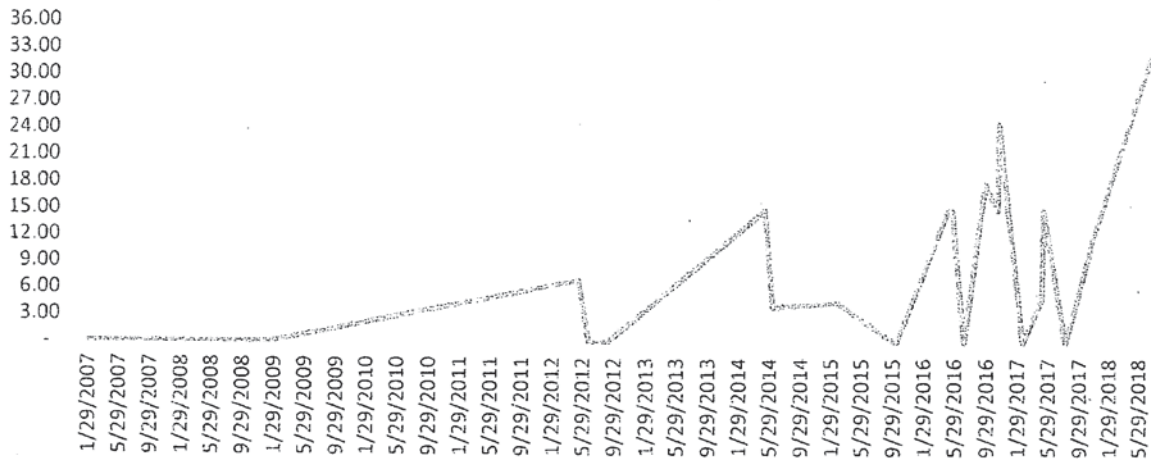
The Planning and Community Development Department was directed by the City Council to conduct a study and prepare recommendations on changes to the Zoning Code that would result in increasing the production of affordable housing, with a focus on changing the existing inclusionary housing requirements and providing an incentive to developers to limit the amount of additional floor area and height being requested beyond existing development standards. This report provides an overview of the process, methodology, and key findings of the market and feasibility study that was undertaken, provides analysis of various options and incentives, and makes recommendations for changes to the inclusionary housing ordinance and to establish an affordable housing concession menu. Study sessions on this topic were conducted with the Planning Commission on December 12, 2018 and February 13, 2019.

BACKGROUND:

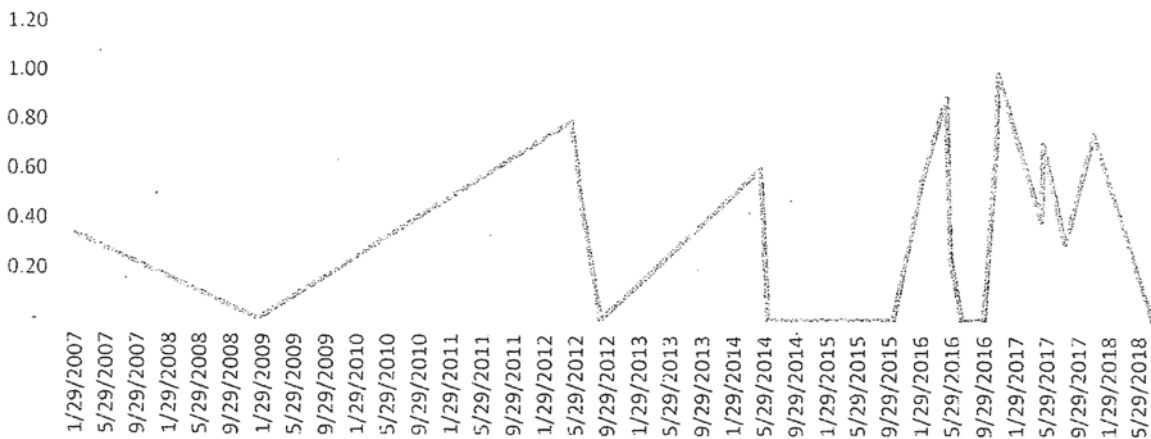
Direction from City Council

Over the course of the past several months, the City Council, as well as many residents throughout the City, have expressed concerns about the increasing number of development projects that have been able to take advantage of State laws that provide concessions for greater density, building height, and floor area than would otherwise be allowable in exchange for including some amount of affordable housing, resulting in buildings that appear out of scale and character with the existing built environment. In fact, a review of these projects has shown that the requests for these types of concessions have increased over time both in the frequency of request, as well as the size of the concessions being requested, as demonstrated in the charts below:

Requested Height Increase



Requested Floor Area Ratio Increase



After exploring various strategies to mitigate the impacts of these projects, it became clear that taking any regulatory action that would limit the development of new housing being built pursuant

to State law would likely result in negative consequences, including loss of funding opportunities and further loss of local control over land use decisions. As a result, the City Council directed staff to focus instead on increasing the amount of affordable housing being produced in the City as a way to offset the impacts of larger buildings, with a key assumption being that projects taking advantage of increased density, height, and floor area are also resulting in windfall profits to developers with incommensurate benefit to the City in the form of a handful of affordable units as required by State law. To that end, staff was directed to explore the possibility of making changes to the Inclusionary Housing Ordinance (IHO), including raising the inclusionary percentage requirement, the in-lieu fee rate, and other policy amendments aimed at increasing the production of affordable units. Additionally, staff was directed to study and make recommendations on establishing a new affordable housing concession menu process in order to incentivize development that is more consistent with existing neighborhood character.

In order to better understand the potential impacts of changing various aspects of the IHO, the City has retained AECOM to prepare a market and feasibility study ("AECOM Study"). The scope of the AECOM Study was informed by prior input from the Planning Commission and the public. Highlights and key takeaways from the study are discussed throughout this report.

Policy and Regulatory Context

City of Pasadena Inclusionary Housing Ordinance

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% of those units as affordable to moderate and low-income households¹. In rental projects, the requirement consists of 10% low-income and 5% moderate-income units, while for-sale projects require 15% 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.

Assembly Bill 1505

In 2009, the California Court of Appeals ruled in *Palmer v. City of Los Angeles* that local inclusionary housing ordinances violated the Costa-Hawkins Act for new rental units. In 2015, the California Supreme Court ruled in favor of local governments' ability to enforce inclusionary housing ordinances for rental units in *Building Industry Association v. City of San Jose*. In 2017, Assembly Bill 1505 (also referred to as the "Palmer Fix") passed, which effectively reinstated the law as it stood prior to *Palmer v. City of Los Angeles*.

However, 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 requires more than 15% of the total number of units in a rental housing development to be affordable if a jurisdiction meets certain criteria. Pursuant to such review, HCD may require an economic feasibility study, the format and content of which has not yet been specified. In order

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 (180% AMI).

for a jurisdiction to be subject to HCD review, it would need to have failed to meet at least 75% of its share of the regional housing need allocation for the above-moderate income category over at least a five-year period, and HCD would need to find that the jurisdiction has not submitted the annual housing element report as required by State law for at least two consecutive years. At this time, the City of Pasadena does not meet either of these criteria, and therefore is not subject to HCD review for any changes to the IHO. However, it is possible that Pasadena may be subject to these types of reviews in the future due to future legislation or a stall in market-rate housing development.

State Density Bonus Law

State density bonus law (SDBL), 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 regulation based on the amount of affordable housing included in the project, as well as the level of affordability of those units. The maximum increase provided under current SDBL is 35%, and to achieve this maximum, a project must include at least 11% very low-income units, 20% low-income units, or 40% 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, they must demonstrate that the requested concession does not result in identifiable cost savings for the project.

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% very low-income units in exchange for a 35% 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 project with 100 units as its base density, where 11 very low-income units (11%) would qualify for the maximum 35% density bonus. The table below shows how trading down reduces the IHO obligation from 15% to 10%, 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%	15 Units	10 Units	10% Very Low

Literature Review and Other Jurisdictions

The AECOM Study examined lessons learned from inclusionary housing policies across the nation, and found the following key takeaways:

- 40% of surveyed jurisdictions have more than one option for satisfying the inclusionary housing program requirements.
- Roughly half of all programs do not have a minimum development size.
- Inclusionary set-aside percentages vary widely by jurisdiction and are typically staggered by affordability level. The range generally falls between 5% and 35%.
- Incentives and concessions such as fee waivers or density bonus can offset the additional costs of inclusionary requirements, which otherwise may lower land values, increase the cost of housing, and/or discourage development overall.
- The balance of inclusionary requirements and offsetting incentives must be carefully calibrated to the local market.

The City of Los Angeles has not yet officially re-established its inclusionary requirements after the passage of AB 1505, but has implemented other programs incentivizing the inclusion of affordable housing in exchange for greater density. Therefore, in Los Angeles County, the Cities of Santa Monica and West Hollywood are the only other jurisdictions besides Pasadena that currently have and enforce an inclusionary housing requirement. Generally, West Hollywood and Santa Monica have higher total inclusionary requirements of up to 20% and 30%, respectively, and their inclusionary requirements apply to projects of two or more units as opposed to Pasadena's 10-unit minimum. Santa Monica also varies its inclusionary requirement based on tiers that are defined by whether a project is by-right, or if it requests a higher density. Higher density projects have higher inclusionary requirements. Santa Monica also includes an extremely low-income requirement. A more detailed comparison of the various components of these ordinances is provided in Attachment B.

ANALYSIS:

Market and Feasibility Study Findings

A 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, entitled, 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 prior 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. Further details of findings and a list of interview participants are included in Attachment B to this report.

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 15% inclusionary on-site and obtaining the corresponding 20% density bonus that a project would automatically qualify for. 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 four alternative inclusionary set-aside scenarios, as follows:

Scenario	Total %	Income Breakdown	Concept	Effect on Feasibility	Offsetting Incentives*
1	20%	10% Low 5% Moderate 5% Workforce	Smallest reasonable increment above existing minimum	- Modest reductions to ROC across most prototypes and geographies - Greatest impact on mixed-use rental in TOD and residential-only for-sale townhomes	- Small increases in density ranging from 2-4% - Combination of expedited processing and modest fee reductions for some prototypes - Modest parking reductions of up to 11%, with one prototype requiring 36% reduction

2	15%	15% Low	Relatively small increment above existing minimum, focusing on Low-Income	<ul style="list-style-type: none"> - Modest reductions to ROC across all prototypes and geographies - Greatest impact on mixed-use rental in TOD and residential-only for-sale townhomes 	<ul style="list-style-type: none"> - Small increase in density ranging from 1-5% - Expedited processing for some prototypes - Fee reductions ranging from 5-22% - Small parking reductions of up to 9%, with one prototype requiring 30% reduction
3	20%	20% Low	More ambitious increase, focusing on Low-Income	<ul style="list-style-type: none"> - Significant reductions to ROC across all prototypes and geographies 	<ul style="list-style-type: none"> - Substantial increase in density ranging from 9-22% - Combination of expedited processing and fee reduction ranging from 29-73% - Significant parking reduction up to 85%
4	20%	5% Very Low 10% Low 5% Moderate	Ambitious increase focusing on RHNA compliance		<ul style="list-style-type: none"> - Substantial increase in density ranging from 10-25% - Combination of increased density of up to 27.5%, expedited processing, and slight fee reduction - Substantial parking reduction up to 66%

*Each bullet point represents a distinct incentive or package of incentives that would achieve feasibility

Incentives

As demonstrated by the results of the feasibility testing, raising inclusionary housing requirements results in decreased returns that in most cases pushed the baseline projects below the established 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 density bonus, expedited processing, fee reduction, and parking reduction. Providing a density bonus provides additional market-rate revenue to offset the costs of the higher inclusionary requirements, however a higher density bonus would make a project eligible for additional concessions pursuant to SDBL that may result in projects with heights and floor area ratios that are more out of context with the existing and envisioned character of various neighborhoods throughout the City.

Expedited processing was studied as an incentive based on input from developers about the burden placed on project economics by extended entitlement and permitting review timelines. Longer timelines result in higher carrying costs, which impact project feasibility in the long run. Therefore, the effect of reduced processing time was calculated as a reduction in carrying costs when modeling this incentive, and the results show that expedited processing can result in significant cost offsets. This finding is particularly informative for the discussion of establishing an affordable housing concession menu, which would provide a streamlined review process for projects that utilize concessions or incentives from a pre-determined menu.

Parking reductions have been demonstrated as an important driver of development costs and project feasibility. However, it should be noted that regardless of parking requirements established in the Zoning Code, most residential projects will opt to include certain parking minimums in order to satisfy lending requirements and to make units marketable in order to achieve the necessary rents to make a project feasible. Therefore, parking reduction may not be an effective incentive in SDBL projects.

Finally, development review and impact fees can add a notable cost to development projects. Therefore, the AECOM Study sought to understand what degree of fee reduction would make a notable difference in project feasibility. On their own, fee reductions generally have a modest effect on project feasibility, but can be more effective when combined with other incentives. However, due to the importance of development impact fees to the City's overall budget and ability to provide adequate services to residents, Staff does not recommend including impact fee reductions as part of any potential incentive package. Instead, incentives can be focused on a combination of additional density, expedited processing, and reductions in parking minimums, particularly in areas that are in close proximity to transit.

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, one tool that other jurisdictions have implemented is an affordable housing concession menu ("Menu"). Typically, a 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. Examples could include specified amounts of additional height or floor area ratios, reduction or elimination of setback or open space requirements, reduced parking, and other relief from various development standards. Since these concessions are pre-determined to meet the findings for granting discretionary approvals, if a developer chooses concessions from the Menu, they are no longer subject to the discretionary review process, and are able to proceed through the permitting process as a typical by-right project. As an alternative, a developer would still have the option of requesting concessions beyond what is offered on the Menu (sometimes referred to as "off-menu" concessions), provided that they complete the discretionary process and the necessary findings can be made pursuant to SDBL. Overall, while the 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 Menu could be a useful tool for Pasadena to obtain some 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 potential concessions that may be incorporated into a Menu for Pasadena, provided that a project sets aside 5% of total units as affordable at the Workforce level in addition to the existing inclusionary requirement of 10% Low-Income and 5% Moderate-Income, or provided that the project trades the 5% Moderate-Income units for Low-Income units, resulting in 15% of total units as affordable to Low-Income households:

- 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 0.65 beyond current standards
- Reduction of side or rear setbacks by up to 50%, provided that the project site is not adjacent to a single family residential zoning district
- Reduction of loading space size requirement to 10 feet by 20 feet, with 12 feet of vertical clearance for all required loading spaces
- 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
 - Reduction cannot result in less than one space per unit and one half space per affordable senior citizen unit

These concessions are based on a review of typical requests received from recent projects that have applied for an Affordable Housing Concession Permit, and for which a financial analysis has been conducted to determine that such concessions were justified in order to obtain cost savings per SDBL. A project electing to use concessions from the Menu would be eligible to use up to two of these concessions.

It is also noted that any SDBL project, including those seeking Menu concessions, off-Menu concessions, or no concessions at all, would still be subject to Design Review.

Key Takeaways and Policy Considerations

Effect of Density Bonus on Feasibility

A key insight provided by the feasibility testing is that the assumption of SDBL resulting in windfall profits to developers above and beyond normal returns for "code-compliant" projects has been

largely misunderstood. Rather, for the majority of prototypes in all geographies throughout the City, SDBL typically makes otherwise infeasible projects feasible. Thus, whereas a project would otherwise have not gone forward, resulting in zero market-rate or affordable units, SDBL has enabled numerous projects to proceed while providing a percentage of affordable units, both through the existing IHO and SDBL. Looking back at recent projects that have been built either with or without density bonus, it is likely that any significant profits gained from those projects are a result of favorable market timing and lower land prices that are unlikely to apply to new projects in the future. This also leads to the conclusion that raising the inclusionary housing percentage without an offsetting incentive will, in most cases, make projects financially infeasible, and will either lead to a reduction in market-rate housing production (and corresponding affordable unit production), or toward progressively larger requests for concessions pursuant to SDBL in an effort to offset costs through increased heights and floor areas. Thus, it is critical that any increase in inclusionary percentage requirement be accompanied with a set of corresponding incentives to offset costs.

Variation of Inclusionary Based on Proximity to Transit

The City's adopted Housing Element includes an objective to review the current IHO to determine if inclusionary requirements can and should be increased in transit oriented development (TOD) districts. As a result, the AECOM Study was structured to include four Central District TOD prototypes as well as two non-Central District TOD prototypes. Compared to the non-TOD prototypes, the AECOM Study did not find clear evidence that base case TOD prototypes are able to achieve significantly higher return on cost than their non-TOD counterparts. There could be a number of possible reasons for this, including the fact that land costs in the Central District and TOD areas are typically higher than the remainder of the City as a result of higher density zoning. Nonetheless, the AECOM Study showed that even in higher density zones around TOD districts, project feasibility was reduced to marginal levels when additional inclusionary requirements were introduced. Thus, it appears that there is not sufficient evidence to show that inclusionary requirements should be increased in TOD districts beyond those of other areas in the City, and that any increases should continue to be accompanied by offsetting incentives.

Income Tiers

The correct balance of inclusionary requirements and incentives should be determined by the desired policy outcome. If the goal is to produce the most on-site affordable units regardless of affordability level, then consideration should be given to reducing incentives for alternative options such as off-site, in-lieu fee, or land donation, and focus should instead be placed on moderate and low-income units. If the goal is to produce more permanent supportive housing or housing for extremely-low income households, incentivizing more use of the in-lieu fee would generate additional revenue that can be utilized by the Housing and Career Services Department to partner with non-profits and other outside groups to build and operate those types of facilities. If the goal is to use the IHO as a tool for meeting the City's RHNA allocation, then the focus should be on producing very low, low, and moderate-income units on-site rather than extremely low-income and workforce, which are income categories that are not required by RHNA.

Recommendations

Policy Goals

In light of the City Council's direction to study ways to increase overall production of affordable housing, as well as the myriad pieces of State legislation that is already in effect, under consideration, and will likely come forward in the future, it is staff's recommendation that the driving policy goal should be the highest amount of production at the affordability levels allocated by RHNA. Most, if not all, forthcoming State legislation that would limit local control of housing

projects are based on a jurisdiction's progress, or lack thereof, toward meeting its RHNA allocation. Therefore, to the extent that the IHO can assist the City of Pasadena in meeting its RHNA goals, it will assist the City in retaining local control.

Inclusionary Percentage and Affordable Housing Concession Menu

Based on this policy goal, and in light of the findings from the AECOM study, Staff does not recommend an outright increase to the existing 15% inclusionary housing requirement. The AECOM Study has demonstrated that although past code-compliant development projects may have generated sufficient returns, the scarcity of land and resulting increases of land prices are unlikely to result in financially feasible projects absent the use of the SDBL and increasingly larger concessions. Raising the inclusionary percentage without offsetting incentives will either result in less development, and thus less affordable housing overall, or exacerbate the scale of concession requests beyond what has been seen thus far.

Rather than an outright inclusionary increase, staff recommends creating an Affordable Housing Concession Menu that provides the incentives needed to make projects financially feasible while achieving two major goals set forth by the City Council – obtaining additional affordable housing and limiting the effects of larger projects that are out of scale with neighborhood character. As described in this report, the recommendation is to require a project to set aside an additional 5% of total units at the Workforce level, or 15% of total units as affordable to Low-Income households in order to be eligible to receive a limited amount of additional height, floor area ratio, and other concessions from development standards. In exchange, the approval process would be streamlined, resulting in time and cost savings for developers, and certainty for the City in knowing that concessions will not exceed those that have been pre-determined to meet the findings required by SDBL.

In-Lieu Fee

The existing IHO includes an alternative for developers to pay a fee in lieu of building units on-site. In-lieu fees are based on the total number of units in the project, the net residential floor area of those units, the project's inclusionary sub-area location, and the applicable in-lieu fee rate. Although the in-lieu fee rate is subject to annual increases based on the consumer price index, those changes do not necessarily reflect the housing market.

The City has recently 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 C 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. 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 and Career Services 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. Although the modeling shows that implementation of the maximum supportable in-lieu fee from the DRA Study would result in most of the prototypes having a ROC below the feasibility threshold of 10%, this finding is based on the assumption that the on-site affordable projects would also obtain a density bonus. Based on our 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.

Other Amendments

Since State law requires inclusionary units to also count towards the required percentage for a density bonus, it is recommended that the trade-down provisions in the City's current IHO be eliminated. This change would not conflict with State law, since the inclusionary units will still be able to count towards the density bonus calculation, but will remove the incentive for developers to provide a lesser number of overall units in favor of very-low income units in order to access the maximum density bonus under SDBL.

Additionally, the existing IHO requires the developer to sell newly-constructed IHO condo units only to income-eligible persons (very low, low, or moderate). The City, of course, does not qualify as "income-eligible" and there are no IHO provisions which allow the City to acquire such units upon initial sale. One option is to amend the IHO to expressly provide the City with a right of first refusal to acquire the initial sale of Very Low and Low Income homeownership units from the developer. The contract purchase price paid by the City would be the affordable sale price that is applicable at the specified income level, as determined by the City. The City would acquire such units for long-term operation as affordable rental housing for Very Low- or Low-income persons or families. The rental units would be managed by a professional, third party property management company. It is contemplated that the tenants would be persons or families participating in the City's Section 8 rent subsidy program.

There are two primary reasons to enact such an amendment. When the IHO was established, it did not contemplate that developers would provide Very Low-Income homeownership units to satisfy IHO unit requirements. However, in recent years, this has become an increasingly common practice by developers who take advantage of the allowable "trade down" provision under the IHO. Unfortunately, Very Low-Income for-sale housing can place the homeowner in a potentially financially unstable situation. An unforeseen increase in homeownership costs (e.g., HOA fees or special assessments) or a decrease in household income (e.g., due to job loss, medical emergency, other financial hardships) puts the homeowner in jeopardy of losing his or her home. These situations can be avoided by providing the City with a right-of-first refusal to purchase such units. Secondly, the amendment would enable the City to increase the affordable rental housing inventory, and rent some or all of these units to tenants participating in the Section 8 program. In high-housing cost areas such as Pasadena, persons or families that hold Section 8 vouchers are experiencing increasing difficulty to find suitable rental units on the market, as property owners are opting out of the program due to current market rents that provide a greater financial incentive.

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.

CONCLUSION:

Per the City Council's direction, staff has conducted a study of potential market and project feasibility impacts of various changes to the IHO. Based on the findings of the study, staff has developed a set of recommendations including foregoing an outright increase to the inclusionary percentage requirement, increasing the inclusionary in-lieu fee, elimination of trade-down provisions in the current IHO, and establishing an affordable housing concession menu with incentives that would encourage new development to minimize the amount of concessions needed in order to make market-rate projects with on-site affordable housing feasible while complying with SDBL. Staff recommends that the Planning Commission make the required findings for these Zoning Code Amendments and recommend adoption by the City Council.

Respectfully Submitted,



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Attachments:

Attachment A: Findings for Zoning Code Amendments

Attachment B: Market and Feasibility Study for Raising the Inclusionary Housing Percentage Requirement (AECOM Study)

Attachment C: Inclusionary Housing In-Lieu Fee Study (DRA Study)