



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

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,



DAVID M. REYES
Director of Planning & Community
Development

Prepared by:



André Sahakian, AICP
Senior Planner

Reviewed by:



David Sanchez
Principal Planner

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