



Jeff Levine, AICP
Director, Planning & Urban Development Department

Memorandum

To: Housing and Community Development Committee
From: Jeff Levine, Director
Date: March 5, 2015
Re: Proposed Inclusionary Zoning Ordinance- Next Steps

As part of the proposed “encourage and ensure” approach to addressing housing issues, staff has continued to work on the outline of an Inclusionary Zoning Ordinance. Staff has started with the draft developed by the Housing and Equity Working Group of the India Street Neighborhood Advisory Council. Based on input from HCDC in February, we will be adjusting the ordinance to the so-called “10/10/100” goals:

- Inclusionary requirements start in a ten unit development
- Ten percent (or equivalent) of the units would be affordable
- Affordability would be set at “workforce” levels of 100% of area median income (as opposed to the 80% AMI level commonly used.)

At the Housing Forum, there was support for this approach to a new ordinance, at least as a starting point. The Chamber of Commerce’s housing working group meetings, which I attend, include a variety of viewpoints on this issue, ranging from the view that there should not be an inclusionary ordinance to the view that such an ordinance is common nationally and is seen as a “best practice” as part of a set of tools.

Based on this input, I have revised the draft ordinance from the India Street process to incorporate those new numbers. However, there remain a few policy issues that still require direction:

- ✓ **“Cashout” or Fee-in-Lieu Options:** The draft ordinance from the India Street process allows cash-out in lieu of units for projects below 20 units, and for partial requirements. That is generally the state of the practice in many inclusionary ordinances. One thing we have heard in the process to date is an interest in being somewhat more flexible in permitting fee-in-lieu. Options that have been raised include allowing a fee at any level; having more flexibility for fee-in-lieu for ownership projects than for rental projects; and various options related to the fee level.

Given that the City has an existing Housing Trust Fund and would have the capacity to utilize fees in lieu, I would recommend that we consider some flexibility on this issue. It’s important

to keep in mind that the fee-in-lieu is theoretically supposed to cover the cost of creating an affordable unit at the target income levels. While it is hard to find a specific number that meets that goal, we generally find that the cost of producing an affordable unit is about \$125,000.

We offer three options for consideration and discussion to help resolve this issue:

- A. *Fee-in-Lieu allowed for any sized development with a cash-out cost at the true net development cost of producing units (\$125,000, indexed);*
 - B. *Fee-in-Lieu allowed for any size ownership development, and for rental developments up to 20 units, at the cost recommended by the India Street process (\$100,000, indexed); or*
 - C. *Fee-in-Lieu allowed for developments up to 20 units in size, as recommended by the India Street process, at the same cash-out level as the Housing Replacement Ordinance (currently about \$64,700 per unit, indexed.)*
- ✓ **Finishes and sizes of units:** The India Street process recommended that inclusionary units should be “reasonably compatible in unit type, appearance, construction, and quality of materials with other units.” Various approaches are taken in Inclusionary Zoning ordinances, from requiring that inclusionary units be exactly the same in size, distribution and finishes; to a requirement that the number of bedrooms be comparable; to allowing flexibility in terms of finishes as long as the units look the same from the exterior.

We offer three options for consideration and discussion to help resolve this issue:

- A. *Inclusionary units shall be the same size and finish as other units, distributed reasonably throughout the development;*
- B. *Inclusionary units shall have the same number of bedrooms on average as other units in the development, but can use less expensive finishes as long as they do not appear different from the exterior of the building, and shall be distributed reasonably throughout the development;*
- C. *Inclusionary units can be smaller and/or located in less lucrative parts of a development plan, and can use less expensive finishes than the other units in a development.*

Another question that has come up is the administration of an ordinance. I am confident that we have the capacity in our office to administer the ordinance. We would propose a change to the Housing Trust Fund ordinance at some point to leave the option open to use some small portion of the fund for administration of the Inclusionary Zoning ordinance if necessary. Given that the Inclusionary Zoning ordinance would also be a major source of revenue for the Housing Trust, we think that is a prudent option. HCDC would still have to approve such use of the funds on an annual basis as part of the Housing Trust annual plan. This possibility does argue for slightly higher fee-in-lieu levels.

Once these issues are resolved, I believe I am ready to finalize a draft ordinance for consideration by the Planning Board and, ultimately, the City Council, if that is the guidance from your Committee.