

## **Draft Inclusionary Housing Ordinance**

### **County of San Diego Planning Commission Hearing**

**April 19, 2024**

#### **Agenda Item 3**

#### **Transcript of Presentation**

##### Slide 1

- Good morning, Chair Barnhart and Planning Commissioners.
- Today, staff is requesting the Planning Commission provide recommendations to the Board of Supervisors regarding the Draft Inclusionary Housing Ordinance
- The Board directed staff to develop an Inclusionary Housing Program to facilitate the development of affordable housing in the unincorporated County.

##### Slide 2

- Today staff will discuss the following: background information and the Ordinance Components.
  - This includes the set-aside requirement, meaning the amount of affordable housing and the level of affordability required.
  - The next three components are packaged together as the Ordinance Implementation Options, these include
    - Minimum project size, meaning the minimum number of units for a project to comply with the Ordinance.
    - Alternative compliance, meaning ways to comply other than providing affordable units on site.
    - And lastly, incentives, which help offset costs.

Finally, Staff is seeking the Planning Commission's recommendations on the adoption of the draft Ordinance and its Components.

- As a reference point throughout this presentation, the bottom of each slide will show which topic is currently being presented. Staff will pause at the end of the Set Aside and Implementation Options sections to allow the Planning Commissioners to discuss and ask questions.

##### Slide 3

- In 2021, The Board directed staff to develop an Inclusionary Housing Program.
- As a result, the Housing Element includes an implementation action to develop an Inclusionary Housing Program.

- The goal of the program is to address the housing shortage and develop more affordable housing while not slowing overall housing production.
- In 2023, staff presented options for the Ordinance during a Planning Commission Workshop.
- Since then, staff has incorporated the Planning Commission's comments while keeping all Ordinance options still on the table.

#### Slide 4

- Based on feedback received, staff has simplified the information and Ordinance Components presented today and put together an action sheet to ease the decision-making process.
- The action sheet follows the same order as today's presentation and includes options for each of the four Ordinance Components.
- Staff ask that the Planning Commission consider the following key questions during their decision making today.
  - Should the set-aside apply differently to areas with different VMT mitigation costs?
  - What should the level of economic impact / set-aside requirement be?
  - What policy goal should the ordinance prioritize?
  - How flexible, or strict, should the Ordinance Implementation Components be?

#### Slide 5

- An Inclusionary housing program creates affordable housing by requiring new housing projects to include a percentage of units as affordable to moderate and lower-income households.
- The affordable units would be deed restricted to require they be sold or leased at a level affordable to a qualifying low- or moderate-income household.
- This program would only apply to new projects and would not apply to projects currently underway with complete applications.
- To be affordable housing should cost less than a third of a family's income, including rent or a mortgage payment, utilities, and insurance.
- For example, a four-person household with a Moderate income making \$126,000 should spend \$3,500 or less on housing per month.

#### Slide 6

- The County is legally required by the State to provide affordable housing and to fulfill its Regional Housing Needs Allocation or RHNA goal.
- This table shows the County's progress towards its goals for affordable housing development for 4 categories: Very Low, Low, Moderate, and Above Moderate.
- So far, the County has made substantial progress towards its goals for Low, Moderate, and Above Moderate-income households, but is struggling to meet its obligation to provide Very Low-income housing.

- There is no easy solution to balancing goals of providing affordable housing and supporting overall housing production.
- An Inclusionary Housing Program is a common tool that most jurisdictions have adopted to address the statewide and local housing shortage.
- Adopting the draft Ordinance could help the County meet its goals.

#### Slide 7

- To create the draft Ordinance, staff conducted best practice research, sought public input, and considered an economic analysis.
- As part of the Best Practice Research, staff reviewed ordinances from other local governments followed by discussions with their staff.
- Staff compiled research from universities and think tanks to determine how to tailor policies to local conditions.
- For public outreach, staff attended or hosted a total of 53 meetings.
- Staff held meetings with stakeholder groups, focus groups, and the public.
- During these meetings, staff discussed potential Component options and received input from:
  - Community members
  - Community Planning Groups
  - Affordable housing developers and advocates
  - Market-rate developers
  - Equity Groups
  - Labor Unions
  - And Environmental Groups
- Throughout today's presentation, staff will highlight how public input shaped the draft Ordinance.
- In addition, an economic analysis was prepared to identify feasible set aside requirements to support overall housing production AND meet affordable housing goals.
- All set-aside options presented are economically feasible and are presented according to the level of relative economic impact on the developer.
- This analysis was prepared by economists from AECOM and peer reviewed by MBI.
- It is important to note that this economic analysis was conducted prior to the Transportation Study Guide Board hearing regarding Vehicle Miles Travelled or VMT.

#### Slide 8

- We will now review the Ordinance Components. These include:
  - The set-aside requirement and
  - Ordinance Implementation Options. These options include the 3 components: minimum project size,
  - Alternative compliance, and
  - Incentives.

#### Slide 9

- The first Ordinance Component that we will cover is the Set-Aside Requirement.

#### Slide 10

- The set-aside is the amount of affordable housing and the level of affordability that will be required for all new projects.
- For instance, a set-aside requirement of 10% low-income housing units would require a 20-unit project to provide 2 affordable units to low-income households.
- Set asides must balance the level of affordability with the required quantity of affordable units. Generally, it is more expensive to provide very low-income housing units than moderate income housing units because a developer cannot charge as much for a very low-income unit.
- The economic analysis investigated 29 different set aside options to determine which would be financially feasible to support housing development and to facilitate affordable housing. Feasible set-aside requirements were identified for each project type – General Plan Compliant for-rent, General Plan Compliant for-sale, and General Plan Amendment projects.
- Public input was received that requested a phased approach to implementing the set-aside requirement over time. However, after careful consideration, it was determined that such an approach would introduce complexity for both applicants and program implementation. Nonetheless, the Planning Commission can recommend this approach.

#### Slide 11

- The first key question that the Planning Commission may consider is: Where should the set-aside requirement apply?
- The Planning Commission will need to decide where and how to apply the ordinance geographically. For instance, the Planning Commission could recommend applying the ordinance across the Unincorporated area.
- However, during public outreach and the March 2023 Planning Commission Workshop, staff received comments expressing concerns about the economic impacts of VMT mitigation fees and the inclusionary housing requirement.
- In response to feedback from the public and Planning Commission, staff organized the set-aside options based on their potential economic impact in addition to their policy impact.

- Although specific costs associated with the VMT Mitigation Fee Program are not available at this time, areas with higher VMT averages will face higher fees, while those with lower VMT averages will face lower fees. Projects in VMT Efficient and Infill Areas will not have VMT mitigation costs.

Instead of applying the same set-aside County wide, the Planning Commission could choose different set aside requirements for areas with different potential costs of VMT mitigation within the unincorporated area.

#### Slide 12

- The next key question that the Planning Commission may consider is: What policy goal should the Ordinance most align with?
- Public input comments requested that the program align with existing laws and help the County achieve its housing goals while also providing housing units at a mix of affordability levels.
  - In response, staff have organized the feasible set-aside requirement options by different housing goals and can align with one or more of the following:
- Focusing on the County's RHNA goal by providing more low and Very Low-income units, the two income tiers which the County most needs to produce during this RHNA cycle
- Developing mixed income communities with housing for a variety of income levels by choosing an option that include Very Low, Low and Moderate income units, and
- Maximizing the amount of affordable housing units created overall by choosing a higher set-aside percentage usually with more moderate-income units.

#### Slide 13

- This first table shows economically feasible options for General Plan Compliant for-rent projects. The Economic Analysis found 9 economically feasible options for this project type.
- This table includes eight of these feasible options that most aligned with the goals highlighted by the Planning Commission and stakeholders.
- The table has been organized by the relative economic impact of each feasible set-aside option from Lowest to Highest as determined by their corresponding in-lieu fee.
- and the potential for progress towards housing goals.
- For example, the Planning Commission could recommend the lowest requirement option for areas with potentially high VMT mitigation costs, while still helping the County meet its RHNA goal.
- Notably, for-rent set-asides would be the best place to focus on very-low income units. Individual financing and down-payments can be difficult for very-low income households to acquire to buy very-low income housing for sale.

#### Slide 14

- This table shows feasible set-aside options for General Plan Compliant for-sale projects, organized by policy impact and related housing goal.
- The Economic Analysis found 6 economically feasible options out of 29 scenarios for this project type.
- Not all the feasible set-asides are presented here because not all aligned with the policy goals identified by the Planning Commission, public, or best practice research.
- There are no low and medium impact set-aside options that would support RHNA or mixed-incomes goals.
- For this project type, the Planning Commission can recommend a low or moderate impact option that would produce more units, OR
- a Highest impact option that would align with the RHNA goal, or that would produce more units at a range of affordability levels.

#### Slide 15

- This third table shows the feasible set-aside scenarios for General Plan Amendment or GPA projects organized by economic and policy impact and housing goal.
- The Economic Analysis found 26 economically feasible options for the project type.
- Since most GPA projects consist of for-sale units, the set asides listed here do not include options with very-low income units which are difficult to sell.
- GPA projects increase land value by changing the land use designation and density established in the General Plan and the Board directed that the Ordinance include options for capturing land value increases from GPA projects.
- The Planning Commission may recommend a set-aside different than the options presented as well as apply different set-asides to different geographic areas.
- For instance, during the workshop, the Planning Commission expressed the concerns with requiring a higher set-aside for GPAs in VMT efficient areas where growth is desired. To address this concern, the Planning Commission can recommend a set-aside option that aligns with the one chosen for General Plan compliant projects or one that has a low economic impact.

#### Slide 16

- This concludes the section on the set-aside requirement.
- This slide shows a summary of the points presented.

The Planning Commission Recommendation will answer the questions:

1. Where should the Ordinance apply?
2. What goal should the Ordinance most align with?
3. What should the level of impact be?

- Staff will now pause the presentation for discussion on the set-aside requirement.

#### Slide 17

- We will now review the Ordinance Implementation Options.

#### Slide 18

- The Ordinance Implementation Options include the following components:
  - First, The minimum project size for a new project to be required to comply with the ordinance.
  - Next, Alternative compliance methods.
  - And lastly, incentives to support project feasibility.
- For a simpler decision-making process, recommended choices for each component have been packaged into 3 options: Option 1: Flexible Ordinance Implementation, Option 2: Semi-flexible Ordinance Implementation, and Option 3: Strict Ordinance Implementation.

#### Slide 19

- The first component of the Ordinance Implementation Options is the minimum project size.
- The minimum project size component establishes the minimum number of proposed housing units within a new project as the threshold for the inclusionary housing ordinance to apply.
- Only new projects which do not have complete applications in process proposing a number of units above the minimum project size would be required to comply with the Ordinance.
  - A smaller minimum project size would require more projects to comply with the ordinance and include affordable units.
  - A large minimum project size means fewer projects will have to comply with the ordinance overall. A large minimum project size would also effectively not apply the ordinance to unincorporated areas which do not typically see large projects.
- Project size could also be different for for-sale, for-rent, and GPA projects.
- In March, the Planning Commission suggested that the minimum project size should be 12 units to align with Vehicle Miles Travelled (VMT) regulations. This input has been included in the Ordinance Implementation Options as the Minimum project size for the Flexible Option.

#### Slide 20

- The next implementation component is Alternative Compliance, which provides flexibility for projects by offering other ways of complying with the ordinance without providing the affordable units on site.
- State law requires that inclusionary housing programs include at least one alternative method of compliance for projects that cannot include the affordable units within the development.

- The Planning Commission requested more flexibility in options for the Ordinance Implementation components, including alternative compliance.
- In response, The draft Ordinance includes 3 alternative methods of compliance, all of which can be included in the Planning Commission’s recommendation. These alternative compliance methods are:

First, In-lieu fees, which would allow the developer to pay a fee equivalent to the cost of providing the units on-site. These fees would be collected by the County and put into a trust fund to finance future affordable housing units in partnership with affordable housing developers.

- Next, Offsite development, which would allow the developer to provide affordable housing in a different location than the market-rate units.
- and finally, Land donation, which would allow the developer to donate land for future affordable housing as opposed to building the units within the development.

#### Slide 21

- During the March Planning Commission Workshop, staff received comments requesting greater flexibility in the location criteria for allowing offsite development and land donation.
- For that reason, staff has developed an inclusive list of locations where land donation and offsite development would be allowed:
  - Within Same CPA as the market-rate development
  - Or Within 5 miles from the project site
  - OR within High and highest resource areas
  - Or within VMT efficient and infill areas
- Having an inclusive list will permit offsite development and land donation within any of these locations, aligning with County goals of promoting equity, advancing fair housing, considering VMT, and offering greater flexibility to developments.
- Other options for alternative compliance previously included rehabilitation of units and construction of ADUs. However, staff is not recommending these options because rehabilitation of units does not produce more housing units overall and ADUs would require homebuyers to become affordable housing landlords. Again, the Planning Commission retains the authority to recommend these options for inclusion in the Ordinance.

#### Slide 22

- The last component of the implementation options is Incentives, which help to offset the cost of developing affordable housing units for developers.



- Incentives include allowing a developer to increase the residential density for a property or regulatory incentives, such as reduced development requirements like setbacks, building height, and open space standards.
- Future projects that will be required to comply with the County's Inclusionary Housing Ordinance will be eligible to receive some incentives under existing State and County Density Bonus Law.
- The County's Density Bonus Program already provides one additional regulatory incentive beyond state law.

The Planning Commission requested more flexibility in options for the Ordinance Implementation components, including incentives.

- The County can provide additional incentives beyond existing law as part of the Inclusionary Housing Ordinance.

The Planning Commission may recommend additional incentives including by allowing an additional 5% density bonus and another additional regulatory incentive for affordable housing projects.

- Further, the Planning Commission may also recommend the incentive of Priority Review for projects that elect to provide 50% more affordable units at Low Income than what would be required in the inclusionary housing ordinance.

#### Slide 23

- Let's walk through an example of how the additional density bonus and regulatory incentive would work. We'll look at a General Plan Compliant Project for Rent.
- This project would be subject to the Inclusionary Housing Ordinance at a project size of 30 units. With a set-aside requirement of 15% low, the development would need to provide 5 units as affordable to qualifying low income households.
- Under current state and county law, this development would receive a density bonus of 27.5% and be able to add 9 more market-rate units to the development.
- If the inclusionary housing ordinance were to provide another 5% density bonus, this same project would be able to add 1 more market-rate unit for a total of 10 additional units from density bonus.
- This would result in 35 total market-rate units and 5 affordable units for a total of 40 units in the development.
- Also, this developer would receive 1 regulatory incentive through the State, and 1 regulatory incentive through the County. So, this project would be eligible for 2 regulatory incentives under existing state and county law.
- If the inclusionary housing ordinance were to provide one more regulatory incentive, this same project would be eligible for a total of 3 regulatory incentives.

#### Slide 24

- To facilitate the Planning Commission review and recommendation, staff has developed three ordinance implementation options including the Ordinance components of minimum project size, alternative compliance, and incentives.
- The differences between the ordinance implementation options are the minimum project size, which can limit the projects that will need to comply with the ordinance, and the use of an in-lieu fee as an alternative compliance method.
  - Option 1 – A flexible ordinance with a minimum project size of 12 that allows use of an in-lieu fee by all projects,
  - Option 2 – A semi-flexible ordinance with a minimum project size of 10 that allows in-lieu fees for projects under 20 units, and
  - Option 3 – A strict ordinance with a minimum project size of 5 that only allows in-lieu fees for projects under 10 units.
  - All options include the same forms of other alternative compliance and incentives.
  - The Planning Commission can provide a recommendation on the flexibility of the Ordinance Implementation Options
- The Planning Commission may choose to recommend ordinance implementation options differently than presented here.

#### Slide 25

- This concludes the section on Ordinance Implementation Options
- This slide shows a summary of the points we presented.
- The Planning Commission Recommendation will answer the question:
- How flexible should the Ordinance Implementation Components be?
- Staff will now pause the presentation for discussion of the Ordinance Implementation Options and is ready to answer any questions.

#### Slide 26

- We will now review the Draft Ordinance recommendations

#### Slide 27

- While conducting public outreach, staff presented the draft Ordinance at the All Chairs Meetings for Community Planning Groups and Community Sponsor Groups, or CPGs and CSGs.
- 9 of the CPGs requested that staff present the Ordinance at one of their public meetings.
- Only Fallbrook and Valley Center CPGs took votes on the Ordinance.
- Both voted to have their communities excluded from the inclusionary housing requirement.

Slide 28

Staff recommends the Planning Commission:

- find the proposed ordinance complies with the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines,
- And recommend that the Board of Supervisors adopt the attached form of Ordinance:

Slide 29

- This concludes the presentation and staff is ready to answer any questions.