



**CITY OF SOUTH PASADENA
PLANNING COMMISSION
REGULAR MEETING AGENDA**

Tuesday, March 9, 2021 at 6:30 p.m.

South Pasadena Planning Commission Statement of Civility

As your appointed governing board we will treat each other, members of the public, and city employees with patience, civility and courtesy as a model of the same behavior we wish to reflect in South Pasadena for the conduct of all city business and community participation. The decisions made tonight will be for the benefit of the South Pasadena community and not for personal gain.

NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the special meetings of the Planning Commission will be conducted remotely and held by video conference. The meeting will be broadcast live on the City's Planning Commission website and can be viewed by [clicking here](#).

Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chambers will not be open for the meeting. Commission members will be participating remotely and will not be physically present in the Council Chambers.

The Planning Commission welcomes public input. If you would like to comment on an agenda item, members of the public may submit their comments in writing for the Planning Commission consideration, by emailing comments or questions to PlanningComments@southpasadenaca.gov or by calling (626) 403-7720 and leaving a **3-minute** voicemail message to be played during the meeting. Public comments must be received by **12:00 p.m. on Tuesday, March 9, 2021** to ensure adequate time to compile and post. Please provide: 1) your name; and 2) agenda item for the comments/questions. All comments/questions received will be distributed to the Commission for consideration and will also be posted on the City's website prior to the meeting.

CALL TO ORDER:

Chair John Lesak

ROLL CALL:

Amitabh Barthakur, Commissioner, Janet Braun,
Commissioner, Laura Dahl, Commissioner, Lisa Padilla,
Vice-Chair and, John Lesak Chair

COUNCIL LIAISON:

Diana Mahmud, Mayor, Council Liaison

STAFF PRESENT:

Teresa L. Highsmith, City Attorney
Joanna Hankamer, Planning & Community Dev. Director
Kanika Kith, Planning Manager
Elizabeth Bar-El, AICP, Interim Long Range Planning & Economic Development Manager

APPROVAL OF AGENDA

Majority vote of the Commission to proceed with Commission business.

DISCLOSURE OF SITE VISITS AND EX-PARTE CONTACTS

Disclosure by Commissioners of site visits and ex-parte contact for items on the agenda.

PUBLIC COMMENTS AND SUGGESTIONS

(Time limit is three minutes per person)

If you wish to address the Planning Commission on items not on the agenda and within the subject-matter jurisdiction of the Planning Commission, members of the public may submit their comments in writing to PlanningComments@southpasadenaca.gov or by calling (626) 403-7720 and leaving a 3-minute voicemail message to be played during the meeting. Public comments must be received **by 12:00 p.m. on Tuesday, March 9, 2021** to ensure adequate time to compile and post. Please make sure to indicate: 1) your name; and 2) stating it is for general public comments/suggestions.

The public should be aware that the Planning Commission may not discuss details or vote on non-agenda items. Your concerns may be referred to staff or placed on a future agenda.

PUBLIC HEARING

1. Recommendation to Adopt an Inclusionary Housing Ordinance (Continued from January 26, 2021)

Recommendation

Adopt a resolution recommending that the City Council approve the proposed amendments to the South Pasadena Municipal Code (SPMC) Chapter 36 (Zoning) adding Chapter 36.375 (Inclusionary Housing Ordinance) by urgency ordinance and through regular ordinance adoption procedures

ADMINISTRATION

2. Comments from City Council Liaison

3. Comments from Planning Commissioners

4. Comments from Staff

ADJOURNMENT**5. Adjourn to the Regular Planning Commission meeting scheduled for April 13, 2021.****PUBLIC ACCESS TO AGENDA DOCUMENTS AND BROADCASTING OF MEETINGS**

Planning Commission meeting agenda packets are available online at the City website: <https://www.southpasadenaca.gov/government/boards-commissions/test-planning-commission-agendas-minutes-copy>

Agenda related documents provided to the Planning Commission are available for public review on the City's website. Additional documents, when presented to Planning Commission, will also be uploaded and available on the City's website. The meeting will be broadcast live on the City's website via Zoom, and a recording of the meeting will be available on the website within 48 hours of adjournment.

AGENDA NOTIFICATION SUBSCRIPTION

Individuals can be placed on an email notification list to receive forthcoming agendas by emailing CityClerk@southpasadenaca.gov or calling the City Clerk's Division at (626) 403-7230.

ACCOMMODATIONS

The City of South Pasadena wishes to make all of its public meetings accessible to the public. If special assistance is needed to participate in this meeting, please contact the City Clerk's Division at (626) 403-7230. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities. Notification at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

I declare under penalty of perjury that I posted this notice of agenda on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena, CA 91030, and on the City's website as required by law.

3/04/21

Date

Elaine Serrano,
Administrative Secretary



Planning Commission
Agenda Report

ITEM NO. 1

DATE: March 9, 2021
TO: Planning Commission
FROM: Joanna Hankamer, Director of Planning and Community Development
PREPARED BY: Elizabeth Bar-El, AICP, Interim Manager of Long Range Planning and Economic Development
SUBJECT: **Recommendation to City Council to Adopt an Inclusionary Housing Ordinance (Continued from January 26, 2021)**

Recommendation

It is recommended that the Planning Commission adopt a Resolution recommending that the City Council approve the proposed amendments to the South Pasadena Municipal Code (SPMC) Chapter 36 (Zoning) adding Chapter 36.375 (Inclusionary Housing Ordinance) by Urgency Ordinance (pursuant to Government Code Section 36937(b)). and simultaneously through regular ordinance adoption procedures (pursuant to Government Code Section 36934 et.seq.).

Executive Summary

In January 2019, the Planning Commission discussed housing policies to improve the conditions of the City’s rental housing stock and increase access to affordable housing. In September 2019, the City held a series of housing workshops related to tenant protections, ADUs, and inclusionary housing. Following two years of research and community outreach, and in coordination with the development of policies for the 2021-2029 Housing Element, on January 26, 2021, the Planning Commission held a public hearing to consider recommending adoption of an Inclusionary Housing Ordinance. After a robust discussion and direction to staff to address questions about the provisions and for clarity, the Commission continued the hearing to March 9th.

The inclusionary housing ordinance is an important policy tool to achieve the goal of providing affordable housing for the community along with above moderate (market rate) housing. Policies that enable both are essential to demonstrate capacity to build the 2,062 units (including 1,484 affordable units) required for the Housing Element’s Regional Housing Needs Assessment (RHNA). The January 26 staff report (Attachment 2) outlined the increased consequences in State law for RHNA non-compliance.

In order to compel local jurisdictions to utilize their land resources to build more housing, the State of California has also established density bonus laws, which developers may use to request more density that must be granted upon proven eligibility. Eligibility for a density bonus is based on inclusion of a relatively low number of deed-restricted affordable housing units. If the additional

density is not feasible within a local jurisdiction's development standard (setbacks, building heights, open space requirements, parking ratios, etc.), the developer may exceed or waive local standards. The State does not mandate design standards, but the City may require objective design standards and may offer incentives to connect those standards with the inclusionary ordinance, as staff is proposing to do in the draft ordinance to maintain local design priorities while facilitating affordable housing and complying with State law.

The revised ordinance (Attachment 1) recommended to the Commission has undergone extensive review, centering on the Commission's concerns summarized further in this report and request to simplify the requirements. The proposed changes to the ordinance remain focused on the goals of maximizing on-site construction of deed-restricted units, paired with incentives to promote consistent design. This report details and explains the proposed changes, some of which are substantive changes, including:

- Replacing the inclusionary requirements table that was based on project size and affordability level with an across the board 20% requirement and simplified affordability level structure;
- Separate requirements for affordable ownership units, requiring them to be offered at moderate income rate and allowing the in-lieu fee option as an alternative;
- Allowing projects with up to four (rather than three) units to opt to pay the in-lieu fee;
- Removing minimum unit sizes with generalized comparability to market-rate units;
- The "Design Incentives" section, previously proposed to apply to projects on ½-acre sites only, has been revised extensively and is proposed to be applicable to all projects that provide all required inclusionary units on-site. The section offers optional streamlined approval of specific density bonus incentives to any project that complies with the associated design standards, which are more carefully defined.

Staff is also recommending the inclusionary housing ordinance be adopted by both urgency ordinance pursuant to Government Code Section 36937(b), as well as by the regular procedure requiring first reading, second reading, and 30 days before effective date. The urgency ordinance would be effective immediately upon a 4/5 vote, and would automatically be repealed upon the effective date of the ordinance adopted pursuant to the "regular" procedure. This will allow for certainty in the application of the inclusionary housing ordinance for any application or pre-application under SB 330, and avoid the potential for development project applications attempting to "beat the clock" on the applicability of the ordinance adopted pursuant to the "regular" procedure. This proposed process also eliminates considerations of making the ordinance retroactive.

Background

An inclusionary housing ordinance is a set of regulations that requires developers of market rate housing projects to include affordable housing units that are deed-restricted for occupancy by lower-income households. The ordinance typically specifies number, affordability level, and other characteristics that units must comply with, along with the procedures for ensuring compliance and long-term monitoring for appropriate use of the units. Inclusionary ordinances are specifically authorized by State law and with the State experiencing a severe housing shortage, particularly in regard to housing units affordable to middle and lower-income households, and the State

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legislature's efforts in recent years to mandate increased housing production statewide, they are emerging as a key policy tool for cities. Inclusionary housing requirements are particularly effective in encouraging affordable units in market-rate projects when paired with State Density Bonuses already required by the State and Municipal Code. As the City prepares its 2021-2029 Housing Element and identifies suitable sites for housing development, the Council, Planning Commission and community expressed support for introducing inclusionary housing into South Pasadena's municipal code and directed staff to prepare the ordinance.

The first draft of the ordinance aimed to establish a requirement that would encourage on-site development of units and contribute toward the city's affordable housing stock in a meaningful way, as explained in the January 26 staff report (Attachment 2). Planning Commissioners expressed conceptual support but pointed out numerous details that needed additional consideration and research, including:

- Exemptions: Which projects should be exempt from compliance with the ordinance?
- Inclusionary requirement: Commissioners expressed that the table was too complicated and requested a simpler approach.
- Alternatives: There was discussion about which projects should be given an in-lieu fee option as an alternative to on-site provision of units. In general, there was strong support for on-site inclusion of units but concern about problems for some smaller and ownership projects.
- Standards for Inclusionary Units: Commissioners commented on proposed unit sizes for affordable units and inclusion of a clause that gives local residents preference for eligibility to live in the affordable units.
- Design Incentives: many comments on the requirements, applicability, purpose. There was consensus that this section in particular needed further research and development.
- General: Commissioners requested more information about the economics of providing affordable units. Many other cities have adopted similar ordinances, requiring set-asides of 15%-20% for inclusionary units, in combination with requesting incentives or waivers under the State Density Bonus Law, and Commissioners were interested to hear more about the conclusions other cities have reached through economic studies, which South Pasadena lacks resources to undertake.

Planning Commission Housing Sub-committee

Subsequent to the January 26 hearing, the Planning Commission Housing sub-committee (Commissioner Dahl and Vice Chair Padilla) has met three times with staff to address the concerns expressed by the full Commission. The review and reconsideration led to a proposal of substantial changes in three of the key sub-sections of the ordinance, as further described and explained below.

Discussion

The following discussion highlights the proposed changes in the draft ordinance. Attachment 3 contains a full red-line version of the revised ordinance, (new Exhibit A attached to the draft resolution in Attachment 1). Sections with no proposed changes are not noted.

• **Exemptions (36.375.030)**

Commissioners supported applying the ordinance to all projects of three or more units, with the exception of projects exempted in this section. Exemptions in Sub-sections A and E are proposed to be changed:

Sub-section	Previous	Proposed
A	A residential or mixed-use application that has been deemed complete prior to December 31, 2020.	A residential or mixed-use application <u>for the project entitlements that has been deemed complete as of the effective date of this ordinance.</u>
E	A residential project that is exempt under state law, including a project for which the city enters into a development agreement.	This exemption has been removed.

Explanation: It is permitted to backdate the applicability of an ordinance if the City considers it necessary to protect the community and maximize its benefits; however, in may not be enforceable as to a preliminary application received pursuant to SB330. The December 31 date was proposed to ensure that all multi-family residential applications beginning in 2021 would start providing inclusionary housing that the community greatly needs. However, due to the hearing continuance, this date would be too much earlier than the anticipated adoption date. Instead, staff now will be recommending that Council adopt an urgency ordinance alongside the first reading, making the ordinance immediately effective from that date, which is now anticipated to be in April. In doing so, a potential loophole that would have required acceptance of new projects without inclusionary units is closed, addressing the South Pasadena community’s desire for future projects to include affordable housing units.

Sub-section E was deleted based on Commissioners’ direction following discussion at the January 26th hearing.

• **Definitions (36.375.040)**

A definition for Mixed-Use Zoning District has been added:

Sub-section	Previous	Proposed
E	-	<p><i>Add definition:</i></p> <p><u>“Mixed-Use Zoning District”: For purposes of this division, this shall refer to any zoning district in which both commercial and residential uses are allowed.</u></p>

Explanation: The inclusionary housing chapter will apply to residential and mixed-use districts. The definition has been added to clarify that a mixed-use district is any district in which both commercial and residential uses are permitted, and not only a district with “mixed use” in its name.

• **Inclusionary Unit Requirement (36.375.050)**

Commissioners and members of the public were confused by the proposed table format and expressed that it was overly complicated. There was also concern that the provisions inequitably burdened smaller projects, and a desire to differentiate between ownership and rental units in projects. Most Commissioners generally expressed support for a 20% inclusionary requirement for all eligible projects, although there remained concerns about the economic feasibility of requiring 20%. Additionally, the Inclusionary Unit Requirement didn’t reference a relationship to preservation of existing affordable units, which has been added (A.1). The new draft ordinance no longer involves deciphering a table of requirements.

Sub-section	Previous	Proposed
A	<p>“Table A”</p> <p>Table applied to rental and ownership projects based on size. Requirement varied (1 unit, 15%, 20%) and applied to all market-rate units in project.</p>	<p>A. <u>Amount Required: A minimum of 20 percent of the total number of dwelling units in a residential or mixed-use project, excluding any bonus units added pursuant to State Law or SPMC 36.370,</u> shall be developed, offered to, and sold or rented to households of very low, lower, and moderate-income, at an affordable housing cost, as follows.</p> <p>1. <u>In addition to the inclusionary requirement, the project shall include replacement units for any existing affordable unit that is protected by a covenant or otherwise identified as an affordable unit. The demolished unit shall be replaced at the same affordability level.</u></p>
B	Included in Table A	<p><i>New Section</i></p> <p>B. <u>Inclusionary Rental Units:</u></p> <p>1. <u>Projects with 10 or fewer units shall have the option to designate an affordable unit as</u></p>

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		<p>extremely low, very low, lower or moderate income, provided that if the project includes two affordable units, either</p> <ol style="list-style-type: none"> a. both units shall be lower income; or b. at least one shall be a very-low income unit and the other unit may be very low, lower, or moderate. <p>2. <u>Projects with 11 or more units</u> shall provide 50% of required affordable units as extremely low or very low and 50% as lower income units. In case of an uneven number, one more unit shall be provided as very low.</p>
C	Included in Table A	<p><i>New Section</i></p> <p>C. <u>Inclusionary Ownership (For Sale) Units</u> shall be provided at the moderate income level.</p>
D	<p>(Previously B)</p> <p>A. Fractional Units: In the case that the above calculations result in a fractional number, the applicant shall choose one of the following options:</p> <ol style="list-style-type: none"> i. Round up to next unit and provide the unit on-site. ii. Pay the fractional amount above the whole number (fractions less than one may not be paid as a fee) as an in-lieu fee equivalent to the fraction multiplied by the in-lieu fee as established by city council resolution. All whole number units shall be provided on-site or alternatively as allowed in 36.375.060 (Alternatives to on-site provision), below. 	<p>D. <u>Fractional Units</u>: In the case that unit calculations result in a fractional number, the applicant shall choose one of the following options:</p> <ol style="list-style-type: none"> 1. Round up to next unit and provide the unit on-site. 2. Pay the fractional amount above the whole number as an in-lieu fee equivalent to the fraction multiplied by the in-lieu fee as established by City Council resolution. All whole number units shall be provided on-site or alternatively as allowed in 36.375.060 (Alternatives to on-site provision), below.

Explanation/ Comparison with other cities:

Staff reached out to learn more about the experiences of administering inclusionary ordinances in Pasadena and Santa Monica, cities with long experience in this process. Staff from both cities shared lessons learned from their experience that is relevant to the City of South Pasadena,

including:

- Pasadena increased from a 15% to a 20% requirement one year ago. A recent evaluation found that the projects have provided more affordable units without losing any of the planned projects in the pipeline. Their previous ordinance allowed developers to produce fewer than 15% by “trading down” to affordability levels with higher subsidies (i.e., from low to very low) and their new ordinance does not, instead specifying a mix of all levels. The 20% requirement has had a positive effect on the city’s RHNA compliance and is clearly supported by the housing market.
- Santa Monica has experience with condominium projects that have included an affordable ownership unit. The process for selling the unit is quite complicated, with consideration of the qualified buyer’s income and ability to afford the unit’s total housing cost (mortgage, HOA dues, utilities, maintenance needs, insurance). The buyer must have sufficient capital for a down-payment and a reasonable credit score to qualify for a loan, but cannot earn more than the qualifying income level. The City undertakes an extensive process to confirm a buyer’s qualification and determine the price that the seller must accept. In their experience, affordable ownership units can only be feasible at the moderate income level. Even so, the subsequent process of re-selling the unit comes with similar complications. In some cases, owners might retain ownership of the units and rent them out, which is less complicated, but developers, who typically build, sell the units and no longer maintain an association with the project, are generally not interested in doing this. In fact, most condominium developments, which are generally small-scale in Santa Monica, opt to pay the in-lieu fee, which is set at a higher rate than the in-lieu fee for rental units. Santa Monica deposits the fees into its Affordable Housing Trust Fund, which has supported hundreds of affordable housing units over the years.
- KMA Comparison study: The City of Alhambra engaged Keyser Marston Associates (KMA) to conduct a financial study to support the inclusionary housing in-lieu fee that the Council recently adopted on January 25, 2021. The study included an extensive comparison of California cities (see Attachment 4), including the inclusionary requirement (set-aside), the threshold for applicability, differentiation between rental and ownership projects, and the amount of the in-lieu fee. The set-aside ranges from 5% to 25%, with the most common number set at 15%. About one out of four cities surveyed had a set-aside of 20-25%. (Alhambra adopted a 15% set-aside in 2020.)

A project becomes eligible for a State Density Bonus by providing fewer affordable units (5% very low or 10% low income), and concern has been expressed that the State gives developers too many concessions for a very low requirement. During the community planning process, staff presented options for feedback, and sought public reaction to a proposal of 15%. Based on input from Commissioners and other community members, staff explored the higher range being adopted by other cities in order to more aggressively encourage affordable housing and to meet the RHNA allocation that has now been established. The January 26 draft proposed 15%-20%, depending on project size, but the revised, simplified requirement is proposed at 20% for all projects.

In Section D, a previous reference to disallowing the in-lieu fee option for fractions less than one

has been removed to be more equitable for smaller projects.

- **Alternatives to On-site provision (36.375.060)**

Staff was asked to reconsider whether the in-lieu option should apply to more projects than previously proposed, and is proposing the following.

Sub-section	Previous	Proposed
A	For projects of three units: payment of an in-lieu fee as established by city council resolution and updated from time to time as deemed appropriate, subject to the provisions of 36.375.110 (In-lieu fee payment and administration) below.	For <u>rental</u> projects of three <u>or four</u> units <u>or for any ownership project</u> : payment of an in-lieu fee as established by City Council resolution and updated from time to time as deemed appropriate, subject to the provisions of 36.375.110 (In-lieu fee payment and administration) below.
B	For projects of four or more units, the applicant may choose one of the following, subject to Planning Commission approval: ...	For <u>rental</u> projects of <u>five</u> or more units, the applicant may choose one of the following, subject to Planning Commission approval: ...

Explanation: The Commission has consistently shown support for a strong inclusionary housing ordinance focused on encouraging construction of units in the project. In the previous proposal, only three unit projects would have the option to pay an in-lieu fee. It is now proposed to also allow four unit projects to opt to pay the fee, because the provision of one out of four units (25%) exceeds the 20% across-the-board requirement. At five units, the 20% requirement becomes equal to one unit and can be equitably applied.

Additionally, it is now proposed to allow ownership projects (condominiums) to opt to pay an in-lieu fee rather than build on-site. As explained above, the difficulty of maintaining and administering affordable units in these projects is significant whether the unit is sold or retained by the developer as a rental project. In the case of ownership, the total housing cost must be factored into the sales price based on the buyer's household income, making it difficult even at the moderate level to find an eligible buyer that can also afford the down payment required by the bank. The extended applicability of the in-lieu fee is being proposed together with stronger language to require a substantial in-lieu fee (discussed below, Sub-section 36.375.110), with the purpose of ensuring that the funds received are sufficient to subsidize affordable housing construction elsewhere in the city.

• **Standards Governing Inclusionary Units (36.375.070)**

Staff was asked to reconsider some of the standards, and is proposing the following.

Sub-section	Previous	Proposed
B	Inclusionary units shall be comparable in size to the market-rate units in the project, provided that units shall not be smaller than 650 square feet for a studio or one-bedroom unit, 950 square feet for a two-bedroom unit or 1,150 square feet for a unit of three bedrooms or more.	Inclusionary units shall be comparable and equivalent in size to the market-rate units in the project.
C	Inclusionary unit types (number of bedrooms) shall be provided in approximately the same proportion as units in the project as a whole;	<u>The number of bedrooms in inclusionary units shall be provided in approximately the same proportion as the market rate units in the project.</u>
H	Developer shall actively market the affordable units along with the market rate units.	Developer shall actively market the affordable units <u>to eligible households concurrently with the market rate units. The developer shall submit a marketing plan for the Director’s approval that gives preference to residents and employees of South Pasadena in the tenant selection process.</u>

Explanation: In Sub-section B, staff had proposed to set a minimum size for affordable units, but it is now proposed to equate them with the market rate units, which will vary based on the project. While the intent was to achieve larger, more livable units, there were too many flaws with this proposal. The proposed change to Section C properly states the proportion of units as comparable to the market rate units, clarifying the calculation to determine unit types. Language added to H. gives the City more leverage to monitor how a developer markets the affordable units and adds a local preference requirement to offer units to current residents and employees working in the city.

• **Design Incentives (36.375.080)**

The Design Incentives sub-section has been reorganized and substantially changed. The new title for the sub-section is “Streamlined State Density Bonus Review” and it is now proposed to offer incentives to encourage better architectural design for all projects, and not just those on properties over a certain size.

The old and new sections are not presented side-by-side due to the reorganization and for better readability.

SECTION TO BE REPLACED:

Design Incentives (*To be removed and replaced as shown in following table*)

A. Allowed Zoning Districts: In order to encourage large projects with a housing component to incorporate strong architectural design quality, consistent with the character of the city and compatible with the zoning district in which they are located, the following design incentives may be requested for any project that provides all affordable units on-site for which a density bonus is requested pursuant to Division 36.370, and located on a site with a minimum area of one-half acre that is in:

1. Any mixed use zoning district; or,
2. The R4 high-density residential zoning district provided the site has a frontage on an arterial street.

B. Height Increase: If requested in the project application, a height increase that facilitates the provision of features per Section C, below, shall be approved and no further studies or analysis shall be required as part of the submittal as follows:

1. For projects in mixed-use zoning districts on Mission Street where there is a predominance of historic resources: An increase of one additional story, with an average maximum project height not to exceed 5 feet above the limit of the underlying zoning district, provided that no portion of the building may exceed 10 feet above the height limit of the underlying zoning district.
2. For projects in other mixed-use zoning districts: An increase of one additional story, with an average maximum project height not to exceed 15 feet above the limit of the underlying zoning district, provided that no portion of the building may exceed 20 feet above the height limit of the underlying zoning district.
3. For proposed projects in multi-family residential districts: An increase of one additional story, with a maximum average height not to exceed 10 feet above the limit of the underlying zoning district provided no portion of the building may exceed 15 feet above the height limit of the underlying zoning district.

For purposes of this incentive, non-occupiable architectural projections, including elevator shafts and stairwells, shall be permitted to exceed the adjusted height limit as necessary to comply with Building Code requirements.

C. Strong architectural design quality: The applicant shall demonstrate that the proposed project utilizes the additional height incentive to provide strong architectural design by including the following:

1. Required standards:

- a. Stepbacks of ten feet or more from the front building facade to reduce bulkiness and perceived height from street level, unless such stepbacks are not consistent with surrounding context;
- b. Siting of project structures that is sensitive to the context of adjacent uses;
- 2. Optional and encouraged design features supporting the request in the project application:
 - a. Height averaging to vary the skyline of the project
 - b. Higher floor-to-floor height for commercial portion of mixed use project with 16-18 feet considered to be desirable
 - c. Higher floor-to-ceiling heights in residential units
 - d. Larger unit sizes
 - e. Leveraging of additional height to reduce overall site coverage and increase open space
- D. Reduced Minimum Unit Size: Notwithstanding 36.375.070, inclusionary units shall be comparable in size to the market-rate units in the project, provided that units shall not be smaller than 600 square feet for a studio or one-bedroom unit, 900 square feet for a two-bedroom unit or 1,100 square feet for a unit of three bedrooms or more.
- E. Parking reduction: The project may request to calculate parking for the residential portion of the property at one half (.5) spaces per bedroom, with studios considered to be one-bedroom units for the purpose of this requirement. Fractional units shall be rounded up to the next whole unit.

NEW SECTION LANGUAGE

Proposed

36.375.080 Streamlined State Density Bonus Review

- A. Purpose: For projects including on-site inclusionary units as required herein, the following Design Incentives process offers an alternative, streamlined State Density Bonus process. Design incentives are intended to encourage architectural designs that are well-conceived, thoughtfully detailed, consistent with the character of the city and compatible with the zoning district in which they are located.
- B. Applicability: Design Incentives may be requested for any project that provides all required inclusionary units on-site and for which a density bonus is requested pursuant to Division 36.370, provided the site is located in:
 - 1. Any mixed-use zoning district; or,

2. The R4 high-density residential zoning district provided the site has a frontage on an arterial street.

C. Consistent Architectural Design Approach: To qualify for Design Incentives pursuant to this sub-section, the applicant shall demonstrate that the proposed project supports a clear and consistent architectural design that includes the following:

1. Required Standards: The project application shall include a narrative that explains the architectural design approach and how the project meets the following standards:

a. Stepbacks

i. Front and corner building façades: A minimum ten-foot stepback above the third story, or above the second story for properties located on Mission Street, to reduce bulkiness and perceived height from street level;

ii. Side building facades: A minimum ten-foot stepback above the third story, or above the second story for properties located on Mission Street, along property lines that are adjacent to a residential district with a lower density or historic property. Notwithstanding, balconies open on at least two sides may project into the stepback area provided the balcony are at least five feet from the side property line;

iii. Rear building facades: A minimum ten-foot stepback above the third story, or above the second story for properties located on Mission Street, if the proposed building is located within ten feet of the rear property line of a parcel that is directly adjacent to a residential district with a lower density or a historic property.

iv. Stepbacks may be reduced if the size of the parcel makes the stepbacks infeasible or such stepbacks are not consistent with the surrounding context as determined by the Director;

b. Terraces and Balconies on properties adjacent to a single-family residential use: For properties located adjacent to a single family residential use, terraces and balconies facing the single-family residential use shall be prohibited above the ground level. Roof terraces shall be located toward the front of the building and at least 10 feet from the edge of the building facing the single-family residential use and shall provide an eight-foot high sound wall along the single-family facing elevation with a ten-foot long return on each side of the roof terrace.

c. 360-degree architectural design: The project shall have consistent design features or patterns that render it as unique with all elevations designed at the same level of architectural detail and articulation as the front elevation,

d. A signature architectural element that is described in the application. Some examples include but are not limited to: a signature element that identifies the building and

relates to its location in the city; a courtyard or open space pattern is visible from the street; a prominent corner feature.

- e. Ground-Floor Facades: Building facades shall avoid blank walls and long expanses without variation in form and design treatment as follows:
 - i. For mixed-use projects, the ground floor of commercial street facades shall be comprised of at least 75% openings in walls such as storefront windows and doors with transparent glazing. Façade variation achieved through form, materials and details is essential, with an emphasis on the ground-floor treatment experienced by pedestrians.
 - ii. For 100% residential projects, the ground floor front façade shall include direct entrances into units and articulation that indicates separate units.

2. Encouraged Design Features: The applicant should consider incorporating the following features:

- a. Higher floor-to-floor height for commercial portion of mixed use project with 16-18 feet considered to be desirable
- b. Higher floor-to-ceiling heights in residential units
- c. Leveraging of additional height to reduce overall site coverage and increase open space

D. Design Incentives: Projects that demonstrate a consistent architectural design approach per Subsection C, above, shall be entitled to the following incentives, without requirement for feasibility studies or other analysis:

- 1. Height Increase and Height Averaging: If requested in the project application, a height increase, using measurement based on height averaging, that facilitates the provision of features per Section C, above, shall be approved with no further studies or analysis shall be required as part of the submittal as follows:
 - a. For projects in mixed-use zoning districts on Mission Street where there is a predominance of historic resources: An increase of one additional story, with an average maximum project height not to exceed 5 feet above the limit of the underlying zoning district, provided that no portion of the building may exceed 10 feet above the height limit of the underlying zoning district.
 - b. For projects in other mixed-use zoning districts: An increase of one additional story, with an average maximum project height not to exceed 15 feet above the limit of the underlying zoning district, provided that no portion of the building may exceed 20 feet above the height limit of the underlying zoning district.
 - c. For projects in multi-family residential districts: An increase of one additional story, with a maximum average height not to exceed 10 feet above the limit of the

underlying zoning district provided no portion of the building may exceed 15 feet above the height limit of the underlying zoning district.

For purposes of this incentive, non-occupiable architectural projections, including elevator shafts and stairwells, shall be permitted to exceed the adjusted height limit as necessary to comply with Building Code requirements.

2. Reduced Minimum Unit Size: Notwithstanding 36.375.070, the floor area of inclusionary units may be up to 10% smaller than the market-rate units in the project.
3. Parking reduction: The applicant may request to calculate parking for the residential portion of the property at one half (.5) spaces per bedroom, with studios considered to be one-bedroom units for the purpose of this requirement. Fractional units shall be rounded up to the next whole unit.

Explanation:

South Pasadena has codified affordable housing incentives based on State law in SPMC Division 36.370. Developers already have the option to provide affordable housing and request incentives (waivers of standards) with supporting evidence that those waivers are necessary to enable the project to provide the affordable housing. South Pasadena has not had many State Density Bonus project applications but this situation is expected to change with adoption of the proposed ordinance because projects of all sizes with on-site affordable units will be eligible for density bonus incentives. SPMC Division 36.370 does not include standards or a program to guide use of the incentive.

The Design Incentives section was initially conceived to address decreasing local control over the design review process based on State law by proposing objective standards for large projects on properties that have been identified in the formation of the Housing Element sites inventory. The small number of large properties with development potential represent an important opportunity to increase the housing supply, and these projects would have high visibility and particular importance for the community. Anticipating that these projects would include a density bonus, staff previously proposed applying the standards to properties of one-half acre or more, to require better architectural design while offering incentives that provide certainty for developers.

Following the Planning Commission's discussion at the January 26th hearing, staff and the sub-committee reconsidered the purpose of this section. Staff researched the approach being taken by other cities that have adopted inclusionary ordinances. The purpose was reconsidered and restated, and it became clear that this tool would be more effective if it were available as an option to all projects with on-site affordable units, as is now proposed. The approach now encourages housing projects to choose this new Streamlined State Density Bonus Review option, demonstrating that the project provides a clear and consistent architectural design, rather than exercising their right to a State Density Bonus process that requires costly feasibility studies.

The incentive most significant to developers is certainty in the entitlement process, and the Code waiver that is most significant to developers and almost always requested in other cities that staff investigated is additional height. Although the existing ballot initiative limits the maximum height

to 45 feet citywide, State Density Bonus law supersedes and allows additional height above local height limits, so the standards in Subsection C are designed to mitigate the additional height by shaping form and massing. Front setbacks are better explained and defined than in the previous proposal, and a signature architectural element is required. Examples of a signature architectural element are provided, but there is flexibility for creative design ideas. Specific requirements are included to avoid blank walls on the ground floor. The standards as proposed are objective, to comply with State requirements for processing housing applications. As the City accrues experience with the requirements, there may be new ways to express objective standards. There may also be additional opportunities to facilitate the density bonus that encourage more housing to be built. The Planning Commission might wish to request a review after a year or more and if desired, the ordinance can be amended in the future to evolve and better serve the purpose.

Comparison to other cities:

Most cities have adopted zoning code chapters that implement the State Density Bonus laws. Generally speaking, those ordinances follow the requirements and process mandated by the State, but do not try to make use of the small range of local control to incentivize design. The best, and closest, example of providing design incentives in conjunction with the density bonus that staff has found is the City of Pasadena. Concurrently with raising the inclusionary requirement to 20%, Pasadena adopted an incentive program that makes accessing the State Density Bonus easier through a by-right (administrative) process. In the first year, according to Pasadena city staff, this nearly eliminated requests for other density bonus incentives through their discretionary Affordable Housing Concession Permit. Certainty and time-saving processes are highly valued and developers have been opting for the administrative process. Additional height and parking concessions are the most important incentives for developers and the focus of Pasadena’s program.

Pasadena’s ordinance conditions the height incentive on compliance with certain standards. The additional height can only be requested for up to 60% of the building, and height averaging may be used. The design incentives proposed herein take the concept a bit further with the establishment of additional, objective criteria and encouraged (optional) design elements with the stated purpose of achieving better design. As in the earlier proposal, height increases are specific by area and tailored to South Pasadena’s character and design sensibilities.

- **In-lieu Fee Payment/Administration (36.375.110)**

Based on the increased project eligibility to pay the in-lieu fee, staff is now proposing to strengthen the process with the addition of two new sub-sections.

Sub-section	Previous	Proposed
Introduction to section, (new A,B,C)	Payment of an in-lieu fee as an alternative to on-site provision of units pursuant to 36.375.060A (Alternatives to On-site Provision) or for a fractional unit pursuant to 36.275.050B (Fractional Units), above,	Payment of an in-lieu fee as an alternative to on-site provision of units pursuant to 36.375.060.A (Alternatives to On-site Provision) or for a fractional unit pursuant to 36.275.050.D (Fractional Units), above, shall comply with this section. A. <u>The City Council shall establish the amount of the in-lieu fee by resolution.</u>

	<p>shall comply with this section, as established by city council resolution, which shall be reviewed and adjusted annually prior to the succeeding fiscal year.</p>	<p>which shall be reviewed and adjusted annually prior to the succeeding fiscal year.</p> <p>B. <u>The in-lieu fee shall be established in an amount that is equivalent to the cost of providing a comparable unit for each unit that would have been provided in the project based on the requirements of this section.</u></p> <p>C. <u>Until such time as the City Council establishes a fee pursuant to (A), the amount of the in lieu fee shall be considered on a case-by-case basis as approved by the Planning Commission, consistent with B, above.</u></p>
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Explanation: The in-lieu fee will be developed for the Council to adopt by resolution after the inclusionary ordinance has been adopted. The sub-committee supported strengthening this section of the ordinance to require that the fee be established at a level that is substantial enough to build a replacement unit elsewhere. Staff was also concerned about the gap period between ordinance adoption and in-lieu fee resolution, given that the Planning Department does not have a budget for that project. Sub-section C is proposed to establish a relief mechanism that does not deny the in-lieu option to applicants while the fee resolution is prepared. Planning Commission review of the fee is proposed to ensure that applicant-proposed fees are approved with a transparent public process.

Comparison with other Cities

The KMA study gathered in-lieu fee information from 11 cities, which demonstrates that cities choose different approaches to methodology and vary greatly in the amount collected in lieu of providing an on-site affordable housing unit. Many cities set a \$/sq. ft.-based fee (with the fee multiplied by the project’s applicable floor area). The highest fees in the surveyed cities were in Santa Monica (\$35.70-\$41.80/sq. ft.), Pasadena (\$31.10 - \$72.82/sq. ft.) and Glendale (\$28.71-\$55/sq. ft.). At the higher end, the fee payment might come close to the actual cost to build a housing unit, estimated in a recent SCAG document as about \$450,000. At the lower end, the fee is much lower than the cost of providing a unit, incentivizing fee payment unless the developer is seeking a density bonus for the project, which requires on-site affordable housing units.

Another approach taken is to set the in-lieu fee to be equivalent to the cost of providing the units, consistent with the direction that the Commission has expressed. Some cities require the fee to be determined on a project-by-project basis, based on the pro forma for each project, putting a burden on developers to provide their financial information, and on City staff to review and verify each case. It also creates uncertainty for applicants. Although staff recommends following up this ordinance with a fee resolution, the revised draft now proposes, as an interim measure, to determine the in-lieu fee on a case-by-case basis equivalent to the cost of providing a comparable unit.

Environmental (CEQA) Review

The proposed ordinance would not have a significant impact on the environment and so is exempt from the California Environmental Quality Act (CEQA) review under Section 15061(b)(3)—General Rule, which provides that CEQA applies only to projects that have the potential for causing a significant effect on the environment.

Conclusion

The draft ordinance as revised addresses the issues brought up by the Commission at the previous hearing, with more simplified requirements and a more comprehensive approach to the in-lieu fee and design incentives. Staff recommends that the Commission recommend that the Council adopt the ordinance, with any additional revisions as deemed appropriate.

Next Steps

Pending Planning Commission's recommendation, the anticipated next steps to adopt the ordinance are as follows:

April 7, 2021: Council hearing for Urgency Ordinance and first reading of replacement regular ordinance.

April 21, 2021: Second reading and adoption or replacement ordinance.

Implementation: Once adopted, staff will modify application materials to reflect the new requirement and information will be posted on the Planning Division website. If an in-lieu fee provision is adopted as recommended, staff will request funding to perform the necessary analysis in order to propose a fee for Council's approval.

Legal Review

The City Attorney has reviewed this item.

Fiscal Impact

There is no fiscal impact.

Public Notification of Agenda Item

The Planning Commission continued the hearing to a date certain (March 9, 201). Additional notification of this hearing was published on February 26, 2021, in the South Pasadena Review. The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the South Pasadena Review.

Attachments

1. Planning Commission resolution (Exhibit A – Draft Ordinance)
2. [January 26, 2021 staff report](#)
3. Draft ordinance – Red-line version
4. Keyser-Marsden comparison of inclusionary ordinances

ATTACHMENT 1

Planning Commission resolution

(Exhibit A – Draft Ordinance)

P.C. RESOLUTION NO. 21-__

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF SOUTH PASADENA, CALIFORNIA, RECOMMENDING
THAT THE CITY COUNCIL ADOPT AN ORDINANCE ADDING
DIVISION 36.375 (INCLUSIONARY HOUSING) TO CHAPTER 36
(ZONING) OF THE SOUTH PASADENA MUNICIPAL CODE,
PURSUANT TO THE PROCEDURES SET FORTH IN
GOVERNMENT CODE SECTION 36934, AND BY URGENCY
ORDINANCE PURSUANT TO GOVERNMENT CODE SECTION
36937(b)**

WHEREAS, on August 11, 2020 and December 15, 2020, the Planning Commission held study sessions regarding the preparation of an inclusionary housing ordinance, as a means to enhance development of affordable housing projects in the City of South Pasadena, which when paired with state density bonus requirements, will help the City meet its Regional Housing Needs Assessment (RHNA) obligations and aid in the preparation of the 2021-2029 Housing Element; and

WHEREAS, the Planning Commission appointed a subcommittee of its members to work with staff to develop an inclusionary housing ordinance, and met with staff on December 21, 2020, December 23, 2020 and January 12, 2021, to guide development of the inclusionary housing ordinance, subject to community input gained from virtual housing workshops conducted in May to September 2020; and

WHEREAS, on January 26, 2021 the Planning Commission held an additional duly noticed public meeting to consider the draft inclusionary housing ordinance, at which all interested parties were given the opportunity to be heard and present evidence; and

WHEREAS, subsequent to the January 26, 2021 Planning Commission review, staff conducted additional research and the Planning Commission Inclusionary Housing Ordinance subcommittee met on February 1, 2021, February 9, 2021, February 17, 2021, and March 1, 2021 to revise and refine the ordinance to create greater clarity, ease of use and maximum application to development projects submitted after the ordinance effective date; and

WHEREAS, on March 9, 2021, the Planning Commission held a noticed public hearing to consider the revised draft inclusionary housing ordinance, at which all interested parties were given the opportunity to be heard and present evidence; and

WHEREAS, amending the zoning code to require the inclusion of affordable housing for all applicable housing development projects on an immediate, urgency basis, is necessary to enhance the development of affordable housing and to help the City meet its RHNA obligations, for the public health, safety and welfare of the City of South Pasadena residents; and

WHEREAS, the Planning Commission recommends that the City Council exercise its power to enact an urgency ordinance, not in conflict with general laws, as necessary to protect public peace, health, and safety, via exercise of the powers provided to cities in Article XI, Section 7, of the California Constitution, and in compliance with Government Code section 36937.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SOUTH PASADENA DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1: The Planning Commission hereby finds that the proposed amendments would not have a significant impact on the environment and so is exempt from the California Environmental Quality Act (CEQA) review under Section 15061(b)(3)—General Rule, which provides that CEQA applies only to projects that have the potential for causing a significant effect on the environment.

SECTION 2: Pursuant to SPMC Section 36.620.070 (Findings and Decision), the Planning Commission recommends that the City Council approve the proposed amendments set forth in Exhibit A, based on a finding of benefit to the public interest, health, safety, convenience, and general welfare of the City by requiring for the provision of affordable housing as part of new mixed use residential and multi-family development through an inclusionary housing ordinance, consistent with the City’s General Plan.

SECTION 3: This Resolution Recommending City Council Adoption satisfies the requirements of SPMC Section 36.620.30(A)(1)(b) for a Resolution of Intention regarding initiating a zoning amendment.

SECTION 4. For the foregoing reasons and based on the information and findings included in the Resolution, Staff Report, Minutes and testimony received during the public hearing, the Planning Commission of the City of South Pasadena hereby recommends that the City Council adopt the attached ordinance adding Division 36.375 (Inclusionary Housing), comprised of Sections 36.375.010 to 36.375.110 to Chapter 36 (Zoning).

SECTION 5. The Secretary shall certify that the foregoing Resolution was adopted by the Planning Commission of the City of South Pasadena at a duly noticed regular meeting held on the 9th day of March, 2021.

PASSED, APPROVED, AND ADOPTED this 9th day of March 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John Lesak, Chair

ATTEST:

Lisa, Padilla, Vice-Chair

EXHIBIT A

Chapter 36	Zoning
Article 3	Site Planning and General Development Standards
Division 36.375	Inclusionary Housing Ordinance

36.375.010 Purpose.

The intent of this ordinance is to address the serious need for affordable housing in the city and the region, to communicate the importance of appropriate, quality design, and to ensure that new housing provides opportunities for all economic strata in the community. The requirements herein acknowledge the demand for affordable housing created by market rate development; the depletion of potential affordable housing sites by market-rate development; and the impact that the lack of affordable housing production has on the health, safety, and welfare of the city’s residents including its impacts on traffic, transit and related air quality impacts, and the demands placed on the regional transportation infrastructure.

36.375.020 Applicability.

This division applies to all residential development of three or more dwelling units, including residential portions of mixed-use development, in an amount as required in 36.375.050 (Inclusionary Unit Requirement), below.

36.375.030 Exemptions.

This division shall not apply to the following:

- A. A residential or mixed-use application for the project entitlements that has been deemed complete as of the effective date of this ordinance.
- B. The portion of a project located within a designated landmark building or contributing structure to a designated historic district that is retained and preserved on-site as part of a multi-family project in compliance with the Secretary of Interior’s standards.
- C. A 100% affordable housing project proposing to develop units that will be deed-restricted for a period of at least 55 years.
- D. Units approved as accessory dwelling units or junior accessory dwelling units.

36.375.040 Definitions.

- A. “Affordable unit” means a dwelling unit which is affordable to an extremely low income household, very low income household, lower income household or moderate income household, as defined below.
- B. “Extremely low income household” means households whose income does not exceed thirty percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50106.

- C. “Inclusionary unit” means a dwelling unit within a housing development which will be reserved for sale or rent to extremely low, very low, low or moderate income households by a deed restriction recorded against the property.
- D. “Lower income household” means households whose income does not exceed eighty percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.
- E. “Moderate income household” means households whose income does not exceed one hundred twenty percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50105.
- F. “Mixed-Use Zoning District”: For purposes of this division, this shall refer to any zoning district in which both commercial and residential uses are allowed.
- G. “Very low income household” means households whose income does not exceed fifty percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50105.

36.375.050 Inclusionary unit requirement.

- A. Amount Required: A minimum of 20 percent of the total number of dwelling units in a residential or mixed-use project, excluding any bonus units added pursuant to State Law or SPMC 36.370, shall be developed, offered to, and sold or rented to households of very low, lower, and moderate-income, at an affordable housing cost, as follows.
 - 1. In addition to the inclusionary requirement, the project shall include replacement units for any existing affordable unit that is protected by a covenant or otherwise identified as an affordable unit. The demolished unit shall be replaced at the same affordability level.
- B. Inclusionary Rental Units:
 - 1. Projects with 10 or fewer units shall have the option to designate an affordable unit as extremely low, very low, lower or moderate income, provided that if the project includes two affordable units, either
 - a. both units shall be lower income; or
 - b. at least one shall be a very-low income unit and the other unit may be very low, lower, or moderate.
 - 2. Projects with 11 or more units shall provide 50% of required affordable units as extremely low or very low and 50% as lower income units. In case of an uneven number, one more unit shall be provided as very low.
- C. Inclusionary Ownership (For Sale) Units shall be provided at the moderate income level.

- D. Fractional Units: In the case that unit calculations result in a fractional number, the applicant shall choose one of the following options:
1. Round up to next unit and provide the unit on-site.
 2. Pay the fractional amount above the whole number as an in-lieu fee equivalent to the fraction multiplied by the in-lieu fee as established by City Council resolution. All whole number units shall be provided on-site or alternatively as allowed in 36.375.060 (Alternatives to on-site provision), below.

36.375.060 Alternatives to on-site provision.

As an alternative to developing required inclusionary units within an affected residential project, the requirements of this division may be satisfied by the following as applicable to the size of the project.

- A. For rental projects of three or four units or for any ownership project: payment of an in-lieu fee as established by City Council resolution and updated from time to time as deemed appropriate, subject to the provisions of 36.375.110 (In-lieu fee payment and administration) below.
- B. For rental projects of five or more units, the applicant may choose one of the following, subject to Planning Commission approval:
 1. Provision of an equivalent number of off-site units consistent with Table A above, subject to the provisions of 36.375.100 (Deed restriction), below. The following shall apply to this alternative:
 - a. The off-site units shall be located on a property within 1,500 feet of the proposed project, or in a comparable neighborhood as determined by the planning commission.
 - b. The affordable units shall be of comparable size and quality to the market-rate units in the proposed project and subject to the relevant standards in 36.375.070 (Standards governing inclusionary units).
 2. Rehabilitation/conversion of an equivalent number of existing units to affordable units consistent with Table A above, subject to the provisions of 36.375.100 (Deed restriction), below. The following shall apply to this alternative:
 - a. The acquisition and rehabilitation shall be applied to market-rate units within the city and the conversion of those units to affordable units;
 - b. Eligible Improvements. The rehabilitation of the market rate units shall improve the unit's structural integrity and livability to include improvements to the roofing, flooring, plumbing, heating, and air conditioning as applicable.

3. Dedication of land that is zoned and developable for housing, subject to city council acceptance, greater or equal to the average cost of construction of the units within the project, with the valuation subject to planning commission approval.

36.375.070 Standards governing inclusionary units.

- A. Inclusionary units shall be dispersed throughout the project;
- B. Inclusionary units shall be comparable and equivalent in size to the market-rate units in the project.
- C. The number of bedrooms in inclusionary units shall be provided in approximately the same proportion as the market rate units in the project.
- D. Inclusionary units shall be of quality and materials comparable to the market-rate units, unless it can be demonstrated to the satisfaction of the City that this is infeasible. Notwithstanding, exceptions may be made for affordable units for sale at the discretion of the planning commission;
- E. Inclusionary units shall comply with all applicable development standards, except as modified by this division.
- F. Inclusionary unit residents shall have equal access to use of all on-site amenities.
- G. Inclusionary units shall be maintained to the same standard as market rate units.
- H. Developer shall actively market the affordable units to eligible households concurrently with the market rate units. The developer shall submit a marketing plan for the Director's approval that gives preference to residents and employees of South Pasadena in the tenant selection process.
- I. Inclusionary units in a residential project shall be constructed concurrently with, or before, the construction of the market rate units. If the city approves a phased project, the required inclusionary units shall be provided proportionately within each phase of the residential project.
- J. On-site inclusionary units must be rental units in rental projects. In ownership projects, inclusionary units may be offered as either rental units or ownership units.
- K. The property owner shall record a deed restriction against the property reserving the extremely low, very low, lower, and moderate income units at the applicable affordable housing cost for a minimum of 55 years from the date of issuance of a certificate of occupancy.

36.375.080 Streamlined State Density Bonus Review

- A. Purpose: For projects including on-site inclusionary units as required herein, the following Design Incentives process offers an alternative, streamlined State Density Bonus process. Design Incentives are intended to encourage architectural designs that are well-conceived, thoughtfully detailed, consistent with the

character of the city and compatible with the zoning district in which they are located.

- B. Applicability: Design Incentives may be requested for any project that provides all required inclusionary units on-site and for which a density bonus is requested pursuant to Division 36.370, provided the site is located in:
1. Any mixed-use zoning district; or,
 2. The R4 high-density residential zoning district provided the site has a frontage on an arterial street.
- C. Consistent Architectural Design Approach: To qualify for Design Incentives pursuant to this sub-section, the applicant shall demonstrate that the proposed project supports a clear and consistent architectural design that includes the following:
1. Required Standards: The project application shall include a narrative that explains the architectural design approach and how the project meets the following standards:
 - a. Stepbacks
 - i. Front and corner building façades: A minimum ten-foot setback above the third story, or above the second story for properties located on Mission Street, to reduce bulkiness and perceived height from street level;
 - ii. Side building facades: A minimum ten-foot setback above the third story, or above the second story for properties located on Mission Street, along property lines that are adjacent to a residential district with a lower density or historic property. Notwithstanding, balconies open on at least two sides may project into the setback area provided the balcony are at least five feet from the side property line;
 - iii. Rear building facades: A minimum ten-foot setback above the third story, or above the second story for properties located on Mission Street, if the proposed building is located within ten feet of the rear property line of a parcel that is directly adjacent to a residential district with a lower density.
 - iv. Stepbacks may be reduced if the size of the parcel makes the stepbacks infeasible or such stepbacks are not consistent with the surrounding context as determined by the Director;
 - b. Terraces and Balconies on properties adjacent to a single-family residential use: For properties located adjacent to a single family residential use, terraces and balconies facing the single-family residential use shall be prohibited above the

ground level. Roof terraces shall be located toward the front of the building and at least 10 feet from the edge of the building facing the single-family residential use and shall provide an eight-foot high sound wall along the single-family facing elevation with a ten-foot long return on each side of the roof terrace.

- c. 360-degree architectural design: The project shall have consistent design features or patterns that render it as unique with all elevations designed at the same level of architectural detail and articulation as the front elevation,
 - d. A signature architectural element that is described in the application. Some examples include but are not limited to: a signature element that identifies the building and relates to its location in the city; a courtyard or open space pattern is visible from the street; a prominent corner feature.
 - e. Ground-Floor Facades: Building facades shall avoid blank walls and long expanses without variation in form and design treatment as follows:
 - i. For mixed-use projects, the ground floor of commercial street facades shall be comprised of at least 75% openings in walls such as storefront windows and doors with transparent glazing. Façade variation achieved through form, materials and details is essential, with an emphasis on the ground-floor treatment experienced by pedestrians.
 - ii. For 100% residential projects, the ground floor front façade shall include direct entrances into units and articulation that indicates separate units.
2. Encouraged Design Features: The applicant should consider incorporating the following features as appropriate to support the request for design incentives in the project application:
- a. Higher floor-to-floor height for commercial portion of mixed use project with 16-18 feet considered to be desirable
 - b. Higher floor-to-ceiling heights in residential units
 - c. Leveraging of additional height to reduce overall site coverage and increase open space
- D. Design Incentives: Projects that demonstrate a consistent architectural design approach per Subsection C, above, shall be entitled to the following incentives, without requirement for feasibility studies or other analysis:
- 1. Height Increase and Height Averaging: If requested in the project application, a height increase, using measurement based on height averaging, that facilitates the provision of features per Section C, above, shall be approved with no further studies or analysis shall be required as part of the submittal as follows:

- a. For projects in mixed-use zoning districts on Mission Street where there is a predominance of historic resources: An increase of one additional story, with an average maximum project height not to exceed 5 feet - above the limit of the underlying zoning district, provided that no portion of the building may exceed 10 feet above the height limit of the underlying zoning district.
- b. For projects in other mixed-use zoning districts: An increase of one additional story, with an average maximum project height not to exceed 15 feet above the limit of the underlying zoning district, provided that no portion of the building may exceed 20 feet above the height limit of the underlying zoning district.
- c. For projects in multi-family residential districts: An increase of one additional story, with a maximum average height not to exceed 10 feet above the limit of the underlying zoning district provided no portion of the building may exceed 15 feet above the height limit of the underlying zoning district.

For purposes of this incentive, non-occupiable architectural projections, including elevator shafts and stairwells, shall be permitted to exceed the adjusted height limit as necessary to comply with Building Code requirements.

2. Reduced Minimum Unit Size: Notwithstanding 36.375.070, the floor area of inclusionary units may be up to 10% smaller than the market-rate units in the project.
3. Parking reduction: The applicant may request to calculate parking for the residential portion of the property at one half (.5) spaces per bedroom, with studios considered to be one-bedroom units for the purpose of this requirement. Fractional units shall be rounded up to the next whole unit.

36.375.090 Application.

- A. **Submittal.** An application for a residential or mixed-use development subject to this division shall not be deemed complete until the applicant has provided information as requested in the application that demonstrates to the satisfaction of the Director the manner in which the project shall comply with the provisions of this division.
- B. **Application information.** The application shall include:
 1. The number of market rate and affordable units.
 2. The number of extremely low, very low, lower, and moderate income units.
 3. The percentage of extremely low, very low, lower, and moderate income units in relation to the total number of affordable units.

4. A calculation showing applicant's assumption of base density and any bonus requested
5. Whether the applicant intends to satisfy the requirements of this division through the alternative means provided in section 36.375.060.
6. Whether the applicant intends to take advantage of the design incentives under section 36.375.080.
7. Acknowledgement of the standard conditions of approval.
8. Any other information deemed necessary by the Director.

36.375.100 Conditions of Approval.

The following shall be required as standard conditions of approval for all projects subject to the requirements of this Division.

- A. **Deed Restriction.** Prior to issuance of a building permit for a project meeting the requirements of this section, the project applicant shall:
 1. Submit a deed restriction or other legal instruments setting forth the obligation of the applicant under this division for city review and approval.
 2. The deed restriction shall include:
 - a. A description of the household income group to be accommodated by the housing development and the standards for determining the corresponding affordable rent or affordable housing cost;
 - b. The location, unit sizes (square feet), and number of bedrooms of affordable units;
 - c. Tenure of use restrictions of at least fifty-five years for affordable units and, as applicable, inclusionary units;
 - d. A prohibition on any short-term rentals whereby a residence or a portion of a residence is rented to a tenant for a period of less than thirty days;
 - e. A clause allowing for the recovery of any legal costs incurred in any action taken to enforce compliance with the inclusionary housing agreement;
 - f. Other provisions to ensure implementation and compliance with this chapter.
 3. Record the deed restriction in the county recorder's office, following approval as to form by the city attorney that confirms that the terms and conditions of the inclusionary agreement in compliance with applicable state law; such deed restriction shall run with the land which is to be developed, and shall be binding upon the successor(s)-in-interest of the inclusionary permit applicant.

B. For-sale housing units. In the case of for-sale housing developments in which the applicant opts to provide the affordable unit(s) as for-sale unit(s), in addition to the requirements of subsection 36.375.100A above, the deed restriction shall provide for the following conditions governing the initial sale and use of affordable units during the applicable use restriction period:

1. Affordable units shall, upon initial sale, be sold to eligible extremely low, very low or lower income households at an affordable housing cost;
2. Purchasers of affordable units shall be required to occupy the unit except with approval from the city. Evidence must be presented to the city that the owner is unable to occupy the unit due to illness or incapacity. In such cases, the unit shall be rented to a person within the same household income category;
3. A resale restriction shall be recorded against all affordable units restricting the price at which the unit may be resold during the applicable use restriction period. The agreement shall specify that subsequent owners must meet the same qualifications as the original owner and must be pre-approved for purchase by the city. The agreement shall also grant the city the right-of-first-refusal to purchase an affordable unit each time it is sold.
4. The city will enforce an equity sharing agreement which will require that, upon resale, the seller of the unit will retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation, if any. For purposes of this section, the city's initial subsidy will be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the income restricted household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the seller's initial market value, then the value at the time of the resale will be used as the initial market value. The City's proportionate share of appreciation will be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of the initial sale.
5. Provisions requiring that homeowner association (HOA) fees be waived or reduced for owners of affordable units such that the owner does not pay more than 30% of their income on housing, including mortgage payments and HOA dues.

C. Rental housing units. In the case of rental housing developments, or for-sale housing developments in which the applicant opts to provide the affordable unit(s) as rental unit(s), in addition to the requirements of subsection 36.375.100A above, the following conditions of approval shall be required to govern the use of the affordable units during the applicable use restriction period:

1. Affordable units only to be let to qualified residents at the rent level applicable to Los Angeles County as published and periodically updated by the State Department of Housing and Community Development;

2. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining affordable units for qualified tenants;
3. Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this chapter and to make such books and records available to the City upon the City's request; and
4. Provisions requiring owners to pay an annual monitoring fee and submit an annual report to the city by December 31st, which includes the name, address, and income of each person occupying affordable units, and which identifies the bedroom size and monthly rent of each affordable unit.

D. Schedule. Prior to issuance of a building permit for a project meeting the requirements of this division through off-site construction or rehabilitation of existing units, the project applicant shall submit a schedule for review and approval by the director, detailing the timeline for completion and occupancy of affordable units. The schedule shall specify that the units must be completed prior to issuance of a certificate of occupancy for the market-rate project.

36.375.110 In-lieu Fee Payment and Administration

Payment of an in-lieu fee as an alternative to on-site provision of units pursuant to 36.375.060.A (Alternatives to On-site Provision) or for a fractional unit pursuant to 36.275.050.D (Fractional Units), above, shall comply with this section.

- A. The City Council shall establish the amount of the in-lieu fee by resolution, which shall be reviewed and adjusted annually prior to the succeeding fiscal year.
- B. The in-lieu fee shall be established in an amount that is equivalent to the cost of providing a comparable unit for each unit that would have been provided in the project based on the requirements of this section.
- C. Until such time as the City Council establishes a fee pursuant to (A), the amount of the in lieu fee shall be considered on a case-by-case basis as approved by the Planning Commission, consistent with B, above. Applicant shall submit a cost estimate and shall pay an administrative fee for the City's review and confirmation of the comparable unit cost.
- D. The amount to be paid by the applicant shall be calculated based on the affordable housing in-lieu fee that is in effect at the time that the fee is paid to the City.
- E. The affordable housing in-lieu fee shall be paid in full to the City prior to the issuance of any building permit or tree removal permit for the project, and receipt shall be confirmed by the Building Official.
- F. Fees collected in compliance with this Section shall be deposited in a reserve account separate from the General Fund to be used only for development or maintenance of

affordable housing, including administrative costs related to monitoring affordable housing units for compliance with their deed-restricted use.

1. Alternatively, by resolution of the City Council, fee payments may be deposited into a regional Affordable Housing Trust Fund (AHTF) administered cooperatively by San Gabriel Valley jurisdictions, in order to leverage State, Federal and other sources of funding to increase construction of affordable housing units in the region. Projects in the City would be eligible to apply for regional AHTF funding per the rules and process established for its administration.
- G. Payment of an affordable housing in-lieu fee pursuant to this Section shall not be considered provision of affordable housing units for purposes of determining whether the multi-family project qualifies for a density bonus pursuant to [Government Code](#) Section 65915.
- H. Appeals. An applicant may appeal the in-lieu fee under the protest provisions of the Mitigation Fee Act pursuant to Government Code section 66020. The appeal will be processed pursuant to Division 36.610 of this code.

DRAFT

ATTACHMENT 2

January 26, 2021 staff report

Link to:

<https://www.southpasadenaca.gov/home/showpublisheddocument?id=25096>

ATTACHMENT 3

Draft ordinance – Red-line version

Chapter 36 Zoning
Article 3 Site Planning and General Development Standards
Division 36.375 Inclusionary Housing Ordinance

36.375.010 Purpose.

The intent of this ordinance is to address the serious need for affordable housing in the city and the region, to communicate the importance of appropriate, quality design, and to ensure that new housing provides opportunities for all economic strata in the community. The requirements herein acknowledge the demand for affordable housing created by market rate development; the depletion of potential affordable housing sites by market-rate development; and the impact that the lack of affordable housing production has on the health, safety, and welfare of the city's residents including its impacts on traffic, transit and related air quality impacts, and the demands placed on the regional transportation infrastructure.

36.375.020 Applicability.

This division applies to all residential development of three or more dwelling units, including residential portions of mixed-use development, in an amount as required in 36.375.050 (Inclusionary Unit Requirement), below.

36.375.030 Exemptions.

This division shall not apply to the following:

- A. A residential or mixed-use application for the project entitlements that has been deemed complete as of the effective date of this ordinance~~deemed complete prior to December 31, 2020.~~
- B. The portion of a project located within a designated landmark building or contributing structure to a designated historic district that is retained and preserved on-site as part of a multi-family project in compliance with the Secretary of Interior's standards.
- C. A 100% affordable housing project proposing to develop units that will be deed-restricted for a period of at least 55 years.
- D. Units approved as accessory dwelling units or junior accessory dwelling units.
- ~~E.—A residential project that is exempt under state law, including a project for which the city enters into a development agreement.~~

36.375.040 Definitions.

- A. "Affordable unit" means a dwelling unit which is affordable to an extremely low income household, very low income household, lower income household or moderate income household, as defined below.

- B. “Extremely low income household” means households whose income does not exceed thirty percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50106.
- C. “Inclusionary unit” means a dwelling unit within a housing development which will be reserved for sale or rent to extremely low, very low, low or moderate income households by a deed restriction recorded against the property.
- D. “Lower income household” means households whose income does not exceed eighty percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50079.5.
- E. “Moderate income household” means households whose income does not exceed one hundred twenty percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50105.
- F. “Mixed-Use Zoning District”: For purposes of this division, this shall refer to any zoning district in which both commercial and residential uses are allowed.
- G. “Very low income household” means households whose income does not exceed fifty percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Health and Safety Code Section 50105.

36.375.050 Inclusionary unit requirement.

- A. Amount Required: A minimum of 20 percent of the total number of dwelling units in a residential or mixed-use project, excluding any bonus units added pursuant to State Law or SPMC 36.370, shall be developed, offered to, and sold or rented to households of very low, lower, and moderate-income, at an affordable housing cost, as follows.
 - 1. In addition to the inclusionary requirement, the project shall include replacement units for any existing affordable unit that is protected by a covenant or otherwise identified as an affordable unit. The demolished unit shall be replaced at the same affordability level.
- B. Inclusionary Rental Units: All residential developments subject to this division shall include a minimum number of the required inclusionary units, calculated based on the total number of market rate units, including units allowed through a density bonus.
 - 1. Projects with 10 or fewer units shall have the option to designate an affordable unit as extremely low, very low, lower or moderate income, provided that if the project includes two affordable units, either
 - a. both units shall be lower income; or

- b. at least one shall be a very-low income unit and the other unit may be very low, lower, or moderate.
- 2. Projects with 11 or more units shall provide 50% of required affordable units as extremely low or very low and 50% as lower income units. In case of an uneven number, one more unit shall be provided as very low.
- C. Inclusionary Ownership (For Sale) Units shall be provided at the moderate income level. The applicant shall choose from the options in Table A and include this information in the project application per 36.375.090, below.

Table A. Inclusionary Housing Requirement Per Household Type

Number of Market Rate Units in Residential Development	Extremely Low Income	Very Low Income	Lower Income	Moderate
3-4	1 unit	1 unit	1 unit	1 unit
5-10	1 unit	1 unit	The higher of 1 unit or 15%	The higher of 1 unit or 20%
11-25	15%	15%	20%	---
26-50	20%	20%	20%	---
51+	20%*	20%*	20%*	

* must be 50% lower and 50% extremely/very low income units. In case of an uneven number one more unit shall be provided as very low.

- D. Fractional Units: In the case that ~~the above unit~~ calculations result in a fractional number, the applicant shall choose one of the following options:
 1. Round up to next unit and provide the unit on-site.
 2. Pay the fractional amount above the whole number (~~fractions less than one may not be paid as a fee~~) as an in-lieu fee equivalent to the fraction multiplied by the in-lieu fee as established by City Council resolution. All whole number units shall be provided on-site or alternatively as allowed in 36.375.060 (Alternatives to on-site provision), below.

36.375.060 Alternatives to on-site provision.

As an alternative to developing required inclusionary units within an affected residential project, the requirements of this division may be satisfied by the following as applicable to the size of the project.

- A. For rental projects of three or four units or for any ownership project: payment of an in-lieu fee as established by City Council resolution and updated from time to time as deemed appropriate, subject to the provisions of 36.375.110 (In-lieu fee payment and administration) below.

- B. For rental projects of ~~four~~ five or more units, the applicant may choose one of the following, subject to Planning Commission approval:
1. Provision of an equivalent number of off-site units consistent with Table A above, subject to the provisions of 36.375.100 (Deed restriction), below. The following shall apply to this alternative:
 - a. The off-site units shall be located on a property within 1,500 feet of the proposed project, or in a comparable neighborhood as determined by the planning commission.
 - b. The affordable units shall be of comparable size and quality to the market-rate units in the proposed project and subject to the relevant standards in 36.375.070 (Standards governing inclusionary units).
 2. Rehabilitation/conversion of an equivalent number of existing units to affordable units consistent with Table A above, subject to the provisions of 36.375.100 (Deed restriction), below. The following shall apply to this alternative:
 - a. The acquisition and rehabilitation shall be applied to market-rate units within the city and the conversion of those units to affordable units;
 - b. Eligible Improvements. The rehabilitation of the market rate units shall improve the unit's structural integrity and livability to include improvements to the roofing, flooring, plumbing, heating, and air conditioning as applicable.
 3. Dedication of land that is zoned and developable for housing, subject to city council acceptance, greater or equal to the average cost of construction of the units within the project, with the valuation subject to planning commission approval.

36.375.070 Standards governing inclusionary units.

- A. Inclusionary units shall be dispersed throughout the project;
- B. Inclusionary units shall be comparable and equivalent in size to the market-rate units in the project, ~~provided that units shall not be smaller than 650 square feet for a studio or one bedroom unit, 950 square feet for a two bedroom unit or 1,150 square feet for a unit of three bedrooms or more.~~
- C. ~~Inclusionary unit types~~ (The number of bedrooms in inclusionary units shall be provided in approximately the same proportion as the market rate units in the project ~~as a whole~~;
- D. Inclusionary units shall be of quality and materials comparable to the market-rate units, unless it can be demonstrated to the satisfaction of the City that this is

infeasible. Notwithstanding, exceptions may be made for affordable units for sale at the discretion of the planning commission;

- E. Inclusionary units shall comply with all applicable development standards, except as modified by this division.
- F. Inclusionary unit residents shall have equal access to use of all on-site amenities.
- G. Inclusionary units shall be maintained to the same standard as market rate units.
- H. Developer shall actively market the affordable units to eligible households concurrently ~~along~~ with the market rate units. The developer shall submit a marketing plan for the Director's approval that gives preference to residents and employees of South Pasadena in the tenant selection process.
- I. Inclusionary units in a residential project shall be constructed concurrently with, or before, the construction of the market rate units. If the city approves a phased project, the required inclusionary units shall be provided proportionately within each phase of the residential project.
- J. On-site inclusionary units must be rental units in rental projects. In ownership projects, inclusionary units may be offered as either rental units or ownership units.
- K. The property owner shall record a deed restriction against the property reserving the extremely low, very low, lower, and moderate income units at the applicable affordable housing cost for a minimum of 55 years from the date of issuance of a certificate of occupancy.

36.375.080 Streamlined State Density Bonus Review Design Incentives.

- A. Purpose: For projects including on-site inclusionary units as required herein, the following Design Incentives process offers an alternative, streamlined State Density Bonus process. Design Incentives are intended to encourage architectural designs that are well-conceived, thoughtfully detailed, consistent with the character of the city and compatible with the zoning district in which they are located.
- B. Allowed Zoning Districts Applicability: Design Incentives In order to encourage large projects with a housing component to incorporate strong architectural design quality, consistent with the character of the city and compatible with the zoning district in which they are located, the following design incentives may be requested for any project that provides all required affordable inclusionary units on-site and for which a density bonus is requested pursuant to Division 36.370, provided the site is and located on a site with a minimum area of one-half acre that is in:

 - 1. Any mixed-use zoning district; or,
 - 2. The R4 high-density residential zoning district provided the site has a frontage on an arterial street.

- C. Consistent Architectural Design Approach: To qualify for Design Incentives pursuant to this sub-section, the applicant shall demonstrate that the proposed project supports a clear and consistent architectural design that includes the following:
1. Required Standards: The project application shall include a narrative that explains the architectural design approach and how the project meets the following standards:
 - a. Stepbacks
 - i. Front and corner building façades: A minimum ten-foot stepback above the third story, or above the second story for properties located on Mission Street, to reduce bulkiness and perceived height from street level;
 - ii. Side building facades: A minimum ten-foot stepback above the third story, or above the second story for properties located on Mission Street, along property lines that are adjacent to a residential district with a lower density or historic property. Notwithstanding, balconies open on at least two sides may project into the stepback area provided the balcony are at least five feet from the side property line;
 - iii. Rear building facades: A minimum ten-foot stepback above the third story, or above the second story for properties located on Mission Street, if the proposed building is located within ten feet of the rear property line of a parcel that is directly adjacent to a residential district with a lower density.
 - iv. Stepbacks may be reduced if the size of the parcel makes the stepbacks infeasible or such stepbacks are not consistent with the surrounding context as determined by the Director;
 - b. Terraces and Balconies on properties adjacent to a single-family residential use: For properties located adjacent to a single family residential use, terraces and balconies facing the single-family residential use shall be prohibited above the ground level. Roof terraces shall be located toward the front of the building and at least 10 feet from the edge of the building facing the single-family residential use and shall provide an eight-foot high sound wall along the single-family facing elevation with a ten-foot long return on each side of the roof terrace.
 - c. 360-degree architectural design: The project shall have consistent design features or patterns that render it as unique with all elevations designed at the same level of architectural detail and articulation as the front elevation.
 - d. A signature architectural element that is described in the application. Some examples include but are not limited to: a signature element that identifies the building and relates

to its location in the city; a courtyard or open space pattern is visible from the street; a prominent corner feature.

e. Ground Floor Facades. Building facades shall avoid blank walls and long expanses without variation in form and design treatment.

i. For mixed-use projects, The ground floor of commercial street facades shall be comprised of at least 75% openings in walls such as storefront windows and doors with transparent glazing. Façade variation achieved through form, materials and details is essential, with an emphasis on the ground-floor treatment experienced by pedestrians.

ii. For 100% residential projects, the ground floor front façade shall include direct entrances into units and articulation that indicates separate units.

2. Encouraged Design Features: The applicant should consider incorporating the following features:

a. Higher floor-to-floor height for commercial portion of mixed use project with 16-18 feet considered to be desirable

b. Higher floor-to-ceiling heights in residential units

c. Leveraging of additional height to reduce overall site coverage and increase open space

D. Design Incentives: Projects that demonstrate a consistent architectural design approach per Subsection C, above, shall be entitled to the following incentives, without requirement for feasibility studies or other analysis:

1. Height Increase and Height Averaging: If requested in the project application, a height increase, using measurement based on height averaging, that facilitates the provision of features per Section C, ~~below~~above, shall be approved ~~and~~with no further studies or analysis shall be required as part of the submittal as follows:

a. For projects in mixed-use zoning districts on Mission Street where there is a predominance of historic resources: An increase of one additional story, with an average maximum project height not to exceed 5 feet - above the limit of the underlying zoning district, provided that no portion of the building may exceed 10 feet above the height limit of the underlying zoning district.

b. For projects in other mixed-use zoning districts: An increase of one additional story, with an average maximum project height not to exceed 15 feet above the limit of the underlying zoning district, provided that no portion of the building may exceed 20 feet above the height limit of the underlying zoning district.

c. For ~~proposed~~ projects in multi-family residential districts: An increase of one additional story, with a maximum average height not to exceed 10 feet above the limit of the underlying zoning district provided no portion

of the building may exceed 15 feet above the height limit of the underlying zoning district.

For purposes of this incentive, non-occupiable architectural projections, including elevator shafts and eight-foot high sound walls where the top four feet minimum are transparent, stairwells, shall be permitted to exceed the adjusted height limit as necessary to comply with Building Code requirements.

~~E. Strong architectural design quality: The applicant shall demonstrate that the proposed project utilizes the additional height incentive to provide strong architectural design by including the following:~~

~~3. Required standards:~~

~~a. Stepbacks of ten feet or more from the front building facade to reduce bulkiness and perceived height from street level, unless such stepbacks are not consistent with surrounding context;~~

~~b. Siting of project structures that is sensitive to the context of adjacent uses;~~

~~4. Optional and encouraged design features supporting the request in the project application:~~

~~d. Height averaging to vary the skyline of the project~~

~~e. Higher floor to floor height for commercial portion of mixed use project with 16-18 feet considered to be desirable~~

~~f. Higher floor to ceiling heights in residential units~~

~~g. Larger unit sizes~~

~~h. Leveraging of additional height to reduce overall site coverage and increase open space~~

2. Reduced Minimum Unit Size: Notwithstanding 36.375.070, the floor area of inclusionary units shall be comparable may be up to 10% smaller in size to than the market-rate units in the project, ~~provided that units shall not be smaller than 600 square feet for a studio or one-bedroom unit, 900 square feet for a two-bedroom unit or 1,100 square feet for a unit of three bedrooms or more..~~

3. Parking reduction: The project applicant may request to calculate parking for the residential portion of the property at one half (.5) spaces per bedroom, with studios considered to be one-bedroom units for the purpose of this requirement. Fractional units shall be rounded up to the next whole unit.

36.375.090 Application.

A. **Submittal.** An application for a residential or mixed-use development subject to this division shall not be deemed complete until the applicant has provided information as requested in the application that demonstrates to the satisfaction of the Director the manner in which the project shall comply with the provisions of this division.

B. Application information. The application shall include:

1. The number of market rate and affordable units.
2. The number of extremely low, very low, lower, and moderate income units.
3. The percentage of extremely low, very low, lower, and moderate income units in relation to the total number of affordable units.
4. A calculation showing applicant's assumption of base density and any bonus requested
5. Whether the applicant intends to satisfy the requirements of this division through the alternative means provided in section 36.375.060.
6. Whether the applicant intends to take advantage of the design incentives under section 36.375.080.
7. Acknowledgement of the standard conditions of approval.
8. Any other information deemed necessary by the Director.

36.375.100 Conditions of Approval.

The following shall be required as standard conditions of approval for all projects subject to the requirements of this Division.

A. Deed Restriction. Prior to issuance of a building permit for a project meeting the requirements of this section, the project applicant shall:

1. Submit a deed restriction or other legal instruments setting forth the obligation of the applicant under this division for city review and approval.
2. The deed restriction shall include:
 - a. A description of the household income group to be accommodated by the housing development and the standards for determining the corresponding affordable rent or affordable housing cost;
 - b. The location, unit sizes (square feet), and number of bedrooms of affordable units;
 - c. Tenure of use restrictions of at least fifty-five years for affordable units and, as applicable, inclusionary units;
 - d. A prohibition on any short-term rentals whereby a residence or a portion of a residence is rented to a tenant for a period of less than thirty days;
 - e. A clause allowing for the recovery of any legal costs incurred in any action taken to enforce compliance with the inclusionary housing agreement;
 - f. Other provisions to ensure implementation and compliance with this chapter.

3. Record the deed restriction in the county recorder's office, following approval as to form by the city attorney that confirms that the terms and conditions of the inclusionary agreement in compliance with applicable state law; such deed restriction shall run with the land which is to be developed, and shall be binding upon the successor(s)-in-interest of the inclusionary permit applicant.

B. For-sale housing units. In the case of for-sale housing developments in which the applicant opts to provide the affordable unit(s) as for-sale unit(s), in addition to the requirements of subsection 36.375.100A above, the deed restriction shall provide for the following conditions governing the initial sale and use of affordable units during the applicable use restriction period:

1. Affordable units shall, upon initial sale, be sold to eligible extremely low, very low or lower income households at an affordable housing cost;
2. Purchasers of affordable units shall be required to occupy the unit except with approval from the city. Evidence must be presented to the city that the owner is unable to occupy the unit due to illness or incapacity. In such cases, the unit shall be rented to a person within the same household income category;
3. A resale restriction shall be recorded against all affordable units restricting the price at which the unit may be resold during the applicable use restriction period. The agreement shall specify that subsequent owners must meet the same qualifications as the original owner and must be pre-approved for purchase by the city. The agreement shall also grant the city the right-of-first-refusal to purchase an affordable unit each time it is sold.
4. The city will enforce an equity sharing agreement which will require that, upon resale, the seller of the unit will retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation, if any. For purposes of this section, the city's initial subsidy will be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the income restricted household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the seller's initial market value, then the value at the time of the resale will be used as the initial market value. The City's proportionate share of appreciation will be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of the initial sale.
5. Provisions requiring that homeowner association (HOA) fees be waived or reduced for owners of affordable units such that the owner does not pay more than 30% of their income on housing, including mortgage payments and HOA dues.

C. Rental housing units. In the case of rental housing developments, or for-sale housing developments in which the applicant opts to provide the affordable unit(s) as

rental unit(s), in addition to the requirements of subsection 36.375.100A above, the following conditions of approval shall be required to govern the use of the affordable units during the applicable use restriction period:

1. Affordable units only to be let to qualified residents at the rent level applicable to Los Angeles County as published and periodically updated by the State Department of Housing and Community Development;
2. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining affordable units for qualified tenants;
3. Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this chapter and to make such books and records available to the City upon the City's request; and
4. Provisions requiring owners to pay an annual monitoring fee and submit an annual report to the city by December 31st, which includes the name, address, and income of each person occupying affordable units, and which identifies the bedroom size and monthly rent of each affordable unit.

D. Schedule. Prior to issuance of a building permit for a project meeting the requirements of this division through off-site construction or rehabilitation of existing units, the project applicant shall submit a schedule for review and approval by the director, detailing the timeline for completion and occupancy of affordable units. The schedule shall specify that the units must be completed prior to issuance of a certificate of occupancy for the market-rate project.

36.375.110 In-lieu Fee Payment and Administration

Payment of an in-lieu fee as an alternative to on-site provision of units pursuant to 36.375.060.A (Alternatives to On-site Provision) or for a fractional unit pursuant to 36.275.~~050B~~-050.D (Fractional Units), above, shall comply with this section.

- A. The City Council shall establish the amount of the in-lieu fee by resolution, which shall be reviewed and adjusted annually prior to the succeeding fiscal year.
- B. The in-lieu fee shall be established in an amount that is equivalent to the cost of providing a comparable unit for each unit that would have been provided in the project based on the requirements of this section.
- C. Until such time as the City Council establishes a fee pursuant to (A), the amount of the in lieu fee shall be considered on a case-by-case basis as approved by the Planning Commission, consistent with B, above. Applicant shall submit a cost estimate and shall pay an administrative fee for the City's review and confirmation of the comparable unit cost.

- D. The amount to be paid by the applicant shall be calculated based on the affordable housing in-lieu fee that is in effect at the time that the fee is paid to the City.
- E. The affordable housing in-lieu fee shall be paid in full to the City prior to the issuance of any building permit or tree removal permit for the project, and receipt shall be confirmed by the Building Official.
- F. Fees collected in compliance with this Section shall be deposited in a reserve account separate from the General Fund to be used only for development or maintenance of affordable housing, including administrative costs related to monitoring affordable housing units for compliance with their deed-restricted use.
 - 1. Alternatively, by resolution of the City Council, fee payments may be deposited into a regional Affordable Housing Trust Fund (AHTF) administered cooperatively by San Gabriel Valley jurisdictions, in order to leverage State, Federal and other sources of funding to increase construction of affordable housing units in the region. Projects in the City would be eligible to apply for regional AHTF funding per the rules and process established for its administration.
- G. Payment of an affordable housing in-lieu fee pursuant to this Section shall not be considered provision of affordable housing units for purposes of determining whether the multi-family project qualifies for a density bonus pursuant to [Government Code](#) Section 65915.
- H. Appeals. An applicant may appeal the in-lieu fee under the protest provisions of the Mitigation Fee Act pursuant to Government Code section 66020. The appeal will be processed pursuant to Division 36.610 of this code.

ATTACHMENT 4

Keyser-Marsden comparison of inclusionary
ordinances

(prepared for the City of Alhambra)

ATTACHMENT 3 - TABLE 1

**INCLUSIONARY HOUSING PROGRAM SURVEY
INCLUSIONARY HOUSING: FINANCIAL EVALUATION
ALHAMBRA, CALIFORNIA**

Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
I. <u>Inclusionary Requirements: Both Rental and Ownership Projects</u>									
Albany	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	Yes	5		Perpetual	5		Perpetual
Avalon	Create on-site units; create off-site units; pay in-lieu fee	20%	No	4		55	4		55
Brea	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No	20	Not defined	55	20	120%	45
Campbell	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	No			55		120%	45
Capitola	Create on-site units; pay in-lieu fee	15%	Yes				7	120%	Life of Bldg
Chula Vista	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No	50	80% /120%	Life of Bldg	50	80% /120%	Life of Bldg
Colma	Create on-site units; pay in-lieu fee	20%	No	5		55	5		45
Concord	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	10%	Yes	5		55	5		45
Contra Costa County	¹ Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	No	5			5		3
Cupertino	1-7 units pays in-lieu fee. Create on-site units; create off-site units; pay impact/linkage fee; donate land	15%	No	7	50% /80%	99	7	50% /120%	99
Davis	Create on-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	5% to 25%	No	5	80%	Perpetual	5	120%	Perpetual
Dublin	Create on-site units; create off-site units; pay in-lieu fee; donate land	12.5%	No	20		55	20		55
Emeryville	Create on-site units; pay impact/linkage fee	12%/20%	No			55	10		55
Fort Bragg	Create on-site units	10% to 20%		5	80% /120%		5	100% /120%	15
Hayward	Create on-site units; create off-site units; pay in-lieu fee; pay impact/linkage fee; donate land	15%	No	20	80%	55	20	120%	45
Huntington Beach	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	10%	No	3	80%	55	3	120%	45
Irvine	Projects with fewer than 50 units can create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land. Projects with 50+ units must produce the affordable units on site.	15%	No	Applies to all resid projects	50%, 80% & 120% Defined credits	30	Applies to all resid projects	50%, 80% & 120% Defined credits	30
Los Altos	¹ Create on-site units; create off-site units	10%	No	10		30	10		30

ATTACHMENT 3 - TABLE 1

**INCLUSIONARY HOUSING PROGRAM SURVEY
INCLUSIONARY HOUSING: FINANCIAL EVALUATION
ALHAMBRA, CALIFORNIA**

Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
Sonoma	Create on-site units	25%	Yes	5	120%	55	5	120%	55
Sonoma County	Create on-site units; create off-site units; pay in-lieu fee; donate land	20%	Yes		60%	55		80%	30
South San Francisco	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	20%	No	4		55	4		55
Sunnyvale	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	12.5%	No	4	80%	55		120%	30
Tiburon	Create on-site units; create off-site units; pay in-lieu fee	15%		3		Perpetual	3		Perpetual
Union City	Create on-site units; create off-site units; pay in-lieu fee	15%	No	7			7		
West Sacramento	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	Yes			55		80%	45
West Hollywood	Create on-site units; create off-site units; pay in-lieu fee for 2-10 unit projects	20%	No	2	Low / Mod	Perpetual	2	Low / Mod	Perpetual
II. Inclusionary Requirements: Ownership Projects Only									
Alameda	Create on-site units; create off-site units; pay in-lieu fee	5%	No				5		59
Danville	Create on-site units; pay in-lieu fee	10%	Yes				7	110%	20
Fremont	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	Yes					110%	30
Lafayette	² Create on-site units; create off-site units	15%	No				2		45
Monterey	Create on-site units; donate land	20%	No				6		Perpetual
Mountain View	Create on-site units; pay in-lieu fee	10%	No				3	100%	55
Rohnert Park	Create on-site units; create off-site units; pay in-lieu fee	15%	No				5		55
San Clemente	Create on-site units; create off-site units; pay in-lieu fee; donate land; or a combination recommended by the Community Development Director.	4%	No				6	50%	
San Leandro	Create on-site units; pay in-lieu fee	15%	Yes						55
San Mateo County	Create on-site units; create off-site units; pay in-lieu fee; donate land	20%	No				5		55
Santa Barbara	Create on-site units; pay in-lieu fee; donate land	15%	No				2	160%	90

ATTACHMENT 3 - TABLE 1

**INCLUSIONARY HOUSING PROGRAM SURVEY
INCLUSIONARY HOUSING: FINANCIAL EVALUATION
ALHAMBRA, CALIFORNIA**

Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
III. <u>Inclusionary for Ownership Projects & Impact Fee for Rental Projects</u>									
Berkeley	Create on-site units; pay in-lieu fee	20%	No				5	80%	Perpetual
San Carlos	Create on-site units; create off-site units; pay impact/linkage fee	15%	Yes			55	2		45
	² Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; pay impact/linkage fee; donate land								
Truckee	donate land	15%	No	7		Perpetual	7		Perpetual
IV. <u>Mandatory Inclusionary for Ownership Projects & Voluntary Inclusionary for Rental Projects</u>									
Pittsburg	Create on-site units; pay in-lieu fee	15%	Yes				5		
Salinas	Create on-site units; create off-site units; donate land	20%	No				10		30
San Juan Bautista	Create on-site units; pay impact/linkage fee	6%							
San Luis Obispo	Create on-site units; pay in-lieu fee; donate land	3%	Yes			55	5		45
	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	No				55	120%	55
San Marcos	donate land								
Solana Beach	Create on-site units; create off-site units; preserve or rehab existing housing; pay impact/linkage fee	15%	No	5		55	5		45
V. <u>Rental Projects Only</u>									
Glendale	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	No	8	80%	55			

¹ The program requirements are only applied in designated areas of the jurisdiction.

² The program requirements are applied in the entire jurisdiction, but the requirements vary by zones, neighborhood, or districts.

ATTACHMENT 3 - TABLE 2

**INCLUSIONARY HOUSING PROGRAM SURVEY
INCLUSIONARY HOUSING: FINANCIAL EVALUATION
ALHAMBRA, CALIFORNIA**

Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development			In-Lieu Fee
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period	
I. Inclusionary Requirements: Both Rental and Ownership Projects										
Brea	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No			55		120%	10	Calculated per project. Based on the Affordability Gap
Huntington Beach	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	10%	No	3	80%	55	3	120%	45	Sliding scale: 3 Units @ \$19,360/Unit - 30 Units @ \$60,695/Unit
Irvine	Projects with fewer than 50 units can create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land. Projects with 50+ units must produce the affordable units on site.	15%	No	Applies to all resid projects	50%, 80% & 120% Defined credits	30	Applies to all resid projects	50%, 80% & 120% Defined credits	30	Calculated per project. Based on an equivalent value calculation
Pasadena	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	20%	No	10	5% @ 50%; 5% @ 80%; 10% @ 120%		10	120%	45	Sliding scale by sub-area & project size. Low at \$31.10/SF & High at \$72.82/SF
San Diego	Create on-site units; create off-site units; pay in-lieu fee; donate land	10% to 15%	No	10	50% or 80%	55		100% or 120%		Increases annually from \$15.18/SF in 2020/21 to \$22.55 in 2023/24
San Juan Capistrano	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No	2		55	2		55	Based on 90% of the Affordability Gap, which is updated monthly based on benchmark market prices
Santa Ana	Only applies to changes in land use and zoning designations. Create on-site units; off-site units; pay in-lieu fee	15%	No	5	10% @ 50%/ 15% @ 60%	55	5	120%	45	Fewer than 20 Units @ \$5/SF 20+ Units @ \$15/SF
Santa Monica	Create on-site units; create off-site units; pay in-lieu fee; donate land	5% to 30%	Yes	2	50%, 80% & 120% Defined credits	55	2	50%, 80% & 120% Defined credits	55	Rental @ \$35.70/SF Ownership @ \$41.70/SF
West Hollywood	Create on-site units; create off-site units; pay in-lieu fee for 2-10 units projects	20%	No	2	Low / Mod	Perpetual	2	Low / Mod	Perpetual	Sliding scale: 2 Units @ \$13.63/SF - 10 Units @ \$29.23/SF
II. Inclusionary Requirements: Ownership Projects Only										
San Clemente	Create on-site units; create off-site units; pay in-lieu fee; donate land; or a combination recommended by the Community Development Director.	4%	No				6	50%		Based on the Affordability Gap associated with a prototype 1,100 SF unit.
III. Inclusionary Requirements: Rental Projects Only										
Glendale	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	No	8	80%	55				Sliding scale: 8 Units @ \$28.71/SF - 21 Units @ \$55/SF

ITEM NO. 1

ATTACHMENT 3 - TABLE 1

INCLUSIONARY HOUSING PROGRAM SURVEY
 INCLUSIONARY HOUSING: FINANCIAL EVALUATION
 ALHAMBRA, CALIFORNIA

Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
Menlo Park	Create on-site units; create off-site units; pay in-lieu fee	10%	Yes	5	80% /120%		5	80% /120%	
Mill Valley	Create on-site units	25%	Yes	4	120%	Perpetual	4	120%	Perpetual
Nevada County	1 Create on-site units; create off-site units		No	20		30	20		30
Oxnard	Create on-site units; pay in-lieu fee	10%	No	10		55	10		
Pacifica	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	No	8		55	8		45
Palo Alto	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	15%	Yes			59			59
Pasadena	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	20%	No	10	5% @50%; 5% @ 80%; 10% @ 120%	Perpetual	10	120%	45
Petaluma	Create on-site units; pay in-lieu fee; donate land	15%	No			30			30
Pleasanton	Create on-site units; create off-site units; pay in-lieu fee; donate land; credit transfers; other alternate methods of compliance	15%	Yes	15			15		Perpetual
Redwood City	Create on-site units; create off-site units; preserve or rehab units; pay impact/linkage fee; donate land		No	5		30	5		30
San Bruno	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	No	10		55	10		45
San Diego	Create on-site units; create off-site units; pay in-lieu fee; donate land	10% to 15%	No	10	50% or 80%	55		100% or 120%	
San Jose	Create on-site units; create off-site units; preserve or rehab units; in-lieu fee; donate land; credit transfers	15%	No	20	50% / 80%	Perpetual	20	120%	Perpetual
San Juan Capistrano	Create on-site units; create off-site units; preserve or rehab	10%	No	2		55	2		55
San Mateo County	Create on-site units	10%	Yes	11	80%	Life of Bldg	11	120%	45
San Rafael	Create on-site units; pay in-lieu fee	10%	No	2			2	120%	
Santa Ana	Only applies to changes in land use and zoning designations. Create on-site units; off-site units; pay in-lieu fee	15%	No	5	10% @ 50%/ 15% @ 60%	55	5	80%	45
Santa Cruz	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	Yes	2	80%	Perpetual	2	120%	Perpetual
Santa Monica	Create on-site units; create off-site units; pay in-lieu fee; donate land	5% to 30%	Yes	2	50%, 80% & 120% Defined credits	55	2	50%, 80% & 120% Defined credits	55