



**City of South Pasadena  
Planning and Community  
Development Department**

# Memo

**Date:** January 26, 2021

**To:** Chair and Members of the Planning Commission

**From:** Joanna Hankamer, Planning & Community Development Director

**Re:** Additional Document No. 2 for Item No. 3 – Draft Inclusionary Housing Ordinance: Public Comments

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Five (5) written public comments have been received for this item from the following:

- Pete Kutzer
- Jason Mak, 815 Fremont LLC
- Josh Albrektson
- Rachel Orfila
- Ella Hushagen (South Pasadena Tenants Union)

The written comments received are attached to this document.

One audio comment was received from Josh Albrektson. To listen to the audio comment, [Click Here](#).

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**From:** Pete Kutzer <pkutzer@kutzer.com>  
**Date:** January 22, 2021 at 5:51:10 PM PST  
**To:** Kanika Kith <kkith@southpasadenaca.gov>, Joanna Hankamer <jhankamer@southpasadenaca.gov>  
**Subject:** Inclusionary Housing

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Joanna and Kanika,

Hope you are well and hanging in there!

I see there is a draft inclusionary housing ordinance, that includes this table:

**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.

I find this a bit confusing.

For example, one could take it to mean that an 11 unit project must comply with ALL columns (ie, 15% ELI, 15% VLI, AND 20% LI) when I believe the intent is that the project may comply by fulfilling the requirement in one column. Is that correct?

This confusion is compounded by the asterisks in the 51+ unit project columns. In fact, it

could be read to mean that 50% of all the constructed units be LI, AND 50% of the constructed units be some combination of ELI and VLI. So, no market rate units. In fact, can you explain exactly what the intent is on the 51+ projects? There won't be many of this size, of course, but I'm curious.

Have a great weekend,  
Pete

**Pete Kutzer**



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815 Fremont LLC  
1000 El Centro St., #122,  
South Pasadena, CA 91030

January 25, 2021

South Pasadena Planning Commission  
1414 Mission Street, South Pasadena, CA 91030

Public Comment Regarding Ordinance Adding Division 36.375 (Inclusionary Housing) to Chapter  
36 (Zoning) of the South Pasadena Municipal Code

Dear Planning Commission,

I am writing this letter to address several aspects of the draft Inclusionary Housing Ordinance that will be presented to the Planning Commission tomorrow night.

As a local property owner, developer, and longtime board member of the South Pasadena Chamber of Commerce, I believe that an Inclusionary Housing Ordinance is certainly appropriate to address our area's housing shortage and I support our city in taking proactive steps in this direction.

However, I would respectfully, ask the planning commission to consider modifying the proposed ordinance in consideration of the following:

1. Under **36.375.040 Exemptions, Paragraph A**: to modify this exemption include to include projects which are **submitted prior to** the formal adoption of the inclusionary housing ordinance and/or to projects that have formally entered the city's pre-application process
  2. Under **36.375.050 Inclusionary unit requirements**: to modify these percentages to be in-line with those percentages that were presented to the general public throughout the outreach process which were those requirements mandated by state density bonus law and falling under the threshold that would require the city to submit additional economic analysis to Department of Housing and Community Development
1. Modification of projects to be Exempted if they are submitted prior to the adoption of the inclusionary housing ordinance

As the owner developer of the property at 815 Fremont Ave (currently occupied by Carrows), I have been diligently working with Kanika Kith and city staff over the course of the last 12 months to design and program a mixed-use project for my property. I expect to submit a mixed-use project for planning approval in February 2020. This application is the result of months of collaboration between my team and city staff including formally submitting to phase 1 of the pre-application process to develop a mixed-use project that will:

- meet design standards, and development standards of Mission Street Specific Plan,
- provide public benefits in the form of public plazas and bike parking,
- provide affordable housing at the **very low-income level** in accordance with SB1818,
- respect the massing and architectural style of the adjacent streets and neighborhood

I alone have spent over approximately \$150,000 in various fees to engineers, consultants, and designers during this time.

But, as drafted, the Inclusionary Housing Ordinance, retroactively and without warning, is implemented to projects deemed complete prior to December 31 2020. I had deliberately held back on rushing to submit a formal application last year and instead through months of design iterations and engagement with staff collaborated on a thoughtful and worthy project. Subjecting our project, one which voluntarily provides very low-income housing, to the Inclusionary Housing Ordinance would be a major setback to our project and the months of progress between my team and staff.

I respectfully ask that the implementation of the Inclusionary Housing Ordinance be implemented at the time the ordinance is adopted and to exempt projects that have already entered into the city’s formal pre-application process.

2. Modification of Inclusionary unit requirement to be representative of those percentages communicated through public outreach, and standards set by the state of California

Under **section 36.375.050 Inclusionary unit requirement**, requires for projects of over 26 units include 20% inclusionary housing as stated on Table A of the draft ordinance.

**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.

These requirements deviate substantially from those figures that were presented to planning commission on August 11, 2020 and consequently to other local groups including the South Pasadena Chamber of Commerce Economic Development Committee on January 14, 2020 where the public was presented a discussion of “26+ Units: Consider 15% of total number of units to low income, 10% to very-low income, and 5% to extremely low income”. This diagram which was made public is below:



For Discussion: Inclusionary Housing in South Pasadena

Program Element	Discussion
Applicable Residential Projects	<ul style="list-style-type: none"> <li>Consider multi-family projects of 5 units or more</li> </ul>
Percentage of Affordable Housing Units	<ul style="list-style-type: none"> <li>5 – 10 Units: Consider 10% of total number of units to low income</li> <li>11-25 Units: Consider 10% of total number of units to low income and 5% to very-low income</li> <li>26+ Units: Consider 15% of total number of units to low income, 10% to very-low income, and 5% to extremely low income</li> </ul>
Alternatives/In-Lieu Fees	<ul style="list-style-type: none"> <li>Consider allowing off-site development of affordable units</li> <li>Consider establishing an in-lieu fee that is high enough to incentivize developing affordable units</li> </ul>
Benefits/Incentives	<ul style="list-style-type: none"> <li>Consider density bonuses, variable height, and parking reductions</li> </ul>

It should be of note that those percentages presented to the public were generally in line with the standards under the state density bonus bill which would preempt any local housing ordinances where cities were found to be in violation the State Density Bonus Bill by requiring a more restrictive percentage of affordable units than required under State Government code. (Friends of Lagoon Valley v. City of Vacaville, supra, 154 Cal.App.4th at p. 830, 65 Cal.Rptr.3d 251 and Sherwin–Williams Co. v. City of Los Angeles (1993) 4 Cal.4th 893, 897, 16 Cal.Rptr.2d 215, 844 P.2d 534)

Further, under AB1505 – local inclusionary ordinances that require more than 15 percent of units to be affordable would trigger an economic feasibility study by the California Department of Housing and Community development to ensure the ordinance does not unduly constrain the production of housing. It behooves us all for the unit requirements to be consistent with state requirements in an effort to have this ordinance adopted in a timely manner and thereby avoid the delay associated with any HCD review.

Inclusionary Housing is certainly important as our community grows however it is not without its consequences – I ask planning commission to ensure that it is adopted in a reasonable manner that is not only fair and respectful of local property owners but also conducive to our housing goals in the city. Thank you for your consideration.

Sincerely,  
  
 Jason Mak  
 815 Fremont LLC

**From:** [Jason Mak](#)  
**To:** [Elizabeth Bar-El](#)  
**Subject:** Public Comments for inclusionary housing ordinance discussion  
**Date:** Tuesday, January 26, 2021 1:10:41 PM

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**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Elizabeth,

Can I please add the following questions or comments to be presented to the planning commission for tonight's meeting and discussion pertaining to the Inclusionary Housing Ordinance.

I believe it would be a good idea to clarify how the Inclusionary Housing Ordinance would be applied to for-sale condominium projects where units are potentially sold and not leased out.

Thank You

Jason Mak  
815 Fremont LLC

**From:** [Josh Albrektson](#)  
**To:** [PlanningComments](#)  
**Subject:** Item 3  
**Date:** Monday, January 25, 2021 6:46:39 PM

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There were many community meetings about the IHO. At the time, the community decided that it should be a 15% low income IHO.

This plan presented by planning differs significantly from what the community was present and what they wanted. Wasn't the city manager just fired because she and others were not listening to the community??

Review the presentation given in August by planning. It went over what the community wanted and what other communities are doing.

This Inclusionary Housing Ordinance would be the highest in all of Southern California and would be on the level of San Francisco.

Planning is presenting this level of inclusionary in order to be sure nothing can get built. If you make housing too expensive to be built, zero housing will get built. And how many affordable units is 20% of 0??? Zero.

The planning commission should implement the Inclusionary Housing ordinance that the community decided on in the community meetings. The one that was presented in the August meeting:

<https://www.southpasadenaca.gov/home/showpublisheddocument?id=23652>

5 – 10 Units: Consider 10% of total number of units to low income

11-25 Units: Consider 10% of total number of units to low income or 5% to very-low income

26+ Units: Consider 15% of total number of units to low income, 10% to very-low income, or 5% to extremely low income

Regardless, there are two things that are illegal/against the rules in this ordinance. I have realized that when I wrote out the laws and provided links for the ADUs, planning just pretended like the laws didn't exist. Well, until right now when they are about to get rejected because they are ignoring the laws/rules.

Under Teresa Highsmith, South Pasadena has been sued more than it ever has in the past and more than any city in San Gabriel. We actually pay her to defend us each time we get sued, so there is no financial interest for her to advise against something that would avoid a lawsuit.

I really would like to know her opinion of what is presented. And you guys should really ask her legal opinion of it so it is on the record.

--

Josh Albrektson MD  
Neuroradiologist by night  
Crime fighter by day



**From:** [Rachel Orfila](#)  
**To:** [PlanningComments](#)  
**Subject:** inclusionary zoning ordinance  
**Date:** Tuesday, January 26, 2021 11:44:24 AM

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**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commission,

My name is Rachel Orfila and I have been a tenant in South Pasadena for the past six years. I am writing in regards to Item 3 on the agenda, the inclusionary zoning ordinance.

I have long supported the adoption of an inclusionary zoning ordinance as one part of a comprehensive strategy to provide more affordable housing for our community. However, I believe that we should align our ordinance with those of nearby communities like Alhambra, and require 15% affordable housing for large developments. My concern is that, given South Pasadena's many zoning restrictions, mandating too high a percentage of affordable units will make projects less financially viable. We run the risk of getting no additional housing at all.

I want to add that it is disappointing hear our city council and planning commission members say that the city is "built out" and there is no space for affordable housing development. There are a number of vacant lots, underutilized parking lots, and strip malls that could be repurposed as housing. We could also repeal the height limit in certain areas of the city, with incentives for building affordable housing. Our neighbors in Pasadena are planning for affordable housing in Civic Center, and are pursuing other creative solutions to meet their community's needs. We should follow their lead.

Thank you,  
Rachel Orfila



# SOUTH PASADENA TENANTS UNION

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January 26, 2021

South Pasadena Planning Commission Special Meeting  
Public Comment Regarding Agenda No. 3

We heartily applaud South Pasadena's Planning Department for proposing an inclusionary zoning ordinance. It will undoubtedly make a big impact in the development of affordable housing in the city.

The South Pasadena Tenants Union proposes a number of amendments to the draft ordinance to increase its impact.

1) **Preserve affordability into the future.** The ordinance requires affordable units to be deed-restricted as affordable for 55 years. South Pasadena appealed its RHNA allocation to SCAG in part because the city is already built out, and there is no space for large new developments. If that is so, how will South Pasadena address affordable housing requirements in 55 years as deed restrictions on units expire?

There is no basis to believe that California's affordable housing crisis will be any less acute in 55 years. During the coming 55 years, climate change is all but certain to place a higher premium on housing as coastal erosion, fires and excessive inland temperatures drive people from their homes.

Allowing affordability restrictions to sunset is just kicking the can down the road. We recommend that South Pasadena require deed restriction on affordable units into perpetuity, as Pasadena did in its inclusionary zoning ordinance—with no significant deterrent effect on new development in Pasadena.

2) **Strengthen requirements for off-site affordable units.**

(a) We are concerned about the possibility that developers will opt for off-site development of affordable units, but delay development of those units for years without consequence. We urge Planning to add language to the ordinance that requires the off-site affordable units to obtain certificate of occupancy before the city will issue the certificate of occupancy for the principal site. For example, the Los Angeles County inclusionary zoning ordinance provides, "where affordable housing set-aside units are provided off-site...such units shall obtain a certificate of occupancy from the [Department] prior to the issuance of the final certificate of occupancy for the principal project."

(b) The ordinance should contain a provision preventing the off-site units for one development to count for the inclusionary zoning requirements at the off-site building. In short, there are no two-for-one deals on developing affordable units. All developments must separately satisfy the ordinance's requirements.

(c) The city should consider how to use in lieu of agreements with developers to rehabilitate vacant CalTrans houses as affordable rental housing.

3) **Provide for implementation and monitoring.** The staff memorandum says, "South Pasadena does not currently administer an affordable housing production program, and introducing a program would require an intensive investment of resources." We are concerned that if the city does not allocate any resources to implement and monitor compliance with the ordinance—either using city staff or a contract with an area non-profit organization—the ordinance will be ineffective. Without enforcement, affordable units may sit empty or be filled by tenants who are not income-qualified.

4) **Require developers to include some extremely low-income units.** The staff memorandum recognizes that developers, left to their devices, will primarily develop units for low-income and very low-income renters, and will not develop units for extremely low-income tenants. The memo suggests the city will work with affordable housing developers for 100% affordable developments to remedy this. But, given space constraints and the city's challenges in offering attractive financial incentives to affordable housing developers, the city should embrace alternatives to encourage development of units affordable to extremely low-income tenants.

Los Angeles County's ordinance achieves this by requiring a set aside at an average affordability of 40% Average Median Income. The city could alternatively extend the existing requirement for larger developments with 51 or more units (*i.e.*, 10% low-income and 10% extremely or very low income) to mid-size developments with 26-50 units.

5) **Ensure fair housing.** The ordinance requires that off-site affordable units be within 1500' of the primary development in a 'comparable neighborhood' as determined by the Planning Commission. This is a good way to prevent developers from perpetuating segregation by income and race in our community. The ordinance should ask the Planning Commission to consider, when determining whether affordable units are in a comparable neighborhood, to take into account the city's affirmative obligation to further fair housing.

6) **Maintain existing affordable units.** The ordinance should include a 1:1 replacement requirement, so that if a development demolishes any existing affordable housing, those units will be replaced. If no such requirement exists, a development could demolish 10 affordable units, build a new 10-unit project with two affordable units, and we would have a net loss of eight affordable units.

Thank you for your consideration.

Anne Bagasao  
Ella Hushagen  
John Srebalus  
Helen Tran