



Memorandum

TO: Honorable Mayor &
City Council

FROM: Vice Mayor Dave Cortese

SUBJECT: Inclusionary Housing –
Draft policy

DATE: November 10, 2008

APPROVED:

Dave Cortese R.C.

DATE:

11/10/08

RECOMMENDATION

1. Direct staff to draft an expansion of the city's current inclusionary zoning ordinance for San Jose that includes the following elements for the November 18th Council agenda:

a. Coverage - The new policy will cover all single family and multi-family residential construction in San Jose outside of Redevelopment Project Areas with the following exceptions:

1. Construction in designated low-income neighborhoods within SNI project areas (this will not include a significant percentage of SNI areas)
2. Projects of 25 units or less

b. Percentage of Inclusionary Units – 20% of units in covered projects must be affordable. The affordability range will be the same as in Redevelopment Project Areas:

Rental housing: 12% - Low Income and 8% - Very Low Income
For sale housing 20% Moderate Income

c. In lieu Fees - In-lieu fees will be established at the following levels:

Rental units -	\$75,000
Condos -	\$90,000
Townhomes -	\$100,000
Single family detached-	\$200,000
High Rise (not downtown)-	\$200,000

d. Implementation date - The inclusionary zoning policy shall not take effect until a calendar year in which building permits for unsubsidized housing in San Jose is at least equal to 50% of the number of permits for unsubsidized housing issued in a rolling average of the past 10 years.

e. Pipeline

i) A project will be in the pipeline if the developer has purchased land within one year prior to the adoption date and has submitted a preliminary review application to the city or has negotiated a purchase agreement within one year prior to the adoption date involving the payment of a substantial consideration to either the landowner or the city and has submitted a preliminary review application to the city.

ii) A project will be in the pipeline if:

- 1) the landowner has owned the land for at least one year prior to the adoption date and
- 2) the landowner has submitted a preliminary review application to the city and
- 3) the landowner submits an additional entitlement application within one year following the submittal of the preliminary application. The requirement for an additional entitlement application will be waived if the

city prohibits submittal of such applications.

f) Inclusionary zoning credits:

1) Developers and/or property owners who acquire and rehabilitate existing housing units and market the improved units with deeded affordability restrictions shall receive a credit towards one future inclusionary requirement equal for every four units rehabilitated.

2) Owners of multi-family projects under a HUD contract which is about to expire after the date of adoption of the inclusionary zoning ordinance shall receive a credit for one future inclusionary unit for every five HUD contract units that the owner maintains at affordable rent levels for 5 years past the expiration date.

3) Inclusionary zoning credits may be traded between developers who earn the credit and developers who want the credit for an upcoming project.

2) Direct city staff to work with RDA staff to prepare a draft policy for the allocation and use of additional redevelopment revenues for affordable housing beyond the 20% required by state law

These supplementary RDA funds shall be made available for the following three purposes:

- a) a revolving fund that provides security deposits for low-income renters;
- b) a first time buyers fund to make down payments for low income households otherwise financially qualified for home ownership.
- c) Cost offsets or financing multi-family rental until local, state and federal dollars are available to assist with BMR units

The amount of funds designated for these uses shall be determined through the RDA budget process.

BACKGROUND

Last June, the City Council directed staff to initiate outreach regarding inclusionary zoning and to prepare a proposal for Council approval. Since that decision, numerous meetings and discussions have been held with interested parties.

At this time, sufficient understanding of the issue has been achieved and sufficient agreement has been reached for the City Council to provide staff with further direction regarding the content of an inclusionary zoning policy. This memo constitutes that direction. Technical details of the policy not discussed in this memo should be evaluated by staff and recommendations on those points can be highlighted in the draft ordinance that is submitted for Council consideration.