



Memorandum

**TO: THE RULES AND OPEN
GOVERNMENT COMMITTEE**

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: September 21, 2007

Approved

Date

9/21/07

COUNCIL DISTRICT: Citywide
SNI AREA: N/A

**SUBJECT: WORKLOAD ASSESSMENT FOR THE STUDY OF A POTENTIAL
INCLUSIONARY HOUSING ORDINANCE IN SAN JOSE**

RECOMMENDATION

It is recommended that the Rules Committee:

- (1) Approve the workload assessment associated with exploring the potential for an inclusionary zoning ordinance in San José.
- (2) Provide feedback on the use of either a task force or focus group to help arrive at a recommendation for Council consideration.

OUTCOME

With the approval of the workload assessment by the Rules and Open Government Committee, staff can begin the process of researching and analyzing the feasibility of implementing an inclusionary housing program in San Jose.

BACKGROUND

Currently in San Jose, an Inclusionary Housing Program only exists in the City's redevelopment project areas in accordance with State law. Since 1988, the City of San José's Housing Department has received direction from current and previous City Councils to explore the idea of expanding the inclusionary housing program beyond redevelopment project areas.

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Beginning with the 1988 Mayor's Task Force, which created the Housing Department, the following recommendation was made:

- Inclusionary Zoning ordinances require developers to construct a certain number of low or moderate income units whenever they build a larger market rate project. For example, 10% of the proposed units in a project might have to be reserved for persons of low or moderate incomes. San Jose should explore ways to implement such programs effectively.

After a task force effort, no consensus on an inclusionary policy was reached. The City Council was never asked to determine whether or not an inclusionary zoning ordinance was desirable.

In January 2001, the City Council accepted a report by the Mayor's Housing Production Team (HPT), which referred recommendations to the City Administration for responses. One of the recommendations in the report was:

- "Implementation of an inclusionary zoning policy for affordable housing to all new rental projects in the city and study the impact of adoption of an inclusionary zoning ordinance in other cities." (HPT Recommendation #20)

Efforts to reach agreement on this issue were concluded with the downturn in the economy in the early 2000s, when then Mayor Gonzales determined that no new regulations would be pursued. Again, the City Council was never asked to determine whether or not an inclusionary zoning ordinance was desirable.

In June 2007, the Mayor and City Council adopted actions items related to the inclusionary policy in the Five-Year Housing Investment Plans (FYHIP) for fiscal years 2007-2012. The FYHIP recommends expanding the City's current inclusionary policy to include the following:

- "Consider expansion of the City of San José's inclusionary housing policy to include large special planning areas; conversions of planned land use from industrial to residential; and consider adopting a Citywide inclusionary policy."

On September 5, 2007, City staff was directed to prepare a workplan assessment and return to the Rules and Open Government Committee with an understanding of the time and cost needed to analyze three options for expanding inclusionary housing including whether to adopt: a citywide inclusionary housing policy; an inclusionary requirement only with conversion of employment-producing lands for housing; or an inclusionary housing required around fixed transit stations.

The purpose of this memorandum is to provide the City Council with an overview of the necessary steps, timeline, and associated funding that would be required to fully evaluate the potential costs and benefits of expanding the City's inclusionary housing requirement and to develop a recommendation for the City Council to consider at a later date.

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ANALYSIS

San José faces important challenges in providing affordable housing for all socioeconomic segments of its population, given the highly competitive housing market, high cost of housing in relation to household income, and limited public dollars.

As outlined in the Five Year Housing Investment Plan for fiscal years 2007-2012 (adopted on June 19, 2007), inclusionary zoning is one tool that can be used to address the need for more affordable homes. However, inclusionary zoning is a complex issue with numerous stakeholders, including but not limited to: homebuilders; nonprofit and for-profit developers; housing advocates; business leaders; community organizations; and San Jose residents. In order to ensure that stakeholders are involved and that the proposal to expand inclusionary zoning outside of Redevelopment Areas is fully evaluated, it is recommended that the following steps be taken.

(1) Education, Data Gathering, and Information Sharing Process

It is recommended that the first step in the process be the convening of a City Council Study Session. This would allow the City Council to receive information about inclusionary housing programs, and would also allow the Council to ask questions and provide input to staff at the front end of the process. It is envisioned that this study session would include presentations from various outside organizations with experience in inclusionary housing programs.

Following the Study Session, City staff will work with a consultant to conduct a feasibility/cost analysis study to demonstrate how different inclusionary approaches would impact the housing market and any resulting financial and social impacts. Additionally, staff will work with the consultant to demonstrate the need for affordable housing and how inclusionary housing would address this need. Should the City Council decide to adopt an inclusionary program, this type of needs assessment is needed; it is not necessary to conduct a more traditional nexus study when adopting an inclusionary housing program.

(2) Discussion and Development

City staff recommends that the second step in the process be to engage outside stakeholders to explore the idea of inclusionary housing. It is recommended that the City use one of two approaches to further develop whether the City should adopt a program, and if so, what that program should entail.

One approach is to create a Task Force consisting of representatives from various interested industries, with support from Housing and Planning, Building and Code Enforcement Department staff, the City Attorney's Office, and the Redevelopment Agency. The goal would be to have the Task Force develop a set of recommendations and/or guiding principles for City Council consideration. City staff would recommend that should this option be chosen, these meetings should be facilitated by an external professional facilitator.

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Another approach the City Council should consider is using Focus Groups, which would allow the City Administration to meet with various individual organizations and groups on the issues they see with expanding the City's inclusionary policy beyond Redevelopment Areas. This option would allow City staff to receive information and input without necessarily having to reach consensus. Previous attempts in the City to use a Task Force to look at inclusionary housing have resulted in no forward progress. Therefore, a Focus Group model that brings back ideas and suggestions to City Council, along with a staff recommendation may prove more effective in advancing the issue to City Council for consideration.

Either approach will result in a report which can be brought forward to community meetings and the City Council for consideration.

Community Outreach

Once a process for either a Task Force or Focus Group is completed, it is important to outreach to the community. At key points during the process, staff will convene one or two additional general community meetings. In this way, the broader community can provide input to City Council and the Administration.

In addition to these general community meetings, we are proposing that the following Commissions provide input and recommendations regarding this issue: the Planning Commission, the Housing and Community Development Commission, and the Neighborhoods Commission, should it be created by the City Council this month. Once these Commissions have reviewed the proposal, we would plan to bring a recommendation to one or more Council Committee: the Community and Economic Development Committee, the Neighborhood Services and Education Committee, and the Transportation and Environment Committee.

After all community input is received, staff will bring forward a recommendation for City Council consideration by June 2008.

Evaluation of Staffing Requirements and Costs

The issue of whether to expand the City's inclusionary program is already in the Department's work plan as a result of City Council's approval of the Five-Year Housing Investment Plan (FYHIP) 2007-2012 in June 2007. Therefore, exploring inclusionary zoning and the expansion of the current program will not negatively impact the Housing Department's workload.

The Housing Department will be the lead and will coordinate meetings, materials, and consultants. In conjunction with the Housing Department staff, senior staff from the Planning Department and the Redevelopment Agency will collaborate, review, and consult on the overall policy objectives. It is not anticipated that the work associated with these activities will negatively impact either the Planning Department or Redevelopment Agency workload.

Staff estimates that the costs associated with this action will require consultant expenses of approximately \$10,000 - \$20,000 for a meeting facilitator for the community engagement

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process. In addition, it is estimated that engaging a consultant for a feasibility study should cost approximately \$25,000. The costs of the community meetings, Task Forces, or Focus Groups should be minimal since the meetings can be held at public facilities. The only costs associated with these meetings would be photocopying materials, handouts, and providing light refreshments (such as coffee). These costs can be covered by Fund 443 in the Housing Department.

Additionally, costs of internal legal review will include approximately 80 to 120 hours of work by one attorney, depending upon the options recommended and amount of time needed for City Council consideration. Additional time and costs will be incurred for the drafting any ordinance, fee study (if applicable), supporting resolution and agreements staff, consultant, and legal costs.

Timeline

November – December 2007 – Hold a City Council Study Session to explore the data, information, and presentations from various stakeholders in the process.

November – December 2007 – City staff will recommend appropriate members to serve on an Inclusionary Housing Task Force or set a series of meetings with Focus Groups. At this stage a community facilitator can be hired. Staff will develop a meeting schedule, scope of work, and calendar appointments for early 2008. In addition a consultant will be chosen to prepare write a feasibility study and develop data and materials.

January - February 2008 – Meetings will be held with either an Inclusionary Housing Task Force or various Focus Groups.

March - April 2008 – Community engagement process continues with meetings held with the Housing and Community Development Advisory Commission, the Planning Commission, and, if created by City Council, the new Neighborhoods Commission. In addition, staff will schedule two additional community meetings to solicit community comments, feedback, or concerns.

May 2008 – Reports from either a Task Force or Focus Group will be completed and analyzed along with community feedback. These will become the basis for a staff recommendation to go before Council Committees.

June 19, 2008 – All reports, community feedback/recommendations, and the Council Committees' recommendations will be forwarded to the City Council.

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PUBLIC OUTREACH/INTEREST

This Memorandum defines programmatic issues appropriate for further study and will be posted to the Rules and Open Government Committee Agenda via the City's website. Appropriate outreach to other Departments, City employees, and the public will be an integral part of any program to be developed.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

COORDINATION

This memorandum has been coordinated with the Planning, Building, and Code Enforcement Department, the Redevelopment Agency, and the City Attorney's Office.

CEQA

Not a project



LESLYE KRUTKO
Director of Housing



Memorandum

**TO: RULES & OPEN GOVERNMENT
COMMITTEE**

FROM: Councilmember Sam Liccardo
Councilmember Judy Chirco

SUBJECT: SEE BELOW

DATE: September 24, 2007

Approved

Date

**SUBJECT WORKLOAD ASSESSMENT FOR THE STUDY OF A POTENTIAL
INCLUSIONARY HOUSING ORDINANCE IN SAN JOSE**

RECOMMENDATION

Recommend that Rules & Open Government Committee:

- (1) Approve staff's workload assessment associated with exploring the potential for an inclusionary zoning ordinance.
- (2) Approve staff's recommendation to schedule a November study session.
- (3) Recommend to Council an outreach approach that will employ focus groups.

BACKGROUND

The recommended process and timeline outlined in the staff memorandum appropriately allows for ample time to consider input from relevant stakeholders as to whether and how the City should pursue a broader inclusionary housing policy. As the staff memorandum makes clear, the "task force" model has previously failed to produce a recommendation. This past failure suggests that a task force is not the most effective method of outreach for this issue. If only hard-line opponents or proponents of inclusionary policies join a future task force, it will similarly fail to reach a consensus. In addition, developers experienced in building in jurisdictions with inclusionary policies typically prefer not to take the time away from their businesses to sit on task forces and commissions. Therefore, we request that Council consider a model more likely to bring forward a recommendation.

Accordingly, we encourage the Rules & Open Government Committee to follow the staff recommendation to bring the matter to the full Council for a November study session. At that study session, we will urge our colleagues to adopt a focus group outreach approach which will allow staff to collect ideas and suggestions from a broad range of stakeholder groups without the risk of a stalemated task force.

Council should also articulate some basic principles or goals that should guide the shape of any inclusionary housing policy, such as:

- Incorporate flexibility needed to allow developers to continue to invest and build profitably in San Jose
- Minimize adverse impacts on the quality or quantity of housing production
- Accommodate the unique challenges of high-density and in-fill development, where appropriate under the General Plan
- Reflect the General Plan's "dispersal policy," to site affordable units throughout the city, rather than exclusively building them in poorer neighborhoods

Outreach to the development community should reflect the diversity within the industry. Developers have substantially different views about inclusionary housing, and how it can best be implemented. Outreach should target smaller groups of developers to fully understand those disparities, rather than limiting the discussion to large panels or politically active organizations. For example, publicly traded companies and privately held developers may have different viewpoints, while developers who focus on in-fill or high-rise development have different needs than tract-home developers. The nuances of the policy and process should reflect those unique needs.

By the end of this process, we should feel content that this policy—and the residents of San Jose—have benefited from the best thinking in the community on this subject.