



2006 OCT -5 PM 5:17

TO: Fellow Councilmembers
FROM: Councilmember Jane Brunner, Vice Mayor Jean Quan
DATE: October 17, 2006

RE: AN ORDINANCE ADDING CHAPTER 17.109 TO THE OAKLAND PLANNING CODE TO ESTABLISH AN INCLUSIONARY HOUSING REQUIREMENT AND ESTABLISH TWO NEW HOMEOWNERSHIP PROGRAMS FOR OAKLAND TEACHERS, MAKING RELATED AMENDMENTS TO THE OAKLAND PLANNING CODE, AMENDING SECTION 15.68.100 OF THE OAKLAND MUNICIPAL CODE TO PERMIT AFFORDABLE HOUSING TRUST FUNDS TO BE USED TO ADMINISTER AND ENFORCE THE INCLUSIONARY HOUSING REQUIREMENT, AND AMENDING THE MASTER FEE SCHEDULE TO ESTABLISH AN INCLUSIONARY HOUSING IN-LIEU FEE

A REDEVELOPMENT AGENCY RESOLUTION RESTRICTING THE USE OF LOW AND MODERATE INCOME HOUSING FUNDS TO UNITS FOR HOUSEHOLDS AT 60% OF AREA MEDIAN INCOME WITH A PREFERENCE FOR HOUSEHOLDS AT 30% OF AREA MEDIAN INCOME

SUMMARY

This report, and the accompanying City Ordinance and Agency Resolution, seek to create an Inclusionary Housing Requirement for residential development in the City of Oakland and to create a policy restricting the use of Redevelopment Agency Low and Moderate Income Housing Funds to housing units that serve households at 60% of the Area Median Income (AMI), with a preference for units that serve households at 30% of the Area Median Income (AMI).

Inclusionary Zoning (IZ) requires developers to make a percentage of housing in new residential developments affordable to low- and moderate-income households. By linking the production of affordable housing to private market development, IZ expands the supply of affordable housing while dispersing affordable units throughout the City to broaden opportunity and foster mixed-income communities.

IZ was included as a policy option to increase the supply of affordable housing in Oakland as early as 2000, when the Housing Development Task Force recommended the adoption of an IZ policy for Oakland. The City Council last considered IZ in July, 2006. The Ordinance presented with this report

includes a number of important changes over the version considered in July. It has incorporated additional public input as well as recommendations from the City Planning Commission.

Inclusionary Zoning is a policy that has proven successful at providing housing that is affordable to low- and moderate-income households. However, it is not as effective at providing housing for very low- and extremely low- income households. As IZ will be used to serve households at 60% AMI Income and above, this report includes an accompanying ORA resolution to restrict the use of Agency Low and Moderate Income Housing Funds to projects that serve households at 50% AMI, with a preference for households at 30% AMI.

By taking these two actions, the City will have a balanced policy towards affordable housing development: low and moderate income units from Inclusionary Zoning, and very low and extremely low income units from projects funded by City and Redevelopment Agency funds.

BACKGROUND INFORMATION

Included with this short report are a number of important documents for your review. These documents will provide more in-depth information on how Inclusionary Zoning policies work, the rationale behind them and the projected results of such a policy. Most of these documents have been before the Council in the past. In reverse chronological order, they are:

- **The Current proposal** in two forms: one as a *red-lined version* of the July Ordinance introduced by Councilmember Brunner, Vice Mayor Quan and President De La Fuente, and the other as a *clean copy*, without redlined changes. (Attachment A.1 and A.2)
- The Proposed ORA Resolution restricting the use of Redevelopment affordable housing funds to units at 50% AMI or lower, with a preference for households at 30% AMI. (Attachment B)
- **The Planning Director's Report** from the September 6th Planning Commission meeting. This memo addressed questions raised by the Commission in July. (Attachment C)
- **A July 12th Memo from the Planning Commission** with their recommendations on Inclusionary Zoning. (Attachment D)
- **The July 12th report to the Planning Commission.** This includes, as attachments, the original Brunner, Quan and De La Fuente Inclusionary Zoning Ordinance, a summary of that Ordinance, and a copy of the April 25th staff report to the Community and Economic Development Committee entitled "An Information Report and Analysis of the Inclusionary Zoning Recommendations Submitted By The Oaklanders For Affordable Housing Coalition." (Attachment E)
- **A June 27th Memo from City Attorney John Russo** commenting on the proposals from Councilmembers Brunner and Reid, below. (Attachment F)

- **A June 27th Memo from Councilmember Brunner** proposing some modifications to the Ordinance. (Attachment G)
- **A June 21st Memo from Councilmember Reid** proposing a modification to the Ordinance. (Attachment H)
- **The June 13th staff report to the Community and Economic Development Committee** presenting the Ordinance from Councilmember Brunner, Vice Mayor Quan and President De La Fuente. This same report was presented to City Council. (Attachment I)

SUMMARY OF KEY CHANGES

The following summarizes the changes that have been made in the Inclusionary Zoning Ordinance since the version sponsored by Councilmember Brunner, Vice Mayor Quan and President De La Fuente was brought to Council in July.

1. **OMC vs Planning Code:** The July version placed the IZ policy in the Oakland Municipal Code. The version in this report accepts the recommendation of the City Planning Commission from their July, 2006 meeting, to include IZ in the Oakland Planning Code.
2. **On-Site Rental:** The July version required all inclusionary rental housing built *on-site* to be affordable to households at 80% AMI. The version presented here requires that the average income of all households renting inclusionary units on-site be 60% AMI.
3. **Off-Site Rental:** The July version required all inclusionary rental housing built *off-site* to be affordable to households at 80% AMI. The version presented here requires that the average income of all households renting inclusionary units off-site be 60% AMI.
4. **In-Lieu Fee:** The July version required 20% of any in-lieu fees collected to be dedicated to assisting Oakland teachers, with the balance placed in the Affordable Housing Trust Fund. The version presented here accepts the recommendation of the City Planning Commission that the funds not used for teacher housing be restricted to funding projects for households at 50% AMI and at 30% AMI, or the Council may consider 60% AMI and 30% AMI.(Attachment J)
5. **Trigger Date:** The July version exempted all projects that receive vested rights by September 30, 2006, or unless the covered development project received a discretionary land use approval not later than 12 months from the date of final adoption of the Inclusionary Housing Ordinance, provided that a building permit is issued for such housing units not later than 18 months from the date the first such discretionary land use approval is received for the project. The version presented here states that the IZ policy will not apply to projects which receive vested rights by May 1, 2007. The July version exempted all transit villages. The version presented here makes reference to exemption for specific transit villages.

6. **Policy Review:** The July version did not have a provision for staff tracking and annual review of the IZ policy by the City Council. The version presented here includes both.
7. **Enforcement:** The July version included a penalty for violation of the Ordinance that was at least equal to the amount of the in lieu fee appropriate to the subject project. The version presented here changes that penalty to \$500 per day for the first 30 days of non-compliance, and thereafter 120% of the in lieu fee, and gives the City the authority to revoke any issued occupancy permit for any portion of the subject project.
8. **Oakland Redevelopment Agency Limitations:** The July Ordinance was not accompanied by an ORA Resolution to restrict the use of Agency Low and Moderate Income Housing Funds after July 1, 2007 to projects serving households at 50% AMI with a preference for households at 30% AMI. The version presented here includes such an accompanying resolution. That Resolution excludes existing housing programs from those restrictions.

CONCLUSION AND RECOMMENDATION:

Ensuring that Oakland has housing affordable to all of its residents continues to be a major policy challenge. Since the Housing Development Task Force of 2000, the City of Oakland has made a number of important policies that have expanded housing opportunities. Inclusionary Zoning is the last of that Task Force's recommendations to be before the Council.

It is the recommendation of this report that the City Council adopt the attached Ordinance and that the Agency adopt the accompanying ORA Resolution.

Respectfully Submitted,

Jane Brunner
Councilmember, District 1

Jean Quan
Vice Mayor

Prepared By:

Justin Horner, Chief of Staff
Office of Councilmember Brunner