



**Town of Atherton
Item No. 1**

**CITY COUNCIL AND PLANNING COMMISSION STUDY SESSION
STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL
PLANNING COMMISSION
GEORGE RODERICKS, CITY MANAGER**

FROM: BRITTANY BENDIX, CONSULTING TOWN PLANNER

DATE: JANUARY 8, 2025

**SUBJECT: STUDY SESSION ON PROPOSED INCLUSIONARY
HOUSING ORDINANCE AND IMPLEMENTATION**

RECOMMENDATION

Staff recommends that the City Council and Planning Commission discuss and consider recommendations for the Town's inclusionary housing program and to provide feedback to staff.

BACKGROUND

Throughout the Town's efforts to address its Regional Housing Needs Allocation (RHNA) goals and to adopt a 6th cycle (2023-2031) Housing Element, the City Council and Planning Commission have discussed potential efforts and implications of adopting an Atherton Inclusionary Housing Ordinance. Accordingly, establishment of an inclusionary housing program is included in the Town's adopted 2023-2031 Housing Element, as Program 3.814.

This joint study session with the City Council and Planning Commission allows the Town to focus specifically on inclusionary housing and how to craft a program specific to Atherton's unique characteristics. The following discussion topics will provide a general background on inclusionary housing policy, context for the program referenced in the adopted 2023-2031 Housing Element, findings and recommendations from a study prepared by Bay Area Urban Economics (BAE), and additional considerations of next steps from staff.

The objective of this study session is to acquire initial feedback from decision-makers that will assist staff in drafting an inclusionary housing ordinance that will proceed in early 2025 for formal consideration.

What is Inclusionary Housing?

An inclusionary housing ordinance is a local law that requires developers to provide a certain percentage of affordable housing units as a component of new housing or mixed-use developments. Jurisdictions in California are not required to adopt an inclusionary housing ordinance. However, an inclusionary housing ordinance is a policy that can help a jurisdiction meet state housing mandates, such as its RHNA and Affirmatively Furthering Fair Housing (AFFH) requirements.

California jurisdictions have applied inclusionary zoning as a tool since the 1970s to address affordable housing shortages and to promote increased diversity and economic integration in local communities. Inclusionary zoning programs rose in popularity because of the opportunity they provide to leverage private funding (i.e., incentivizing private developers to include affordable housing in their projects and generating revenue through fees). By 1994, 12 percent of municipalities in California had an inclusionary housing program, which jumped to 20 percent by 2003, and 32 percent by 2007.

Today, inclusionary housing programs have been adopted and implemented in roughly 170 jurisdictions across California. Within San Mateo County, 18 towns and cities have adopted inclusionary zoning laws. The Association of Bay Area Governments (ABAG), the regional planning agency for the San Francisco Bay Area, refers to an Inclusionary Housing toolkit developed by Grounded Solutions Network for guidance.¹ Typically, inclusionary housing ordinances require project applicants to agree to deed restrictions that will ensure that a portion of new residential units within a development project are sold or rented at rates affordable to lower-income households for a specific time-frame. Some programs also include additional development incentives for projects that provide deeper affordability levels.

Inclusionary Program Requirements of the State

Because inclusionary housing ordinances are not mandated by the State, most state laws that apply to the adoption of an ordinance pertain to requirements for public notification, the need for a “nexus” for a program with fees, administration of fees collected from the program and ongoing performance monitoring to track the program. State housing laws may also intersect with local inclusionary housing ordinances to allow for increased housing density and other incentives if a certain percentage of units are made available to affordable income levels. For example, housing developments in California that provide qualifying affordable housing units may be eligible for density bonuses and other concessions and incentives under the state’s density bonus program.

¹ The Inclusionary Housing toolkit can be found at: <https://inclusionaryhousing.org/designing-a-policy/>.

The state density bonus program provides density bonuses on a sliding scale to housing projects that provide affordable units, with larger bonuses for projects that provide more affordable units, up to a maximum density bonus of 100 percent. Eligible projects can choose to include an affordability component in their development and participate in the state's program, regardless of whether a jurisdiction has an inclusionary housing ordinance. However, compliance with a local inclusionary housing policy can inherently trigger a project's eligibility for a state density bonus. Having a local inclusionary program can assist a jurisdiction in prioritizing affordability goals unique to that community and beyond the requirements of the state.

Atherton's 2023-2031 Housing Element and Inclusionary Housing

On October 16, 2024, the City Council adopted updates to its 2023-2031 Housing Element to address requirements from the state. Subsequently, the Town submitted the updated element to the Department of Housing and Community Development (HCD) for review. On December 30, 2024, the Town received a comment letter from HCD identifying items requiring further attention from the Town. This letter is included in this report as Attachment A. The items raised by HCD are summarized as follows:

- Suitability of Nonvacant Sites:
 - Provide more analysis of the Menlo School and Sacred Heart School sites, similar to what was previously provided for the example sites.
 - Modify Table HE-17 to be organized by indicators utilized as redevelopment indicators.
- Electronic Sites Inventory:
 - There are no changes to be made here. The existing inventory can stand if unchanged. The language in the letter is a reminder to update the inventory if it changes while evaluating the other items.
- Programs:
 - Provide clarification in the RM-20/40 standards and in the Housing Element that housing developments with 20 percent affordability to lower-income households do not require discretionary action. Upon further discussion with HCD, to address this item the term "ministerial approval" should be explicitly written into the relevant Code section. The existing terms in the Atherton Municipal Code "permitted by-right" and "zoning clearance" are not considered sufficient to convey ministerial actions.
 - Provide more context in the Housing Element and, potentially, in the RM-20/40 standards about the *Clovis* decision and its application to Atherton. The purpose of this requirement is not to challenge the Town's approach, but to document it.
 - Revise the SB-9 program, Program 3.811(B), to evaluate development trends and identify alternatives, if necessary, in a mid-cycle check-in.

The items raised in HCD's recent comment letter do not indicate an issue with the Town's approach to meeting its RHNA or AFFH goals, especially through the Town's RM-20/40 and RM-10 multifamily housing overlay program and the adopted development standards. Accordingly, the Town is continuing to pursue an inclusionary housing ordinance as it would ensure that a portion of new multifamily development is available as affordable housing to lower income households, thereby addressing identified fair housing issues and meeting the Town's RHNA.

Currently the Town anticipates that the RM-20/40 multifamily overlay will yield 96 units for the Town's RHNA. Specifically, 57 very low-income units, 14 low-income units, and 25 moderate-income units. The Housing Element does not use the RM-10 multifamily overlay program for its RHNA because the RM-10 density is less than the minimum twenty dwelling units per acre (20 du/ac) that is required by state housing element law for planning purposes. However, if any RM-10 sites are developed and provide lower income units, those lower income units can count towards the Town's RHNA.

The 2023-2031 Housing Element asserts that the Town will "adopt a new inclusionary ordinance for multifamily development and a housing fee for all new single-family housing construction and additions" in Program 3.814. The inclusionary component for the RM-20/40 sites is discussed further in Program 3.811(C) as ensuring 20 percent or more of the proposed housing units are affordable to lower income households.

Please note that Atherton's final, adopted, inclusionary housing ordinance must not mirror the language in the housing element exactly. The programs identify actions that the Town will pursue and consider. For example, the Town could consider pursuing an inclusionary housing ordinance applicable to only multifamily housing development and pursue a policy related to single family development at a later date. However, decisionmakers should be aware that certain changes may require additional economic or feasibility analysis, that could add time and cost prior to implementation of a new policy.

To initiate the programs as described above, the Town worked with Bay Area Economics (BAE) to complete an economic analysis and nexus study to inform the ordinance. The *Inclusionary Housing and In-Lieu Fee Study* prepared by BAE for the Town of Atherton and dated December 31, 2024, is included in this staff report as Attachment B and discussed further in the analysis section.

Nexus Studies

An inclusionary housing requirement is typically based on the relationship between new residential development and the strain it puts on construction of affordable units. This "nexus" relationship is further explored in a nexus study. A nexus study can estimate the fees that the Town would need to charge to generate funds necessary to support the construction of affordable housing.

A nexus study analyzes how new market-rate units are filled with residents who spend in the local economy, creating a demand for less-affluent workers. The study quantifies the relationship between the following:

- Market-rate residential development
- A need for workforce housing
- The public cost to construct housing affordable for lower-income workers.

An inclusionary housing ordinance that includes an affordability requirement that passes the dual rational nexus test and proportionality test is presumed to not be a tax. Specifically, Government Code Section 65940.1(b)(1) states that an “affordability requirement” is separate from an “exaction” or “fee.” An affordability requirement is “a requirement imposed as a condition of a development of residential units” that includes:

- a certain percentage of the units affordable for rent or sale to households with low incomes, OR
- an alternative means of compliance with that requirement including, but not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units

This is separate from an exaction (Government Code Section 65940.1(b)(2); e.g., construction tax, requirement for public art, or dedication of parkland) or a fee (Government Code Section 65940.1(b)(3), e.g., mitigation fee).

ANALYSIS

The *Inclusionary Housing and In-Lieu Fee Study* (“BAE Study”) provides analysis to assist in the development and potential adoption of an inclusionary housing ordinance. This section of the staff report summarizes the following two key components covered by the BAE Study, provided at Attachment B:

- Inclusionary Housing Feasibility Analysis:
An evaluation of the financial feasibility of residential development in Atherton with the inclusionary housing requirements that the Town is currently considering.
- Inclusionary Housing In-Lieu Fee Analysis:
Analyzes potential in-lieu fees that could be considered as part of an inclusionary housing program. In-lieu fees are fees that may be applied “in-lieu” of on-site construction of affordable units.

Inclusionary Housing Feasibility Analysis

As described in the BAE Study, the Inclusionary Housing Feasibility Analysis evaluates the financial feasibility of four residential prototypes in Atherton, that could correspond to the RM-20/40 and RM-10 programs in the adopted 2023-2031 Housing Element:

1. Multifamily rental property, at a base density of 20 dwelling units per acre (20 du/ac), with 20 percent of units affordable to very low-income households (i.e., up to 50 percent of AMI)
2. Multifamily rental property, at a base density of 10 dwelling units per acre (10 du/ac), with 20 percent of units affordable to very low-income households (i.e., up to 50 percent of AMI)
3. Multifamily for-sale property, at a base density of 10 dwelling units per acre (10 du/ac), with 20 percent of units affordable to low-income households (i.e., up to 70 percent of AMI)
4. Single family for-sale property, and including an Accessory Dwelling Unit (ADU) with a deed restriction that requires the ADU to be affordable to low-income households (i.e., up to 80 percent of AMI) or pay an in-lieu fee.

Although all four of these prototypes can come in a wide range of development typologies and price points, the BAE Study prepares a static pro-forma based on certain assumptions. As indicated above, this includes tenure, base density, and site size.

The prototypes are also provided with a generic development program based on an inclusionary housing scenario where multifamily properties have an inclusionary requirement of 20 percent affordable units and single-family properties are required to provide an affordable ADU or to pay an in-lieu fee. In the analysis, the multi-family developments also take advantage of State Density Bonus Law, and the “Total Units” are divided into three categories: affordable units (“Affordable”) available to very-low-income households, market-rate units available at base density (“Base”) and units provided through state’s Density Bonus program. Inclusion of the density bonus presumes that a developer will maximize potential units. Actual projects could vary in the number of units, affordability levels, net unit size, and number of parking spaces.

A summary of the prototypes and the development programs used in the feasibility analysis is provided in Table 1.

The prototypes are structured to calculate **residual land value**, or the value of the completed project less development costs:

Residual Land Value = *Value of Completed Project* – Development Costs

The *Value of a Completed Project* is calculated differently for Rental projects and For-Sale projects:

- *Value of Completed Rental Project* = Net Operating Income / Capitalization Rate

- *Value of Completed For-Sale Project* = Sale Proceeds – Marketing Costs
- Development Costs = Expense of Creating Project + Developer Profit

If the **Residual Land Value** is greater than \$5.0 to \$6.5 million, the approximate value of an acre of vacant land in Atherton, then the project is financially feasible – or sensible for a developer to pursue the project.

Table 2 provides a summary of this analysis. Prototypes 1, 3, and 4 are feasible with the inclusionary development scenario; however, Prototype 2, the 10 du/ac rental prototype, is not feasible under this scenario.

The BAE Study summarizes this analysis by noting that the inclusionary requirements that the Town is considering are generally feasible. However, the rental townhome prototype (Prototype 2) is not financially feasible even without an inclusionary requirement – that is, the inclusionary requirement is not an impediment to financial feasibility for rental townhomes built at ten dwelling units per acre (10 du/ac). Overall, an inclusionary policy would not be a significant constraint on development.

Table 1: Summary of BAE Study Prototypes and Development Programs

	Prototype 1	Prototype 2	Prototype 3	Prototype 4
Tenure	Rental	Rental	For-Sale	For-Sale
Base Density	20 du/ac	10 du/ac	10 du/ac	Single Family
Site Size	1.5 acres	1.0 acre	1.0 acre	1.0 acre
<i>Development Program, Inclusionary Scenario</i>				
Development Typology	Multifamily Apartments	Townhouses	Townhouses	Single Family + ADU
Number of Units per Base Density	30	10	10	1
<i>Number of Affordable Units (within Base total)</i>	<i>6 (20 percent of base provided at Very Low)</i>	<i>2 (20 percent of base provided at Very Low)</i>	<i>2 (20 percent of base provided at Low)</i>	<i>1 (required at Lower income)</i>
Density Bonus (based on % affordable and affordability level)	21 (Bonus equal to 70% of Base)	7 (Bonus equal to 70% of Base)	4 (Bonus equal to 35% of Base; units rounded up)	N/A, Density Bonus program applies to projects with 5 or more units (not including ADUs)
Total Units (Base plus Bonus)	51 units	17 units	14 units	2 units
Avg. Unit Size (net)	999 ft ²	1,476 ft ²	1,900 ft ²	7,000 ft ² Single Family + 1,000 ft ² ADU
Parking Spaces (total)	64	34	28	3+

Table 2: BAE Study Prototypes and Feasibility

	Prototype 1	Prototype 2	Prototype 3	Prototype 4
<i>Residual Land Value Analysis, Inclusionary Scenario</i>				
Development Typology	Multifamily Apartments	Townhouses	Townhouses	Single Family + ADU
Residual Land Value (RLV)	\$11,843,581	\$3,487,312	\$10,902,874	\$6,528,448
RLV / Acre	\$7,895,721	\$3,487,312	\$10,902,874	\$6,528,448
Feasibility Threshold	\$5.0 - \$6.5M	\$5.0 - \$6.5M	\$5.0 - \$6.5M	\$5.0 - \$6.5M
Feasible Under Current Conditions?	Yes	No	Yes	Yes

Inclusionary Housing In-Lieu Fee Analysis

The In-Lieu Fee Analysis provides the Town with information when determining how to set and apply an in-lieu fee. Jurisdictions differ on the extent to which in-lieu fees are set to cover the exact cost of constructing an affordable unit. Generally, setting a higher in-lieu fee creates an incentive for developers to develop affordable units on-site, rather than pay the fee.

There are three studies included in the In-Lieu Fee Analysis that point to varying approaches to setting fee rates:

- **Nexus Basis:** The nexus analysis estimates the amount that the Town would need to charge in in-lieu fees to make the amount of the fee payment commensurate with the revenue needed to address the estimated affordable housing need associated with the construction of new market-rate development. This approach includes a financial feasibility analysis to determine how the fees would impact development feasibility.
- **Cost of Construction:** This approach analyzes setting in-lieu fees to cover the full cost of constructing an affordable unit. This scenario supports off-site construction of affordable units.
- **Point of Indifference:** This approach approximates the cost of affordable units within a market-rate project. In this scenario the fee is set to incentivize development of on-site construction.

As shown in Table 3, under all approaches the multifamily prototypes (Prototypes 1, 2, and 3) are all more financially feasible with inclusionary units and a density bonus than without any inclusionary units. The single-family prototype (Prototype 4) is slightly more feasible without an inclusionary housing requirement nor an in-lieu fee. This is because there is not substantial additional value provided by the affordable ADU. In addition, it is difficult to model a single-family property owner's appetite in taking on responsibility for managing the ADU.

All approaches are subject to shifts in the market, the availability of supportive financial instruments, or changing construction costs.

Table 3: Summary BAE Study In-Lieu Analysis Findings

	Prototype 1	Prototype 2	Prototype 3	Prototype 4
Tenure	Rental	Rental	For-Sale	For-Sale
Base Density	20 du/ac	10 du/ac	10 du/ac	Single Family
Site Size	1.5 acres	1.0 acre	1.0 acre	1.0 acre
<i>In-Lieu Fee Findings</i>				
Development Typology	Multifamily Apartments	Townhouses	Townhouses	Single Family + ADU
Nexus Basis	\$29	\$26	\$31	\$50
Cost of Construction	\$91	\$159	\$125	\$29
Point of Indifference	\$154	\$156	\$212	\$69
Most Financially Feasible Scenario	Inclusionary w/ Density Bonus	Inclusionary w/ Density Bonus	Inclusionary w/ Density Bonus	No Inclusionary

DISCUSSION

BAE Study Policy Options and Recommendations

The BAE Study analysis concludes with four recommendations. Staff is seeking feedback on these recommendations prior to moving forward with a draft inclusionary housing ordinance at subsequent meetings with the Planning Commission and City Council. Staff's response to these recommendations are provided in *italicized* text. Specific items for feedback from the City Council and Planning Commission are underlined.

Recommendation 1. Consider adoption of inclusionary housing requirements that are consistent with the requirements that the Town of Atherton has proposed (in its 2023-2031 Housing Element):

- For multifamily rental developments, 20 percent of units would be affordable to very low-income households (i.e., up to 50 percent of AMI)
- For multifamily for-sale developments, 20 percent of units affordable to lower-income households (i.e., up to 80 percent of AMI)
- For single-family homes, provide an ADU with a deed restriction that requires the ADU to be affordable to low-income households (i.e., up to 80 percent of AMI) or pay an in-lieu fee.

The financial feasibility analysis carried out by the BAE Study found that the inclusionary requirements listed above are feasible for multifamily rental apartments, for-sale townhomes, and single-family homes. These findings also indicate that adoption of these inclusionary requirements would not impede residential development in Atherton. The analysis also found that the for-rent townhome prototype was not financially viable, however this prototype was not viable even without an inclusionary requirement or in-lieu fee.

The BAE Study is modeled on information that was available for analysis prior to the Town's adoption of recent housing element updates. There are three notable differences between the analysis and the adopted Housing Element language.

First, the analysis provides a distinction between for-sale and rental units. This distinction is important for modeling but has not yet been asserted as a policy. Staff recommends that the Town maintain 20 percent as the required inclusionary amount, regardless of whether units are for-sale or rental. This approach is generally consistent with Town's adopted Housing Element and recently adopted multifamily housing standards, which do not distinguish between for-sale or rental housing typologies. The City Council and Planning Commission should provide staff feedback on whether to distinguish between for-sale and rental units.

The second difference is that the analysis models different affordability levels for the prototype that reflect the RM-20/40 development scale and the prototypes that reflect the RM-10 development scale. The former, Prototype 1, provides units at the very low-income level and the latter, Prototypes 2 and 3, provides units at the low-income level. The 2023-2031 Housing Element does not make this policy distinction; however, the Town's RHNA does rely on the RM-20/40 to provide for 57 very low-income units and 14 low-income units. Whereas no RHNA units are attributed to the RM-10. The City Council and Planning Commission should provide staff feedback on the appropriate depth of affordability to assert in the inclusionary housing program and whether the depth should differ between the RM-20/40 and RM-10 programs.

The third difference is that the 2023-2031 Housing Element's inclusionary program language indicates that the program will apply a housing fee for all new single-family housing construction and additions. The BAE Study analyzes new single-family housing that results from the construction on an undeveloped parcel and does not analyze single-family home development that replaces or adds to an existing house. While it may be possible to address a nexus for a new single-family home on a site where an existing home was demolished, or consider additions and renovations, this would require a revision to the BAE Study. Therefore, staff recommends that the Town consider applying the inclusionary program only to single-family development that results from the development of vacant lots, or new lots established through SB 9 or traditional lot splits. The discussion of an inclusionary housing program applicable to single-family dwellings, and requests for feedback are addressed further in Recommendation 4.

Recommendation 2. Adopt new inclusionary requirements concurrently with the adoption of upcoming zoning changes that will implement Housing Element programs.

The BAE Study commenced during ongoing efforts to update the Town's 2023-2031 Housing Element. Since that time the Town has adopted zoning changes to establish the RM-20/40 and RM-10 multifamily overlays, in advance of an inclusionary housing program. As the recent comments from HCD indicate no need to fundamentally change the multifamily overlays, that task is complete. Staff recommends moving forward with an inclusionary housing ordinance in a timely manner to ensure any future proposal for multifamily housing will result in affordable housing units that satisfy the Town's Housing Element goals.

Recommendation 3. Consider the adoption of inclusionary housing in-lieu fees for projects that do not provide inclusionary units on site.

Under AB 1505 all inclusionary requirements applicable to new rental residential development must include an alternative method of compliance for developers/applicants. Within Atherton, the current availability of land for affordable housing (and development generally) makes the adoption of in-lieu fees the only realistic and effective alternative method of compliance. Other alternatives cited in state law - land dedication, off-site construction, or acquisition and rehabilitation of existing units – are not feasible in Atherton.

There are three major considerations for in-lieu fees:

- A. Whether an in-lieu fee is by-right or discretionary: Adopting by-right in-lieu fees would make the process more predictable for developers/applicants but fees would need to be set high enough to ensure they incentivize on-site development.
- B. Whether to establish set fees or a process for determining project-by-project fees: A set fee would be easier for the Town to administer and would make the process more predictable. A fee that is determined on a project-by project basis provides the Town with discretion to determine the appropriate fee.
- C. If the Town adopts fees, identifying specific fee rates: Table 3, above, presents potential in-lieu fee rates for review and adoption.

As indicated in Recommendation 1, staff suggests that the Town not distinguish between for-sale and rental multifamily developments. Accordingly, to comply with AB 1505, in-lieu fees would thereby extend to all multifamily developments. During the City Council meetings on the Housing Element, some councilmembers expressed an interest in prioritizing the development of affordable housing units over the provision of an in-lieu fee. To incentivize construction over the in-lieu fee option, staff encourages the Town to consider setting a higher fee. Additionally, the Town could require that any multifamily development seeking compliance with the inclusionary housing program through payment of in-lieu fees requires discretionary approval by the City Council. The City Council and Planning Commission should provide feedback on the approach to treat for-sale and rental units uniformly, which would require

establishment of in-lieu fees for all projects. Additionally, please provide feedback on the preferred approaches to determine the in-lieu fee rates.

Recommendation 4. To the extent that Atherton decision makers prefer that new single-family homes provide deed-restricted ADUs rather than pay an in-lieu fee, consider policies to make the deed-restricted ADU option more attractive to project applicants.

Jurisdictions can decide whether to apply an inclusionary housing program to single-family residential projects, as well as to what such a program might look like. Although Housing Element Program 3.814 states that the Town will adopt “a housing fee for all new single-family housing construction and addition,” there is flexibility in how Atherton decides to approach inclusionary housing in single-family projects.

Atherton may consider deed-restricted ADUs (as well as an alternative of an in-lieu fee) as a requirement for newly-constructed single-family residential units and, potentially, additions to existing single-family units. However, deed-restricted ADUs may be difficult to provide as part of a single-family project. These ADUs would require homebuyers to commit to acting as landlords and ensuring that tenants in these ADUs are income-qualified to rent. While some homebuyers may be attracted to this additional income stream, others may find it unappealing.

Additional incentives could be provided to incentivize inclusion of a deed-restricted ADU as part of a single-family project. This could include, for example, allowing one non-deed-restricted ADU in exchange for building a deed-restricted ADU.

In evaluating this recommendation, staff surveyed other inclusionary housing programs in the Bay Area, and then more broadly throughout California that apply to single-family dwellings. Very few jurisdictions within California that are comparable to Atherton apply inclusionary housing requirements to single-family projects. Of 27 jurisdictions surveyed by staff, 21 had inclusionary housing ordinances. Table 4 shares these findings. Of these jurisdictions, only two did not entirely or in part exempt single-family projects: the City of Sonoma and Sonoma County. The City of Sonoma requires an in-lieu fee only for developments of four or fewer units. Sonoma County allows individual home builders to “either pay an in-lieu fee or...provide affordable housing by constructing an accessory dwelling unit, farm family unit, agricultural employee, or farm worker housing unit.”² Only renovations of less than 1,000 square feet are exempt.

² “Affordable Housing Program for Residential Development” (Sonoma County), available at <https://permitsonoma.org/regulationsandlongrangeplans/regulationsandinitiatives/housing/housinginitiatives/residentialprogram>

Table 4: Selected Jurisdictions' Inclusionary Housing Ordinances and Application to Single-Family Projects

Jurisdiction	Does Jurisdiction Have IHO?	Does IHO Apply To Single-Family?
<i>With Inclusionary Housing Ordinances</i>		
Agoura Hills	Yes	No
Belmont	Yes	No
Calabasas	Yes	No
Carlsbad	Yes	No
Carmel By The Sea	Yes	No
Danville	Yes	No
Lafayette	Yes	No
Los Altos	Yes	No
Los Gatos	Yes	No
Menlo Park	Yes	No
Moraga	Yes	No
Portola Valley	Yes	No
Rancho Palos Verdes	Yes	No
Redwood City	Yes	No
San Clemente	Yes	No
Santa Barbara	Yes	No
Saratoga	Yes	No
Sonoma (City)	Yes	Yes
Sonoma (County)	Yes	Yes
St. Helena	Yes	No
Yountville	Yes	No
<i>Without Inclusionary Housing Ordinances</i>		
Dana Point	No	N/A
Hillsborough	No	N/A
Los Altos Hills	No	N/A
Monte Sereno	No	N/A
Rolling Hills	No	N/A
Woodside	No	N/A

Additionally, should the Town proceed with in-lieu fees for single-family projects, it must determine the fee approach. The “Point of Indifference” analysis in Table 3, above, results in a fee of \$69 per square foot, indicating that a fee higher than this rate would generally encourage developers to provide a deed-restricted ADU, while a fee lower than this would encourage developers to pay the fee. As stated earlier in this section, additional incentives may be required to encourage single-family projects to include a deed-restricted ADU due to the unique nature of ownership of a single-family property.

To assist in evaluating the desirability of a fee on single-family development, staff has also estimated the amount of fees that could be collected. Using the assumptions from the BAE study and 2023 development patterns identified in the Town’s Annual Progress Report (APR), staff estimates that the \$69/ft² fee could result in approximately \$19 million over five years. This assumption is based on the Town’s development performance in 2023, which saw 8 new single-family projects developed on vacant properties, and information in the 2023-2031 Housing Element, which identified 29 vacant sites and 24 sites eligible for SB 9 urban lots splits.

At an assumed 7,000 square feet per project, and \$69/ft², this would result in \$483,000 in fees per project, or \$3,864,000 annually.

Table 5: Potential Fees Collected from In-Lieu Fees on Single-Family Projects

Project Type	Single Family Residential
Average Unit Size (net square feet)	7,000
Point of Indifference Fee	\$69
Estimated Fee per Unit	\$483,000
# of Units Constructed (2023)	8
Potential Annual Fees Collected	\$3,864,000
Fees Collected After 5 Years	\$19,320,000

The City Council and Planning Commission should provide staff feedback on a program applicable to single-family dwellings and the extent of that approach:

- *Should the program apply only to new single-family dwellings constructed on a vacant or newly created lot? Or should the program expand the nexus study to address single-family homes on previously developed sites?*
- *Should the program extend to additions (or renovations, as in Sonoma County)?*
- *What fee approach should be applied?*

NEXT STEPS

The objective of this study session is to acquire initial feedback that will assist staff in drafting an inclusionary housing ordinance. Staff anticipates that a formal ordinance will proceed to the Planning Commission for a recommendation, and then to the City Council for adoption in early 2025.

CEQA

This Study Session is statutorily exempt from CEQA under Section 15262, Feasibility and Planning Studies.

NOTICE

Public notification was achieved by posting the City Council agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Legal advertisement of this hearing was published in *The Almanac* newspaper, 10 days prior to the hearing date. At the time of the publication of this report, the Town has not received any public comment or inquiries on the application beyond what was attached to this staff report.

ATTACHMENTS

1. HCD Comment Letter – December 30, 2024
2. BAE Nexus Study Report – December 31, 2024