



citywide inclusionary housing ordinance
city council direction and staff recommendations

CITY OF SAN JOSE

part 1 background

what is inclusionary housing background

- Inclusionary housing requires that all new residential developments have a certain percentage of homes and apartments available to lower and moderate income individuals and families.



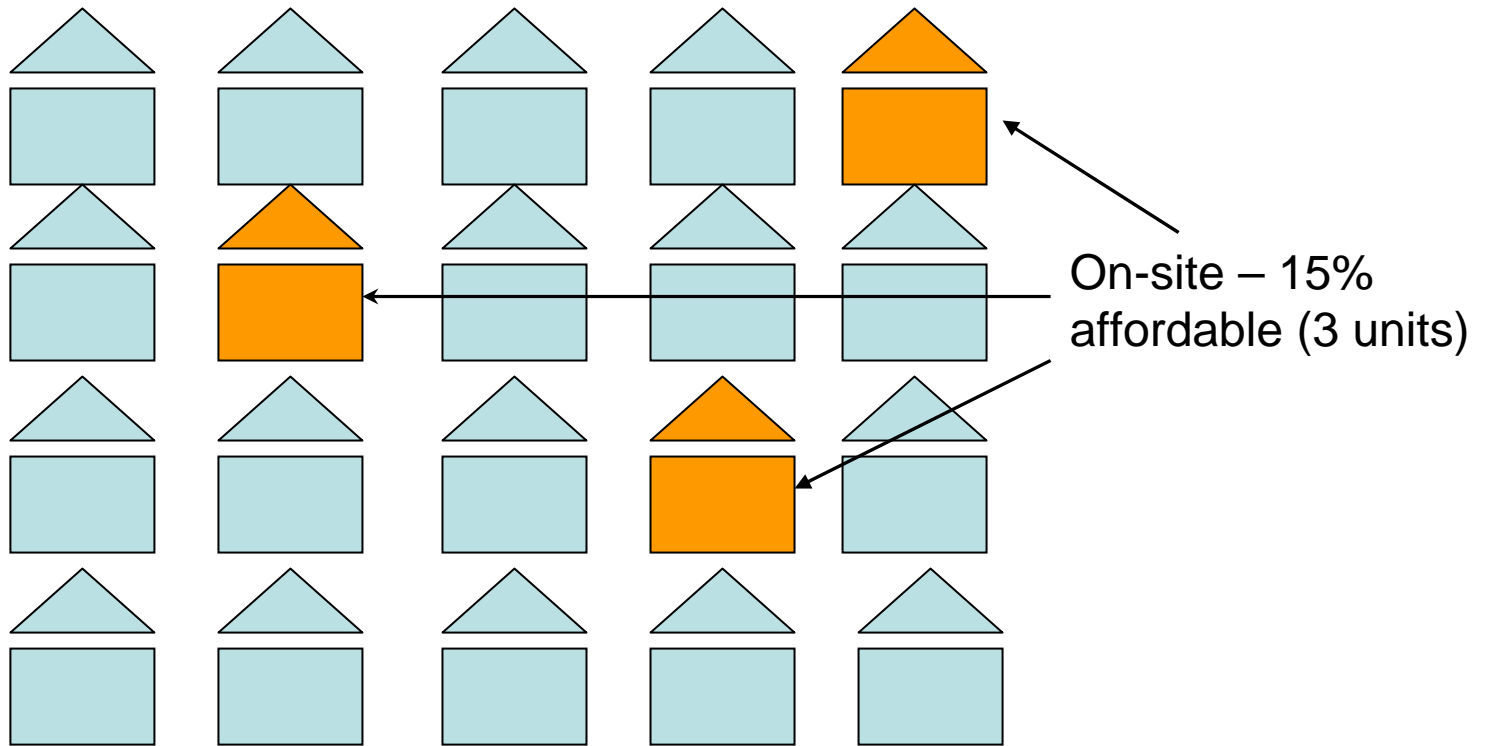
Northpark



Crescent Parc

what is inclusionary housing background

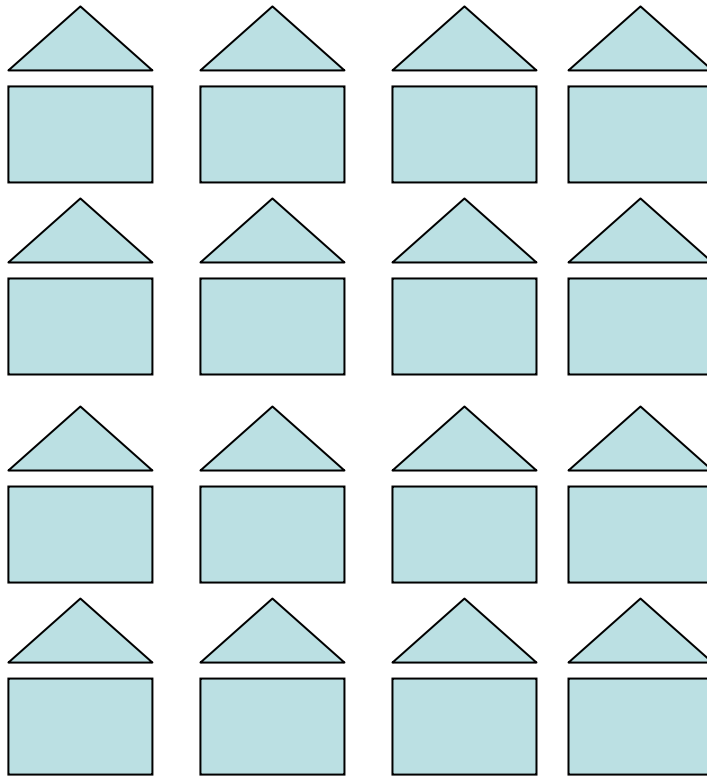
Developer chooses to build affordable units on-site



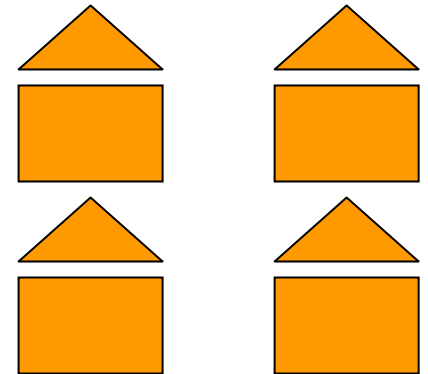
Market Rate Development with 20 units

what is inclusionary housing background

Developer chooses to build affordable units off-site



16 Unit Market Rate Development



4 Off-site Affordable Units

inclusionary ordinance who benefits

Rental

Very-low income \$22k - \$63k

- Minimum wage workers in food service, retail & support services
- Security guards
- Teacher's assistants
- Janitor
- Bank teller
- Administrative assistant
- Mechanical drafter
- Counselor
- Paralegal
- Dental hygienist



Homeownership

Low to moderate \$60k - \$126k

- Dental assistant
- RN
- Science teacher
- Librarian
- Plumber
- Computer analyst
- Dietician
- Engineer
- Loan officer
- Traffic technicians
- Insurance sales agent



inclusionary ordinance goals

1. Increase the supply of rental housing affordable to lower-income families in San Jose.
2. Increase and promote homeownership opportunities and choices for moderate-income families.
3. Disburse affordable housing throughout the community in mixed-income neighborhoods.
4. Provide housing for San Jose's workforce.

inclusionary ordinance guiding principles

- **Simplicity** – An inclusionary housing policy should be easy for the developers to understand and for the City to administer;
- **Flexibility** – An inclusionary housing policy should give developers as many alternatives as possible for compliance
- **Consistency and Fairness** – All developers should be treated equally, particularly with respect to projects in the pipeline;
- **Certainty** – Developers, affordable housing advocates and the City should have advanced knowledge of what the impacts and outcomes will be with an inclusionary housing policy. The rules and process of the inclusionary housing policy should be clearly defined.

inclusionary ordinance background

1. Presented in June 2007 as part of the Five Year Housing Investment Plan
2. Presented in December 2007 at a Special City Council Study Session
3. Completed an Economic Feasibility Study in March 2008
4. Held 6 Stakeholder and 17 Community Meetings and over 30 one-on-one meetings with various interest groups from May 2008- December 2008
5. Presented in December 2008 Staff recommended policy components to City Council and received direction from the City Council
6. Held 2 Stakeholder and 2 Community Meetings in July 2009.

part 2 council direction

structure inclusionary housing ordinance

- Part I: Purpose & Findings
- Part II: Definitions
- Part III: Operative Date & Applicability
- Part IV: Who does it apply to and when
- Part V: Developer Compliance Options
- Part VI: Continued Affordability
- Part VII: Enforcement & Waiver

part 3 key issues

key issue applicability *(Section 5.08.200 page 14)*

City Council Direction	Recommendation included in Draft Ordinance
<ul style="list-style-type: none">• RdA areas: 20%• Low-Income areas outside of RdA: 15%• In all other areas: 15%	<ul style="list-style-type: none">• Citywide<ul style="list-style-type: none">• Onsite: 15%• Offsite: 20%

key issue operative date of ordinance *(Section 5.08.300 page 18)*

<p>City Council Direction</p>	<p>Recommendation in Draft Ordinance</p>
<ul style="list-style-type: none">• Ordinance becomes operative following a 12-month period in which building permits for 2,500 units have been issued, as long as 1,250 or more of the units have been issued outside of North San Jose.• The ordinance will become operative no later than January 1, 2013 if the City Council passes a motion at least a month prior to that date authorizing the ordinance to become effective.	<ul style="list-style-type: none">• The first day of the month* following the first 12 month consecutive period in which 2,500 residential building permits have been issued by the City, of which no more than 1,250 are for Dwelling Units in the North San José Development Policy Area; <p><u>OR</u></p> <ul style="list-style-type: none">• January 1, 2013. <p>* Amend the ordinance to provide additional time.</p>

key issue exemptions *(Section 5.08.330 Page 21)*

City Council Direction	Recommendation included in Draft Ordinance
<ul style="list-style-type: none">• Applicant submits Planning Permit no later than 6 months from operative date.• Less than 750 units:<ul style="list-style-type: none">• 24 months applicant issued a Planning Permit; and• 30 months, applicant obtain Building Permit <p><u>OR</u></p> <ul style="list-style-type: none">• 750 units or more:<ul style="list-style-type: none">• 30 months, operative date, issued an approved Planning Permit; and• 40 months from operative date approved Building Permit	<p>Exempt if, prior to the operative date:</p> <ul style="list-style-type: none">• Approved Development Agreement• Residential developments with a disposition & development agreement• Approved Planning Permit

key issue applicability *(Section 5.08.400 page 22 & page 35)*

On-site (15%)	Off-site (20%)
<p>For-Sale:</p> <ul style="list-style-type: none">• Sales price set at 110% AMI, eligible households up to 120% AMI. <p>Rental:</p> <ul style="list-style-type: none">• 9% of total units affordable to rent to Moderate Income households (80% AMI)• 6% of units affordable to Very Low Income households (50% AMI).	<p>For-Sale:</p> <ul style="list-style-type: none">• Sales price set at 110% AMI, eligible households up to 120% AMI. <p><u>OR</u></p> <ul style="list-style-type: none">• Off-site rental inclusionary units<ul style="list-style-type: none">• 12% affordable to Low Income households (60% AMI)• 8% affordable to Very Low Income households (50% AMI) <p>Rental:</p> <ul style="list-style-type: none">• 12% affordable to Low Income households (60% AMI)• 8% affordable to Very Low Income households (50% AMI)

City Council Direction	Recommendation in Draft Ordinance
<ul style="list-style-type: none">• For every five units, the owner will receive one credit.• Units must remain affordable for 5 years.• Benefit is not transferable from the owner to another developer.	<ul style="list-style-type: none">• For every two units, the owner will receive one credit.• Units must remain affordable for 40 years.• Benefit is not transferable from the owner to another developer.

Page 8 of handout

❖ *Owner of Multi-family HUD restricted units*

key issue in-lieu fee *(Section 5.08.520 Page 36)*

City Council Direction	Recommendation included in Draft Ordinance
<p>In lieu fees shall be equal to the difference between:</p> <ul style="list-style-type: none">• The amount of a conventional permanent loan that an Inclusionary Unit would support based on the affordable sale price or rent for the required Inclusionary Unit, and• The estimated total development cost per Inclusionary Unit based on the cost per unit of similar San Jose affordable housing and/or Inclusionary Units.	<p>For-Sale Residential Development:</p> <ul style="list-style-type: none">• The in lieu fee for each Inclusionary Unit in for-sale Residential Developments shall be no greater than the difference between the median sales price of a Market Rate Unit and the Affordable Housing Cost for an Inclusionary Unit based upon the Affordable Housing Cost for a Moderate Income Household. <p>Rental Residential Development:</p> <ul style="list-style-type: none">• The in lieu fee for each Inclusionary Unit shall be no greater than the average City subsidy required for new construction of a rental residential unit at an Affordable Housing Cost for a Lower Income Household, with changes in the fee based upon commitments of City affordable housing development funding in the prior twelve (12) month reporting period specified in the Affordable Housing Guidelines.

key issue legal issues

Building Industry Association of Central California vs. City of Patterson

- Legal challenge to the methodology utilized to calculate the in-lieu fee.
- No change to the proposed ordinance is required based upon this Patterson case.

Palmer vs. City of Los Angeles

- Legal challenge to rental inclusionary requirement.
- Requires vacancy decontrol, similar to provisions under the Costa-Hawkins Act.

key issue legal issues

Two Options re: Palmer case with same effect:

- 1) Retain draft ordinance language requiring rental inclusionary units with language added in to delete requirement if the Palmer case is not overturned or future legislation clarifies that Costa-Hawkins is applicable to inclusionary rental programs; **OR**
- 2) Retain draft ordinance language requiring rental inclusionary units with language included to make the requirement operative only if *Palmer* case is overturned or future legislation clarifies that Costa-Hawkins is inapplicable to inclusionary rental programs.

part 4 next steps

next steps upcoming stakeholder meetings

➤ September 17th– Joint Stakeholder Meeting

City Hall Public Wing Room 119

6:30 PM – 8:30 PM

next steps upcoming community meetings

- September 8, 2009
Willows Senior Center
6:30 PM – 8:30 PM
- September 22, 2009
Southside Community Center
6:30 PM – 8:30 PM
- September 23, 2009
City Hall Public Wing Rooms 118+119
6:30 PM- 8:30 PM
- September 24, 2009
West Valley Community Library
6:30 PM- 8:30 PM

next steps upcoming meetings

Housing and Community Development Commission (HCDC)

- **September 10th**

City Hall Wing Room 118 +119

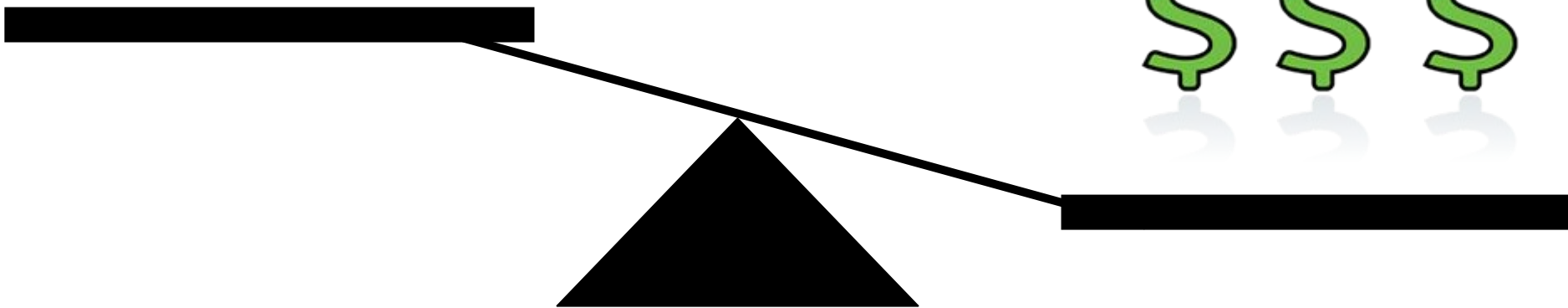
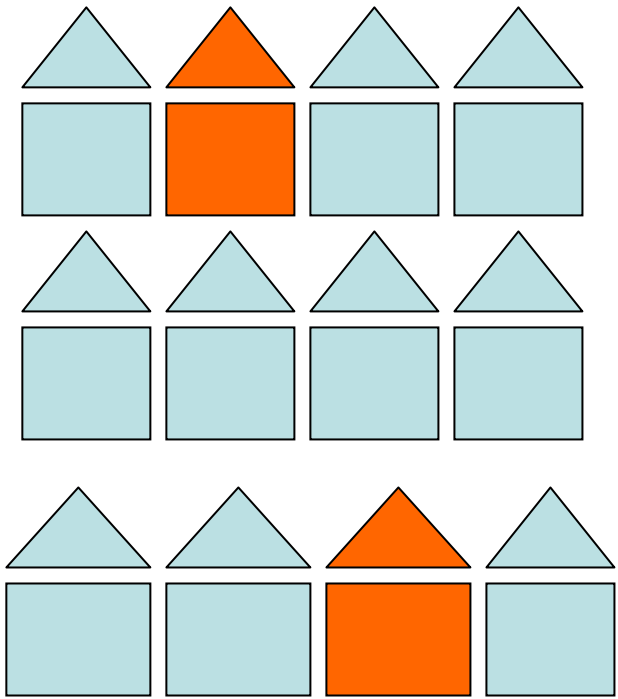
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- **Tentative Special Meeting Week of September
28th**

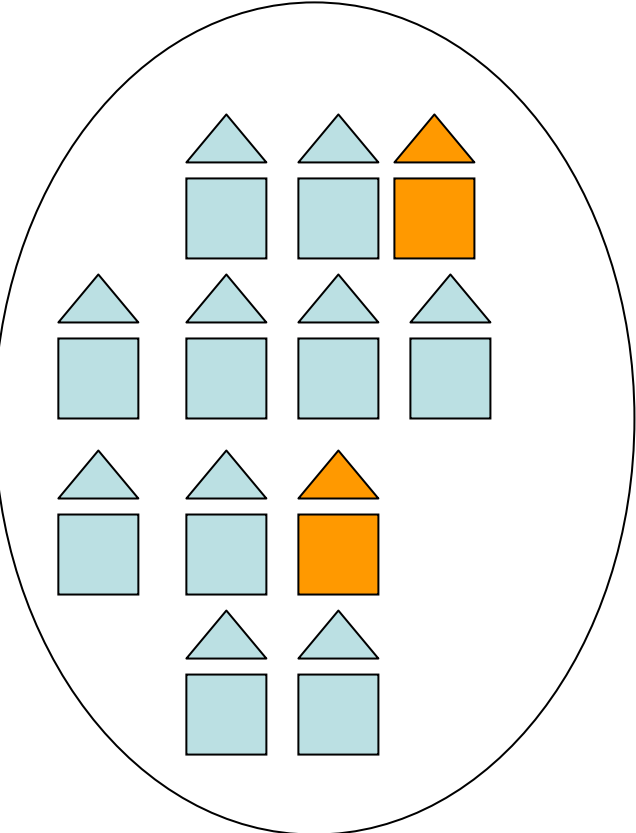
City Council Meeting

- **October 27th – Time TBD**

questions & comments



developer in-lieu options



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