Staff Report

TO:	**Town of Loomis Planning Commission**
FROM:	**Mary Beth Van Voorhis, Planning Director**
DATE:	**July 27, 2021**
RE:	**INCLUSIONARY ORDINANCE – PUBLIC STUDY SESSION**

Recommendation

1. Hear presentation from staff, discuss, and provide input regarding the creation of an Inclusionary Ordinance, and;
2. Provide staff with recommendation on drafting an Inclusionary Ordinance that will be returned to the Planning Commission for further review.

Issue Statement and Discussion

During the 2021-2029 Housing Element Update, the Committee and Planning Commission discussed the creation of an Inclusionary Ordinance to identify acceptable methods to provide affordable housing. It was through this discussion that the recommendation of Policy 9 was added to the 2021-2029 DRAFT Housing Element that was recommended by the Town Council for submittal to California Housing and Community Development (HCD) on May 11, 2021 under Resolution #21-19.

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Policy 9 states:

The Town will recommend adoption of an inclusionary housing ordinance to Town Council. This ordinance will identify acceptable methods to provide affordable housing such as: (a) construction of housing on-site, (b) construction of housing off-site, (c) dedication of land for housing, and (d) payment of an in-lieu or affordable housing linkage fee. Development of this ordinance requires an analysis of the following variables:

a. Limiting the application of the ordinance to developments exceeding a certain size.
b. Percentage of housing units required to be set aside as affordable.
c. Feasibility of waiving 100 percent of application processing fees for developments in which 5 percent of units are affordable to extremely low-income households.
d. Design and building requirements.
e. Timing of affordable unit construction.
f. Determination of a fee in lieu of development affordable units.
g. Developer incentives, such as fee deferrals and waivers.
h. Administration of affordability control.

Following adoption of an inclusionary housing ordinance, an evaluation of its effects on the cost and supply of housing will be conducted. If constraints are identified, the inclusionary housing ordinance will be written to minimize the constraints and increase the chances of housing development at multiple income levels.

Responsible Entity:	Planning Director
Timeframe:	Analyze variables to be incorporated in the inclusionary ordinance by December 2023 and recommend adoption to Town Council by March 2024.
Funding:	General Fund
Quantified Objective:	15 lower-income units, encourage 5 in areas of concentrated overpayment.

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The **2013-2021** Housing Element Program provides for the following:

Program 8 states:

The Town will research an inclusionary housing ordinance. This ordinance will identify acceptable methods to provide affordable housing such as:

a) construction of housing on-site
b) construction of housing off-site
c) dedication of land for housing, and
d) payment of an in-lieu fee.

Development of this ordinance requires an analysis of the following variables:

- *Limiting the application of the ordinance to developments exceeding a certain size.*
- *Percentage of housing units required to be set aside as affordable.*
- *Design and building requirements.*
- *Timing of affordable unit construction.*
- *Determination of a fee in lieu of developing affordable units.*
- *Developer incentives, such as fee deferrals and waivers.*
- *Administration of affordability control.*

If an inclusionary housing ordinance is adopted, an evaluation of its effects on the cost and supply of housing will be conducted. If constraints are identified, the inclusionary housing ordinance will be written to minimize the constraints and increase the changes of housing development at multiple income levels.

Implementation Timeframe: Determination of the appropriateness of an inclusionary ordinance within three years after adoption of the Housing Element.

Desired Result: An inclusionary housing ordinance.

Objective: 15 units.

At Town Council's direction of the need for an Inclusionary Ordinance, The Town Attorney has crafted Attachment #1 – Inclusionary Ordinance Considerations for your review and discussion during this Public Study Session to gain a better understanding of the Town's direction on this matter prior to creation of an Inclusionary Ordinance.

CEQA Requirements
Not applicable.

Financial and/or Policy Implications
None at this time.

ATTACHMENTS

1. Inclusionary Ordinance Considerations

Attachment 1

Inclusionary Ordinance Considerations

The following is a non-exclusive list of issues to consider in preparing an inclusionary housing ordinance:

I. **Applicability of Ordinance**

A. Multi-family.

1. Affordable rent set are typically based on percent of area median income, tied to number of bedrooms.[1]

2. Most of the considerations outlined below are also applicable to single-family (for sale) developments.

B. Single-family.

1. Affordability set based affordable housing cost (mortgage + HOA fees + utility allowance typical).

2. Typically applies to duplexes and triplexes, condominiums for at least some purposes.

3. Exemptions for small projects (e.g. less than 5 lots?)

C. Although tempting to distinguish as for-sale v. rental, it is actually clearer to make the distinction based on the type of construction.

II. **Inclusionary Requirement**

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[1] Most low income rental housing developments rely in part on federal Low Income Housing Tax Credits (LIHTC) as a primary source of construction funding. LIHTC rents are set at 30% of the Area Median Income (AMI) tied to the unit. AMI is calculated with an assumed family size of 1.5 persons per bedroom. The following example uses LIHTC-required rents:

Joe and Ana moved into a 1-bedroom apartment targeted for 50% AMI. The AMI for Placer County is $56,050 for a 1-person household and $64,100 for a 2-person household.

The tax credit program assumes a 1.5 person bedroom size. To calculate the income of "1.5 people" the owner will average the AMI of a one person household ($56,050) with the AMI of a two person household ($64,100). The average equals $60,075. Joe and Ana are in a unit targeted to families that make 50% of the AMI so divide $60,075 in half which is $30,038 (.50 x $60,075).

Rent is set at 30% of the AMI tied to the unit and 30% of $30,038 is $9,011.40 (annually). To calculate the monthly rent, divide this number by 12 which equals $750.95. Joe and Ana's monthly rent is $750.95.

A. How much inclusionary? (e.g. 10% of multi-family, 5% of single family)

B. For single family, when do the units have to be completed?

1. Ahead of market rate units in the same development or phase? Considerations include cost (developer's typically make their profit on the last units built), acceptability (building affordable first reduces negative reaction of market-rate buyers).

2. Concurrent with market? Lessens cost impact, still retains acceptability benefits.

3. Prior to last market? Allows developer to receive revenue from market to help with loss on affordable, but increases the possibility of empty affordable lots.

C. How deep should the targeting go (who is the intended market)?[2]

1. Very low. Helps with RHNA; most expensive to produce because it supports less debt service.

(a) Very challenging for for-sale product, since households may not have the resources to repair and maintain property.

2. Low. Helps with RHNA; still expensive to produce.

3. Moderate. Doesn't help as much with RHNA except in very tight housing markets (where "market-rate" units are not affordable to moderate income households), but helps provide a range of opportunities including "move-up" and retirement.

4. Some ordinances allow substitution (e.g. one VL income counts as two Low income units, etc.)

D. How long does the unit stay rent or price-restricted (i.e. how long must the unit remain "affordable")?

1. Multi-family. Generally these requirements are long. For projects that receive state or federal funding (tax credits, loans) units typically must remain affordable for at least 55 years.

2. Single-family. Great variety among programs. Considerations include the primary goal – production of units that can be counted toward RHNA number? Ensuring a broad mix of housing opportunities over time? Avoiding a "windfall" when affordability controls expire? Examples:

(a) First time buyer programs sometimes have short duration affordability requirements consistent with the goal of providing an opportunity for low/mod

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[2] Regional Housing Needs Assessment (RHNA) income categories include: Very Low (>50% of AMI), Low (50-80% AMI), Moderate (80-120% AMI) and Above Moderate (<120% AMI). "Affordable" units that are most difficult to produce without incentives/requirements are typically Very Low and Low income units. Note that for some funding sources, an additional "Extremely Low" income category (>30% AMI) is added.

income renters to enter the ownership market. Purchasers might be able to sell, without price limitations, after a few years.

(b) Longer duration affordability requirements require consideration of a variety of issues:

(i) Limits on owner's ability to use the unit as a rental? Owner occupancy requirements are not unusual, but some programs allow for hardship exceptions (e.g. sudden job change, acceptance into out-of-area college or training program, loss of job).

(ii) Limits on resale? Change in household status can create a need to sell the property, sometimes quickly (e.g. death of owner, medical issues, divorce, job relocation, job loss). Programs that require sales to an individual in the same income group can slow the sale process down and create a hardship for the homeowner, who may have limited assets beyond the home.

(c) Imposing no limitation on resale price (or short duration limits) may allow initial purchaser to sell at a substantial profit. While some see this as a windfall, others see it as an opportunity to move-up

E. Other considerations.

1. Exemptions for reconstruction after fire or disaster?

2. A requirement that affordable units in a single-family development be “visually indistinguishable” is sometimes included, ostensibly to reduce the “stigma” of being the affordable unit on the block. Balance that against cost savings if affordable homes are allowed to be slightly smaller, or have relaxed development standards, etc.

3. Location within development project. Should the ordinance require that affordable units be disbursed within the project, or allow them to be clustered/concentrated?

III. **Incentives**

A. Density bonus, in addition to bonuses already available under state law.

B. Fee reductions or deferrals.

C. Relaxed development standards (e.g. parking, setback, lot coverage, lot size).

D. Expedited processing (priority consideration of land use entitlements, building permits; less or no design review).

E. Financial assistance to seller or to buyer.

IV. **Alternatives**. For single-family developments, standard requirement is typically on-site construction of affordable units. Most jurisdictions, however, allow at least some of the following alternatives. For many, Council approval is required for alternatives.

A. Accessory dwelling units to satisfy inclusionary requirement.

1. With sale restrictions (price, targeted income group)?

2. "Affordable by design" (typically smaller units on smaller lots with less amenities, where the initial sales price might be limited but there are no long-term affordability requirements)?

3. Other possible requirements/limits:

(a) No more than a certain percentage can by ADUs

(b) Less than 1 for 1 (e.g. 1.5 or 2 ADU to satisfy 1 affordable unit obligation).

B. Off-site construction. Typically available only for single-family developments, but could be allowed for multi-family as well.

C. Substitution of multi-family for single-family. For large projects, perhaps a small apartment complex. For smaller projects, duplex/triplex/fourplex units.

D. In-lieu fees. Can be tricky to calculate, and work best in communities with active affordable housing developers that need local funding to close a gap in their financing.

E. Substantial rehabilitation of existing units coupled with affordability limits as outlined above.

F. Dedication of land. Land dedication can be a way to obtain a parcel suitable for development of affordable units by a third party, especially in larger developments. Considerations:

1. Dedication to whom? Some communities require a developer to have identified an affordable housing developer willing to partner with them.

2. Minimum parcel size? For a single-family project, dedication of individual lots? Or a single, larger lot suitable for a small apartment building?

3. Does the parcel have to be "shovel ready"? (e.g. require that utilities be stubbed out, sidewalks and curb cuts installed, will-serve letters from utilities; Town retains right to decide suitability of parcel).