



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development

Paul A. Jensen

Prepared by: Paul Jensen (AG, EG)
Community Development Director

City Manager Approval: _____

AS

TOPIC: MEASURES TO FACILITATE HOUSING DEVELOPMENT & STREAMLINE APPROVALS

SUBJECT: INFORMATIONAL REPORT ON POTENTIAL AMENDMENTS TO THE SAN RAFAEL MUNICIPAL CODE TO FACILITATE HOUSING DEVELOPMENT AND STREAMLINE APPROVALS

EXECUTIVE SUMMARY:

This informational report provides an overview of potential amendments to four main areas of the San Rafael Municipal Code (SRMC):

- A. Inclusionary Housing Requirement
- B. Density Bonus
- C. Formalize Design Review Board Subcommittee
- D. SRMC Amendments to Encourage Development and Streamline Approvals

The purpose of this informational report is to receive feedback and direction from City Council on the below key areas:

Policy	Key Staff Questions
Inclusionary Housing	<ul style="list-style-type: none"> • Should the City allow developers expanded options to pay an affordable housing in-lieu fee instead of onsite units? • Should the City move forward with an inclusionary housing policy design with baseline and additional requirements, as proposed by staff? <ul style="list-style-type: none"> → If yes, at which levels should these requirements be set? → If no, how would City Council like the policy designed? • Should the City allow buyouts for entitled projects?
Density Bonus	<ul style="list-style-type: none"> • Comments or Concerns?
Formalize Design Review Subcommittee	<ul style="list-style-type: none"> • Should the City formalize the DRB subcommittee process replacing the DRB with the DRAC?
SRMC Amendments to Encourage Development and Streamline Approvals	<ul style="list-style-type: none"> • Comments or Concerns?

RECOMMENDATION:

Accept report and provide staff direction regarding proposed changes and municipal code amendments.

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

BACKGROUND:

On August 20, 2018, the City Council was presented a comprehensive, [informational report](#) on housing. In response to the housing report information, the City Council directed staff to follow-up on four, specific housing topics and issues. One of these four topics/issues was the challenges to the approval and development of housing in San Rafael.

On September 3, 2019, the City Council was presented an [informational report](#) on challenges to housing development. The report presented 11 key challenges pertaining to the approval and development of housing in San Rafael. Moreover, this report identified 13 recommended measures to address these challenges. At the September 3rd City Council meeting, staff was directed to host several public housing workshops on proposed policies to address challenges to approving and developing housing. The purpose of these workshops was to gain a better understanding of the public's view on the housing crisis, as well as, to get feedback on the prioritization of the proposed policy actions. The City hosted two housing workshops, which were attended by the Mayor, City Council, and the public. These workshops exposed the public to issues surrounding the housing crisis and obtained feedback from both the public and City Council.

On January 21, 2020, the City Council was presented an [informational report](#) on staff recommendations for prioritization, timing, and future City Council actions on these proposed policy actions to address challenges to approving and developing housing. As part of the acceptance of this informational report, City Council directed staff to return with an updated informational report on potential amendments to the SRMC aimed at encouraging housing development and streamlining approvals.

On August 11th, 2020, staff presented to the San Rafael Planning Commission an [earlier version of this report](#) analyzing potential amendments to the SRMC resulting from this City Council direction. These potential amendments focus on four main areas:

- Adopt Changes to the Inclusionary Housing Requirement & Adopt Changes to Affordable Housing In-Lieu Fee- Inclusionary housing requirements are key tools for cities to provide affordable housing and build mixed income communities. However, if the requirements are set too high, they can depress housing production. Currently, the City requires between 10%-20% of a development's housing units to be provided at rates affordable for low- or very low- income households. As part of the January 21, 2020 City Council informational report, staff discussed considering lowering the City's inclusionary housing requirement and finding ways to provide more flexibility to developers in meeting the requirement, including allowing expanded use of an affordable housing in-lieu fee.
- Update Density Bonus Ordinance- The City's Density Bonus Ordinance was last amended in 2010. Since that time, there have been a number of changes to State Density Bonus Law (SDBL) that are meant to encourage development of affordable housing and/or remove barriers to housing in general. Due to these SDBL changes, amendments to the City's Density Bonus Ordinance are needed to align with the state requirements. An overview of changes to SDBL are described in more detail in the informational report to the Planning Commission.
- Consider Changes to Design Review Board- The Design Review Board (DRB) serves as an advisory body to the City for the purpose of reviewing and formulating recommendations on all major physical improvements requiring Environmental and Design Review permits. The DRB may also advise on other design matters, including minor physical improvements or administrative-level design review permits, referred to the Board by the Community Development Director, Planning Commission, or City Council. As part of the January 21, 2020 City Council informational report, staff discussed three potential options for restructuring the format of the DRB:

- a. Eliminating the DRB and structuring the Planning Commission membership to include one or two design professionals to guide and advise the Commission at-large on design matters;
- b. Shifting the role of the DRB to a decision-making authority rather than an advisory body. The DRB would have review and approval authority over Environmental Design Review Permits, while the Planning Commission would continue to serve as the decision-making authority on all land use, subdivision, and legislative matters; and/or
- c. Appoint a DRB liaison to review smaller housing projects in-lieu of a review by the full DRB. In the event there are challenging design issues, the DRB liaison would have the discretion to refer the application to the full DRB for review at a noticed public meeting.

Since the March 16th, 2020 [Shelter-in-Place ordered for Marin County](#) went into effect, staff found the need to restructure the format of the DRB to a subcommittee format comprised of a licensed architect and a licensed landscape architect. While the DRB Subcommittee was intended to convene only until the shelter-in-place order is lifted, staff has received substantial positive feedback from community members and applicants. Additionally, several large projects have been reviewed by the DRB through this process with success. For that reason, staff has included a proposal to formalize the subcommittee format in this informational report. See Planning Commission staff report for more information.

- SRMC Amendments to Encourage Development and Streamline Approvals- As part of the January 21, 2020 City Council meeting, City Council also encouraged staff to continue to look for amendments not identified in this report that could be made to encourage development and streamline approvals. Staff identified three possible changes to the SRMC that would serve to remove barriers and encourage housing development. These changes are described in more detail below but include:
 - Streamline the Appeals process
 - Remove restrictions for small lot development
 - Streamline Hillside Development Overlay District “Exceptions” Process

Staff has provided a summary of the Planning Commission’s feedback and comments after the corresponding Analysis section for each of the proposed SRMC changes included in this informational report. The Planning Commission also asked several questions regarding the inclusionary housing policies and affordable housing in-lieu fees. Staff has included answers to these questions.

ANALYSIS:

A. Inclusionary Housing Requirement

Staff has prepared three scenarios to help compare the impacts of changes to the inclusionary housing requirements. Staff has adjusted the levels of the Baseline and Additional requirements to be financially equivalent to the costs to a developer for providing 20%, 15%, and 10% of total onsite units with BMR requirements.

For all scenarios, staff has provided four options for the additional requirement, based upon best practices:

- Option 1- Onsite: additional affordable units provided onsite by the developer at one of several options for varied depth (the percentage of units) and breadth (the affordability level) of affordability restrictions.
- Option 2- In-lieu Payment: fees paid by developers instead of providing on-site affordable units. Payment is calculated per unit (including fractional units) for a percentage of total units provided on the property. For example, if there are 40 units in the project and the in-lieu payment is set at five percent (5%), the developer could meet the additional requirement by paying an in-lieu fee equal to 5% of units, or 2 units. The payment would be: $2 * \$343,969 = \$687,938$.
- Option 3 & 4: the developer can provide BMR units off-site or by providing land or existing property for development, if the following conditions are met:
 - Off-site units or land is provided within ½ mile of the market-rate project or in an area identified as high need; and
 - Public and Financial benefit is similar to or greater than what would have been provided onsite. Appraisal required where need.
 - Subject to Director approval.

Staff has also attempted to simplify the requirements by condensing the requirements by projects size from three (2-10 units, 11-20 units, and 21 or more units) to two (2-15 units and 16 or more units). Inclusionary Housing requirements for 2-15-unit projects remain the same across all three scenarios to prevent the policy from becoming more restrictive than the status quo.

Staff has used the [Inclusionary Housing Calculator](#) provided by the Grounded Solutions Network to estimate the feasibility of projects within each scenario. The Inclusionary Housing Calculator provides development financial data by strength of housing market and size of project. For each project, estimated cost and profit metrics are provided to help assess feasibility. Feasibility metrics are provided for low-rise rental projects (2-3 stories) and mid-rise rental projects (4-8 stories). For all scenarios, feasibility metrics reflect the cost and profit of the lowest profit combination of baseline and additional requirements. Full project assumptions can be found in Exhibit A.

Scenario 1: 20% Onsite Equivalent

Scenario 1 reflects the financial equivalent of a 20% onsite housing requirement. The baseline and additional requirements have been set at the following levels (Table 1):

Table 1. Scenario 1: 20% Onsite Equivalent

	Rental		For Sale	
	2-15 Units	16+ Units	2-15 Units	16+ Units
Baseline Requirement (All Projects)	10% Low-Income	5%- Low Income 5%- Very Low Income	10% Low-Income	5%- Moderate Income 5%- Low Income
Additional Requirement (Must choose one option below in addition to the Baseline Requirement)				
		5%- Very Low Income		5%- Very Low Income
		<i>or</i>		<i>or</i>
Option 1) Onsite	No Requirement	10%- Low Income	No Requirement	10%- Low Income
		<i>or</i>		<i>or</i>
		15%- Moderate Income		15%- Moderate Income
Option 2) In-Lieu Payment	Allowed for Fractional Units	Payment equal to 10% of Total units	Allowed for Fractional Units	Payment equal to 10% of Total units
Option 3) Offsite	No Requirement	* Within 1/2 mile of project * Similar economic benefit * Requires Director approval	No Requirement	* Within 1/2 mile of project * Similar economic benefit * Requires Director approval
Option 4) Land Conveyance	No Requirement	* Must be developable * Similar economic benefit * Requires Director approval	No Requirement	* Must be developable * Similar economic benefit * Requires Director approval

* In-lieu fees allowed for fractional unit up to 0.5 Units, after 0.5 units they must provide one on-site unit

**Very Low Income- 50% AMI or lower, Low Income- 80% AMI or lower, Moderate Income- 120% AMI or Lower

As seen in Table 1, the baseline requirement for rental units has been set at 5% of onsite units required to be affordable to low-income households and 5% to be affordable to very-low income households. The baseline requirement for ownership units is set at 5% of onsite units required to be affordable to low-income households and 5% to be affordable to moderate-income households.

For additional requirements, three affordability options are provided for onsite units. An in-lieu fee is allowed and set at a fee amount equal to 10% of total units. Requirements of land conveyance and off-site units are the same for all three scenarios.

Based upon these policy levels, staff estimates that projects that select either the very low or low income additional onsite requirement would not be feasible (Table 2).

Table 2. Scenario 1: Project Feasibility- Low & Very Low Income

	Low-Rise	Mid-Rise
Estimated Cost	\$19.71M	\$39.71M
Estimated Profit	\$2.82M	\$4.98M
Feasibility	Not Feasible (14.3%)	Not Feasible (12.6%)

*A project is considered feasible if profit is greater than 15% of cost

However, projects that select a moderate additional onsite requirement or in-lieu fee options would be feasible (Table 3).

Table 3. Scenario 1: Project Feasibility- Moderate Income

	Low-Rise	Mid-Rise
Estimated Cost	\$19.71M	\$39.71M
Estimated Profit	\$3.22M	\$6.16M
Feasibility	Feasible (16.4%)	Feasible (15.5%)

*A project is considered feasible if profit is greater than 15% of cost

Scenario 2: 15% Onsite Equivalent

Scenario 2 reflects the financial equivalent of a 15% onsite housing requirement. The baseline and additional requirements have been set at the following levels (Table 4):

Table 4. Scenario 2: 15% Onsite Equivalent

	<u>Rental</u>		<u>For Sale</u>	
	2-15 Units	16+ Units	2-15 Units	16+ Units
Baseline Requirement <i>(All Projects)</i>	10% Low-Income	5%- Low Income 5%- Very Low Income	10% Low-Income	5%- Moderate Income 5%- Low Income
<i>Additional Requirement (Must choose one option below in addition to the Baseline Requirement)</i>				
<i>Option 1) Onsite</i>	No Requirement	5%- Low Income <i>or</i>	No Requirement	5%- Low Income <i>or</i>
<i>Option 2) In-Lieu Payment</i>	Allowed for Fractional Units	10%- Moderate Income Payment equal to 5% of Total units	Allowed for Fractional Units	10%- Moderate Income Payment equal to 5% of Total units
<i>Option 3) Offsite</i>	No Requirement	* Within 1/2 mile of project * Similar economic benefit * Requires Director approval	No Requirement	* Within 1/2 mile of project * Similar economic benefit * Requires Director approval
<i>Option 4) Land Conveyance</i>	No Requirement	* Must be developable * Similar economic benefit * Requires Director approval	No Requirement	* Must be developable * Similar economic benefit * Requires Director approval

* In-lieu fees allowed for fractional unit up to 0.5 Units, after 0.5 units they must provide one on-site unit

**Very Low Income- 50% AMI or lower, Low Income- 80% AMI or lower, Moderate Income- 120% AMI or Lower

As seen in Table 4, the baseline requirement for both rental and ownership units remain the same as Scenario 1.

For additional requirements, two affordability options are provided for onsite units. An in-lieu fee has been reduced relative to Scenario 1 and set at a fee amount equal to 5% of total units. Requirements of land conveyance and off-site units are the same for all three scenarios.

Based upon these policy levels, staff estimates that only low-rise projects that select either the very low or low income additional onsite requirement would be feasible (Table 5).

Table 5. Scenario 2: Project Feasibility- Low & Very Low Income

	Low-Rise	Mid-Rise
Estimated Cost	\$19.71M	\$39.71M
Estimated Profit	\$2.98M	\$5.48M
Feasibility	Feasible (15.1%)	Not Feasible (13.8%)

*A project is considered feasible if profit is greater than 15% of cost

However, both low-rise and mid-rise projects that select moderate additional onsite requirement or in-lieu fee options would be feasible (Table 6).

Table 6. Scenario 2: Project Feasibility- Moderate Income

	Low-Rise	Mid-Rise
Estimated Cost	\$19.71M	\$39.71M
Estimated Profit	\$3.48M	\$6.40M
Feasibility	Feasible (17.6%)	Feasible (16.1%)

*A project is considered feasible if profit is greater than 15% of cost

Scenario 3: 10% Onsite Equivalent

Scenario 3 reflects the financial equivalent of a 10% onsite housing requirement. The baseline and additional requirements have been set at the following levels (Table 7):

Table 7. Scenario 3: 10% Onsite Equivalent

	<u>Rental</u>		<u>For Sale</u>	
	2-15 Units	16+ Units	2-15 Units	16+ Units
Baseline Requirement (All Projects)	10% Low-Income	5%- Low Income	10% Low-Income	5%-Low Income
Additional Requirement (Must choose one option below in addition to the Baseline Requirement)				
		5%- Low Income		5%- Low Income
<i>Option 1) Onsite</i>	No Requirement	or	No Requirement	or
		10%- Moderate Income		10%- Moderate Income
<i>Option 2) In-Lieu Payment</i>	Allowed for Fractional Units	Payment equal to 5% of Total units	Allowed for Fractional Units	Payment equal to 5% of Total units
<i>Option 3) Offsite</i>	No Requirement	* Within 1/2 mile of project * Similiar economic benefit * Requires Director approval	No Requirement	* Within 1/2 mile of project * Similiar economic benefit * Requires Director approval
<i>Option 4) Land Conveyance</i>	No Requirement	* Must be developable * Similar economic benefit * Requires Director approval	No Requirement	* Must be developable * Similar economic benefit * Requires Director approval

* In-lieu fees allowed for fractional unit up to 0.5 Units, after 0.5 units they must provide one on-site unit

**Very Low Income- 50% AMI or lower, Low Income- 80% AMI or lower, Moderate Income- 120% AMI or Lower

As seen in Table 7, the baseline requirement for both rental and ownership has been reduced relative to Scenarios 1 and 2 to 5% of onsite units affordable to low-income households. For additional requirements, Scenario 2 and 3 are the same. Requirements of land conveyance and off-site units are the same for all three scenarios.

Based upon these policy levels, staff estimates that both the low-rise and mid-rise projects are considered financially feasible no matter the additional requirement option chose (Table 8).

Table 8. Scenario 3: Project Feasibility- Low/ Very-Low

	Low-Rise	Mid-Rise
Estimated Cost	\$19.71M	\$39.71M
Estimated Profit	\$3.92M	\$6.72M
Feasibility	Feasible (19.8%)	Feasible (16.9%)

*A project is considered feasible if profit is greater than 15% of cost

Scenario Discussion

Under all scenarios, developments with total project units between 21-25 units, 31-35 units, 41-45 units, etc. will have a higher incentive to provide additional on-site units. The percentages used to calculate the onsite baseline and additional onsite requirement will create fractional units below the rounding up threshold (0.5 units). By staying below this threshold, the developer can avoid providing an additional onsite unit and instead pay the in-lieu fee for the fractional unit.

However, developments with total project units between 16-20 units, 26-30 units, 36-40 units, etc. will have a higher incentive to pay the in-lieu fee. The percentages used to calculate the onsite baseline and additional onsite requirement will create fractional units above the rounding up threshold (0.5 units). As a result, the developer will be providing additional onsite units as part of the baseline requirement. The developer can avoid the rounding up unit created through the additional onsite requirement by paying the in-lieu fee instead.

Buyouts for Entitled Projects

In the process of preparing this report, several developers with entitled projects have reached out to staff inquiring about the potential for paying an in-lieu fee for a portion of their onsite below market rate units.

The in-lieu fee is set to reflect the affordability gap of a below market rate unit before the entitlement process. As a project moves further along in the approvals process, this affordability gap would grow larger.

For entitled projects, the in-lieu fee would underestimate this affordability gap, as the market value of an entitled project is higher than a project not having received approvals. One example of this difference in market values can be seen in the recent approval of the [Loch Lomond Marin below market rate buyout](#). In this buyout, the City and developer agreed to a buyout amount of the entitled for-sale units of approximate \$609,000. This buyout amount is nearly double the current in-lieu fee of \$343,969 per unit.

However, once a project has pulled Building Permits and begun construction, the affordable gap would be so large that the incentive for a buyout for both the City and developer may no longer exist. For the City, the per-unit buyout amount would likely reflect the current market rate conditions given the relative timing of the units' production. For the developer, having reached the construction phase their financing has likely been finalized and the per-unit costs sought by the City may not be financially feasible or attractive.

Based upon these factors, the City may have an opportunity to incentivize expedited construction of entitled project by allowing buyouts for these projects. This incentive would be greatest for the City and the developer for projects that have been entitled but have yet to begin construction. In these instances, buyouts should be set at a higher per-unit amount and under a specific timeline. Additionally, buyouts should only be allowed for a portion of the entitled protected units.

Should City Council pursue this option, staff would recommend setting this buyout amount at \$609,000 per unit—approximately the amount set by the Loch Lomond Marin buyout. Staff would also recommend that the buyout be contingent on the developer pulling building permits within one (1) year of agreeing to a buyout. Finally, staff would recommend only allowing developers to buy out at most half of their entitled below market rate units.

Planning Commission Feedback and Inclusionary Housing Questions

Overall, the Planning Commission was supportive of staff recommendations allowing an in-lieu fee and any policy changes necessary to encourage housing development. Commissioners were highly supportive of the proposed policy designs as they would provide flexibility to the developer to meet inclusionary requirements.

During the Commissions discussion, several questions were raised related to the effectiveness and impact of inclusionary housing policies in general and not specific to the policy design and scenarios proposed by staff. Staff has paraphrased these questions and provided responses below:

- **Are affordable housing in-lieu fees effective at producing more housing units?**

While it is very difficult to accurately measure the specific relationship between fees and onsite production for any jurisdiction, at a high level, lowering the costs and barriers to housing production will lead to increased production. Adjusting fees and providing flexibility to meet local requirements help achieve this goal.

For the developer, an in-lieu fee can be a more economically feasible option in the long-run, even if the short-run cost is higher than providing a protected unit. For the City, the funds from an in-lieu fee can be effectively leveraged to provide expanded resources for affordable housing.

In a 2016 nationwide study of affordable housing trust funds, city housing trust funds indicated they leveraged on average \$6.00 in additional public and private funds for every \$1.00 the trust fund invested in affordable housing activities. The highest leverage ratio reported was \$1:\$14.¹ In addition to increased financial leverage, a recent study found that Seattle was able to build three (3) affordable housing units with their trust fund dollars for every one (1) unit that paid an in-lieu fee.²

For trust funds to be effective, it is important that in-lieu fees are set at levels that accurately reflect market conditions. At a minimum, in-lieu fees should cover the average local funding needed for an affordable housing project to be feasible. A simple way of measuring this minimum local funding needed is looking at projects using Low Income Housing Tax Credits (LIHTC). LIHTCs are highly competitive and are the main funding source for affordable housing projects in the United States. Projects receiving LIHTC funding are often 100% affordable and receive local funding.

As part of a 2018 review of their in-lieu fees, the City of Oakland found that on average there was approximately \$125,000 per unit of local funding going into LIHTC funded affordable housing projects

¹ https://housingtrustfundproject.org/wp-content/uploads/2016/10/HTF_Survey-Report-2016-final.pdf

² https://www.lincolinst.edu/sites/default/files/pubfiles/inclusionary-housing-full_0.pdf

(excluding state and federal sources).³ Using a similar analysis (Table 9), staff found that since 2010, LIHTC projects in Marin County have received approximately \$45,500 on average per unit in local funding.⁴

Table 9. Local/County Funding for Recent Affordable Housing Developments

Project Name	City	Project Type	Units	Local/County CDBG/HOME		Per Unit
				Trust Fund	Funds	
190 Mill Street*	San Rafael	Permanent Supportive Housing	32	\$ 1,250,000	\$ -	\$39,063
Whistlestop*	San Rafael	Senior- New Const.	66	\$ 1,000,000	\$ 396,371	\$21,157
Victory Village	Fairfax	Senior- New Const.	53	\$ 2,600,000	\$ 1,710,210	\$81,325
Piper Court Apartments	Fairfax	Family- Rehab.	27	\$ 675,000	\$ 410,645	\$40,209
Walnut Place	Point Reyes Station	Senior- New Const.	25	\$ -	\$ 482,488	\$19,300
Warner Creek Senior Housing	Novato	Senior- New Const.	60	\$ -	\$ 2,436,882	\$40,615
Average Local Funding Per Unit						\$45,362

*190 Mill Street and Whistlestop Local/County Funding is estimated as provided by the developer and **does not** reflect approved amounts

While staff considers the current in-lieu fee lower than the actual “affordability gap,” the fee amount is nearly triple the estimated average per unit local funding for Oakland and nearly seven times the local funding needed to be feasible for recent Marin County affordable housing projects. Because of this, staff believes that expanding the use of the current in-lieu fee would still be effective at both incentivizing housing development and provide sufficient trust fund funding for affordable housing projects.

- **Do affordable housing units need to be provided in the same building and/or property to be effective at creating inclusive communities?**

Inclusionary housing requirements are tremendously important tools in providing access for low income households to higher opportunity neighborhoods. However, access does not necessarily need to be provided solely through onsite units. 100% affordable housing projects developed in these neighborhoods can create more protected units without any reduction in impact on positive tenant outcomes.

Nearly all available studies looking at this relationship indicate that access to higher opportunity neighborhoods is the most important factor. Access to specific market rate buildings is not the influencing factor.^{5 6 7 8}

These impacts are not limited solely to the new tenants. In a 2014 review of evidence-based studies, Enterprise Community Foundation (Enterprise) found that affordable housing contributes to significant economic impacts. These impacts include increases in local purchasing power, job creation, and new tax revenues.⁹

³ <http://www2.oaklandnet.com/government/o/PBN/OurOrganization/PlanningZoning/s/ImpactFee/index.htm>

⁴ Staff did not include projects receiving redevelopment funds or projects covering non-substantial rehabilitation

⁵ <https://www.urban.org/sites/default/files/publication/27116/412292-Effects-from-Living-in-Mixed-Income-Communities-for-Low-Income-Families.PDF>

⁶ <https://shelterforce.org/2019/07/12/prioritizing-inclusion-and-equity-in-the-next-generation-of-mixed-income-communities/>

⁷ <https://ced.sog.unc.edu/strategies-for-creating-mixed-income-neighborhoods/>

⁸ <https://shelterforce.org/2018/07/06/practical-ideas-for-addressing-micro-segregation-in-mixed-income-communities/>

⁹ <https://www.enterprisecommunity.org/download?fid=3335&nid=4547>

When looking specifically at LIHTC projects, Enterprise found that for every 100 LIHTC funded units jurisdictions realized \$7.9 million in local income in the first year and \$2.4 million annually. 122 local jobs in the first year and 30 jobs annually. \$827,000 in taxes in the first year and \$441,000 annually.

- **What are the equity impacts of changing the Inclusionary Housing requirement?**

It is important to recognize that any discussion surrounding affordable housing and access to high opportunity areas is tied inextricably with race. As described in earlier staff reports, in San Rafael, non-white households are disproportionately renters, lower-income, and housing cost-burdened—defined as paying over 30% of your income on housing.¹⁰ As a result, policy changes which impact affordable housing will also disproportionately impact communities of color. This phenomenon is not unique to San Rafael and is present nationwide because of historic systemic racist housing policies pervasive for most of the last century.^{11 12}

Mixed-income communities alone will not lead to positive resident outcomes and address the goals which inclusionary policies are designed to achieve. In addition to housing stability, ensuring high housing quality, attractive housing developments, and robust resident services are keys to resident success.^{13 14} These elements are necessary for success because they help build community and create a sense of place for residents and surrounding neighborhood.¹⁵ Additionally, the effect of this place-based community making is not limited to LIHTC projects in high-opportunity areas. A 2016 National Bureau of Economics (NBER) economic study found that LIHTC developments can have substantial benefits to low-income neighborhoods. LIHTC developments in low-income neighborhoods can increase house prices 6.5%, lowering crime rates, and attract racially- and income-diverse populations. The authors measure the overall societal benefit of these developments at \$116 million.¹⁶

In higher income areas, the study did find that LIHTC developments cause house price declines of 2.5%. However, these losses—estimated at approximately \$12 million—are more than offset by the direct economic benefit to the low-income tenants—estimated at \$26.7 million.

More recently, a 2018 study by the Turner Center for Housing Innovation found LIHTC properties play an important role in stabilizing families in high-quality housing allowing them to focus on education, employment, and other dimensions of economic mobility.¹⁷ Additionally, this study found that even in neighborhoods with higher rates of poverty, LIHTC developments are providing better housing quality and stronger property management than what is available in the private market.

B. Density Bonus

The purpose of the code amendments to the Density Bonus provisions is that the code provisions no longer align with State density bonus law. Allowable Density Bonus for developments and other provisions related to concessions/incentives and waivers/reductions have changed in recent years. Staff is proposing changes to the City's Density Bonus Tables as well as sections of our density bonus

¹⁰ US Census, 2018 5-Year Estimates

¹¹ Rothstein, Richard. *The Color of Law: A Forgotten History of How Our Government Segregated America*. 2017

¹² Taylor, Keeanga-Yamahtta. *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*. 2019

¹³ <https://www.huduser.gov/periodicals/cityscpe/vol3num2/success.pdf>

¹⁴ <https://www.huduser.gov/portal/periodicals/em/spring13/highlight2.html>

¹⁵ <https://www.huduser.gov/portal/periodicals/em/spring13/highlight1.html#title>

¹⁶ <https://www.nber.org/papers/w22204.pdf>

¹⁷ http://turnercenter.berkeley.edu/uploads/Links_Between_Affordable_Housing_and_Economic_Mobility_.pdf

provisions to align with State law. Additional changes are currently being proposed at the state level as part of Assembly Bill (AB) 2345 and Senate Bill (SB) 1085. Staff will likely update the Density Bonus tables to align with those changes if adopted by the state legislature. Below are some key amendments that are proposed to respond to changes to State density bonus law since 2017:

- Density Bonus of 80% for certain projects. Projects that propose 100% of units for affordable housing are allowed an 80% density bonus.
- Proactive Disclosure of Allowable Density Bonus. The City is now obligated to disclose the maximum allowable density bonus as part of completeness review for an application.
- Waivers or reductions of development standards. The applicant may request a reduction or waiver of development standards if the applicant can demonstrate that that the development standard will have the effect of physically precluding the construction of a development. No additional report (including a financial *pro forma*) is required.
- Concessions & Incentives.
 - a. Concessions and Incentives allowed for certain types of housing projects have increased. For example, certain development projects that commit to 100% affordable housing units will be allowed 1 additional concession; a by-right height bonus of 33 feet; and additional parking reductions. Projects near transit are also allowed additional parking reductions. Additional changes are currently being proposed at the state level as part of AB 2345 and SB 1085. Staff will likely update the concessions tables to align with those changes if adopted by the state legislature.
 - b. Applicants are required to provide reasonable documentation to establish eligibility for requested incentives or concessions including a request for financial incentives. This would be in addition to any incentives already spelled out in the code (parking reductions, height bonus etc.). While the City can only request documentation outlined by SDBL, requests for financial incentives and fee waivers would require justification to demonstrate need. In this instance, a financial *pro forma* may be required by the City.
- 100% Affordable Housing Projects. If a housing development proposes 100% affordable units and is located within one-half mile of a major transit stop, the City cannot not impose any maximum controls on density.

Additional Possible Amendments to Consider

Housing development continues to be a challenge even amongst the smaller development projects of 5 units or less. The City currently does not provide a density bonus, incentives or concessions, or waivers/reductions for these types of smaller projects. In conversations with developers of smaller housing projects it would be difficult to take advantage of the State density bonus law even if was an available option.

As part of staff's analysis of the Density Bonus amendments, one possible solution to incentivize density in smaller housing developments was identified. Simple zoning code amendments could be made to allow one additional unit with a floor area of less than 500 square feet. This unit would not count towards maximum density and would qualify for a reduced parking ratio of .5 spaces as a way of accommodating units that are more affordable by design.

Since these amendments would be outside what is needed to align the SRMC with the SDBL, they have not been included in the proposed changes. However, this amendment could be included with the broader

amendment easily and would be a simple and effective way to incentivize additional housing development without significant impact the review and approval these developments.

Planning Commission discussion on Density Bonus Changes

On this topic, the Planning Commission did not provide much feedback but did express support for updating the density bonus section of the Zoning Code to align with State requirements.

C. Formalize Design Review Subcommittee

The DRB Subcommittee process currently being implemented during the Shelter-in-Place has shown to be successful and efficient. As such, staff is proposing to formalize this process as a Design Review Advisory Committee (DRAC). Formalizing this process would mean the DRB would be permanently replaced by the DRAC.

Like the current process, the DRAC would serve in the same capacity as the current, five-member DRB. The intent is for the DRAC to provide professional advice on design. The public would continue to be afforded public participation when the project moves forward for formal permit noticing and action, which would be through the Planning Commission, the Zoning Administrator or the Community Development Director.

Exhibit B shows the SRMC amendments to SRMC Sections [14.25.060](#) and [14.25.070](#) necessary to permanently formalize the DRAC process. These amendments include:

- Eliminating the public noticing and hearing requirements for the new process;
- Refining the Purpose and Authority of the DRAC to focus solely on providing professional design advice;
- Reducing the number of members from five (5) regular members and one (1) alternate to two (2) regular members and one (1) alternate. Regular members would include one (1) Licensed Architect and one (1) Licensed Landscape Architect; and
- Minor procedural and administrative changes to reflect the reduced size of the subcommittee.

Recent analysis estimates that on average for every month saved during the approvals process a project can save nearly \$140,000.¹⁸ Staff estimates that these changes to the DRB process will save the average project between two to six months in the time it take to receive a planning approval. At a savings of \$140,000 per month, the average project could save between \$280,000 \$840,000 through the implementation of this policy.

Planning Commission Feedback on the Structure of the Design Review Board

As mentioned above, the Planning Commission expressed some concerns about eliminating the DRB completely as they provide a valuable guidance on design. The Commission agreed that a less formal process was a good approach as long as there is opportunity for public input. The Planning Commission provided comments that can be categorized in three main topic areas as follows:

¹⁸ "If a developer is required to return 12% per year to a pension fund on a project in which the fund has invested \$10 million upfront in plans, land, and other consulting costs, a one year delay can mean an additional \$1.7 million in project costs when the project is finally built 3 years later as the cost is compounded over time."
http://ternercenter.berkeley.edu/uploads/The_Effect_of_Local_Government_Policies_on_Housing_Supply.pdf

1) Public Participation. Assure that there is opportunity for public participation during the design review process.

There are several ways to allow opportunity for public participation that would still work with the DRB subcommittee model. Two examples include:

- On-site Postings. The City currently provides on-site posting of public notice signs for certain projects that will result in visible improvements to a property. This type of onsite posting could occur when a new application has been received by the City. Community members would have an opportunity to provide comments on a project earlier in the process and well before staff and the applicant engage with the DRB subcommittee.
- Use of permit tracking technology. There are several apps that can be used to allow community members to sign up to receive alerts when the city accepts an application. One example is currently being used by the City's Department of Public Works is a program call Building Eye. This program allows tracking of encroachment permits and alerts subscribers of new permits within their neighborhood. This type of tool could be adapted to allow tracking of current planning projects. Community members would have an opportunity to provide comments on a project at any time throughout the process.

2) Creating a Hybrid. Commissioners suggested tiering the Design Review Board, allowing a subcommittee of the board to review smaller projects, and requiring that larger/more complex projects be referred to the full, five-member board.

This concept is similar to one of the options that was presented to the City Council in January of this year. While this concept would allow certain smaller housing projects a more streamlined review, it may not go far enough in supporting housing production and removing barriers to streamline review of higher density residential development.

3) Consider reducing certain minor projects to staff level review.

Some Commissioners supported an additional tier that includes downgrading of certain minor projects for staff level review and action. At present, the Zoning Ordinance allow certain minor projects to receive staff level review. Staff is in the process of evaluating whether additional projects could benefit from downgrading to a staff level review. This will require amendments to our zoning ordinance and are expected to be publicized in early 2021.

While the Planning Commission had some reservations about eliminating the Design Review Board entirely, there was consensus that that a less formal process was a good approach as long as there is opportunity for public input. The Design Review Board Subcommittee concept has been used for review of development projects since the City began observing the shelter in place order in March. This format has been successful and could be supplemented to address concerns raised by Commissioners by providing opportunities for public involvement using notification technology similar to what is currently being used by the City. Staff will continue to look for ways to provide streamlining by looking for smaller projects that could benefit from a staff level review.

D. SRMC Amendments to Facilitate Development and Streamline Approvals

Staff has identified the following SRMC Amendments that could streamline the approvals process and encourage development without significant impact to current staff processes or public participation.

Amendment to SRMC Section 14.12.040- Hillside Exception

To streamline the process, Staff is recommending amending [SRMC Section 14.12.040](#) to downgrade the review and action on Hillside Exception requests to the Planning Commission. Currently, Hillside Exception requests are reviewed and acted upon by the City Council (Exhibit C).

While the proposed amendment to the Hillside Overlay District Exception process would promote streamlined review, there are other practical and logical benefits to this amendment. First, granting an Exception is a “quasi-judicial” zoning action which, by City charter, should be held with the Planning Commission. Second, an Exception is always linked to the Environmental and Design Review Permit that is required for all hillside development. The Planning Commission holds decision making authority on such applications when they are deemed to be major. Lastly, while this amendment would afford the Planning Commission the decision-making authority on all Exception requests, this action coupled with the action on the Environmental and Design Review Permit would be appealable to the City Council.

Amendment to SRMC Section 14.16.190- Height Bonus

As mentioned in the Background section, the SDBL now provides that developments that commit 100% of the units as units affordable to very low-, low-, and moderate-income households are eligible to a by-right height bonus of 33 feet. Staff is proposing an amendment to [SRMC section 14.16.190](#) -Height Bonus accordingly (Exhibit D). This amendment would add the following language:

- Residential Development projects that make 100% of the total units available to lower income households, and such development project is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the applicant shall be eligible for a height increase of up to 33 feet.

Amendment to SRMC Section 14.16.300- Small Lots

As discussed in the Planning Commission report, [SRMC section 14.16.300.A](#), adopted in 1992, establishes limits on development for lots under 5,000 square feet in area. Staff is proposing amendments to SRMC (Exhibit E) in an effort to remove barriers to housing production. This would require amendments to the following SRMC sections:

- [14.16.300.A](#). would be deleted, thus increasing possible development on small lots.
- [14.04.040](#) - Property development standards (DR, MR, HR). This section includes Table 14.04.040 which outlines the required development standards and special provisions identified as footnotes. Footnote ‘A’ makes reference to development limitations for small lots. This footnote would be deleted.
- [14.05.030](#) - Property development standards (GC, NC, O, C/O, R/O, FBWC). This section includes Table 14.05.030 which outlines the required development standards and special provisions identified as footnotes. Footnote ‘N’ makes reference to development limitations for small lots. This footnote would be deleted.

Amendment to SRMC Chapter 14.28- Appeals

Staff has developed an amendments to [SRMC Chapter 14.28 \(Appeals\)](#) to streamline the scheduling and action on an appeals (Exhibit F). This amendment would:

- Establish scheduling procedures
- Clarify public noticing requirements

The proposed amendment to the Appeal process has several benefits. First, it would streamline the time frame for the process. Scheduling an appeal and holding a public hearing can add two-four months to the Planning review process, as the scheduling of the appeal for a hearing is open to coordinating and negotiating date availability with numerous stakeholders. Second, the proposed amendment would provide the stakeholders, the decision-making body, and the public with a level of certainty as to the appeal hearing date when the appeal is filed.

Staff estimates that these changes to the appeals process will save the average project two months in the time it takes to receive a planning approval. At a savings of \$140,000 per month, the average project could save \$280,000 through the implementation of this policy.

Planning Commission Feedback on proposed Zoning Code Amendments to further streamline the review of residential projects.

The Planning Commissioners did not provide feedback regarding the proposed amendments to streamline the review of residential projects but did note its support for the proposed amendments.

E. Next Steps

Due to the scope of this report, the following table has been provided to summarize the key decision points and questions staff is seeking feedback and direction on:

Policy	Key Staff Questions
Inclusionary Housing	<ul style="list-style-type: none"> • Should the City allow developers expanded options to pay an affordable housing in-lieu fee instead of onsite units? • Should the City move forward with an inclusionary housing policy design with baseline and additional requirements, as proposed by staff? <ul style="list-style-type: none"> → If yes, at which levels should these requirements be set? → If no, how would City Council like the policy designed? • Should the City allow buyouts for entitled projects?
Density Bonus	<ul style="list-style-type: none"> • Comments or Concerns?
Formalize Design Review Subcommittee	<ul style="list-style-type: none"> • Should the City formalize the DRB subcommittee process replacing the DRB with the DRAC?
SRMC Amendments to Encourage Development and Streamline Approvals	<ul style="list-style-type: none"> • Comments or Concerns?

COMMUNITY OUTREACH:

As described in the Background section, in addition to the City Council meetings of August 20, 2018 and September 3, 2019, Staff held two evening public workshops dedicated to the housing topics and policies presented in the January 21, 2020 staff report:

- Housing Workshop #1 was held on November 3, 2019. This workshop: a) provided in-depth information on the current housing crisis; and b) focused on the recommended policy actions specific to the regulation/zoning and permit streamlining. Workshop attendance: 40.
- Housing Workshop #2 was held on November 14, 2019. This workshop: a) included a presentation on housing development financing and funding sources; and b) focused on the recommended policy actions specific to City’s inclusionary housing requirements and use of the City’s Affordable Housing Trust Fund. Workshop Attendance: 35

As part of the development of this information report, Staff developed a “Strawman” Draft Proposal of the Inclusionary Housing Policy to elicit feedback from interested stakeholders (Exhibit G). With this “Strawman,” staff conducted the following outreach:

- One-on-One meetings with interested community stakeholders.
- Presentations to Marin Environmental Housing Collaborative and San Rafael Chamber of Commerce Governmental Affairs Committee (including representative of the Marin Builders Association)

Feedback from this outreach informed the development of the policy scenarios proposed by staff. Additionally, the “Strawman” Draft proposal also included discussion of a “Housing Development Incentive Pilot Program.” Based upon feedback received during outreach, this “Pilot Program” has not been included in this informational report or in Exhibit G, as further analysis is needed.

Staff has also conducted a community survey through social media to collect high-level community feedback on affordable housing in-lieu fees. The results of this survey are currently being compiled and will be presented at the City Council meeting on September 8th, 2020.

The City distributed courtesy notices of this City Council meeting to all neighborhood associations and neighborhood advocates, housing advocates, local developers and other stakeholders at least 15 days prior to meeting. In addition, notice of the meeting was posted in the Marin IJ. Comments received prior to the distribution of this meeting are attached to this report. All public comments received to date are included as Exhibit H. Comments received subsequent to distribution of this staff report will be forwarded to the City Council by separate cover.

ENVIRONMENTAL DETERMINATION:

This report is provided for informational purposes and therefore will have no physical impact on the environment. The report is classified as a planning study, which qualifies for a Statutory Exemption from the provisions of the CEQA Guidelines under 14 CRR Section 15262.

FISCAL IMPACT:

This is an informational report, which has no direct fiscal impact on the City. The fiscal impact of any potential changes will be assessed and determined if changes are brought forward to the City Council for consideration and action.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Accept report and provide staff direction regarding proposed changes.
2. Direct staff to return with more information.
3. Take no action.

RECOMMENDED ACTION:

Accept report and provide staff direction regarding proposed changes.

EXHIBITS:

- A. Inclusionary Housing Pro-Forma Assumptions
- B. Proposed SRMC Amendments to 14.25.070 - Design review
- C. Proposed SRMC Amendments to 14.12.040 - Exceptions to property development standards
- D. Proposed SRMC Amendments to 14.16.190 - Height bonus
- E. Proposed SRMC Amendments to 14.16.300 & 14.04.040- Small Lots
- F. Proposed SRMC Amendments 14.28.040- Appeals
- G. "Strawman" Draft Proposal of the Inclusionary Housing Policy
- H. Public Comments

EXHIBIT A. Inclusionary Housing Pro-Forma Assumptions

Project Summary

	Low-Rise	Mid-Rise
Base Units	30	60
Density Bonus	20%	20%
Total Units	36	72
Overall Square Feet	38,527	77,739

Unit Mix

	Studio	1-Bed	2-Bed	3-Bed
% of Units	26%	32%	32%	10%
Unit Size (SF)	727	858	1,114	1,322

Rent

	Studio	1-Bed	2-Bed	3-Bed
Market Rate	\$2,828	\$3,479	\$3,857	\$5,174
120% AMI	\$3,005	\$3,434	\$3,864	\$4,293
80% AMI	\$2,003	\$2,290	\$2,576	\$2,862
50% AMI	\$1,252	\$1,431	\$1,610	\$1,789

Pro Forma

Site Area	1.00 acre
Parking Ratio	1.25 spaces per unit
Construction Costs	\$250 per square foot
Land Cost	\$7.5 M per acre
Vacancy Rate	5%
Operating Costs	20%
Construction Loan Interest Rate	5%
Loan to Cost Ratio	70%
Cap Rate	4.75%
Median Family Income	\$143,100 San Francisco, CA HUD Metro FMR Area

Assumptions were entered into the Inclusionary Housing Calculator provided by Grounded Solutions Network on July 27, 2020 available here: <https://inclusionaryhousing.org/calculator/>

EXHIBIT B..

Proposed SRMC Amendments to 14.25.070 – Design Review Board

Reference to the Design Review Board is mentioned in several sections of the SRMC. The following is a sampling of how the SRMC would be adjusted to reflect a restructuring of the DRB to an Design Review Advisory Committee model. Staff will provide a full list of amendments as part of a formal recommendation if directed to do so.

Deletions are shown as ~~strikethroughs~~

Additions are shown underlined

14.25.020 - Authority.

The planning commission, zoning administrator or community development director shall approve, conditionally approve or deny applications for environmental and design review permits. This authority is identified as follows:

- A. Major Environmental and Design Review Permit. The planning commission shall make determinations on environmental and design review applications for any major physical improvement listed under Section 14.25.040(A).
- B. Minor Environmental and Design Review Permit. The zoning administrator shall make determinations on environmental and design review applications for any minor physical improvement listed under Section 14.25.040(B), and one-time extensions to major and minor environmental and design review permit approvals. When, in the opinion of the zoning administrator, an applicant or a member of the public, any matter set forth in Section 14.25.040(B) does not meet the applicable review criteria set forth in Section 14.25.050, the application shall be forwarded to the design review ~~board~~ advisory committee for its recommendation. Requests for referral to the design review ~~board~~ advisory committee made by an applicant or member of the public must be made in writing within the public review period and prior to the conclusion of the zoning administrator's public hearing, and must set forth specific reasons why it is believed that the proposed design does not meet the applicable review criteria.

14.25.030 - Application.

- A. Initial Consultation. An initial consultation may be initiated by requesting an appointment with the community development director or a designated representative. Sketches of the design of a proposed structure or alteration should be submitted for informal staff review so that an applicant may be informed of the city's environmental and design review ~~board~~ policies prior to preparing detailed drawings.
- B. Conceptual Review Required. The applicant of a development subject to major environmental and design review shall submit an application for conceptual review by the design review ~~board~~ advisory committee. Conceptual review focuses on the conceptual design approach and gives both the design review ~~board~~ advisory committee and the applicant the opportunity to work together to achieve a quality design by providing an opportunity for the ~~board~~ advisory committee to identify and discuss relevant issues and indicate the appropriateness of the design approach. Submittal materials shall include a site plan, floor plans and building elevations with sufficient detail to convey the proposed design direction. The applicant's presentation should have a level of detail adequate to show the architect's analysis of the problem and to explain the proposed design solution. Conceptual review is optional for development subject to minor environmental design review.

14.25.060 - Public notice and hearing.

A. Major Environmental and Design Review Permit.

1. The planning commission shall hold a public hearing on an application for a major environmental and design review permit.
2. Notice of ~~design review board meetings and~~ planning commission hearings shall be given consistent with [Chapter 14.29](#), Public Notice.

B. Minor Environmental and Design Review Permit.

1. The zoning administrator shall hold a public hearing on an application for minor environmental and design review permit.
2. Notice of ~~design review board meetings and~~ zoning administrator hearings shall be given consistent with [Chapter 14.29](#), Public Notice.

C. Administrative Environmental and Design Review Permit. Public notice and hearing are not required for issuance of an administrative environmental and design review permit, except for development subject to Sections [14.14.030](#) and [14.25.040\(C\)\(19\)](#), modifications to properties in the EA overlay district, which shall comply with the notice provisions in [Chapter 14.29](#) of this title.

14.25.070 - Design review ~~board~~ advisory committee.

A. Purpose and Authority. The design review ~~board~~ advisory committee shall serve as an advisory body to the city for the purpose of reviewing ~~and formulating recommendations on~~ all major physical improvements requiring environmental and design review permits and on other design matters, including minor physical improvements or administrative design permits, referred to the design review advisory committee ~~board~~ by the community development director, planning commission or city council. The design review ~~board~~ advisory committee shall provide professional design analysis, ~~evaluation and judgment~~ as to the completeness, competence and appropriateness of development proposals for their use and setting ~~and to recommend approval, approval with conditions, redesign or denial based on design standards adopted by the city council.~~

B. Membership of the Design Review ~~Board~~ Advisory Committee. The design review ~~board~~ advisory committee shall consist of a total of ~~five (5)~~ two (2) regular members and may include one alternate member appointed by the city council. The design review ~~board~~ advisory committee shall be qualified as follows:

1. At least ~~two (2)~~ one (1) members shall be licensed architects or licensed building designers;
2. At least one member shall be a licensed landscape architect;
3. ~~At least one of the five (5) members shall have background or experience in urban design;~~
4. The alternate member may have qualifications in any of the above fields of expertise; and
5. All ~~board~~ advisory committee members shall reside in the city of San Rafael; ~~and~~
6. ~~In addition to the five (5) council-appointed board members and one alternate member, one planning commissioner shall attend board meetings. This liaison planning~~

~~commissioner shall be appointed by the commission chairperson. An additional commissioner shall be appointed to serve as an "alternate liaison" in case of absence. The planning commission liaison should be present at all design review board meetings to offer advice and direction to the board on matters of commission concern.~~

C. Alternate Member. The alternate member may temporarily fill a vacancy created when a regular member: (1) leaves office prior to completion of the member's term; (2) cannot attend a meeting; or (3) cannot participate on a particular matter due to a conflict of interest.

D. Term of Office. The term of office for each design review board advisory committee member shall be four (4) years. ~~Of the members of the board first appointed, one shall be appointed for the term of one year; one for the term of two (2) years; one for the term of three (3) years; and two (2) for the term of four (4) years. The term of office for the alternate board member shall be four (4) years concurrent with the term of the chairperson.~~

E. Removal or Vacancy of Membership. Any member of the board advisory committee or the alternate member can be removed at any time by a majority vote by the city council. A vacancy shall be filled in the same manner as the original appointment. The person appointed to fill a vacancy shall serve for the remainder of the unexpired term.

F. Meetings. At least one (1) regular design review board advisory committee meeting shall be held each month on a date selected by the advisory committee board, unless there is no business to conduct. The design review board advisory committee may adopt and amend as necessary, Rules of Order ensuring efficient and responsive board meetings.

G. Quorum. ~~Three (3)~~ two (2) of the members of the board advisory committee, either regular members or ~~two (2)~~ one (1) regular members and the alternate board member, shall be required to constitute a quorum for the transaction of the business of the board advisory committee and the affirmation vote of a majority of those present is required to take any action.

H. Compensation of the Design Review Board Advisory Committee. All members of the board advisory committee shall serve as such without compensation.

I. The design review board advisory committee may adopt, and amend as necessary, Rules of Order to ensure efficient and responsive board advisory committee meetings.

EXHIBIT C: Proposed SRMC Amendments to 14.12.040 - Exceptions to property development standards.

Deletions are shown as ~~strikethroughs~~

Additions are shown underlined

14.12.040 - Exceptions to property development standards.

~~City Council~~ Planning Commission Exception Required. Exceptions to the property development standards of this chapter may be approved by the ~~city council~~ planning commission, ~~upon the recommendation of the design review board and the planning commission,~~ when the applicant has demonstrated that alternative design concepts carry out the objectives of this chapter and are consistent with the general plan based on the following criteria:

A. The project design alternative meets the stated objectives of the hillside design guidelines to preserve the inherent characteristics of hillside sites, display sensitivity to the natural hillside setting and compatibility with nearby hillside neighborhoods, and maintain a strong relationship to the natural setting; and

B. Alternative design solutions which minimize grading, retain more of the project site in its natural state, minimize visual impacts, protect significant trees, or protect natural resources result in a demonstrably superior project with greater sensitivity to the natural setting and compatibility with and sensitivity to nearby structures.

EXHIBIT D. Proposed SRMC Amendments to 14.16.190 - Height bonus

Deletions are shown as ~~strikethroughs~~

Additions are shown underlined

14.16.190 - Height bonus.

- A. Downtown Height Bonuses. A height bonus may be granted by a use permit approved by the planning commission in the following downtown zoning districts. No more than one height bonus may be granted for a project.
1. In the Fourth Street retail core, a twelve-foot (12') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public courtyards, plazas and/or passageways, with the recommendation of the design review board that the public improvements are consistent with downtown design guidelines;
 - c. Public parking, providing it is not facing Fourth Street and it is consistent with the downtown design guidelines.
 2. In the Lindaro district, on lots south of Second Street and fronting Lindaro Street, a twenty-four-foot (24') height bonus for any of the following:
 - a. Park area adjacent to Mahon Creek, accessible to the public and maintained by the property owner;
 - b. Community facility, ten thousand (10,000) square feet or more in size. The facility must be available to the public for cultural and community events, and maintained and operated by the property owner.
 3. In the Second/Third mixed use east district, a twelve-foot (12') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public parking, providing it is consistent with the downtown design guidelines;
 - c. Skywalks over Second or Third Streets, with the approval of the traffic engineer, and the recommendation of the design review board;
 - d. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe.
 4. In the West End Village, a six-foot (6') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public parking, providing it is consistent with the downtown design guidelines;
 - c. Public passageways, with the recommendation of the design review board that the public passageway serves an important public purpose and is attractive and safe.
 5. In the Second/Third mixed use west district, on lots located on the north side of Third Street and east of C Street, an eighteen-foot (18') height bonus for the following:
 - a. Public parking, providing it is consistent with the downtown design guidelines.

- B. Lincoln Avenue Height Bonus. A twelve-foot (12') height bonus may be granted for affordable housing on Lincoln Avenue between Mission Avenue and Hammondale Ct., on lots greater than one hundred fifty (150') in width and twenty thousand (20,000) square feet in size, consistent with Section 14.16.030, (Affordable housing).
- C. ~~Marine~~-Marin Square Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing at the Marin Square and Gary Place properties, consistent with Section 14.16.030 (Affordable housing).
- D. North San Rafael Town Center Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing in the North San Rafael Town Center, consistent with Section 14.16.030 (Affordable housing).
- E. Hotel Height Bonus. A height bonus of twelve feet (12') may be granted for a hotel provided the planning commission finds that the hotel will be a significant community benefit and the design is consistent with design review board recommendations.
- F. Residential Development projects that make 100% of the total units available to lower income households, and such development project is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the applicant shall be eligible for a height increase of up to 33 feet.

EXHIBIT E. Proposed SRMC Amendments to 14.16.300 & 14.04.040- Small Lots

Deletions are shown as ~~strikethroughs~~

Additions are shown underlined

14.16.300 - Small lots.

Development of small lots shall be permitted in accordance with all the requirements of the district. Such development shall be considered conforming with the following additional limits in residential districts:

- A. ~~Vacant small lots less than five thousand (5,000) square feet in size shall be developed with only one unit in accordance with all the requirements of the district, and no additional units shall be added to developed small lots less than five thousand (5,000) square feet in size. Small downtown lots are exempt from this section; they shall be developed in accordance with all the requirements of the district.~~
- B. No small lot shall be further reduced in area or width, except as required for public improvements.
- C. Small lots which are contiguously owned are subject to the merger provisions of the State Subdivision Map Act.
- D. This section does not apply to the PD district.

14.04.040 - Property development standards (DR, MR, HR).

This section includes Table 14.04.040 which outlines the required development standards and special provisions identified as footnotes. In line with the amendments to section 14.16.300 the footnotes in this section would amended as follows:

- (A) ~~Outside of downtown, only one unit is permitted, and no additional units are permitted, on lots less than five thousand (5,000) square feet, per Section 14.16.300 (Small lots).~~
- (B) The minimum lot area for a boarding house is five hundred (500) square feet per guest room.
- (C) A density bonus may be granted, as provided for in Section 14.16.030 (Density bonus).
- (D) Where two (2) or more lots in a block have been improved with buildings, the minimum required shall be standard, or the average of improved lots on both sides of the street for the length of the block, whichever is less.
- (E) Where there is a driveway perpendicular to the street, any garage built after January 1, 1991, shall be set back twenty feet (20').
- (F) Parking and maneuvering areas, excluding access driveways, shall be prohibited in all required yards, per Section 14.18.200 (Location of parking and maneuvering areas) of this title.
- (G) In the DR and MR district, on a reverse corner lot, the rear twenty feet (20') of the street side shall have a fifteen-foot setback.
- (H) In the MR or HR districts, where development is adjacent to a single-family district, the rear yard setback shall be ten feet (10').

- (I) In order to provide adequate privacy and sunlight, additional separation may be required through design review.
 - (J) The height limit in the Latham Street neighborhood ranges from thirty feet (30') to thirty-six feet (36'). See the downtown height map for lot-specific information.
 - (K) A height bonus may be granted, as provided for in Section 14.16.190 (Height bonus).
 - (L) Private yard areas shall have a minimum dimension of six feet (6'). In the HR districts, common indoor area suitable for recreational uses may be counted toward the usable outdoor area requirement.
 - (M) Where a driveway is located in a side yard, a minimum of three feet (3') of buffer landscaping shall be provided between the driveway and side property line. The required rear yard shall be landscaped to provide a buffer.
- (N) Setback distances apply to areas that provide a primary pedestrian access only. benefit and the design is consistent with design review board recommendations.

EXHIBIT F. Proposed SRMC Amendments 14.28.040- Appeals

Deletions are shown as ~~strikethroughs~~

Additions are shown underlined

14.28.040 - ~~Public notice and hearing~~ Scheduling and noticing for a public hearing.

A. Public hearing required. The planning commission or city council, as the case may be, shall hold a public hearing on an appeal. At the public hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant, and any other interested party.

B. Public hearing scheduled. Following the timely filing of an appeal, said appeal shall be scheduled for the next available planning commission or city council meeting, as the case may be, and allowing sufficient time for giving notice pursuant to subsection (C) of this section and State law.

C. Public hearing N~~notice~~. Notice of a ~~public hearings~~ shall be given in the manner required for the decision being appealed, as set forth in SRMC Section 14.29.020.

Exhibit G- "Strawman" Draft Proposal of the Inclusionary Housing Policy

		Inclusionary Housing Requirements			
		Rental		For Sale	
		2-10 Units	11-20 Units	2-10 Units	11-20 Units
Existing Requirement	<p>10% BMR Minimum 50% of BMR units affordable to Very Low Income households; remainder affordable to Low Income households</p> <p>15% BMR Minimum 50% of BMR units affordable to Very Low Income households; remainder affordable to Low Income households</p>	<p>20% BMR Minimum 50% of BMR units affordable to Very Low Income households; remainder affordable to Low Income households</p> <p>15% BMR Minimum 50% of BMR units affordable to Very Low Income households; remainder affordable to Moderate Income households.</p>	<p>20% BMR Minimum 50% of BMR units affordable to Very Low Income households; remainder affordable to Low Income households</p> <p>15% BMR Minimum 50% of BMR units affordable to Low Income households; remainder affordable to Moderate Income households.</p>	<p>20% BMR Minimum 50% of BMR units affordable to Low Income households; remainder affordable to Moderate Income households.</p> <p>20% BMR Minimum 50% of BMR units affordable to Low Income households; remainder affordable to Moderate Income households.</p>	
Proposed New Inclusionary Requirement					
Baseline Requirement (All Projects)	<p>10% Low-Income In-lieu fee for fractional unit up to 0.5 Units, after 0.5 units they must provide one on-site unit</p> <p>5% Moderate Income Must provide at least one unit in each income category</p> <p>5% Very Low Income Must provide at least one unit in each income category</p>	<p>5% Moderate Income Must provide at least one unit in each income category</p> <p>5% Very Low Income Must provide at least one unit in each income category</p>	<p>10% Low-Income In-lieu fee for fractional unit up to 0.5 Units, after 0.5 units they must provide one on-site unit</p> <p>5% Moderate Income Must provide at least one unit in each income category</p> <p>5% Low Income Must provide at least one unit in each income category</p>	<p>5% Moderate Income Must provide at least one unit in each income category</p> <p>5% Low Income Must provide at least one unit in each income category</p>	
Additional Requirement (Must choose one option below in addition to the Baseline Requirement)					
Option 1) On-site	No Requirement	<p>5% Low Income, must provide at least one unit</p> <p>or</p> <p>10% for Moderate Income, must round up for fractional units</p> <p>or</p> <p>15% Low Income</p>	<p>10%- Half Very Low Income & Half Low Income, must round up for fractional units but rounded unit can be in the higher income category.</p> <p>or</p> <p>5% Extremely Low Income, must provide at least one unit</p>	<p>5% Low Income, must provide at least one unit</p> <p>or</p> <p>10%- Half Low Income & Half Moderate Income, must round up for fractional units but rounded unit can be in the higher income category.</p> <p>or</p> <p>15% Moderate Income</p>	
20% Moderate Income					
Option 2) Offsite	No Requirement	<p>* Must be within 1/2 mile of project</p> <p>* Must have same economic benefit</p> <p>* Requires Director approval</p>	<p>* Must be within 1/2 mile of project</p> <p>* Must have same economic benefit</p> <p>* Requires Director approval</p>	<p>* Must be within 1/2 mile of project</p> <p>* Must have same economic benefit</p> <p>* Requires Director approval</p>	
Option 3) Land Conveyance	No Requirement	<p>* Must be developable</p> <p>* Must have same economic benefit</p> <p>* Requires Director approval</p>	<p>* Must be developable</p> <p>* Must have same economic benefit</p> <p>* Requires Director approval</p>	<p>* Must be developable</p> <p>* Must have same economic benefit</p> <p>* Requires Director approval</p>	
Option 4) In-Lieu Payment	Allowed for Fractional Units	<p>Allowed for all fractional units</p> <p>Payment equal to 10% of Total units</p>	<p>Allowed for all fractional units</p> <p>Payment equal to 10% of Total units</p>	<p>Allowed for all fractional units</p> <p>Payment equal to 10% of Total units</p>	

* Extremely Low Income- 30% AMI or lower, Very Low Income- 50% AMI or lower, Low Income- 80% AMI or lower, Moderate Income- 50% AMI or Lower