



MARIN ORGANIZING COMMITTEE (MOC)

December 3, 2020

San Rafael City Council
1400 Fifth Avenue
San Rafael, CA 94901

Dear Councilmembers:

The Marin Organizing Committee (MOC) is a broad-based member organization of 23 Marin County institutions that was founded in 2009. Our network of institutions include faith-based, non-profits, such as Legal Aid of Marin, Marin Community Clinics, and civic organizations.

We are writing concerning the City of San Rafael's consideration of proposed changes to the San Rafael Municipal Code designed to encourage development and streamline approval of housing. Specifically, we wish to address the proposed changes to the Inclusionary Housing Requirements and Density Bonus.

Inclusionary housing zoning programs were first developed in the late 60's and early 70's for two purposes: (1) to provide affordable housing and (2) to exclude discrimination in market rate projects. Historically, affordable housing projects were part of the social safety net, but in Marin County the definition of "low income" for a family of four requires earning **\$117,400** a year, and "very low income" is considered **\$73,300**. Therefore, more and more people who are middle income wage earners are struggling in San Rafael and Marin County to afford a decent place to live.

The City of San Rafael has had ordinances related to affordable housing requirements since the late 1980's. In 2010 the City of San Rafael adopted an affordable housing requirement (inclusionary housing). This ordinance states that affordable housing units are required in new housing developments. Specifically, "for projects containing 2-10 housing units the inclusionary requirement is 10%. For projects containing 11-20 housing units, the requirement is 15%, and for projects with 21 or more units, the requirement is 20%." It is also important to note that these new affordable housing units must remain affordable for the longest feasible time or at least for 55 years.

In January and August of 2020, the City staff presented an informational report and recommendations to the City Council and to the Planning Commission. City of San Rafael proposes to amend its long-standing policy of requiring new residential developments to offer 20% of the new units at prices affordable to very-low, low, and moderate-income households. A study commissioned by the City concludes that the 20% rate makes projects infeasible. The study finds that certain mid-rise projects would not be feasible with a 15% inclusionary requirement. These projects would also “pencil” at the 15% rate with adjustments to the mix of affordable units. The Planning Commission has endorsed a draft policy that would set the inclusionary rate at 10% with an option to pay a fee in lieu of building half of the required affordable housing units.

MOC advocates that San Rafael set the inclusionary rate at 15% for most projects for the following reasons:

1. San Rafael is failing to meet its housing goals and should maximize its effort to achieve its RHNA allocation, especially for affordable housing. The city has met only 2% of its very low-income goal, 53% of the low-income goal, 6.6% of the moderate goal, and 46% of the market rate goal.
2. The proposed inclusionary rate of 10% not only cuts the current formula in half, it also eliminates the requirement to include any very low-income units, the category in which San Rafael has the least success and the need is greatest.
3. The September 8, 2020 staff report concludes (Tables 5 and 6, on pages 6 and 7) that a 15% inclusionary rate is financially feasible, yielding better than 15% profits and supporting very low-, low-, and moderate-income units in three out of four scenarios. The one exception is mid-rise projects supporting very low and or low-income inclusionary units. The inclusionary formula for this scenario can be effectively adjusted by changing the percentage inclusionary rate or the income mix (such as substituting moderate rate units for low-income units).
4. Payment of in-lieu fees should be allowed only for exceptional circumstances. We have the following concerns:
 - A. Paying a fee in-lieu of providing housing on site effectively excludes lower income households who would otherwise have the opportunity to live in housing they could afford. There is no legitimate reason for a project sponsor to exclude lower income households from a project when the inclusionary rate allows the sponsor a reasonable profit. Allowing the project sponsor to pay an in-lieu fee continues the pattern of economic exclusion, whether intentional or not.
 - B. The history of in-lieu fees is that they sit in the Affordable Housing Fund for extended periods – years in some cases – and lose value. In the meantime, needy families or individuals could have been occupying the affordable units that did not get built.
 - C. The contention that in-lieu fees can be leveraged to support affordable housing projects is not supported in Marin. To our knowledge, no affordable housing project that has secured zoning approvals in Marin has failed to move forward due to a lack of funds.

- D. The affordable housing impact fee, paid by non-residential projects, remains as a solid resource for the Affordable Housing Fund.

The staff report states that unspecified number of approved projects have not been built, and that project sponsors claim that the projects are not financially feasible, due to the inclusionary requirement. MOC would like to request that the City of San Rafael provide information on all of these projects to allow for full transparency to understand if this is indeed the case.

When developers are granted the right to do business in this community, they also gain other benefits: (1) additional height or density; (2) reduced parking requirements; (3) fast-tracked processing; (4) fee waivers or tax benefits. Developers of apartment buildings are not in a “zero sum” game. “Inclusionary housing is a value exchange between the local jurisdiction and developers. Viewed this way it is a fair deal for developers.” (Sasha Hauswald, Grounded Solutions Network, 2017)

While we understand the rationale behind modifying the various existing San Rafael regulations, the City should not allow project sponsors the option of reducing the inclusionary housing ordinance by such a large percentage. What makes the city of San Rafael special is its diversity, and a continued commitment to include lower income and minority households in every neighborhood. Setting the inclusionary rate at 15% is the best option.

Sincerely,
Judith Bloomberg
Congregation Rodef Sholom

Jeff Bialik
Marin Interfaith Council