REPORT TO THE REGIONAL PLANNING COMMISSION

DATE ISSUED: April 16, 2020
MEETING DATE: April 29, 2020
AGENDA ITEM: 7
PROJECT NUMBER: R2020-000601
PROJECT NAME: Inclusionary Housing Ordinance
PLAN NUMBER(S): RPPL2020001004, RPPL2020001006
SUPERVISORIAL DISTRICT: 1 - 5
PROJECT LOCATION: Countywide
PROJECT PLANNER: Ayala Scott, Senior Planner
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RECOMMENDATION

The Department of Regional Planning staff (“Staff”) recommends the Regional Planning Commission adopt the attached resolution (Exhibit A) recommending APPROVAL to the Los Angeles County Board of Supervisors (“Board”) the Inclusionary Housing Ordinance, Plan No. RPPL2020001004, and Environmental Assessment No. RPPL2020001006.

Staff recommends the following motion:

I MOVE THAT THE REGIONAL PLANNING COMMISSION CLOSE THE PUBLIC HEARING, AND, FIND THAT THE ADDENDUM TO THE CERTIFIED FINAL EIR FOR THE GENERAL PLAN UPDATE, ENVIRONMENTAL ASSESSMENT NO. RPPL2020001006 HAS BEEN PREPARED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

I ALSO MOVE THAT THE REGIONAL PLANNING COMMISSION ADOPT THE ATTACHED RESOLUTION RECOMMENDING APPROVAL TO THE LOS ANGELES COUNTY BOARD OF SUPERVISORS THE INCLUSIONARY HOUSING ORDINANCE, PLAN NO. RPPL2020001004, WITH THE REVISIONS RECOMMENDED BY STAFF.
PROJECT DESCRIPTION

A. Project

Plan No. RPPL2020001004 is a proposed ordinance amending Title 22 (Planning and Zoning) of the Los Angeles County Code (County Code) to require certain new residential projects to provide affordable housing units. The goal of inclusionary housing programs is to create mixed income housing projects while ensuring the financial feasibility of multifamily development. The inclusion of affordable housing in new market-rate development addresses the shortage of affordable housing. The data on housing cost burden in Los Angeles County illustrates the magnitude of the need for affordable housing. Most renter households pay more than 30% of their income on rent. 31% of renter households pay more than half of their income on rent. Homeowners are also housing cost burdened. Nearly half of homeowners with a mortgage pay more than 30% of their income on their mortgage. Lower income renters are particularly vulnerable, as they are more likely to lose access to housing or forgo spending on food, transportation, and health care to pay rent.

Inclusionary housing is also a strategy for the County to meet its Regional Housing Needs Allocation (RHNA). The County’s RHNA for the next cycle (2021-2029) will be the largest the County has been allocated. The current draft of the RHNA assigns the County 89,849 units, with the majority of those units required to be affordable (25,583 for very low income households; 13,662 for lower income households; 14,152 for moderate income households). Due to the Statewide housing crisis, the State recently passed legislation to enable better enforcement RHNA and local housing element requirements. Inclusionary housing will help the County meet the housing element goal to increase housing choices for all economic segments of the population.

As inclusionary housing is a strategy for encouraging development of affordable housing, it is also a key strategy in addressing the homelessness crisis. The most recent homeless count for the County (2019) was 58,936, which was a 12% increase from 2018. Nationally, the County’s homeless count is surpassed only by New York City (78,604). However, when comparing the count of unsheltered people, the County far exceeds New York City. 3,622 people were unsheltered in New York City, while 44,214 were unsheltered in the County.

Inclusionary housing also presents a unique opportunity to develop more equitably, increasing economic integration by providing opportunities for low income households to live in high resource neighborhoods.

Nationally, there are close to 900 jurisdictions with inclusionary housing programs, 170 of which are located in California. In Los Angeles County, there are 11 jurisdictions with inclusionary housing programs. Santa Monica and West Hollywood have longstanding programs, established in 1983 and 1986 respectively. With many jurisdictions grappling with the housing crisis, there is recent interest in inclusionary
housing. Glendale adopted an inclusionary housing program last year. Long Beach has been working on an ordinance and began the public hearing process in February 2020. South Pasadena has initiated community workshops to discuss the potential of an inclusionary housing program.

Inclusionary housing program components include program structure, applicability, requirements, alternatives and incentives. Due to the variety of options for different policy components, no two inclusionary housing programs are alike. However, there are some similarities in specific components. Of the 11 jurisdictions that have inclusionary housing programs in the County, nine require affordable housing in both for-sale and rental projects. And of the 11 jurisdictions that have inclusionary housing programs in the County, eight have a project minimum size of five or fewer units.

The proposed Ordinance amends Title 22 (Planning and Zoning) of the County Code to:

- Require for-sale and rental housing projects of five or more units to provide affordable housing units at specified percentages and at costs and rents affordable to a range of specified income levels;
- Establish submarket areas to accommodate differences in the real estate market in different geographic areas of the County, to inform the set-aside requirements and for the planned regular re-evaluation of the affordable housing requirements;
- Provide flexibility by establishing ‘middle income’ as an income category eligible to satisfy inclusionary housing requirements for for-sale projects, and enable eligibility of projects with middle income set-asides to receive an incentive and a waiver or reduction of a development standard;
- Create the program structure, including but not limited to: duration of affordability, comparability of set-aside and non-set-aside units, and an option to provide the affordable units off-site;
- Align the density bonus program with inclusionary housing to enable developers to off-set the cost of the affordable housing requirement, and to ensure consistency of policy and ease of implementation;
- Reserve right of first refusal to the County, or a County-designated agency or nonprofit when the initial buyer of an affordable home created through the Ordinance sells their home;
- Require the County to evaluate the affordable housing requirements and the submarket area boundaries every five years; and
• Add references to the Inclusionary Housing Ordinance for internal consistency.

B. Project Background

In December 2015, the Board approved a motion to initiate the Equitable Development Work Program, which included an instruction to the Department of Regional Planning (“Department”) to provide a menu of options for the implementation of an inclusionary housing program. In February 2016, the Board approved the Homeless Initiative. Strategy F of the Homeless Initiative is a suite of strategies to increase the production of affordable housing, including inclusionary housing. The County subsequently funded an analysis to evaluate the financial feasibility of imposing inclusionary housing requirements on residential development in the unincorporated areas of the County.

The inclusionary housing analysis (Exhibit D) was completed January 2018 and provided the preliminary framework for the Ordinance. It established the boundaries of six submarket areas in unincorporated County based on geography and the housing market: Antelope Valley, Coastal South Los Angeles, East Los Angeles/Gateway, San Gabriel Valley, Santa Clarita Valley, and South Los Angeles. Coastal Islands and Santa Monica Mountains are excluded because there is limited potential for residential development in these areas. Within each submarket area, a financial analysis was conducted to understand whether an inclusionary housing requirement can be supported for each of three residential types (single family homes, condominium, and apartments), and if so, what level of requirement can be supported. The outcome was a range of set-asides that could be financially sustained for each residential type in each submarket area.

In response to the study, the Board approved a motion in February 2018 instructing the Department to prepare an inclusionary housing ordinance that considers applicability to both for-sale and rental housing projects, inclusionary requirements tied to different income categories, and options for applicants to fulfill this obligation, which could include, but are not limited to, an in-lieu fee, off-site development, the dedication of land for the development of affordable housing, and the acquisition and rehabilitation of existing affordable housing units.

On January 9, 2019, staff presented an overview of policy options for the Ordinance to the RPC. On April 17, 2019, staff presented the preliminary draft policy outline for the Ordinance to the RPC. Both presentations and discussions were part of an ongoing forum for the RPC to stay informed and give feedback on the Department’s efforts to address the housing and homelessness crises in the unincorporated areas of the County.

Prior to finalizing the Ordinance, the Department worked with an economic consultant to prepare a supplemental analysis (Exhibit E), updating real estate market assumptions and evaluating a broader range of affordability levels for multifamily rental housing; and further evaluating smaller prototypes that are more reflective of
the size of multifamily rental residential projects being built in unincorporated areas of the County.

C. Major Elements and Key Components

The Public Hearing Draft Ordinance (Exhibit A) includes the following components:

**Set-aside requirements, rental projects:** The Ordinance requires rental projects with five or more baseline dwelling units to set aside units for extremely low, very low or lower income households. To ensure the financial feasibility of projects, the Ordinance establishes:

- Three set-aside options, ranging from 5% to 20% of the unit count depending on the affordability level of the units and the project size;
- Options that include the ability to mix incomes to meet set-aside requirements; and
- Lower set-aside options to address the unique circumstances of smaller development projects (less than 20 baseline dwelling units).

**Set-aside requirements, for-sale projects:** The Ordinance requires for-sale projects of five or more baseline dwelling units to set aside units for moderate or middle income households. Middle income is a new category created by this Ordinance to support the feasibility of the requirement, and to encourage development of middle income (workforce) homeownership opportunities. To further ensure the financial feasibility of for-sale projects, the Ordinance establishes:

- Set-asides by submarket area based on the ranges determined to be financially sustainable for each submarket area;
- An affordability requirement that may be satisfied by the average income of the set-aside units; and
- Lower set-aside options to address the unique circumstances of smaller projects (less than 20 baseline dwelling units).

**Exceptions:** Rental projects in the Antelope Valley, East Los Angeles/Gateway, and South Los Angeles submarket areas, and condominium projects in the Antelope Valley and South Los Angeles submarket areas, are not required to provide affordable housing set-asides. These set-asides could not be supported by the feasibility analyses due to lack of comparable data on condominium development in the Antelope Valley and South Los Angeles, as well as results from the supplemental
analysis that showed economic infeasibility of rental set-aside requirements in all three submarket areas.

**Assessment:** The Ordinance is intended to be regularly updated over time. Accordingly, the Ordinance requires the County to re-evaluate the set-aside requirements and the boundaries of the submarket areas every five years in order to maintain the financial feasibility of the inclusionary housing requirements amidst neighborhood and housing market change.

**Meaningful Incentives:** The Ordinance requires the set-aside calculation to be based on the number of baseline dwelling units, which enables developers with extremely low, very low, low and moderate income set-asides to utilize the County’s density bonus program, which provides incentives, waivers, or reductions of development standards, and/or parking reductions, in order to off-set the cost of the affordable housing requirement.

Development of middle income housing incurs less cost than extremely low, very low, lower and moderate housing. Accordingly, the Ordinance provides just one incentive and one waiver or reduction of development standard for a project that sets aside units for middle income households, if the project is not eligible for the density bonus program.

**Flexible Alternatives:** Rather than building the units as part of the primary project, developers may choose to provide the affordable housing units off-site, if the off-site location is one of the following:

- Within an unincorporated area and within one-quarter mile of the principal project site;

- Within a Highest, High, or Moderate Resource Area, as determined by the State Tax Credit Allocation Committee and State Department of Housing and Community Development;

- Within an area with known displacement risk based on evidence to the satisfaction of the Department; or

- Developed as part of a community land trust.

Off-site affordable set-aside units must be entitled and permitted prior to or concurrently with the units in the principal project. The Ordinance revises the density bonus program to also include the off-site set-aside option to ensure consistency.

The Inclusionary Housing Ordinance is designed to ensure that affordable units are built concurrently with market-rate units, and that the full value of the set-aside is achieved. An in-lieu fee option would not cover the full cost of constructing an
affordable unit, and would not result in affordable unit construction until the funds were allocated. For this reason, an in-lieu fee option is not included.

A land donation is also not provided as an off-site fulfillment option in the Inclusionary Housing Ordinance. While land donation has been a longstanding option available under the State Density Bonus Law, no land donation projects have ever occurred in the County for this purpose. Furthermore, in order to realize the full value of a land donation set-aside, the land would have to be zoned and designated with a sufficient residential density, or combined with an in-lieu fee to account for the full value of the required donation. Similarly, acquisition and rehabilitation is challenging to quantify for the purposes of establishing a supportable set-aside.

**Comparability:** The Ordinance establishes requirements for comparability of set-aside and non-set-aside units for inclusionary projects, including: interior and exterior finishes, access to building amenities, distribution of set-aside units within the project, and the clarification that set-aside units in a for-sale project must be for sale.

**Right of first refusal:** When the initial qualified buyer of a for-sale unit sells their home, the Ordinance reserves the right of first refusal for the County, a County-designated agency, or a qualified nonprofit for the purpose of sale or rental to eligible households.

**Density bonus consistency:** Since projects that are subject to this Ordinance may utilize the benefits of the County’s density bonus program, key components of the two programs are aligned in the following ways to streamline project review:

- Five baseline dwelling units as the project threshold for both the inclusionary requirement and density bonus eligibility;
- 55 years duration of affordability for rental set-aside units in both programs;
- Equity sharing with the County required for for-sale set-aside units in both programs;
- Set-aside units required by this Ordinance also count toward the set-aside provided for density bonus;
- Same permit review process, covenant, and monitoring requirements in both programs; and
- Same requirement for comparability of the bedroom mix between set-aside units and non-set-aside units in both programs.
GENERAL PLAN CONSISTENCY

The Ordinance is consistent with the following applicable goals and policies of the General Plan:

- **Goal HE 1:** A wide range of housing types in sufficient supply to meet the needs of current and future residents, particularly for persons with special needs, including but not limited to low income households, seniors, persons with disabilities, large households, single-parent households, the homeless and at risk of homelessness, and farmworkers.

- **Policy HE 1.2:** Mitigate the impacts of governmental regulations and policies that constrain the provision and preservation of housing for low and moderate income households and those with special needs.

- **Policy HE 1.3:** Coordinate with the private sector in the development of housing for low and moderate income households and those with special needs. Where appropriate, promote such development through incentives.

- **Goal HE 3:** A housing supply that ranges broadly in housing costs to enable all households, regardless of income, to secure adequate housing.

- **Policy HE 3.1:** Promote mixed income neighborhoods and a diversity of housing types throughout the unincorporated areas to increase housing choices for all economic segments of the population.

- **Policy HE 8.1:** Support the distribution of affordable housing, shelters, and transitional housing in geographically diverse locations throughout the unincorporated areas, where appropriate support services and facilities are available in close proximity.

- **Goal LU 4:** Infill development and redevelopment that strengthens and enhances communities.

- **Goal LU 9:** Land use patterns and community infrastructure that promote health and wellness.

ENVIRONMENTAL ANALYSIS

An Addendum to the certified Los Angeles County General Plan Update Final Environmental Impact Report (EIR) (State Clearinghouse No. 2011081042) was prepared in compliance with the California Environmental Quality Act (CEQA) and the County environmental guidelines. The Addendum concluded that the Ordinance as proposed would not result in any increased or additional environmental impacts beyond those that were analyzed in the General Plan Update EIR, and therefore concluded that a
supplemental environmental analysis is not required. A copy of the Addendum is attached (Exhibit C Environmental Determination).

CONSISTENCY WITH AIRPORT LAND USE COMPATABILITY PLAN

Pursuant to Section 1.5.1 of the Airport Land Use Commission (ALUC) Review Procedures, all zoning ordinances must be reviewed by ALUC for consistency with the airport land use compatibility plan, if the ordinance covers projects that are potentially impacted by safety, noise, or overflight annoyance involving aircrafts on or near airports, or that may interfere with airspace protection, as listed in Section 1.4.1 of the same Review Procedures. ALUC Staff reviewed the Inclusionary Zoning Ordinance and determined that it does not pose any compatibility concerns with the three County Airport Land Use Plans. The Inclusionary Zoning Ordinance by itself does not increase density in zones where residential uses are allowed, nor modify the existing land use designations established by a general plan, and therefore does not involve an area of concern from an airport compatibility perspective.

OUTREACH AND ENGAGEMENT

A. County Department Comments and Recommendations

The Los Angeles County Development Authority (CDA) was consulted during the Ordinance’s development. Specifically, the Department met with CDA to discuss the Ordinance five times in 2018-2019. Other County departments and agencies, including Public Works, Fire, Public Health, and Parks and Recreation, also reviewed the Draft Ordinance. The Public Hearing Draft Ordinance reflects input received from the departments and agencies. After the release of the Public Hearing Draft Ordinance, staff continued discussion of the Ordinance with CDA.

B. Project Outreach and Engagement

Outreach for the Project includes: presentations to the Building Industry Association on September 2, 2018, January 24, 2019, and April 30, 2019; a presentation to the Los Angeles County Business Federation on January 30, 2019; a focus group of building industry stakeholders on February 11, 2019, and March 27, 2019; a focus group of affordable housing stakeholders on February 13, 2019 and April 3, 2019; a presentation at the County Equity Stakeholder Committee on April 9, 2019; and numerous one-on-one meetings with stakeholders.

Additionally, in 2019, staff conducted a series of presentations on the Department’s housing initiatives, including this Ordinance, at community group meetings for the following unincorporated areas: Acton, Altadena, Antelope Valley, Avocado Heights, Chatsworth Lake Manor, Crescenta Valley, East Los Angeles, Florence-Firestone, Hacienda Heights, Lennox, and Rowland Heights. In total, these presentations reached an estimated 500 residents. The Department also mailed postcards about the housing initiatives to approximately 54,000 property owners, and sent email notice of the housing initiatives to a housing policy courtesy list that includes more than 1,000
stakeholders. In March 2019, the Draft Inclusionary Housing Policy Outline was posted online. In September 2019, the Preliminary Draft Inclusionary Housing Ordinance was posted online. Furthermore, staff presented the Preliminary Draft at the Health Innovation Community Partnership in East Los Angeles on January 2, 2020.

The Department sent a courtesy RPC public hearing notice (Exhibit F) by email to more than 1,000 stakeholders. The Department also noticed the RPC public hearing in 11 local newspapers, including the Spanish-language newspaper La Opinión. The Department was prepared to make copies of the public hearing notice and hearing materials available at all County libraries and Altadena Library. However, the closure of libraries due to the Coronavirus pandemic prevented this courtesy public access practice.

C. Public Comments

Staff received one letter in opposition to the project, from Tim Piasky, CEO of the Building Industry Association of Southern California, Los Angeles/Ventura Chapter. The Department acknowledges the concern regarding hearing the Ordinance during the COVID-19 crisis. However, the Department is committed to presenting the Ordinance to the Regional Planning Commission to receive feedback.

See Exhibit G for a copy of the correspondence.

ADDITIONAL STAFF RECOMMENDATION

For clarification purposes, Staff recommends the following revisions to the Public Hearing Draft Ordinance:

22.121.030 Applicability.
Notwithstanding any contrary provisions in this Title 22, the provisions of this Chapter, in conjunction with Chapter 22.166 (Housing Permits), apply to all housing developments, excluding mobilehome parks and including projects to substantially rehabilitate and convert an existing commercial building to residential uses, or the substantial rehabilitation of an existing multifamily dwelling, as defined in Section 65863.4 (d) of the California Government Code, where the result of the rehabilitation would be a net increase in available dwelling units, that meet all of the following:

…

22.121.050 Affordable Housing Set-Aside.

…

C. Calculation.

…
2. **Density Bonus.** The affordable housing set-aside required in this Section may count toward inclusionary housing requirement is inclusive of the affordable housing set-aside provided in Section 22.120 (Density Bonus).

... also, to address CDA’s comment on the frequency of updating the feasibility assessment amidst neighborhood and housing market change, Staff recommends the following revision to Section 22.121.070 (County Feasibility Assessment) of the Public Hearing Draft Ordinance:

*To ensure consistency with long term economic trends, the County shall evaluate the appropriateness of the affordable housing set asides in Table 22.121.050-A and Table 22.121.050-B and evaluate the boundaries of the submarket areas every five years from the effective date of this Chapter. The evaluation may be conducted more frequently as deemed appropriate by the Director of Regional Planning.*

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**LIST OF ATTACHED EXHIBITS**

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<td>B</td>
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<td>C</td>
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