City of Long Beach
Working Together to Serve

Memorandum

Date: July 5, 2019

To: Patrick H. West, City Manager T.M.

From: Linda F. Tatum, Director of Development Services LT

For: Mayor and Members of the City Council

Subject: **Inclusionary Housing Policy – Economic Feasibility Analysis**

In May 2017, the City Council adopted 29 policy recommendations to support the production of affordable and workforce housing. This memorandum provides an update on Policy 3.2, the development of an Inclusionary Housing policy to enhance the production of affordable and mixed-income housing citywide.

To assist with this effort, staff contracted with LeSar Development Consultants and Estolano LeSar Perez Advisors (LeSar), and their sub-consultants, Keyser Marston Associates (KMA) and The Robert Group (TRG). LeSar and its sub-consultants have conducted a review and analysis of real estate market conditions; local programs, policies, and regulations related to land use and development; existing affordable housing and other development incentives; and, economic development initiatives.

KMA recently completed an Inclusionary Housing: Financial Evaluation (Economic Analysis). The Economic Analysis provides the financial bases for development of an Inclusionary Housing policy, and does the following:

- Evaluates the potential impacts created by the imposition of inclusionary Housing requirements;
- Determines the economic feasibility of an Inclusionary Housing policy in the Long Beach marketplace, including the feasibility of requiring mandatory affordable housing production as a percentage of new residential units constructed in any new residential development project; and,
- Estimates the fee amounts that can be supported for projects where developers are permitted to pay a fee in lieu of producing new affordable housing units.

Two key factors should be considered when creating an Inclusionary Housing policy:

1. The requirements should balance the full complement of development costs and the public benefit created by the production of income restricted units; and,
2. The requirements may not be confiscatory or deprive an owner of a fair and reasonable return on her/his investment.

State Requirements and Restrictions

The Economic Analysis includes an overview of existing Inclusionary Housing programs in 64 other California jurisdictions, key court cases that impact Inclusionary Housing policy, and recently-adopted California Law regulating Inclusionary Housing policy (Government Code), including:

- *Palmer/Sixth Street Properties L.P. v. City of Los Angeles* (Palmer), resulting in a 2009 California Court of Appeals ruling that local affordable housing requirements being imposed by the City of Los Angeles at that time violated the Costa-Hawkins Rental Housing Act (Costa-Hawkins), which is commonly believed to have prohibited jurisdictions from requiring developers to construct affordable rental residential units as part of their Inclusionary Housing programs;

- *California Building Industry Association v. City of San Jose* (San Jose), resulting in a 2015 California Supreme Court ruling that Inclusionary Housing programs should be viewed as use restrictions -- a planning tool, rather than an exaction—that are a valid exercise of a jurisdiction's zoning powers. This is interpreted to mean that any in-lieu fee payment option included in an Inclusionary Housing program is not subject to State of California nexus study requirements under its "Mitigation Fee Act" provided such requirements are not deemed "confiscatory" and do not deprive any property owner of a fair and reasonable return on her/his investment;

- *Assembly Bill 1505 (AB 1505)*, which was signed into law on September 29, 2017, is regarded as the "Palmer Fix" because it provides jurisdictions with the ability to adopt programs that require rental residential projects to include a defined percentage of affordable housing units. AB 1505 authorizes the State Department of Housing and Community Development (HCD) to review restrictions imposed by any Inclusionary Housing program that requires more than 15 percent of the units produced in a given project to be restricted to households earning less than 80 percent of the area median income (AMI) and either of the following conditions applies:
  - The jurisdiction has failed to meet at least 75 percent of its Regional Housing Needs Assessment (RHNA) allocation for above-moderate income units, as measured on a pro-rated basis over the planning period, set at a minimum of five years; or
  - HCD finds that the jurisdiction has not submitted their housing element report for at least two consecutive years.

- *California Government Code Section 65915 (Section 65915)*, requiring jurisdictions to provide density bonuses between 5 percent and 35 percent depending on the magnitude of Inclusionary percentages being imposed. After a 2013 First District Court of Appeal ruling, developers must be allowed to use the same affordable units to fulfill both the Inclusionary Housing requirements and the Section 65915 requirements, if the more stringent of the two programs' requirements are applied and thereby materially reduce the financial impacts created by Inclusionary Housing requirements; and,

- *California Government Code Section 65583(a)*, requiring jurisdictions to identify and remove all constraints to development, which may include the imposition of Inclusionary Housing requirements in areas where residential development has been stagnant over the medium to long term and as a result the requirement could be considered "confiscatory."

Methodology

Unmet Housing Needs (RHNA)

A basic premise of the Economic Analysis is that any Inclusionary Housing policy enacted by the City should not place an onerous financial burden on the developers of market rate housing. It is equally important to recognize that an Inclusionary Housing policy can only be expected to fulfill a small portion of the unmet need for affordable housing in Long Beach. The state-mandated Regional Housing Needs Assessment (RHNA), in the table below, identifies that unmet need with the caveat that the City has determined that household overcrowding and over payment issues effectively increase this unmet need.

City of Long Beach RHNA Statistics as of December 2017

			Remaining RHNA Obligation	
Income Category	Total RHNA Obligation – 2013 - 2021	Building Permits Issued	Total	%
Very Low	1,773	269	1,504	85%
Low	1,066	53	1,013	95%
Moderate	1,170	0	1,170	100%
Above Moderate	3,039	1,328	1,711	56%
Totals	7,048	1,650	5,398	77%

Submarket Identification

The Economic Analysis found that the Downtown and Midtown areas of the City have been experiencing robust residential development activity since the 2008 global real estate recession wound down, yet no significant new residential development has occurred in other areas of the City over multiple real estate cycles. A significant majority of the residential developments outside of Downtown and Midtown were built prior to 2000. This difference in development activity led KMA to identify Downtown and Midtown as a single submarket (Submarket #1) and all other parts of Long Beach collectively as a separate submarket (Submarket #2). A submarket map is depicted in Attachment A.

Submarket #1. This area of Long Beach showed high levels of both recent and anticipated future development, which made a financial feasibility evaluation of Inclusionary Housing requirements in Downtown and Midtown possible due to the existence of this recent sales and construction data to be used for analysis purposes.

Submarket #2. This area of Long Beach lacks recent or anticipated future development. This suggests that within the context of Section 65583(a) requirements, the imposition of Inclusionary Housing requirements in Submarket #2 may be considered a constraint to development and prompt HCD intervention. Consequently, for Submarket #2, KMA created incentive-based Inclusionary Housing policy guidelines for the City's consideration.

Residential Development Prototypes and the "Affordability Gap"

The Economic Analysis was designed to utilize residential development prototypes based on the results of KMA's own market surveys and a review of recently-constructed projects in Submarket #1. KMA quantified the potential financial impact associated with fulfilling inclusionary housing requirements within market rate projects by calculating the difference between the achievable market rents or sales prices and the allowable rents to sales prices for the proposed inclusionary housing units. This figure is commonly known as the "Affordability Gap."

Financially Feasible Inclusionary Percentage Calculations – Submarket #1 (Rental)

Residential rental projects in Submarket #1 were surveyed in January 2019 (projects that received four or more stars in the CoStar quality ranking system) to estimate the currently achievable market rents for the types of projects likely to be constructed in Submarket #1. This analysis resulted in the following estimates for monthly market rate rent estimates:

Submarket #1: Projected Monthly Market Rate Rents	
Average Monthly Rent Per Unit	
Studio Units	$2,569
One-Bedroom Units	$2,620
Two-Bedroom Units	$3,304
Average Monthly Rent Per Sq. Ft. of GLA	$3.16

GLA: gross leasable area

Maximum affordable rents for the income restricted units (Affordable Rents) were calculated using the 2019 income statistics for Los Angeles County as a whole, as published annually by the U.S. Department of Housing and Urban Development (HUD) and standards from the California Health and Safety Code (HSC), Sections 50052.5-50053 including the following:

- Household size in total residents appropriate for the unit equal to the H&SC Section 50052.5 standard of the number of bedrooms in the home plus one;
- For purposes of calculating affordable rents, the household income is set at 50 percent of AMI for Very Low, 60 percent of AMI for Low, and 110 percent of AMI for Moderate income households;
- Thirty percent (30%) of defined household income allocated to housing-related expenses; and,
- An assumption that tenants will be required to pay for electric heating, cooking and water heating; basic electric services; and air conditioning. KMA used the December 12, 2018, Long Beach Housing Authority energy efficiency utilities allowances for apartments.

Affordable Rent Calculations – Rental Residential Units			
	Very Low Income	Low Income	Moderate Income
Studio Units			
Maximum Monthly Housing Cost	$639	$767	$1,407
(Less) Monthly Utility Allowance	(34)	(34)	(34)
Affordable Rent	$605	$733	$1,373
One-Bedroom Units			
Maximum Monthly Housing Cost	$731	$878	$1,609
(Less) Monthly Utility Allowance	(40)	(40)	(40)
Affordable Rent	$691	$838	$1,569
Two-Bedroom Units			
Maximum Monthly Housing Cost	$823	$987	$1,810
(Less) Monthly Utility Allowance	(57)	(57)	(57)
Affordable Rent	$766	$930	$1,753

The table below features the financial analyses for rental residential development in Submarket #1 for Single Income Category alternatives (i.e., Moderate, Low, and Very Low) and three Mixed Income Category alternatives, and the Financially Feasible Inclusionary Percentage for each alternative.

Inclusionary Housing Production Analysis Financially Feasible Inclusionary Housing Percentages Submarket #1: Rental Residential Development	
Alternative	Financially Feasible Inclusionary Percentage
Single Income Category Inclusionary Alternatives	
Moderate Income Alternative	19%
Low Income Alternative	12%
Very Low Income Alternative	11%
Mixed Income Category Inclusionary Alternatives	
20% Very Low Income & 80% Low Income	12%
80% Very Low Income & 20% Low Income	11%
30% Low Income & 70% Moderate Income	14%

In-Lieu Fee Financial Feasibility Analysis – Submarket #1 (Rental)

An in-lieu fee financial feasibility analysis is possible due to the robust recent and anticipated future development in Submarket #1. Using the Affordability Gap methodology discussed, the Economic Analysis resulted in the following in-lieu fee amounts.

In-Lieu Fees – Affordability Gap Approach Submarket #1: Rental Residential Development			
	Alternative		
In-Lieu Fee	Moderate Income	Low Income	Very Low Income
Per Affordable Unit	$223,000	$356,000	$383,000
Per Square Foot of GBA	$37.90	$37.90	$38.50

GLA: gross leasable area

Financially Feasible Inclusionary Calculations – Submarket #1 (Ownership)

Inclusionary Housing programs typically set the affordability requirements for ownership housing development at the moderate-income level because higher-income households are likely to have more discretionary income to devote to the ongoing costs of home ownership than lower-income households.

The sales data for condominiums sold in Submarket #1 between October 2018 and February 2019, were used to establish the average sales price per square foot of building studio, one-bedroom, and two-bedroom units, which were then used to calculate Affordable Sales Price Estimates for ownership units of each type within Submarket #1.

Affordable Sales Price Estimates Submarket #1: Ownership Housing Development	
	Moderate Income
Studio Units	$207,900
One-Bedroom Units	$231,300
Two-Bedroom Units	$247,700

Following the pattern of most cities with Inclusionary Housing programs to require ownership housing development at the moderate-income level, only one financially feasible Inclusionary percentage was proposed for Submarket #1 Ownership as shown below.

Inclusionary Housing Production Analysis Financially Feasible Inclusionary Housing Percentages Submarket #1: Ownership Housing Development	
Ownership Housing Development	
Moderate Income Alternative	10%

In-Lieu Fee Financial Feasibility Analysis – Submarket #1 (Ownership)

In-lieu fee financial feasibility analysis using the Affordability Gap methodology for Moderate-income Inclusionary requirements resulted in the following proposed in-lieu fee amounts.

In-Lieu Fee Analysis Affordability Gap Approach Submarket #1: Ownership Housing Development	
Affordability Gaps	Moderate Income
Per Income Restricted Unit	$270,400
Per Square Foot of GBA	$23.80

The in-lieu fee analysis summarized above, and the underlying assumptions in the Economic Analysis, assist the City in determining whether developers of premium-priced homes should be permitted to pay the in-lieu fee by right, or whether the City establishes a calculation methodology applied uniformly, or on a case-by-case basis, for projects that are entitled to make an in-lieu payment; and whether to apply the in-lieu fee per affordable unit, per unit in a market rate project, or per square foot in a market rate project, should the City decide to set a uniform fixed fee amount in each Submarket.

Incentive-Based Inclusionary Housing Proposed – Submarket #2

The Economic Analysis determined that imposing additional requirements on new housing development in Submarket #2 would further constrain residential development, the City may choose to create an incentive-based Inclusionary Housing program in Submarket #2 that uses the provisions of State Density Bonus law to:

1. Encourage residential development in Submarket #2; and,
2. Ensure that affordable housing units in new Submarket #2 residential projects make use of the incentives offered by the City.

State Density Bonus law (Section 65915) requires jurisdictions to provide density bonus incentives or concessions that result in identifiable and actual cost reductions to provide for affordable housing costs, which could serve as the basis of the incentive-based Inclusionary Housing proposed for Submarket #2 and are noted below followed by a table that summarizes the incomes and percentages allowed by State law.

- A reduction in site development standards or modification of a zoning code or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission;
- Approval of mixed-use zoning in conjunction with the housing project if the commercial component will reduce the cost of the housing development and the commercial component is compatible with existing or planned development near the development site; and,

- Other regulatory incentives and/or concessions proposed by the developer or the jurisdiction that comply with State Density Bonus requirements.

Section 65915 Density Bonus as a Percentage Of the Units Allowed by a Site's Base Zoning Standards					
Very Low Income		Low Income		Moderate Income	
% Affordable	Density Bonus	% Affordable	Density Bonus	% Affordable	Density Bonus
5%	20.0%	10%	20.0%	10%	5%
Each 1% increase in the % of very low income units allows for a 2.5% density increase		Each 1% increase in the % of low income units allows for a 1.5% density increase		Each 1% increase in the % of low income units allows for a 1.0% density increase	

Moderate income units only qualify for the density bonus indicated if they are located in a for-sale development.

Potential incentives and concessions specifically defined within Section 65915 include:

- Set back and minimum square footage reductions;
- Increased building height limits; and,
- Parking ratio reductions.

Key Components of an Incentive-Based Inclusionary Housing Program -- Submarket #2

From the lack of new residential development in Submarket #2, it can be concluded that Density Bonus benefits alone are insufficient to attract new residential development. However, they provide a foundation for an incentive-based Inclusionary Housing program for Submarket #2 that could potentially include the following components:

- Inclusionary requirements to be imposed on developers of properties who are requesting zoning changes or discretionary approval(s).
- To the extent possible, Inclusionary requirements for Submarket #2 that mirror the requirements recommended for Submarket #1.
- Greater benefits than are provided by the Section 65915 density bonus, as permitted by the discretion that Section 65915 affords jurisdictions to offer a density bonus that exceeds the 35% cap under Section 65915(n).
- Focus on residentially zoned properties in parts of Submarket #2 that are compatible with higher density development (single-family zoned properties are not compatible).
- Focus on commercially zoned properties that are not currently zoned for residential development, emphasizing sites that are currently developed with underperforming retail centers subject to commercial zoning that prohibits residential development and/or transit-oriented development (TOD) sites.
- Including incentives or concessions that result in identifiable and actual cost reductions to provide for affordable housing costs, as required and defined by Section 65915.

Potential Inclusionary Housing Production Requirements - Submarket #2

Based on the preceding criteria, KMA proposes that the following incentive-based Inclusionary Housing program structure be created for Submarket #2, with the production requirements below reflecting equivalent standards to those proposed for Submarket #1 possible using the density bonus and incentives or concessions provided by Section 65915:

Inclusionary Housing Production Analysis Submarket #2 Potential Inclusionary Housing Production Requirements			
Income Level	Affordable Units as a % of Base Zoning	Density Bonus Percentage	Number of Incentives or Concessions
	Rental Residential Projects		
Very Low (VL)	11%	35%+	3+
Low (L)	12%	35%+	2+
Moderate (MOD)	19%	35%+	2+
	Ownership Residential Projects		
Moderate (MOD)	19%	35%+	2+

The City has a great deal of flexibility to establish Inclusionary Housing standards and percentages for an incentive-based program in Submarket #2 and should do so to maximize the potential for attracting residential development to this Submarket.

Additional Inclusionary Housing Policy Considerations

Inclusionary Housing policy components that may apply to either or both Submarkets and to rental residential development, ownership residential development, include the following which are being considered in structuring a City program:

- **A Threshold Project Size** below which residential development projects are not subject to Inclusionary Housing production requirements, which commonly fall between minimums of three and 10 units.
- **Covenant Periods** of 55 years for rental residential units (which mirrors the covenant period applied to density bonus projects) and 45 years for ownership residential units.
- **Homebuyer Loans** for ownership residential units structured to include total repayment equal to the original principal balance of the City loan plus a share of any equity appreciation, which can be set equal to the Affordability Gap divided by fair market value at the time of the initial sale or based on a sliding scale over time, due and payable immediately upon the resale of an Inclusionary Unit by its owner with any and all revenue generated by the repayment of City loans to be deposited into an Affordable Housing Trust Fund.

- **Production Standards** mandating that on-site affordable units be dispersed throughout each project, with exterior improvements comparable to neighboring market rate units and other amenities developed to the same quality as the base models of the market rate units and a bedroom mix of affordable units proportional to the market rate bedroom mix.
- **Limited Opportunity for Inclusionary Housing Requirements to be constructed Off-Site.** Regarding the proximity of any off-site production allowed to be in close proximity to the market rate project, with all off-site production to be comprised solely of rental residential units, scope, design, building quality, and maintenance standards that reflect the requirements imposed by the base zoning for the proposed market rate development, and, should the City desire, the imposition of higher Inclusionary Housing percentages on proposed off-site development.
- **In-Lieu Fees** to be paid according to objective criteria that the City may establish, such as the following:
    - In-lieu fee payments allowed for any fractional Inclusionary Unit requirement;
    - In-lieu fee payment by right for developers of ownership residential projects of any size;
    - In-lieu fee payment by right for developers of rental residential projects with up to 20 total units in recognition of the disproportionate impact of Inclusionary requirements on smaller projects;
    - On-site development of Inclusionary Units required for any rental residential projects developed in Submarket #2; and,
    - On-site development of Inclusionary Units required for any rental residential projects in either Submarket #1 or Submarket #2 with more than 20 units, with the City Council given discretion to allow an in-lieu fee to be paid for rental residential projects with more than 20 units that are deemed to exhibit extreme hardship circumstances.
- **Land Dedication** to be provided at the discretion of City Council for both rental and ownership residential projects provided the site to be dedicated has General Plan and zoning designations in place that allow for the development of the requisite number of Inclusionary Units and the developer makes a cash contribution equal to the financial gap exhibited after factoring in the donation of the site at no cost.
- **Recommended Program Design and Administrative Procedures** to ensure the Inclusionary Housing Policy is re-evaluated at least every five (5) years, the program allows in-lieu fees to keep pace with changes in the marketplace during the intervening periods, and both a staffing plan for managing the development process and ongoing monitoring of the Inclusionary Units that are built, and updates to the City's Section 21.63 to reflect Section 65915 density bonus requirements currently being imposed by the State and to the City's Administrative Manual whenever necessary to reflect changes made to the Inclusionary Housing Program.

Approved Subdivision Requirements

Because the majority of rental residential projects being developed in Submarket #1 are obtaining Tentative Tract Maps that allow the developer to sell the units as condominiums at a later date, the City may choose to require developers to fulfill the rental residential development Inclusionary Housing requirements for mapped projects. If, and when, such rental residential units are converted to condominiums, the City could require the developer to fulfill one of the following requirements:

- The developer can maintain the residential rental units as rental Inclusionary Units at the then current Affordable Rents; or
- The developer can market the Inclusionary Units for sale based on the income and affordability level that was imposed when the project was originally constructed; or
- The developer can relocate the tenants residing in the Inclusionary Units under the terms imposed by the Condominium Conversion Ordinance. If this option is selected, the developer must sell the formerly rental residential Inclusionary Units to moderate income households at the then current affordable sales price.

Next Steps

It is anticipated that a Planning Commission study session will be held in August 2019, followed by Planning Commission and City Council review in August and September 2019, respectively.

If you have any questions regarding this matter, please contact Patrick Ure, Housing and Neighborhood Services Bureau Manager, at (562) 570-6026 or Patrick.Ure@longbeach.gov.

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ATTACHMENTS: A - SUBMARKET MAP
B - SUMMARY TABLES

CC: CHARLES PARKIN, CITY ATTORNEY
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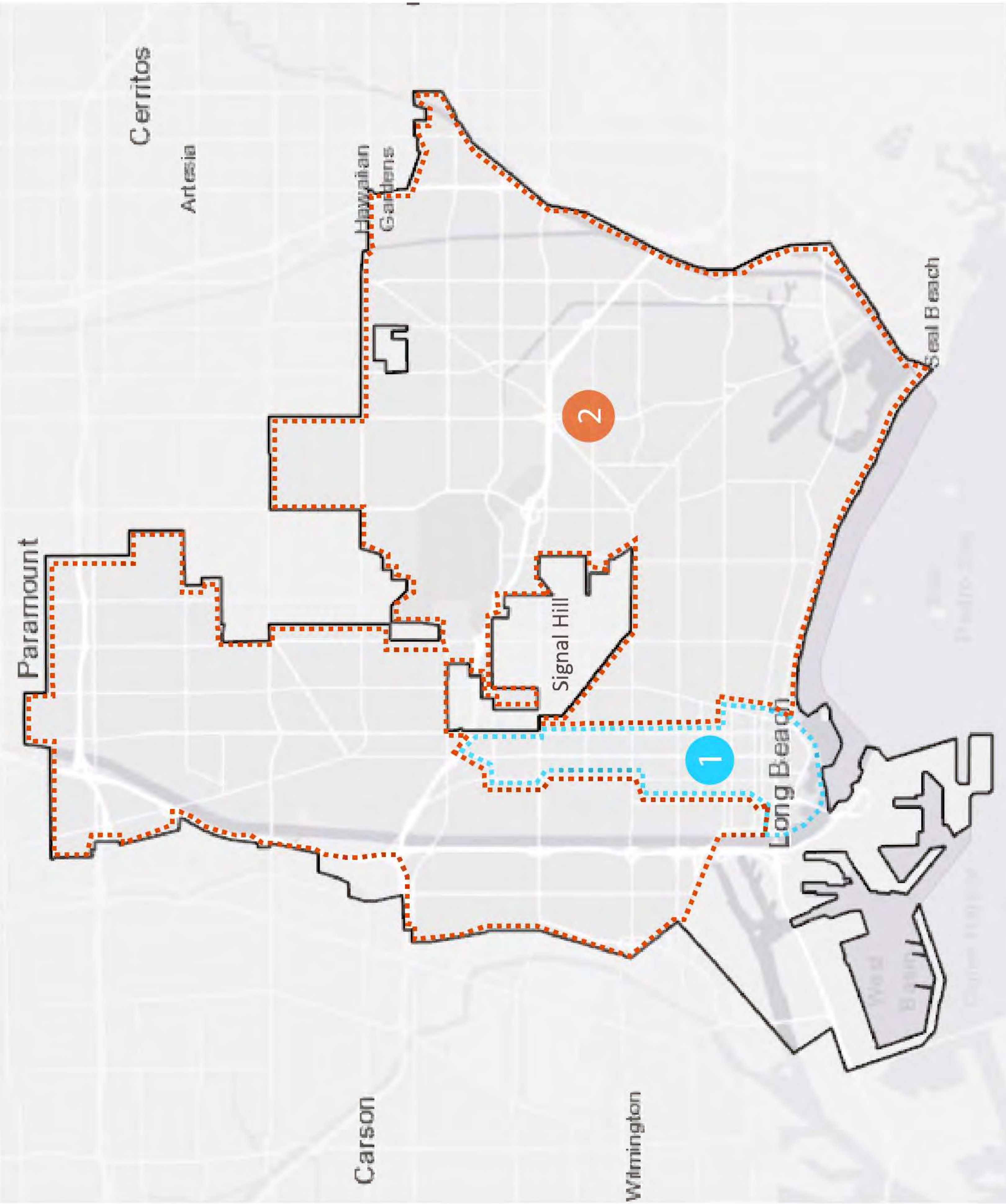
PATRICK URE, HOUSING AND NEIGHBORHOOD SERVICES BUREAU MANAGER
CHRISTOPHER KOONTZ, PLANNING BUREAU MANAGER
MONIQUE DE LA GARZA, CITY CLERK (REF. FILE #17-0324 AND #18-0040)

ATTACHMENT A



Inclusionary Housing Policy: Applicability, Thresholds, Percentages, and Covenants Under Consideration

	Rental - Submarket #1	Ownership - Submarket #1
Applicability	Mandatory for both Rental and Ownership	
Threshold (Units)	Four threshold options for minimum project size subject to the Policy are presented *(Rental, Ownership, or Both)* : 4 units to align with City's existing threshold for Code Enforcement and other regulations 5 units represent the minimum project size that triggers Section 65915 density bonus 8 units equivalent to the median threshold size across existing Inclusionary Housing programs in California 10 units recommended by multiple members of City staff on the Inclusionary Housing team	
Inclusionary Housing Percentages		
Single Income Category Alternatives	19% Moderate 12% Low 11% Very Low	10% Moderate *No other Single Income Category or Mixed Income Category percentages proposed for Ownership.*
Mixed Income Category Alternatives	12% TOTAL Affordable Units, with 20% of those for Very Low and 80% of those for Low 11% TOTAL Affordable Units, with 80% of those for Very Low and 20% of those for Low 14% TOTAL Affordable Units, with 30% of those for Low and 70% of those for Moderate	
Covenant Period		
Minimum Years Affordable	55 years *Section 65915 also applies this covenant period to density bonus projects.*	45 years - with the potential to convert to market rate upon the first resale *KMA proposes requiring the initial home buyer to enter into a covenant agreement with the City and for the home buyer to enter into a loan agreement as well and a deed of trust with the City that carries an original principal balance that is equal to the Affordability Gap that existed when the home buyer purchased the Inclusionary Housing unit. Upon resale the City is entitled to receive repayment of the loan plus a share of the equity appreciation achieved upon the resale. KMA also proposes specific ways such home buyer loans should be structured.*

Submarket #1 **Inclusionary Housing Policy: In-Lieu Fees and Off-Site Inclusionary Housing Requirements Under Consideration**

<table>
<tr><th></th><th>Rental - Submarket #1</th><th>Ownership - Submarket #1</th></tr>
<tr><td>In-Lieu Fee - Conditions</td><td>In-lieu fee should be allowed by right for Rental projects with up to 20 units.

In-lieu fee should be allowed for any fractional unit calculated as a fraction of the total number of units.

Rental projects with over 20 units should be required to include the requisite number of Inclusionary Housing units, with City Council given case-by-case discretion to allow the in-lieu fee on Rental projects with over 20 units that are "deemed to exhibit extreme hardship circumstances."

In-lieu fee may be calculated and/or applied in a variety of ways should the City decide to set a fixed fee amount in each submarket rather than on a case-by-case basis, including calculations per affordable unit, per unit in a market rate project, or per square foot in a market rate project.</td><td>In-lieu fee should be allowed by right for any Ownership project.

In-lieu fee should be allowed for any fractional unit calculated as a fraction of the total number of units.

Rental projects with over 20 units should be required to include the requisite number of Inclusionary Housing units, with City Council given case-by-case discretion to allow the in-lieu fee on Rental projects with over 20 units that are "deemed to exhibit extreme hardship circumstances."

In-lieu fee may be calculated and/or applied in a variety of ways should the City decide to set a fixed fee amount in each submarket rather than on a case-by-case basis, including calculations per affordable unit, per unit in a market rate project, or per square foot in a market rate project.</td></tr>
<tr><td>In-Lieu Fee - Amount</td><td><table><tr><th></th><th>Moderate</th><th>Low</th><th>Very Low</th></tr><tr><td>Per Affordable Unit</td><td>$223,000</td><td>$356,000</td><td>$383,000</td></tr><tr><td>Per square foot of GLA*</td><td>$37.90</td><td>$37.90</td><td>$38.50</td></tr></table>
* GLA = gross leasable area

Determined using a weighted Affordability Gap methodology.</td><td><table><tr><th></th><th>Moderate</th></tr><tr><td>Per Affordable Unit</td><td>$270,400</td></tr><tr><td>Per square foot of GLA*</td><td>$23.80</td></tr></table>
* GLA = gross leasable area

Determined using a weighted Affordability Gap methodology.</td></tr>
<tr><td>Off-Site Inclusionary Housing Requirements</td><td>Proposed location for off-site production should be in close proximity to the market-rate project, and the City should have approval rights over the off-site location.

Higher Inclusionary Housing percentage requirement may be applied to proposed off-site production.

Off-site Inclusionary Housing units should be required to be solely Rental residential units, regardless of whether the market-rate development is a Rental or Ownership project.

Specific scope, design, building quality, and maintenance standards should reflect requirements imposed by the base zoning for the proposed market-rate development.</td><td>Proposed location for off-site production should be in close proximity to the market-rate project, and the City should have approval rights over the off-site location.

Higher Inclusionary Housing percentage requirement may be applied to proposed off-site production.

Off-site Inclusionary Housing units should be required to be solely Rental residential units, regardless of whether the market-rate development is a Rental or Ownership project.

Specific scope, design, building quality, and maintenance standards should reflect requirements imposed by the base zoning for the proposed market-rate development.</td></tr>
</table>

Submarket #2 **Inclusionary Housing Policy: Applicability, Thresholds, Percentages, and Covenants Under Consideration**

<table>
<tr><th></th><th>Rental - Submarket #2</th><th>Ownership - Submarket #2</th></tr>
<tr><td>Applicability</td><td colspan="2">Inclusionary housing requirements proposed for imposition on discretionary rental and ownership residential development projects in Submarket #2 on the following properties/sites:

1. Residentially-zoned properties located in areas compatible with higher-density development;
2. Commercially-zoned properties not currently zoned for residential;
3. Sites currently developed with underperforming retail centers and subject to commercial zoning that prohibits residential development; and
4. Transit oriented development (TOD) sites.</td></tr>
<tr><td>Threshold (Units)</td><td colspan="2">Four threshold options for minimum project size subject to the Policy are presented (Rental, Ownership, or Both) :

4 units to align with City's existing threshold for Code Enforcement and other regulations
5 units represent the minimum project size that triggers Section 65915 density bonus
8 units equivalent to the median threshold size across existing Inclusionary Housing programs in California
10 units recommended by multiple members of City staff on the Inclusionary Housing team</td></tr>
<tr><td>Inclusionary Housing Percentages</td><td>11% Very Low 35% Density Bonus Percentage or more and 3 Incentives or Concessions or more; or
12% Low 35% Density Bonus Percentage or more and 2 Incentives or Concessions or more; or
19% Moderate 35% Density Bonus Percentage or more and 2 Incentives or Concessions or more.</td><td>19% Moderate 35% Density Bonus Percentage or more and 2 Incentives or Concessions or more.</td></tr>
<tr><td>Covenant Period

Minimum Years Affordable</td><td>55 years

Section 65915 also applies this covenant period to density bonus projects.</td><td>45 years

KMA proposes requiring the initial home buyer to enter into a covenant agreement with the City. To secure that obligation, the home buyer should be required to enter into a loan agreement and a deed of trust with the City that carries an original principal balance that is equal to the Affordability Gap that existed when the home buyer purchased the Inclusionary Housing unit. Upon resale the City would be entitled to receive repayment of the loan plus a share of the equity appreciation achieved upon the resale. KMA also proposes specific ways such home buyer loans should be structured.</td></tr>
</table>

Submarket #2 **Inclusionary Housing Policy: In-Lieu Fees and Off-Site Inclusionary Housing Under Consideration**

	Rental - Submarket #2	Ownership - Submarket #2
In-Lieu Fee - Conditions	Rental projects developed in Submarket #2 should be required to produce the requisite number of Inclusionary Housing units on site within the market-rate project. Rental projects with over 20 units should be required to include the requisite number of Inclusionary Housing units, with City Council given case-by-case discretion to allow the in-lieu fee on Rental projects with over 20 units that are "*deemed to exhibit extreme hardship circumstances* ." In-lieu fee should be allowed for any fractional unit calculated as a fraction of the total number of units. In-lieu fee may be calculated and/or applied in a variety of ways should the City decide to set a fixed fee amount in each submarket rather than on a case-by-case basis, including calculations per affordable unit, per unit in a market rate project, or per square foot in a market rate project.	In-lieu fee should be allowed by right for any Ownership project, including those developed in Submarket #2. In-lieu fee should be allowed for any fractional unit calculated as a fraction of the total number of units. In-lieu fee may be calculated and/or applied in a variety of ways should the City decide to set a fixed fee amount in each submarket rather than on a case-by-case basis, including calculations per affordable unit, per unit in a market rate project, or per square foot in a market rate project.
In-Lieu Fee - Amount	*Moderate* / *Low* / *Very Low* Per Affordable Unit: $223,000 / $356,000 / $383,000 Per square foot of GBA*: $37.90 / $37.90 / $38.50 ** GLA = gross leasable area* *Determined using a weighted Affordability Gap methodology.*	*Moderate* Per Affordable Unit: $270,400 Per square foot of GBA*: $23.80 ** GLA = gross leasable area* *Determined using a weighted Affordability Gap methodology.*
Off-Site Inclusionary Housing Requirements	Rental residential projects developed in Submarket #2 should be required to produce the requisite number of Inclusionary Housing units on site within the market rate project. *Off-site Inclusionary Housing units should be required to be solely Rental residential units, even when the market-rate development is an Ownership project.*	*Off-site Inclusionary Housing units should be required to be solely Rental residential units, even when the market-rate development is an Ownership project.*

General

Inclusionary Housing Policy: Other Components Under Consideration

	Rental and Ownership - Submarket #1 and Submarket #2
Policy Fulfillment Alternatives *Land Dedication*	 *Land Dedication* to be provided at City's discretion for both Rental and Ownership projects, provided the following requirements are met: 1. Proposed land dedication site has General Plan and zoning designations in place that allow for the development of the requisite number of Inclusionary Housing units; and 2. Developer makes a cash contribution equal to the financial gap exhibited by the project after factoring in the donation of the site at no cost.
Acquisition and Rehabilitation of Existing Affordable Units	*Acquisition and Rehabilitation of Existing Affordable Units* would not afford any RHNA credit for the units so acquired and rehabilitated, nor could those units be listed in the City's Annual Progress Report. Notwithstanding these limitations, this option could assist in mitigating overcrowding and the cost burden on Moderate and lower-income households.
Density Bonus / Section 21.63 Update	KMA proposes that the City update Section 21.63 to reflect current Section 65915 density bonus requirements, including 2006 and 2019 amendments not currently reflected in Section 21.63.
Approved Subdivisions	KMA proposes requiring developers to fulfill the Rental project Inclusionary Housing requirements for mapped projects. If and when such Rental units are converted to condominiums, the City should require the developer to: 1. Maintain the applicable Inclusionary Housing percentage of affordable Rental units at then-current Affordable Rents; or 2. Market the Inclusionary Housing units for sale based on the income and affordability level imposed when the project was originally constructed; or 3. Relocate tenants residing in the Inclusionary Housing units under the terms of the Condominium Conversion Ordinance and then sell the formerly affordable Rental units to Moderate-income households at the then-current affordable Sales Price.
Project Design	Affordable units should be dispersed throughout each project, with exterior improvements comparable to the market-rate units, the bedroom mix of affordable units proportional to the market-rate bedroom mix, and all affordable units to be developed at the same quality as the base models of the market-rate units. Market-rate units in an Ownership project should be allowed to include enhanced interior improvements as options for market-rate home buyers to purchase.
Program Design & Staffing Concerns	Key operational components of an Inclusionary Housing program proposed, including the recommendation that the whole program be re-evaluated every five (5) years.