

Local Government Scorecard  
Santa Cruz City Council Meeting  
December 10, 2019

**SUBJECT:** Inclusionary Zoning

Introduction of an Ordinance Amending Title 24 of the Santa Cruz Municipal Code, The Zoning Ordinance, Part 1 of Chapter 24.16, Inclusionary Housing Requirements Including Sections 24.16.010 through 24.16.060 (ED/PL)

**STAFF RECOMMENDATION:**

Introduce for publication an ordinance to implement an increase in the inclusionary percentage citywide for all housing developments (rental and ownership) only after consideration of a completed feasibility analysis prepared by a qualified consultant to evaluate the effects of such changes, introduce for publication specified changes reflective of newly enacted state law, direct staff to review and bring any clean up amendments related to identified inconsistencies created by any ordinance amendments back to the Planning Commission for consideration, and make no further amendments to the ordinance based on the plaintiff-proposed changes from the Measure O lawsuit filed against the City of Santa Cruz.

**BACKGROUND:**

To comply with the settlement agreement terms per the Measure O lawsuit filed against the City in early 2019, the City Council approved the first reading of an amendment to the Inclusionary Ordinance at their special meeting on October 29, 2019, which included four (4) specific amendments. At the same meeting, the Council also directed staff to refer additional plaintiff-proposed changes in the above-mentioned lawsuit to the Planning Commission for review and recommendations. Additionally, the Council referred to the Planning Commission for comment an increase to the inclusionary rate from 15% to 20% for rental and ownership units citywide. Council requested that these items return back to the Council for their consideration within 40 days. The December 10, 2019, Council meeting is slightly beyond 40 days' time from the initial Council direction but was the earliest available meeting given required noticing deadlines.

At their regular meeting on November 21, 2019, the Planning Commission recommended a feasibility analysis be conducted to evaluate the effect of

increasing the inclusionary percentage citywide for all housing developments (rental and ownership). Per Attachment 1, the Planning Commission also recommended making specified changes to Section 24.16.045(4) to reflect newly enacted state law, and they recommended that the City Council direct staff to review and bring any clean-up amendments related to identified inconsistencies created by any ordinance amendments back to the Planning Commission for consideration. Lastly, the Planning Commission recommended that no further amendments be made to the Inclusionary Ordinance in relation to the plaintiff proposed changes. Based on Council direction from the special

October 29, 2019, City Council meeting, Attachment 2 includes sections of the Ordinance that would be modified if the 20% inclusionary increase is adopted as well as the state law changes referenced above.

## **DISCUSSION:**

As part of the settlement agreement terms noted above, the City Council approved a change to the inclusionary percentage for rental projects outside of the downtown from 10% to 15% at their October 29, 2019, special meeting. The Council also directed that the Planning Commission provide a recommendation on increasing the inclusionary percentage for all projects (rental and ownership) from 15% to 20% citywide. Staff has concerns regarding raising the inclusionary requirement percentage from 15% to 20% citywide without additional financial analysis prepared by an independent financial consultant with extensive experience preparing and evaluating inclusionary ordinances. In early 2018, Keyser Marston conducted financial analysis on the City's rental market and the feasibility of increasing the inclusionary requirement for rental housing development, but no analysis was completed for the ownership market at that time or in recent years. Consistent with staff recommendation, the Planning Commission recommended that analyses on the impacts of increasing the inclusionary housing requirement for ownership and rental housing be completed by an independent financial consultant prior to legislating an increase in the inclusionary percentage to 20%.

If adopted by City Council, Section 24.16.045(4) would be updated to reflect the newly adopted Senate Bill 330, The Housing Crisis Act of 2019, which will take effect on January 1, 2020. The State's updated laws would apply whether or not the City's ordinance is amended. Thus, this clean-up amendment was not initially recommended to the Council, as it alone would have required referral to the Planning Commission and substantial work to no substantive end. However, given that various items were referred to the Planning Commission, staff is taking this

opportunity to clean up the language. Staff recommends that Section 24.16.045(4) be updated to read as follows (with the underline and strike-through representing changes to the ordinance currently in effect):

“The maximum sales price shall be calculated using the methodology defined in the resolution and/or guidelines identified in and applied under the inclusionary agreement for that property. Unless otherwise required by California Government Code Section 66474.2, Government Code Section 65589.5(o), or any other applicable state codes or a successor provisions, the resolution in effect at the time of first approval shall be the basis for these calculations, unless another inclusionary ordinance or implementing resolution basis more recently approved by the Council has been defined and mutually been agreed upon by the developer, the planning and community development director, and the economic development director or otherwise authorized by the approval body. The resale restrictions shall allow the city a right of first refusal or option to purchase any owner-occupied inclusionary unit at the maximum resale price permitted under this section at any time the owner proposes sale.”

#### **CITY COUNCIL AND STAFF DISCUSSION:**

The city council voted 4-3 in favor of raising the inclusionary rate from 15% to 20% for all new housing projects in the city. This means that for market-rate housing projects proposed by private developers, 20% of the units would have to be offered at affordable rates for buyers or renters with lower incomes. The proposed new law will return to the city council Jan. 14 for a second hearing.

The city council had several factors to consider. If the city pushes the rate too high, then it may scare away developers, and less housing would be built. The city’s laws need to push for the maximum level of affordability that still provides the minimum return for a developer that would make projects feasible, Santa Cruz Planning Director Lee Butler previously has said in an interview.

Last month, the planning commission recommended that the city council only increase the inclusionary rate after a financial feasibility study of local market factors is completed. The city staff made the same recommendation Tuesday.

The city council ignored the recommendations about the study. Vice Mayor Cummings said he agrees that study and data are needed, but he thought the city council should move forward with the 20% rate and see how well the community responds.

“At least we’ll have this in place so we don’t see a lot of developments come out where they’re just meeting the 15% and then it turns out months later they could’ve reached the 20% and we won’t have that opportunity,” Vice Mayor Cummings said.

Santa Cruz Economic Development Director Bonnie Lipscomb said that a 20% inclusionary rate may work, but only if enough flexibility is allowed with how it’s applied. Santa Cruz’s current 15% rate requires that the inclusionary units are offered to people who make 80% of the area median income or less. Other local jurisdictions with 20% rates allow inclusionary units with slightly higher income limits, while still being affordable by the state’s definition.

Mathews said she’d rather the city hire a qualified consultant to study a range of options for a possible 20% rate. “I see this as a blunt instrument, frankly. And I’d much rather take a little bit of time to do that updated and expanded study,” Mathews said.

**CITY COUNCIL ACTION:** Motion to raise the inclusionary rate from 15% to 20%.

**YES to the Motion:** Vice Mayor Justin Cummings, Councilmembers Sandy Brown, Chris Krohn, Drew Glover

**NO to the Motion:** Mayor Martine Watkins and Councilmembers Donna Meyers and Cynthia Mathews

### **CHAMBER POSITION:**

The Santa Cruz County Chamber has long held the position that local government must take every step necessary to create the policies that lead to the development of more housing — at all income levels — and especially at the very low, low income levels. The creation of market rate housing can spur on the development of affordable below market housing. Our community is suffering from the cumulative impact of twenty years of neglecting housing needs. The Board of Directors of the

Santa Cruz Area Chamber of Commerce recognize the solution to this problem will require sustained commitment and action over a long period of time.

The Chamber supports increasing the number of housing units in Santa Cruz County, with a focus on serving moderate to low income individuals and families through increased-density, mixed-use developments.

The Chamber understands that in increasing the number of housing units, impacts infrastructure issues, such as water, transportation and land use. Solutions to these and other infrastructure issues must be pursued simultaneously to housing issues.

The Chamber supports achieving an increase in the number of housing units that:

- Meets the broad spectrum of community needs
- Increases density, especially along the city and county transportation corridors
- Promotes affordability for moderate to low income-level households
- Provides for mixed uses and mixed income within a neighborhood.

The Chamber has supported inclusionary housing policies once the base line of economic analysis support the percentage. The Chamber opposes the fundamental tenants of this City Council's 20% inclusionary zoning policy without a third party analysis. There is no empirical evidence that setting at rate 20% will produce more housing production at a time when the city, county and the state suffer from a housing crisis.