




CITY OF VALLEJO

Agenda Item No. ADMIN 13.C

**HOUSING & REDEVELOPMENT COMMISSION**

**Date:** November 14, 2007

TO: Chair and Commissioners

FROM: Laura J. Simpson, Housing and Community Development Manager 

SUBJECT: Draft Inclusionary Zoning Ordinance

**BACKGROUND AND DISCUSSION**

***Inclusionary Zoning as Part of the City's Comprehensive Affordable Housing Strategy***

The City's comprehensive affordable housing strategy is reviewed each time it updates the City's Housing Element. The Housing Element was certified in 2002, and included the objective to research an inclusionary ordinance. The existing Housing Element prompted the staff and community review process that resulted in the proposed draft ordinance. The next Housing Element update will be due to the State of California in 2009. The City will begin the update process in early 2008 to ensure adequate time for community input and discussion of all affordable housing policies and subsequent review by the State Housing and Community Development Department.

An inclusionary ordinance is one tool available to cities as part of a comprehensive approach to address the critical affordable housing shortage in Vallejo. The City participates in the affordable housing solution through land use zoning and administering publicly funded housing subsidy programs, which also leverage private and public lender resources, while an inclusionary ordinance will require participation from the private development community. The advantage of inclusionary zoning is that it can be a very flexible tool used to achieve a variety of public goals. It is just one tool of many others that the City is already using to achieve affordable housing goals. Typically inclusionary zoning is used to integrate affordable units with market-rate units, to create new units of ownership or rental in the affordable stock, and to increase private participation in the creation of housing for a variety of income levels, including the local workforce.

**Who contributes to affordable housing creation?**

The residents of Vallejo already participate in affordable housing programs through payment of federal taxes. Federal funds come to the City of Vallejo in the form of Community Development Block Grant funds, and HOME funds, and to the Vallejo Housing Authority in the form of Housing Assistance Payments and Administrative funds. Homeowners and commercial property owners participate in affordable housing through payment of property taxes in Redevelopment project areas, of which a portion is required under State Law to be used in Vallejo by the Vallejo

Redevelopment Agency for affordable housing development. In addition, all residents contribute by accommodating new market-rate residential development growth in the city.

The City of Vallejo has contributed through the land use policy by zoning land for multifamily development at higher densities.

Currently residential developers in Vallejo do not contribute to affordable housing development, except where the City or Redevelopment Agency has provided financing through a negotiated agreement. In fact, residential developers decrease opportunities for affordable housing development as sites are developed with housing affordable to only Above Moderate income categories. Staff is recommending Inclusionary Zoning as a means of including private developer participation in affordable housing.

Commercial developers also do not currently contribute to affordable housing in Vallejo. In some cities a jobs-housing linkage fee, also known as a commercial linkage fee, is collected on new commercial development, and those funds are used for new affordable housing development, based upon the demand for affordable housing that is created by the new jobs in commercial development. Staff is not recommending a linkage fee at this time.

The following are components of the City's current strategy to provide affordable housing in the City of Vallejo. Existing City programs are targeted to Extremely Low, Very Low, and Low income households primarily. Inclusionary zoning is a way to provide additional Low and Moderate income units, which have been the income groups the City has least been able to serve with existing housing programs. Targeting these groups minimizes the financial impact to developers and allows the City to create mixed-income communities for the local workforce.

Public Participation through City Programs

1. Vallejo Housing Authority Housing Choice Voucher Program – Through the receipt and administration of Federal funds, Vallejo's Housing and Community Development Division administers the Vallejo Housing Authority program providing direct rental subsidy to up to 2,266 families who are predominantly **Extremely Low Income**, earning below 30% of Area Median Income (AMI), which is currently **\$20,350** for a family of three.

2. Subsidized Rental Housing – Through the provision of Redevelopment Agency Housing set-aside funds, federal HOME funds, and federal CDBG funds, Vallejo has provided financing for the new construction or substantial rehabilitation of rental housing primarily for **Very Low-income** families, earning up to 50% AMI, currently **\$33,950** for a family of three. Rents are capped at affordable levels in these developments, tenants are not receiving rental subsidies directly. Pursuant to Council direction, the City currently is working with a nonprofit developer to assess opportunities for acquisition and rehabilitation of rental developments for ownership or rental housing. Housing is also seeking potential ownership opportunities as well. **Note:** This program is different from existing affordable rental housing that was funded by HUD many years ago. Those older developments receive project-based vouchers directly from HUD which allow Extremely Low income households (30% AMI) to live there. The Housing division does not

directly administer the older programs, however staff monitors the units for compliance.

3. City Downpayment Assistance and Home Rehabilitation Loan Programs – Using HOME and CDBG funds, the City has an agreement with Vallejo Neighborhood Housing Services, in which the local nonprofit provides loan assistance to **Low-Income** Households, earning up to 80% AMI (currently **\$53,300** for a family of three) to purchase a home, or rehabilitate an owner-occupied home. The funds for these programs are limited however, and each of these programs is able to serve approximately 5 families per year.

#### Proposed Private Residential Developer Participation

The proposed Inclusionary ordinance as drafted would require that all residential developers set aside a minimum percentage of affordable units in each new project: Ownership at 7% Moderate and 8% Low, Rental at 5% Low and 5% Very Low, and Condominium Conversion at 15% Low. Alternative compliance measures, such as acquisition and rehabilitation of existing housing with recorded deed restrictions, or in-lieu fee payments may achieve additional units at Very Low income levels.

**Public Process.** Since the 2002 Housing Element adoption, public discussion on Inclusionary zoning began with the City Council Study Session on Affordable Housing in June 2006, followed by another Council Study Session on Inclusionary Zoning on December 13, 2006, and has continued through July 2007.

At the February 21, 2007, Planning Commission meeting, staff first presented the purpose of the draft ordinance, the benefits of the ordinance, the elements of the ordinance and how it would fit into the City's comprehensive affordable housing strategy. Staff also discussed the findings of the inclusionary impact study performed by David Rosen and Associates (DRA). A public hearing was opened at that meeting. At that meeting, the Planning Commission directed staff to hold additional community meetings on the topic of inclusionary zoning to allow greater outreach and education. Staff proceeded to schedule three additional workshops.

Staff has taken all of the following steps to notify the public and hold meetings on this topic:

- June 5, 2006: City Council Study Session on Affordable Housing, introducing Inclusionary Zoning- direction from Council to draft an ordinance.
- July 2006: Firm of David Rosen and Associates (DRA) hired to prepare comprehensive impact study of inclusionary zoning in Vallejo.
- October 22, 2006: Public Notice in Times Herald notifying of Resolution of Intent to consider an Inclusionary Ordinance.
- November 2, 2006: Mailing sent to 99 interested stakeholders regarding the November 7, Council meeting, and as an invitation to Focus Group meetings held on the background study. Sent to developers, nonprofits, social service agencies, housing

advocates, and others.

- November 6, 2006: Inclusionary background report posted on City Housing website.
- November 7, 2006: Council adopted a Resolution of Intent to consider an Inclusionary Zoning Ordinance.
- November 14, and November 15, 2006: Focus Group meetings held with averaging 20 people attending each.
- December 5, 2006: Council Study Session on Inclusionary Housing held and direction from Council to proceed with Draft Ordinance.
- January 3, 2007: Additional focus group meeting held- about 20 attending.
- January 22, 2007: Notice of public hearing for the proposed Chapter was published in the Vallejo Times Herald.
- February 5, 2007: Staff meeting with Bob Glover of Homebuilders Association.
- February 13, 2007: Staff meeting with 16 members of Solano County Realtors Association.
- February 20, 2007: Staff meeting with Vallejo Unified School District representatives.
- February 21, 2007: Planning Commission Public Hearing on Draft Inclusionary Ordinance—sixteen speakers representing a variety of interests spoke at the meeting.
- March 20, 2007: Planning Commission hearing continued.
- April 25, 2007: Workshop led by consultant Rick Jacobus on the topic of equity sharing on resale restricted properties. Approximately 30 attending.
- May 9, 2007: Workshop led Steve Sanders of Institute for Local Government on elements of an inclusionary ordinance. Approximately 30 attending.
- May 18, 2007: Workshop led by Betty Pagett of NPH on recent Inclusionary Ordinance survey, discussion by participants on revisions to the ordinance. Approximately 15 attending.
- Through July 2007: Written comments received on the draft inclusionary ordinance. Comments were incorporated into the revised draft for November Planning Commission meeting.

- Ongoing: On the City's website, under Housing and Community Development, Inclusionary Housing Study, all previous staff reports, presentations and background reports have been posted for public review. Revised draft ordinance posted on November 8, 2007.

**Comments received by Public and Commissioners.** The following is a summary overview of the recommendations received by staff from the public and Commissioners at the Planning Commission. It is not intended to list each and every comment but to generally categorize the primary concerns raised, and to address common themes. The public comment received on this item represented a variety of organizations and interests. The issues raised by the public are divided into those that were generally supportive with suggested revisions to the ordinance and those that were opposed to the ordinance. Correspondence received on this topic is found in Attachment C of this report.

- Legal Services of Northern California: Target Very Low income renters, rather than Low.
- Northern California Homebuilders Association: Allow builders to request 1 for 1 market rate unit bonus for each affordable unit provided, allow in-lieu fees as an alternative compliance measure in all cases, phase in the ordinance to allow for exemption for developers in the pipeline.
- Nonprofit Housing Association of Northern California: Lower targeted income levels for owner and rental, allow acceptance of in-lieu fees and rental development to be an alternative compliance option for ownership projects.
- Greenbelt Alliance: supportive of the ordinance, revise the targeted income, increase the parking reduction allowed, allow in-lieu fees and alternative compliance for owner and renter rehabilitation, expedite the planning process.
- Cole Carter—developer: Requested exemption for his specific 17-unit project.
- Deborah Pugh, Kimberly Leslie, Don Jordan—residents: supportive of the ordinance.
- Solano Association of Realtors representative speakers: Resale Restriction Agreement on ownership units limits appreciation to homebuyers of affordable units, may be a disincentive to maintain the units, and make it difficult for buyers to move up since appreciation was limited. Thought 5% downpayment was too high, and recommended live/work preference for Vallejo, and allowances for hardship cases such as divorce or work layoff.
- Western Center on Law and Poverty Letter: Supportive of ordinance, but lowering targeted incomes to Very Low and Extremely Low households, strengthening condo conversion ordinance, requiring acquisition and rehabilitation option to target affordability levels to existing tenants.
- Lennar letter: Focus the ordinance on workforce housing, Low and Moderate-income levels, allow flexibility by allowing a lower percentage requirement to be met if lower affordability targeted, waive fractional fees for under .5 unit, allow fee waivers for affordable units, allow land dedication plus in-lieu fee payment as an alternative compliance measure.
- Architectural Heritage Foundation letter: Ensure that the ordinance creates

balanced communities by ensuring that affordable units are built in newer developments, not in older neighborhoods with already higher concentrations of subsidized rental housing. Recommend using incentives to build market-rate infill and target median income households also.

- Marti Brown-resident: Retain the covenants terms that are required under Redevelopment law, maintain higher in-lieu fees, if off-site construction is allowed, require it to be in a census tract with a similar median income.
- Katy Miessner-resident: Ensure that affordable units are built within new developments, not over-concentrated in high rental census tracts. Do not allow in-lieu fee payments. Should allow credit for home improvements as part of an equity sharing formula.
- Affordable Housing Working Group, including some realtors and Vallejo Neighborhood Housing Services, e-mail from Jennifer Wilson: Proposed revising percentage required to Ownership- 7% Moderate and 8% Low, and for Rental – 5% Low and 5% Very Low targets. Proposes a feasibility study for a land trust, and working with a nonprofit such as Vallejo Neighborhood Housing Services to administer the ordinance. Proposes a 30-year deed restriction for ownership units, and an equity sharing model that allows an increase of 1% per year in owner equity. Suggests allowing an alternative compliance measure of rehabilitation of either ownership or rental units where at least \$45,000 per unit in work is needed. Proposes that off-site construction be required to be in a comparable census tract with comparable income, and demographics to developer's census tract. Proposes in-lieu fees be used by a land trust to rehabilitate rental or ownership units, or to be used as down payment assistance. Proposes that in-lieu fee payments be calculated as the difference between cost to build a market rate unit and the affordable sales price.
- Chamber of Commerce: Opposed the ordinance. Ordinance seen as imposing constraints on development, possibly slowing development, and limiting equity appreciation for affordable homebuyers.
- Gary Mandarich, developer, letter: Expressed that imposition of originally drafted inclusionary requirement-without consideration of revisions or alternative compliance measures-would have made Belvedere project infeasible.
- Vallejo Unified School District: Ordinance seen as resulting in a potential decrease of approximately \$2.5 to \$3 million in the purchase price of four sites that the School District is selling to help defray a \$60 million VUSD loan.

### **Commissioners**

The following summarizes comments from Planning Commissioners.

**Manning:** Suggested increasing threshold number, concerned about developers caught in the pipeline with active projects, felt inclusionary zoning was a useful tool but not a silver bullet to address affordable housing, need more incentives if possible such as expedited review, reduced fees, allow in-lieu fees for all projects and use these for downpayment assistance, lower targeted income for rental.

**McConnell:** Significant issues raised and addressed in Attachment to this report. In general, concern about keeping units dispersed throughout the city, limit parking reduction to transit-proximate developments, add hardship criteria, how will fees be used, preference for live/work in Vallejo, include mobile home parks, and other issues.

**Legalos:** Consider other funding sources for affordable housing, look at using houseboats for affordable housing, include eligibility criteria and add preference for living or working in Vallejo, find ways to encourage the proper maintenance of affordable housing stock, take out different interior finishes from incentives list- not useful.

**Salvadori:** Felt this affected only developers, did not see how this was part of City's comprehensive strategy. Felt alternative ways to address affordable housing should be explored, rather than inclusionary zoning. Public input process should be extended through the summer.

**Turley:** Opposed ordinance, thought affordable housing could be provided through Habitat for Humanity's sweat equity model, mobile home parks, and pre-fabricated housing.

**Peterman via March 6 e-mail:** Concern that limited equity is disincentive for maintenance and will not allow owners to move up, concerned about allowing different product types would not blend in, increase the threshold, concerned about negative impact on landowners and rental market, likes VNHS model of providing affordable ownership housing which requires City funding. The following sections of the staff report are intended to describe the primary issues raised in the comment period and the corresponding revisions made to the draft ordinance, beginning with a description of how the inclusionary ordinance fits into the City's housing strategy as codified in the Housing Element, and other Housing planning documents.

### ***Discussion of Primary Issues Raised by Planning Commissioners and stakeholders***

Certain modifications have been made to the initial draft ordinance based on public input, including:

- Revising the percentage and targeted affordability for ownership and rental
- Raising the threshold units at which the ordinance will apply
- Exempting projects with applications that have been deemed complete to the Vallejo Planning Division as of the adoption of this ordinance
- Designating a preference for households that live or work in Vallejo
- Revising the calculation of the in-lieu fee to the affordable price to construction cost gap
- Expanding the acceptance of in-lieu fees for projects of less than 30 units
- Revisions for off-site compliance, including requirement to be in census tract with comparable median income level to project census tract
- Delineating specific uses for the fees collected under this ordinance, including the rehabilitation of rental or ownership housing
- Increasing the allowable density bonus requested by developers
- Including Mobile Home Parks condominium conversions and adaptive reuse

specifically under applicable residential projects

Alternative options that were raised by Commissioners or the public discussed in this staff report include:

- Additional incentives, such as deferred fees and expedited Planning review
- Maintenance provisions and HOA dues
- Exploring other means of providing affordable housing

1. Mandatory on-site compliance vs. alternative off-site compliance: A primary issue on which stakeholder opinions differ is whether the ordinance should mandate that affordable units be built within the new development project site, or allow the developer to meet the requirement through flexible measures that would result in affordable units being created off-site. The alternative measures include options such as, payment of in-lieu fees, acquisition and rehabilitation of deteriorated ownership or rental units, or new construction. The supporters of the mandatory build requirement believe it is the way to ensure that affordable housing will be truly integrated throughout the city and avoid concentrating affordable units with already high concentrations of affordable units. The Vallejo Architectural Heritage Foundation is supportive of an ordinance that requires the new units within new developments and does not encourage additional subsidized or affordable units in historical, older neighborhoods.

Supporters of the alternative compliance measures indicated that these allow for maximum flexibility to developers, and may result in more units targeted to lower income categories. They also felt that there is substantial need for rehabilitation of existing housing units in Vallejo, for both single family and multifamily residences. The alternatives allow for the improvement of deteriorated housing stock and potential funding for the creation of a Community Land Trust that could acquire and monitor the inventory of new affordable for-sale units created in the city. The majority of those who commented on the ordinance favor a more flexible ordinance to allow developers the most compliance options, so additional alternative compliance measures and in-lieu fee options have been added to the ordinance. These changes are described in the next section of this report.

2. Allowing in-lieu fees to be paid for any size project: Recommendations have been made to allow developers the option to pay in-lieu fees in all cases rather than provide units on the site. This option has some drawbacks: 1) it does not result in the simultaneous construction of affordable units and market-rate units, the affordable units would be built at a later time; 2) it does not result in mixed-income communities, which has been one of the goals of the inclusionary program; 3) it takes a substantial accumulation of fees into a housing fund to be able to subsidize a new affordable rental or ownership development; and 4) it requires that a new site be located. The City subsidy typically needed to create new affordable rental housing averages approximately \$50,000 per unit. City financing of ownership housing typically requires a higher subsidy per unit. A minimum sized project for many nonprofit developers is about 50 units, which means the City subsidy would likely need to be at least \$2.5 million before a commitment could be made to a new rental project. This could delay the provision of new affordable housing as funding is limited, and the sites available for affordable housing would continue to decrease as new market-rate development occurs.



The allowance of in-lieu fee payments allows greater flexibility if acquisition and rehabilitation are allowed for single-family and multifamily ownership units. The acquisition and rehabilitation of existing housing does not necessarily add new affordable units to the housing stock but can improve existing neighborhoods and preserve the affordability of existing units. In-lieu payments could also allow the creation of more units for Very Low-income households through new construction or rehabilitation of rental housing. If in-lieu fees were used for homebuyer downpayment assistance loans, as some have suggested, the amount per loan is estimated to average approximately \$80,000 per loan. This would allow buyers to purchase an existing home, and could increase the long term affordable housing stock within the City of Vallejo, if a deed restriction were recorded on the unit as well. Once a unit is sold, and the down payment loan repaid to the City, the unit would remain affordable, since a deed restriction that requires sale to a Low or Moderate-income buyer would be in place.

The ordinance has been revised to allow the payment of in-lieu fees for projects of fewer than 30 units, but for projects of 30 units or more, inclusionary units must be built on-site. An alternative to this would be to allow in-lieu fee payments for all projects.

**3. In-Lieu Fee Calculation:** The original in-lieu fee amount of \$501,500 per affordable unit was calculated by David Rosen and Associates (DRA) as the gap between the Moderate affordable sales price and the Median Home Price for a new single family unit at the time of the study, in 2006. Since then, home prices have fallen. DRA has recalculated the in-lieu fee based upon the gap between the affordable sales price and the cost to build a new unit. This results in a square foot in-lieu fee in a range from amount of \$14 to \$19. The proposed in-lieu fee is \$17 per square foot, in the middle of the range. So, for example, a project of 10 units, of 1500 square feet each, would pay  $1,500 \times 10 \times \$17 = \$255,000$ , as an in-lieu fee. The fee would be larger, if the unit sizes were larger. For example if the units were 2,000 square feet each, the fee for a 10-unit project would be \$340,000. Under the original fee structure, a 10-unit project would require 1.5 units, or a fee of  $1.5 \times \$501,500 = \$752,250$ . The lower fee amount of \$17 per square foot is recommended to be adopted within the in-lieu fee resolution.

**4. Allowing Equity Share Deferred Mortgages rather than Requiring a Resale Restriction Agreement capping Equity at Increase in Area Median Income:** Restricting resale prices to affordable prices limits the appreciation on the unit for the eligible buyer; however, it does not eliminate appreciation completely. The restricted sales price had been mentioned by some as a disincentive for maintaining the unit, or even purchasing the unit. Some of these concerns were allayed in the April 25<sup>th</sup> workshop led by housing consultant, Rick Jacobus. The attendees were shown the appreciation that a seller of an affordable unit might receive under the scenario proposed in the draft ordinance. The appreciation within a five-year period, under conservative assumptions, exceeded \$100,000, and was shown to be significant. Of those attending the workshop, many indicated preference for the scenario that allowed the owner a share appreciation but restricted sales price to an affordable price tied to the increase in Area Median Income at the time of the resale.

While it is true that buyers of Inclusionary Units will not benefit from a surge in home appreciation,

as market rate buyers might, it is not the purpose of the inclusionary ordinance to create a windfall profit in the form of appreciation for households. Inclusionary units are an interim step toward full homeownership. They confer greater benefits than renting, but not the full benefits of market-rate ownership. It is the purpose of an inclusionary ordinance to add affordable units to the housing stock over the long term and to increase housing opportunities for Low and Moderate income buyers, without stretching them beyond their means. Inclusionary units allow families *who would not otherwise be able to purchase a home*, the ability to own a home without spending over 35% of their income on monthly payments, putting them at risk of foreclosure. The dramatic foreclosure rate in Vallejo puts it among highest in the nation, indicating that the demand for ownership units has pushed families to stretch beyond their reasonable financial limits, and has threatened their health and safety by putting them at risk of foreclosure and bankruptcy which has lasting negative impacts.

The limited appreciation for buyers under a Resale Restriction Agreement is not a perfect solution because it may make it more difficult for a buyer to be able to move into another home later. The ordinance does allow owners to add to their equity the value of home improvements made, which is an incentive to maintain the unit. It was recommended that equity be allowed to increase by 1% for each year that the homeowner remains in the home. This would however, likely increase the downpayment assistance needed by the next eligible buyer of the home because it would lead to setting a sales price higher than the maximum affordable price. This would, in turn, require the City to commit additional downpayment assistance to the unit upon future resale to keep it affordable to the subsequent eligible household, and is not recommended.

5. Consideration of a Community Land Trust model as a means of administering the inclusionary ordinance. During the community workshops there was strong support for consideration of exploring the feasibility of a Community Land Trust as a method of administering the inclusionary ordinance. A community group including residents and staff to Vallejo Neighborhood Housing Services is currently assessing this opportunity. A Land Trust could be the recipient of a portion of in-lieu fees and the agent for acquiring and rehabilitating ownership units to meet Ownership project inclusionary requirements. A role of the Land Trust could also be to monitor the Inclusionary inventory as it grows and administer the resale of Inclusionary units. Staff recommends supporting this group in its efforts to assess the feasibility of establishing a land trust, including reviewing the potential role of Vallejo Neighborhood Housing Services in the land trust.

6. Administration of the IZ ordinance: There is currently staff available to initiate implementation of an ordinance, but not to fully administer the ordinance on an ongoing basis. The City could pursue the option of funding a full or part-time staff position to administer the ordinance. A full-time position with benefits would be approximately \$100,000 per year. The in-lieu fees collected under the ordinance would be segregated into a separate fund. Eligible use of the funds would include investment in rehabilitated or new housing and costs associated with administering the program. There are several nonprofit organizations, such as HomeBricks, an affiliate of BRIDGE Housing, that are administering Inclusionary Units under other ordinances in other jurisdictions. It is estimated that, based upon fees per unit, when the program is fully implemented, this may cost approximately \$125,000 per year. The City could issue an RFP to determine the most qualified

agency to assist the City in administering the inclusionary ordinance.

### ***Proposed Revisions to the Ordinance***

In response to the comments listed above, staff has made the following revisions to the draft Inclusionary Ordinance, which is attached as a redlined document to this report:

1. Reduced targeted income level of Ownership Housing to 7% Moderate (110%) and 8% at Low (70%), and revise targeted income level for rental housing to 5% at Low Income (60% AMI) and 5% at Very Low Income (50% AMI) under Applicability.
2. Included mobile home parks, and adaptive reuse as projects to which the ordinance would apply under Definitions, for Residential Projects, to which ordinance is applied.
3. Exempted all projects for which Planning applications have been deemed complete by the Vallejo Planning Division at or on the effective date of this ordinance, under Exemptions.
4. Increased threshold to five units or more, under Definitions, for Residential Project, to which ordinance will apply. Five lots is the threshold number for a major subdivision.
5. Under Eligible Household, in Definitions, added a preference indicated for households that live or work a minimum of 30 hours per week in Vallejo.
6. Delineated specific uses for the fees collected under this ordinance, under Use and Expenditure of Fees, beyond costs to administer the ordinance including acquisition and rehabilitation of single-family residences and acquisition and/or rehabilitation of multifamily residences, or new construction of single family or multifamily, ownership or rental units.
7. Increased the allowable density bonus requested by developers to a 1 market-rate unit per 1 affordable unit, subject to State Density Bonus Law, under Incentives.
8. Alternatives to On-site Construction: including land dedication for all projects; and allowing in-lieu fees for projects of fewer than thirty units. Land dedication would be required to be of sufficient acreage to accommodate the number of units required and land would be required to be graded and improved with all off-site improvements. All off-site construction would be required to be performed in a Census Tract of comparable median income to the project Census Tract.
9. In-lieu Fee: The in-lieu fee has been revised based upon a re-calculation by DRA consulting firm. See Attachment 2. All projects from 5 to 29 units would be eligible to pay an in-lieu fee of \$17 per square foot for total residential area in the project.
10. Implementation: Include in Resolution authorization to support the community group's efforts to assess the feasibility of a local Community Land Trust. The Community Land Trust could be an eligible recipient of in-lieu fees and/or to be considered for ordinance administration. In addition, issue an RFP to solicit qualified agencies or firms to bid for administration of the program, once

adopted and implemented.

### ***Discussion of Alternative Options***

The following recommendations were raised but have not been included in the revision, with the rationale described below. The Planning Commission may wish to recommend certain alternatives be considered for inclusion in the ordinance by the City Council.

- Additional incentives, such as deferred fees and expedited Planning review
- Shorter Term of affordability
- Addressing maintenance issues and HOA dues

Deferred Fees: In light of the City's current fiscal challenges and need to collect revenue to support expenses, staff does not recommend the City to defer fees that defray staff costs for Planning, Building, and Engineering review.

Expedited Planning Review: A recent organizational study indicates that Planning is understaffed compared to other Bay Area jurisdictions based on project caseload. Until revenues increase, Planning staff cannot expedite review any further than current deadlines established by City policy. If staffing were to increase, the expedited review could be revisited.

Requiring A Shorter Term of Affordability for Ownership Units: To ensure that all inclusionary units may be counted by the State toward Fair Share Affordable Housing goals, many cities find it prudent to use the same terms of affordability and definitions of affordability as set by the State Housing and Community Development Department, which would be a minimum of 45 years for ownership and 55 years for rental development. Special exemptions for market-rate sales would be allowed in very limited hardship circumstances. Staff is recommending the 45 year restriction to ensure that all units created are counted toward State Housing Element goals.

Addressing Maintenance Issues and HOA dues: Several stakeholders raised concerns about whether the limitation on equity appreciation on ownership units would be a disincentive to maintain ownership units. Based upon conversations with jurisdictions, including Emeryville, Palo Alto, and Pleasanton, that have had inclusionary ordinances in place, this has been an issue in only a small number of resales of affordable units. There is a provision included in the Resale Restriction Agreement that requires inspection of an inclusionary unit for basic maintenance requirements prior to resale. If a unit is in need of repair for habitability, funds would be retained from sales proceeds in escrow for this purpose, or the seller would be allowed to make repairs prior to sale. The very circumstance of owning a unit is incentive for upkeep of property. In addition, requisite Homeowner Association dues will ensure exterior property maintenance. The escalation of homeownership association dues is a valid concern as there is little control the buyer has over this. The initial qualification of the buyer does include the HOA fees as part of the 35% housing costs, so it is taken into account as an expense in the sale of the unit. A mandatory educational workshop for first-time buyers will be included as part of the implementation procedures manual for the Inclusionary Ordinance, if adopted. This course will address budgeting and maintenance issues. HOA fees may increase significantly in the future, which would reduce the buying power of the next homebuyer, and could require reduction in the seller's

equity.

*Fiscal Impact.* It is estimated that at least \$250,000 or more might be generated per year in in-lieu fees. This estimate is based on at least one project with an in-lieu fee payment. The cost of administering the inclusionary program will initially be lower, because it will be based upon the number of units in the City's affordable inventory. As more units become part of the City's affordable housing inventory, either additional staff time would be dedicated to administer the program, or the City could contact with an outside nonprofit to administer the program. HomeBricks is one existing nonprofit that indicates it costs about \$125 per unit per year to administer an inclusionary inventory. If the program ultimately resulted in 1000 units, the cost would then be about \$125,000 to administer.

The City wishes to encourage the balanced and integrated provision of housing affordable to all income levels. The proposed inclusionary ordinance assists the city in achieving this goal.

#### ENVIRONMENTAL REVIEW

An Initial Study was performed for this project resulting in a Negative Declaration. Adoption of the ordinance in and of itself would not induce population growth or displacement. New homes generated due to implementation of the ordinance would be subject to environmental review on a project specific basis.

#### DOCUMENTS ATTACHED

- Attachment A: HRC Resolution
- Attachment B: Draft Inclusionary Ordinance
- Attachment C: Correspondence Received

#### CONTACT:

Laura J. Simpson, Housing and Community Development Manager, (707) 648-4393, or [lsimpson@ci.vallejo.ca.us](mailto:lsimpson@ci.vallejo.ca.us).

November 14, 2007

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# Attachment "A"

RESOLUTION NO. \_\_\_\_\_

BE IT RESOLVED by the Housing and Redevelopment Commission of the City of Vallejo that the attached Draft Inclusionary Housing Ordinance be forwarded to the City Council for consideration and approval.

**Attachment B: Redlined Draft Inclusionary Ordinance**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF VALLEJO ADDING  
CHAPTER 16.56 TO THE VALLEJO MUNICIPAL CODE

WHEREAS, Persons of low and moderate income are experiencing increasing difficulty in locating and maintaining adequate, safe and sanitary affordable housing within the City of Vallejo, as housing costs have risen faster than incomes over the past decade. Many persons who work in Vallejo, or who wish to live in Vallejo, cannot afford housing in the city; and

WHEREAS, As noted in the City's Housing Element, a regional shortage of affordable housing is contributing to overpayment for housing accommodations, sometimes leading to temporary or permanent homelessness. According to the Association of Bay Area Governments' Regional Housing Needs Projections, the City of Vallejo should facilitate the provision of housing affordable to persons of very low, low and moderate income; and

WHEREAS, Increasing the production and availability of affordable housing is problematic. Prices and rents for affordable housing remain below the level needed to attract new construction. At the same time, escalating land costs and rapidly diminishing amounts of land available for development hinder the provision of affordable dwelling units solely through private action. Federal and State housing finances and subsidy programs are not sufficient by themselves to satisfy the affordable housing needs; however, programs and activities to expand affordable housing opportunities can be accomplished through public/private partnership action; and

WHEREAS, An inclusionary background study was prepared by consulting firm, David Rosen and Associates in November 2006, calculating the affordability gap between sales prices and affordable prices in Vallejo, and demonstrating the potential impact of inclusionary requirements in Vallejo; and

WHEREAS, An Inclusionary Housing Ordinance has been drafted that would require new ownership and rental residential projects or condominium conversions to provide a specified percentage of affordable housing for Moderate or Low-income households; and

WHEREAS, The proposed Inclusionary Housing Ordinance meets Objective B.3.ii.2 of the City Housing Element, which indicates that the City will study the adoption of an inclusionary housing program, and alternative compliance options; and

WHEREAS, The ordinance meets Objective B.3.iii. of the City Housing Element to encourage the development of affordable housing for lower-income workers employed in Vallejo; and

WHEREAS, The ordinance assists in achieving Objective A.1.ii.1.b. of the City Housing Element, the review of regulations that might unduly constrain housing development; and

Vallejo Inclusionary Housing Ordinance- working draft  
September 2007

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WHEREAS, The ordinance includes provisions to bring the City into compliance with State Density Bonus law; and

WHEREAS, The ordinance supports Objective B.1.iv of the City Housing Element to increase types of new development that will qualify for density bonuses; and

WHEREAS, By including condominium conversions as subject to the inclusionary ordinance, the ordinance also assists in meeting Objective B.1.v. to ensure that condominium conversion applications will not adversely effect housing affordability, choice, and balanced neighborhood goals; and

WHEREAS, Requiring affordable units within each housing development serves the goal of maintaining an economically balanced community. Requiring developments of new housing to include some housing affordable to households at a range of incomes is fair, not only because new development without affordable units contributes to the shortage of affordable housing but also because zoning and other ordinances concerning new housing in the city should be consistent with the community's goal to foster an adequate supply of housing for persons at all economic levels.

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 16.56 is hereby added to the Vallejo Municipal Code to read as follows:

**INCLUSIONARY HOUSING ORDINANCE**

- 16.56.010 Purpose
  - 16.56.020 Definitions
  - 16.56.030 Applicability
  - 16.56.040 Incentives
  - 16.56.045 Affordable Housing Plan Required
  - 16.56.050 Time Performance Required
  - 16.56.060 Continued Affordability; City Review of Occupancy
  - 16.56.070 Alternatives to On-Site Construction
  - 16.56.080 Use and Expenditure of Fees
  - 16.56.090 Affordable Housing Agreement
  - 16.56.100 Enforcement
  - 16.56.110 Severability
  - 16.56.120 Exemptions
- SECTION 2. Effective Date**

16.56.010. Purpose.

The provisions of 16.56.010 through 16.56.130 inclusive, shall be known as the Inclusionary Housing Ordinance. This Ordinance is enacted under the City's general police power. The purpose of this Ordinance is to provide for the development of

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affordable housing concurrently and in an integrated manner with market-rate housing, and to require new development to provide affordable housing in a fair and consistent manner, to implement that City's General Plan, including its Housing Element, and to enable the City to comply with State Housing Element law.

**16.56.020. Definitions.**

**A. Affordable Housing Plan.** Affordable Housing Plan means the plan submitted by the developer of a Residential Project and approved, or modified and approved, by the City that describes how the inclusionary housing requirements will be met by the Residential Project, including but not limited to the number, location, and type of affordable units that will be provided, the timing of the construction of the affordable units for phased developments, buyer screening and selection methodology, and compliance with all other requirements of this chapter and of the rules and regulations adopted to implement this chapter.

**B. Affordable Ownership Price.** Affordable Ownership Price means a sales price that results in a monthly housing payment consistent with California Health and Safety Code Section 50052.5(b), as amended from time to time. The affordable price shall be the sum of the affordable mortgage as calculated in this Section plus a five (5) percent down payment. In addition, eligible buyers shall be responsible for paying customary closing costs. For Low Income Households, average monthly housing payment during the first calendar year of a household's occupancy, including mortgage interest and principal payments on a thirty-year fixed rate mortgage based on the then current Freddie Mac thirty-year mortgage rate or successor index, property taxes, assessments or other government assessments or special taxes, such as special taxes imposed under a community facilities district on the subject Residential Project and applicable to the Affordable Unit, mortgage insurance, homeowner's insurance, homeowners or condominium association dues which apply to the unit being purchased by the eligible homebuyer, allowances for utilities as published annually by the Vallejo Housing Authority, or successor index, and any assessments paid by homeowners, is equal to or less than one-twelfth (1/12) of thirty percent (30%) of seventy percent (70%) of the area median income adjusted for household size.

For Moderate Income Households, average monthly housing payments, during the first calendar year of a household's occupancy, including mortgage interest and principal payments on a thirty-year fixed rate mortgage based on the then current Freddie Mac thirty-year mortgage rate or successor index, property taxes, mortgage insurance, homeowner's insurance, actual homeowners association dues which apply to the unit being purchased by the eligible homebuyer, allowances for utilities as published annually by the Vallejo Housing Authority, or successor index, and any assessments paid by homeowners, is equal to or less than one-twelfth (1/12) of thirty-five percent (35%) of one hundred ten percent (110%) of the area median income allowed for Moderate Income Households, adjusted for household size.

**C. Affordable Rent.** The definition of Affordable Rent shall be consistent with California Health and Safety Code Section 50053, as amended from time to time. Monthly rent, including allowances for utilities as published annually by the Vallejo

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Housing Authority or successor index, and all fees for housing services, must be equal to or less than one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of the area median household income, adjusted for household size for Very Low Income Households and sixty percent (60%) of the area median income, adjusted for household size for Low Income Households.

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**D. Affordable Unit.** Living Units that are required under this chapter to be rented at an Affordable Rent or available at an Affordable Ownership Price to specified households, and initially occupied by specified households. Subject to 16.56.020B and C. Affordable Units shall be comparable in overall number of bedrooms, proportion of units in each bedroom category, quality of exterior appearance and overall quality of construction to market rate units in the same residential project. Interior features and finishes in affordable units shall be durable, of good quality and consistent with contemporary standards for new housing. A minimum of one (1) full bathroom must be provided in two bedroom Affordable Units. All other Affordable Units shall have the identical bathroom count to those in market rate units in the development subject to this chapter and of identical bedroom count.

**E. Area Median Income.** Area median income as published pursuant to California Code of Regulations, Title 25, Section 6932 (or its successor provision).

**F. Condominium Conversion Project.** A rental residential development or mobile home park condominium conversion for which the owner has applied for a tentative or parcel map for the conversion of residential property into a condominium, community apartment project or stock cooperative project.

**G. Eligible Household.** A household whose household income does not exceed the maximum specified in 16.56.030 for a given Affordable Unit. Affordable Units for ownership shall only be purchased by income eligible households as specified in 16.56.030 who are also First Time Homebuyers. A preference point will be given to households who live and/or work in Vallejo in compliance with State and Federal Fair Housing law, where working in Vallejo is defined as working on a site located in the City of Vallejo for a minimum of 30 hours per week.

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**H. First Time Homebuyer.** A household which has not owned a home for the three calendar years prior to the date they apply for home purchase, with the exception of households which owned a home during the prior three calendar period but lost it through divorce proceedings or as a result of medical expenses resulting from an uninsured medical emergency.

**I. Household Income.** The combined adjusted gross income for all adult persons living in a Living Unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor.

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**J. Living Unit.** One or more rooms designed to be occupied or intended for occupancy as separate living quarters with a stove, sleeping and bathroom facilities.

**K. Low Income Household.** The definition of Low Income Household shall be consistent with California Health and Safety Code Section 50079.5 for lower income households, as amended from time to time. Low Income Household means persons and families whose income does not exceed eighty percent (80%) of area median income, adjusted for household size. "Adjusted for household size" shall be consistent with California Health and Safety Code Section 50052.5(h), as amended from time to time. Maximum annual household income for Low Income Households shall be set based on presumed occupancy levels of one person in a studio apartment, two (2) persons in a one (1) bedroom unit, three (3) persons in a two (2) bedroom unit, and one additional person for each additional bedroom thereafter.

**L. Low Income Owner Unit.** Low Income Owner Unit means a Living Unit in a Residential Project that is offered for purchase at construction completion at an Affordable Ownership Price to a Low Income Household.

**M. Low Income Renter Unit.** Low Income Renter Unit means a Living Unit in a Residential Project that is offered at an Affordable Rent to a Low Income Household.

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**N. Market Rate Units.** Market Rate Units are Living Units in Residential Projects that are not Affordable Units under subsection (c) of this section.

**O. Moderate Income Household.** The definition of Moderate Income Household shall be consistent with California Health and Safety Code Section 50093, as amended from time to time. Moderate Income Household means persons and families whose income does not exceed one hundred-twenty percent (120%) of area median income, adjusted for household size. "Adjusted for household size" shall be consistent with California Health and Safety Code Section 50052.5(h), as amended from time to time. Presumed occupancy levels shall be one person in a studio apartment, two (2) persons in a one (1) bedroom unit, three (3) persons in a two (2) bedroom unit, and one additional person for each additional bedroom thereafter.

**P. Moderate Income Owner Unit.** Moderate Income Owner Unit means a Living Unit in a Residential Project that is offered for purchase at construction completion at an Affordable Ownership Price to a Moderate Income Household.

**Q. Owner Project.** Owner Project is a Residential Project, or portion thereof, which is intended to be sold to owner-occupants upon completion.

**R. Rental Project.** A Rental Project is a Residential Project, or portion thereof, which is intended to be rented to tenants upon completion.

**S. Residential Project.** Residential Project. Any mixed-use, adaptive reuse, mobile home park condominium conversion or other residential project that includes five (5) or more living units or residential lots, or living units and residential lots which total five (5) or more in combination. In order to prevent evasion of the provisions of this chapter, contemporaneous construction of five (5) or more living units on a lot, or on contiguous lots for which there is evidence of common ownership or control, even though

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not covered by the same City land use approval, shall also be considered a Residential Project. Construction shall be considered contemporaneous for all units which do not have completed final inspections for occupancy and which have outstanding, at any one time, any one or more of the following: planned district, subdivision map, conditional use permit or other discretionary City land use approvals, or building permits, or applications for such an approval or permits.

**T. Very Low Income Household.** The definition of Very Low Income Household shall be consistent with California Health and Safety Code section 50105, as amended from time to time. Very Low Income Household means persons and families whose income does not exceed fifty percent (50%) of area median income, adjusted for household size. "Adjusted for household size" shall be consistent with California Health and Safety Code Section 50052.5(h), as amended from time to time. Maximum annual household income shall be set based on presumed occupancy levels of one person in a studio apartment, two (2) persons in a one (1) bedroom unit, three (3) persons in a two (2) bedroom unit, and one additional person for each additional bedroom thereafter.

**U. Very Low Income Renter Unit.** Very Low Income Renter Unit means a Living Unit that is offered at an Affordable Rent to a Very Low Income Household.

**16.56.030. Applicability.**

Subject to the provisions of this chapter all Residential Projects shall provide affordable units as follows:

**A. For Rental Projects:**

- (1) At least five percent (5%) of all new Living Units shall be Very Low Income Renter Units and five percent (5%) shall be Low Income Renter Units.

**Deleted:** Any project that includes three (3) or more living units or residential lots, or living units and residential lots which total three (3) or more in Contemporaneous construction of three (3) or more living units on a lot, or on contiguous lots for which there is evidence of common ownership or control, even though not covered by the same City land use approval, shall also be considered a Residential Project. Construction shall be considered contemporaneous for all units which do not have completed final inspections for occupancy and which have outstanding, at any one time, any one or more of the following: planned district, subdivision map, conditional use permit or other discretionary City land use approvals, or building permits, or applications for such an approval or permits. ¶

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**B. For Owner Projects:**

- (1) At least five percent (8%) of all new Living Units shall be Low Income Owner Units and seven percent (7%) of all new Living Units shall be Moderate Income Owner Units.

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**C. For Condominium Conversion Projects:**

- (1) At least fifteen percent (15%) of all rental units converted to ownership units shall be Low Income Owner Units. In the event this requirement results in a fractional unit obligation, regardless of what fraction, the number of Low Income Owner Units required of the Condominium Conversion Project will be increased by one unit. The alternative compliance options stipulated in Section 16.56.060 of this chapter shall not apply to Condominium Conversion Projects. The number of units in a condominium conversion project are subject to this chapter shall be determined as part of the approval of the housing plan and the tentative or parcel map for the condominium conversion and shall provide for the tenants' rights to purchase units.

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D. For purposes of calculating the number of affordable units required by this section, any additional units authorized as a density bonus pursuant to California Government Code Section 65915(b)(1) or (b)(2), as amended, shall not be counted as part of the Residential Project.

E. When the application of the Affordable Unit requirements set forth in subsections (a) and (b) results in a number that includes a fraction and where the fraction is 0.5 or greater, the developer of the Residential Project either must pay an in-lieu fee equivalent to that fractional unit pursuant to 16.56.070C or must build the next higher whole number of Affordable Units, and where the fraction is less than 0.5, the fractional unit requirement is reduced to zero. Projects of fewer than 30 units may pay an in-lieu fee equivalent to the total number of units required in Section 16.56.030A, B, or C, pursuant to Section 16.56.070.C herein.

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~~Deleted: the developer is allowed to pay a fee to the City in lieu of constructing an Affordable Unit pursuant to 16.56.070C. In the case of a 3-unit project or a 4-unit project, developer shall have the option of adding one additional unit which would be designated as an Affordable Unit, or paying the fractional in-lieu fee.~~

F. Affordable Units must be geographically dispersed throughout the project site.

#### 16.56.040. Incentives.

Residential Projects which are subject to this chapter may request the following as part of the Affordable Housing Plan:

A. Affordable Units may have different interior finishes and features than Market Rate Units in the same Residential Project, so long as the interior finishes and features are durable, of good quality and consistent with contemporary standards for new housing.

B. Affordable Units may be constructed using an alternative housing product type, for example, townhome, in a single-family detached project, than the Market Rate Units in the same Residential Project, but in no case shall Affordable Units be less than 75% of the total square footage of the similar type of Market Rate Units in the Residential Project, and must generally be assimilated into the overall design and character of the Residential Project.

C. A Residential Project with structured parking may provide up to 20% fewer parking spaces per unit than the required number of spaces under Vallejo's zoning code applicable to the Residential Project if the Residential Project developer/owner has prepared a parking study demonstrating that the parking reduction will not have a significant impact on parking in the project vicinity and the City concurs with the findings of the parking study. This parking reduction will not apply to projects with surface parking or stand alone garages constructed at grade.

D. If the Developer commits to four bedroom Affordable Units, each four bedroom Affordable Unit shall be deemed to be 1.25 units for the purpose calculating the total number of Affordable Units in a Residential Project.

E.. The Residential Project developer may request and the City may approve additional zoning code revisions for the Residential Project needed to enable the Project to benefit from all of the incentives offered in this Section 16.56.040 and the provisions of

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September 2007.

California Government Code Section 65915(b)(1), and (b)(2), as amended, State Density Bonus law. Developers may request an additional market-rate unit per each affordable unit constructed within the project. Developers are encouraged to request the highest density necessary for project feasibility. Revisions to the zoning code which qualify for approval under this Section include, and may not be limited to, changes in restrictions on height, floor area ratio, density, set back and side yard requirements.

F. Funds under the control of the City, City of Vallejo Housing Authority or the City of Vallejo Redevelopment Agency cannot be used to grant, finance, or otherwise subsidize Residential Projects unless:

(1) The Residential Project will provide an amount of Affordable Units in excess of the requirements of this chapter; or,

(2) The Residential Project serves households with lower incomes than required under Section 16.56.020A and B while providing the same, or greater, number of Affordable Units required under Section 16.56.030A and B.

**16.56.045. Affordable Housing Plan Required.**

A. The developer or proponent of a Residential Project shall submit, concurrently with or prior to the submission of an application for the first discretionary approval for a Residential Project, a proposal describing the proposed Affordable Housing Plan for the Residential Project, in accordance with this chapter and the intended method for implementing the plan, including but not limited to: unit floor plans, affordable unit locations on site plan, number and type of affordable units, proposed affordable rents and prices and proposed market-rate rents or prices, proposed construction schedule, and Affordable Unit marketing plan.

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B. Approval Process of Affordable Housing Plans. The approval process for affordable housing plans will include the following steps:

1. Submission of the affordable housing plan as part of the project application submitted to the Planning Division. Staff shall then refer the affordable housing plan to the Director of the Housing and Community Development who will review and either approve or deny the plan based on compatibility with this chapter.

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2. The Affordable Housing Plan shall be included as an attachment to the staff report in the public hearings for the planning entitlements requested for the Residential Project.

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C. Appeal. The Director's decision on the Affordable Housing Plan may be appealed to City Council by filing a Notice of Appeal within ten days of the Director's decision. In considering the appeal, sections 16.56.130 B and C shall govern.

**16.56.050. Time Performance Required.**

A. No building permit shall be issued for any Market Rate Unit until the developer of the Residential Project has obtained building permits for Affordable Units sufficient to meet the requirements of Section 16.56.030, or received certification from the Housing and Community Development Manager that the developer has met, or made

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arrangements satisfactory to the City to meet, an alternative requirement of Section 16.56.060. No final inspection for occupancy for any Market Rate Unit shall be completed until the developer has constructed and received certificate(s) of occupancy for the Affordable Units required by Section 16.56.030 or completed corresponding alternative performance under Section 16.56.060.

B. Conditions to carry out the purposes of this chapter shall be imposed on the first approval for a Residential Project.

C. If the Residential Project is to be constructed in phases, the phasing plan and the Affordable Housing Plan shall delineate the number of affordable units to be built in each phase and the provisions of subsection A shall apply to each phase. If the affordable units are not equally distributed among the phases, then the phasing plan and the Affordable Housing Plan shall determine the manner of compliance with subsection A, and the City may require security or other arrangements satisfactory to the City to assure compliance with this section.

**16.56.060. Continued Affordability; City Review of Occupancy.**

A. Regulatory agreements consistent with the requirements of this chapter shall be recorded against Residential Projects with rental Affordable Units. For Affordable Units designated for owner occupancy, resale restrictions, deeds restrictions, notes and deeds of trust and/or other documents consistent with the requirements of this chapter shall be recorded against owner-occupied Affordable Units. Only resale restrictions and associated documents will be used to assure continued affordability of owner-occupied Affordable Units, and no equity sharing provisions will be used to assure continued affordability of such Affordable Units.

In the case of Affordable Units that are initially rented, these recorded rent restrictions and associated documents shall be consistent with the California Health and Safety Code Section 33334.3(f)(1)(A), as amended from time to time, but in no case shall the minimum term be less than 55 years.

B. The City Housing and Community Development Manager shall annually certify compliance with rules published by the Manager within six months of the effective date of this chapter to establish rent restrictions, tenant income certification procedures, property management and maintenance standards, occupancy requirements, other compliance standards and associated documents for this chapter. In the case of Affordable Units that are initially sold, these documents shall be consistent with California Health and Safety Code Section 33334.3(f)(1)(B), but in no case shall the minimum term be less than 45 years. In the case of owner-occupied Affordable Units that are transferred during the required term, renewed restrictions shall be entered into on each change of ownership, with a 45 year renewal term. The forms of regulatory agreements, resale restrictions, deeds of trust and other documents authorized by this subsection A, and any change in the form of any such document which materially alters any policy in the document, shall be approved by the City Manager or his designee within six months of the effective date of this chapter.

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C. In the case of Affordable Units which are initially owner-occupied, the documents required by subsection A. shall prohibit subsequent rental occupancy, unless approved for hardship reasons by the Housing and Community Development Manager. Such hardship approval shall include provision for United States military personnel who are required to leave the country for active military duty. For Affordable Units which are initially rented, the documents required by subsection A shall provide for continued occupancy for one year, dated from the required annual income certification under the Regulatory Agreement by households occupying the units whose incomes increase during their occupancy so that they may exceed the maximum household income otherwise permitted for the Affordable Unit.

D. The maximum sales price permitted on resale of an Affordable Unit designated for owner-occupancy shall not exceed: the seller's purchase price paid by the owner/seller at the time the owner/seller acquired the unit under this chapter, increased by the percentage increase, if any, in the area median income during period of the owner/seller's ownership. The documents required by subsection (a) may authorize the seller to recover the depreciated value at time of sale of capital improvements made by the seller that were approved in writing by the City in advance of construction and the seller's necessary costs of sale and may authorize an increase in the maximum allowable sales price to achieve such recovery. The resale restrictions shall allow the City a right of first refusal to purchase any affordable owner-occupancy unit at the maximum price that could be charged to a purchaser household, at the time the owner proposes any sale. The Housing and Community Development Manager shall publish rules enforcing resale restrictions, disclosure statements to be issued to purchasers of resale-restricted owner-occupied Affordable Units, occupancy requirements, and restrictions on third mortgages and cash out refinancing secured by Affordable Units, and cost recovery for capital improvements to owner occupied Affordable Units.

E. No household shall be permitted to begin occupancy of an ownership or rental Affordable Unit unless the City has approved the household's eligibility. If the City maintains a list of, or otherwise identifies, eligible households, initial and subsequent occupants of Affordable Units shall be selected first from the list of identified households, to the maximum extent possible.

**16.56.070. Alternatives to On-Site Construction.**

A. Rental Rehabilitation. A developer of a renter or owner Residential Development may satisfy the requirements of Section 16.56.030(a) and 16.56.030 (b) by purchasing and rehabilitating, or make possible another developer's purchasing and rehabilitating blighted, older rental or owner, multifamily or single-family housing units needing a minimum threshold of improvement per unit of \$75,000 to meet building code standards, restricted to the income category required for that type of unit under this ordinance, as recorded in an Affordable Housing Agreement and regulatory agreement. When electing this alternative compliance option, the Housing and Community Development Manager will have the authority to approve an Affordable Housing Plan. It is the intention of this subsection (a) that the units will be restored through physical rehabilitation to a renewed useful life of forty-five (45) years or more. The unit and bedroom count distribution must remain comparable and proportionate to the market rate

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Residential Project. A fifty-five year rent restriction must be recorded against the rental property and a forty-five year deed restriction against an ownership property, and all other provisions of this chapter will apply to the rehabilitated affordable housing.

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B. In lieu of building Affordable Units within an Owner Project, a developer may elect to construct, or make possible construction by another developer, Affordable Units not physically contiguous to the Market Rate Units. At the discretion of the Housing and Community Development Manager or the Manager's designee, off-site construction of Affordable Units pursuant to this subsection (a) may be approved only if:

- (1) construction has started or, if construction not required, certificates of occupancy and a regulatory agreement or resale restriction agreements are recorded for the related Affordable Units before building permits are issued for the related Market Rate Units;
- (2) final inspections for occupancy for the related Market Rate Units must be completed after certificates of occupancy for the off-site Affordable Units are issued;
- (3) the City will require the developer of the Market Rate Units to purchase the site for the off-site Affordable Units, secure all planning entitlements, and record affordability covenants against the site, and secure a building permit for the Affordable Units required of the Market Rate Units prior to issuance of a building permit for the related Market Rate Units; and,
- (4) The City will require that the completion of off-site Affordable Units shall be further secured by a letter of credit from the developer in an amount at a minimum equal to the in lieu fee amount described under subsection (c) and recorded in an Affordable Housing Agreement.

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C. In-lieu Fees. For residential projects of fewer than thirty (30) units, a developer may pay a City calculated per Project Unit square foot fee, to the City instead of building Affordable Units within a Residential Project.

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(1) When the application of the requirements set forth in 16.56.030A or B results in a number that includes a fraction, a developer is allowed to pay a fee to the City if the resulting fractional amount is lower than 0.5.

In lieu fees shall be paid upon issuance of building permits for Market Rate Units in a Residential Project. If building permits are issued for only part of a Residential Project, the fee amount shall be based only on the number of units then permitted.

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The City Council shall establish the in lieu fee by resolution in an amount that that is adequate, at a minimum, to cover the difference between the Affordable Ownership Price defined in 16.56.020B and the cost to construct a Market Rate ownership home in Vallejo for the preceding calendar year, weighted for Low and Moderate income requirements. The fee will be revised and published periodically, but no more than once annually and at least once within a five-year period.

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### 16.56.080. Use and Expenditure of Fees.

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A. The City Council may, by resolution, establish reasonable fees and deposits for the administration of this chapter. The fees collected under this chapter and all earnings from investment of the fees shall be expended exclusively to provide or assure continued provision of affordable housing through acquisition, construction, development assistance, rehabilitation, financing, rent subsidies or other methods, and for costs of administering programs which serve those ends. After reimbursement of program administrative costs funds collected under this program will be distributed among uses including rental or ownership housing development, acquisition and rehabilitation of

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rental housing or single-family housing, and downpayment assistance for first-time homebuyers, in proportion to the units required to be produced under this chapter, and based upon the determination of the City's Regional Affordable Housing Need. Funds will be tracked separately within an Inclusionary Housing Fund Account. Funds expended to administer this program may be reimbursed through fees collected under this ordinance.

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B. The City will charge the seller of any owner-occupied Affordable Unit an asset management fee of one percent (1%) of the restricted resale price to a new Affordable Unit homebuyer. These asset management fees will be used by the City Manager to defray the costs of assuring compliance with the resale restriction provisions of this chapter.

**16.56.090 Affordable Housing Agreement.**

Developers of Residential Projects will be required to enter into affordable housing agreements with the City to document the obligations of the developer under this chapter. The affordable housing agreement must be approved by the Housing and Community Development Manager and executed by the developer prior to completion of a final map for a single family detached housing development. If the foregoing approvals are not required, then the affordable housing agreement must be approved by the City and executed by the developer prior to issuance of a grading or building permit, whichever occurs first.

For a multifamily development, the Affordable Housing Agreement must be approved by the City and executed by the developer prior to issuance of entitlement approval or design review approval of the market rate residential development.

**16.56.095. Rules and Regulations to Implement Inclusionary Housing Ordinance.**

The City Manager may adopt rules and regulations to assist in the implementation of this chapter, including but not limited to provisions for the calculation of eligible buyers or tenants, screening and/or prescreening of eligible buyers or tenants, methods of selection of buyers or tenants, suggested design, size, type and location of affordable units, and implementation documentation and requirements, such as deeds of trust, regulatory agreements and the like.

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**16.56.100. Enforcement.**

A. The City Attorney is authorized to enforce the provisions of this chapter and all regulatory agreements and resale controls placed on affordable units, by civil action and any other proceeding or method permitted by law.

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B. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any developer from the requirements of this chapter.

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**16.56.110. Severability.**

If any clause, sentence, section, or part of this chapter, or any fee or requirement

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imposed upon any person or entity, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part, or such person or entity, and shall not affect or impair any of the remaining provisions, clauses, sentences, sections, or parts or the effect of this chapter on other persons or entities. It is hereby declared to be the intention of the City Council that this chapter would have been adopted had such unconstitutional, illegal, or invalid clause, sentence, section, or part not been included herein, or had such person or entity been expressly exempted from the application of this chapter.

**16.56.120. Exemptions.**

A. Projects with submitted and accepted planning applications deemed to be complete by the City Planning Division prior to the effective date of the Ordinance adopting this chapter, or have an executed development agreement with the City prior to the effective date of the Ordinance adopting this chapter will be exempt from this chapter. If such a project is not built and the developer/owner later returns for amendments to the discretionary land use approvals, or because the entitlement has expired, the Residential Project shall then comply with this Chapter to the extent permitted by law.

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**Deleted:** as of November 7, 2006, that have received all discretionary land use approvals necessary under Chapter 16 for the project, including, but not limited to, rezoning, general plan change, major subdivision, vesting tentative map, parcel map, use permit, planned development or site development permit.

**16.56.130. Adjustments or Waivers.**

A. The requirements of this Chapter may be adjusted or waived if the Developer demonstrates to the satisfaction of the City Council that there is not a reasonable relationship between the impact of a proposed Residential Project and the requirements of this Article, or that applying the requirement of this Article would take property in violation of the United States or California Constitutions.

B. To receive an adjustment or waiver, the Developer must request it when applying for first approval of the Residential Project.

C. The matter shall be considered before the City Council within thirty days. In making the finding or determination, or in considering any appeal, the City Council may assume the following: (1) the Developer is subject to the inclusionary housing requirements in this Article; (2) availability of any incentives, affordable financing, or subsidies; and (3) the most economical affordable housing product in terms of construction, design, location, and tenure. For purposes of a taking determination, the Developer has the burden of providing economic and financial documentation and other evidence necessary to establish that application of this Article would constitute a taking of the property without just compensation.

D. If it is determined that the application of the provisions in this Article would constitute a taking, the inclusionary requirements for the Residential Project shall be modified to reduce the inclusionary housing obligations to the extent and only to the extent necessary to avoid a taking. If it is determined that no taking would occur by application of this Article, the requirements of the Article remain applicable and no approvals for the Residential Project shall be issued unless the Developer has executed an Affordable Housing Plan pursuant to the requirements of this Article.

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SECTION 2. Effective Date.

This ordinance shall take effect thirty days after final passage.

Vallejo Inclusionary Housing Ordinance- working draft,  
September 2007

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**Attachment C: Correspondence Received**

February 21, 2007

Planning Commissioners  
City of Vallejo  
555 Santa Clara Street  
Vallejo, California 94590

RE: Inclusionary Housing Ordinance

Dear Commissioners,

Vallejo has a serious affordable housing crisis. Eighty percent of county residents cannot afford the median-priced home. An hourly wage worker making minimum wage would need to work 114 hours per week to afford rents in Vallejo. Emergency room employees, teachers, and retail workers are unable to rent and registered nurses, school teachers, social workers and carpenters are just a few of the types of workers that are priced out of buying homes. As people are forced to move farther away to find decent homes they can afford, their commutes grow longer, traffic grows worse, farmland is lost to sprawling development, and the quality of life for everyone in the community is diminished.

The proposed policy is well-balanced, thoughtful, and well-drafted. Although we agree with the majority of the ordinance, we have a minor comment that we feel will help improve the effectiveness. Under section 16.56.070 "Alternatives to On-Site Construction" we propose the insertion of the phrase "alternatives to on-site construction will be permitted if/when the unique housing needs in Vallejo are met through the creation of more units of affordable housing at a deeper level of affordability than the on-site requirement." This goal oriented approach has a track record of success in communities like Petaluma, Carlsbad, Sacramento and San Diego.

Today, you have the opportunity to move forward on one of the most effective local tools for addressing the lack of affordable homes in a community: an inclusionary housing ordinance. A well-drafted inclusionary housing program will ensure that affordable homes are included in every new residential development in Vallejo, which will create the wide range of housing needed in Vallejo. We appreciate your leadership in encouraging smarter growth and a better quality of life for the people who live and work in Vallejo, and we look forward to working with you on this issue.

Sincerely,



Evelyn Stivers  
Non-Profit Housing Association of  
Northern California



Nicole Byrd  
Greenbelt Alliance

Memo to: Gary Cloutier and Stephanie Gomes

From: Wanda Chihak and Tom Sheaff

Date: May 16, 2007

Re: Inclusionary Zoning Ordinance



Thank you for allowing us the opportunity to offer a few initial thoughts for your consideration regarding the proposed Inclusionary Zoning Ordinance. As I shared with the both of you, prior to my work on Mare Island I ran the affordable housing division for LNR Property Corp. for four years. During this time, I was responsible for 10,000 affordable apartments in seventeen states. In addition, my colleague Tom Sheaff has extensive residential development experience in the Bay Area and has worked closely with numerous cities to implement inclusionary housing programs. It is our sincere hope that this experience can be used to help you and the City of Vallejo develop an ordinance that successfully balances economic development and state affordable housing requirements.

We appreciate your leadership role on this issue and look forward to continuing our discussion with you both.

#### Initial Comments

1. It would take away a lot of the stigma if this were described as Inclusionary Zoning to provide workforce housing for Vallejo's residents earning 80 to 120% of median income. Based on the Rosen study, this would cover residents earning somewhere between \$40,000 (one person earning 80% of median income) and \$95,000 (5 persons in family with income of 120% of median income) per year adjusted for family size. It is also important to note that the median income is based on Solano County, not just the City of Vallejo. A couple of other points regarding the Rosen Study:
  - a. The Land Residual models in the Rosen study for Ownership reflect a 10% down payment. The Ordinance requires a 5% down payment. The impact reduces the affordable home price by approximately \$15,000 per unit.
  - b. In the Rosen study, none of the Rental projects modeled worked with or without the affordable component.
  - c. Although the Ordinance is addressing low (50-80%) to moderate (81-120%) income levels, the max home payments are based on formulas using 70% and 110% of median income. The max payment is what determines the affordable home price. This is in line with Redevelopment Law.

RECEIVED  
City of Vallejo

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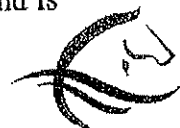
LENNAR MARE ISLAND

A JOINT VENTURE OF LNR PROPERTY CORPORATION & LENNAR COMMUNITIES  
690 Walnut Avenue, Suite 100 Vallejo, California 94592  
707.562.4000 tel 707.562.4002 fax

Housing and Community  
Development Division



2. 16.56.020 (D) – Affordable Unit – This definition is confusing when you get to the Incentive section. It would be helpful if maybe the incentive (16.56.04) section were referenced.
3. 16.56.030 (B) – Suggest flexibility in the breakdown between low income and moderate income. For example, you could do as stated, i.e. 5% low and 10% moderate, or give the developer the flexibility of coming in with more low and reducing the overall percent requirement for affordable. Developers are always looking for flexibility and this would give the City some flexibility with changes in housing needs. On a condo project in southern California, the developer opted to build for sale to very low income in exchange for the City greatly reducing the number of affordable units required. Would be good if that type of flexibility was built into the ordinance.
4. 16.56.030 (E) – Suggest if the fraction is less than .5, waive the requirement. If it exceeds .5 then allow the fee in lieu to be paid proportionately, i.e if it is .6, then the developer would pay 60% of the in lieu fee for a full unit. This could help the smaller developments succeed.
5. 16.56.04 – Incentives. The City has taken a good look at incentives, however, one more could be offered that might help the Condo/Townhome projects and smaller developments be more feasible. The City could waive permit fees on affordable units or could elect to waive just on the low income units to provide incentive to build more low income.
6. 16.56.045 (B) – The language here is a bit troublesome – “...Staff shall then refer the affordable housing plan to the Director of the Housing and Community Development who will review and either approve or deny the plan based on compatibility with the following: this chapter, adopted city affordable housing goals, and currently identified city housing needs.” The goal of having an Inclusionary Zoning Ordinance is to provide sufficient specificity so that a Developer has a clear understanding of the requirements prior to beginning the design of a project. So, why would the other two elements impact approval? And, how long would the Director have to turn around the Plan? Potential for delays? How long does appeal process take? Rather than sending to another department we should look at ways to streamline and not create more bureaucracy.
7. 16.56.070 – Alternatives to On Site Construction – Donation of land could be another alternative. The City of Irvine set up a land trust. The land was donated to the trust which held the land in perpetuity for affordable housing. The City brought in an affordable housing developer that had access to soft money to build the units. Generally, if land is donated, it is sufficient acreage to build in excess of the % of units the developer is required to build on site. Also, the land was in a Redevelopment area where a % of the tax increment was set aside for affordable housing and could be used to help with the construction. Or maybe land is



donated along with a portion of the in lieu fees to provide financial assistance to a non profit affordable developer.

8. 16.56.070 (c) – In Lieu Fees – as drafted this can only be paid on a fractional unit. This could be an income generator (see number 9 below) to help the City with other areas of affordable housing if it were more flexible. One use of the money could be to renovate existing affordable projects in the city that have deteriorated.
9. With respect to “Number of Units Threshold”, it is suggested that the Ordinance apply to projects for units in excess of five. Some municipalities have a threshold number of units above which the inclusionary requirements are triggered, however, others have the inclusionary requirement apply to all development but allow the fee in lieu for 10 or less units. Others, such as the City of Davis, permit a waiver on smaller developments if the developer can prove the project is not feasible, i.e., cannot be financed, with an affordable component.

Please let us know if you have any questions or wish to discuss these suggestions further.



**MANDARICH**  
**DEVELOPMENTS**

March 7, 2007

Laura Simpson  
Housing and Community Development Manager  
City of Vallejo  
200 Georgia Street  
Vallejo, CA 94590

Re: Inclusionary Housing Ordinance

Ms. Simpson:

Attached for your information are two proformas for Belvedere, a 336 age-restricted condominium project that we are currently building in the City of Vallejo. Although we are not required to include inclusionary housing for the Belvedere project, for illustration purposes we have prepared two proformas; one with inclusionary housing and one without inclusionary housing. The amounts on the proformas reflect our actual purchase price for the land, contracts for the development work, and costs for the condominium buildings. We are in the process of obtaining landscaping bids and bids for the clubhouse.

The proforma with inclusionary housing has 10% of the homes priced at \$240,194 and 5% at \$200,194. On this proforma, we did not lower the cost for the quality of the interior finishes and fixtures for the homes with the inclusionary housing requirements. The savings to downgrade these features would be approximately \$10,000 per home.

In summary:

Belvedere without inclusionary housing	
Revenues	\$174,158,040
Gross Profit	\$ 21,320,250
Gross Profit Percentage	12.2%
Belvedere with inclusionary housing	
Revenues	\$161,178,004
Gross Profit	\$ 8,340,214
Gross Profit Percentage	5.2%
Adjustment for lower quality fixtures and finishes	
51 homes x \$10,000 per home = \$510,000	
Revised Gross Profit	\$ 8,850,214

Revised Gross Profit Percentage 5.49%

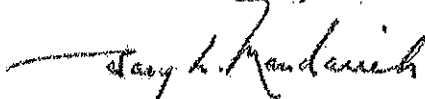
Contribution for inclusionary housing is approximately \$12,470,036  
(\$21,320,250 - \$8,850,214)

The difficulty in providing inclusionary housing in the City of Vallejo is that the land and development costs are too expensive. In Belvedere our land cost in this proforma is only \$8,166 per unit, since we bought the land over seven years ago as part of a large purchase. Typically land with offsite improvements completed would be 8-10% of the finished price of the product or \$40,000-\$50,000 per unit. In Belvedere bonds were sold to complete the majority of the offsite improvements and there is an annual mello roos payment of \$377 per home. If land was purchased for Belvedere today, the gross profits would be reduced by at least \$10,000,000 with land at \$40,000 per unit.

Laura, the point of this letter is to demonstrate that the proposed Inclusionary Housing Requirements would have stopped our Belvedere project with very low land basis from proceeding and will stop future housing developments in the City of Vallejo.

Please call me to discuss the proposed Inclusionary Housing Ordinance and these illustrative proformas. I can be reached at (916) 727-1800.

Mandarich Developments



Gary L. Mandarich, President

cc: Don Hazen  
Craig Whittom  
Marcel Lip



**BEVEDERE**  
**Preliminary Project Profforma**  
**336 Active Adult Condos (Parents 5 & 6)**  
 Assn 5, 2007

Item	Unit	Area	Per Unit	Total	Notes
1	Pen No.				
2	# of Units	1	2A + 2C + 2D	28	
3	Size (Sq. Ft.)	84	42	42	
4	Total Sq. Ft.	37,850	51,385	1,235	
5				1,235	
6				1,235	
7				1,235	
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Construction Item Costs from GC's  
 1. \$ 177,700.00  
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Other documents available for review at the project office.

**From:** "arcirvin" <arcirvin@earthlink.net>  
**To:** "Laura Simpson" <LSimpson@ci.vallejo.ca.us>  
**Date:** 5/14/2007 5:38 PM  
**Subject:** Re: proposed Inclusionary Housing Ordinance

Thanks Laura! That helps.

Just a couple more questions. What's the triggering number? Aren't most infill sites just too small? So where can new developments big enough to trigger "affordable" units be located?

j

----- Original Message -----

**From:** "Laura Simpson" <LSimpson@ci.vallejo.ca.us>  
**To:** "arcirvin" <arcirvin@earthlink.net>  
**Cc:** "Craig Whittom" <cwhittom@ci.vallejo.ca.us>  
**Sent:** Monday, May 14, 2007 4:14 PM  
**Subject:** Re: proposed Inclusionary Housing Ordinance

Hi,

I am attaching a document with responses to your e-mail with questions regarding inclusionary zoning. Another workshop will be held on inclusionary zoning from 9 to noon on Friday, May 18th at the Vallejo Library's Joseph Room. Thank you.

Laura J. Simpson  
Housing & Community Development Manager  
City of Vallejo  
200 Georgia Street  
Vallejo, CA 94590  
ph: 707-648-4508

>>> "arcirvin" <arcirvin@earthlink.net> 5/8/2007 8:48 AM >>>  
Date: May 7, 2007

**To:** Laura Simpson

**From:** Judy Irvin

**Re:** Proposed Inclusionary Housing Ordinance

Laura..

I would like to better understand the proposed Inclusionary Housing Ordinance and would appreciate clarification of a few issues:

1.. What approved document are the statements "balanced neighborhood goals" and "economically integrated, balanced community" referenced on Page 2 pp 3 of the staff report taken from? What is the complete list of goals in that document?

2.. From the staff report, it is unclear how this ordinance will reduce "issues around concentration of low income units and provide a greater array of housing options, resulting in increased economic diversity ." when the housing provided will still be all owner occupied housing in the new developments and all very low income rental housing in older neighborhoods. It appears that the concentration of very low income rentals will be increased in older neighborhoods not reduced. Please explain how that meets the stated goals.

3.. As of April 18, 2007, the official State AMI for Solano County is \$75,400. This is higher than the average income in Vallejo. Are there any ABAG regionally based goals to balance affordability throughout Solano County or the San Francisco Bay region? It appears that other communities in Solano County might have a greater responsibility to provide "affordable" housing since they are less affordable under the criteria. Please explain.

4.. Page 7 of the Staff report suggests that "insufficient market rent levels" damp the construction of new "affordable" housing. Since supply and demand affect market rent levels, it appears that that there may too much "affordable" housing in Vallejo. There are lots of "for rent" signs in my neighborhood but I still regularly receive offers from out-of-town investors seeking to purchase my home in Saint Vincent's Hill for rental housing. The Section 8 Program provides higher than market rate rents which then tends to skew the market upward making properties less affordable to renters but more desirable to absentee landlords. Have you taken into account the decrease in "affordability" for rentals created by the expanding Section 8 program and the reduction in demand for owner occupied housing meeting the moderate affordability criteria that has resulted in the large inventory of unsold homes and decreasing prices?

5.. On page 5 of the staff report under Definitions, please clarify the distinction between a sales price of 70% AMI for Low Income families and 60% for Low Income Renters. Shouldn't these be the same if there is no difference between owner occupied and rental dwellings?

6.. Do the agreements exempting Lennar Mare Island and the Callaghan/DeSilva Projects from this Ordinance result in "unequal treatment"?



7.. Why are there no "sustainability" or "historic preservation" goals included in your analysis? It is unclear how placing low income families in unwalkable, new outlying subdivisions will be beneficial given the rising cost of gasoline. Today, many architects and planners are resurrecting the "not so big house" and traditional, mixed use walkable communities with commercial services included. It appears that this Ordinance will encourage the unsustainable "too big house" with one bedroom per child and multiple bathrooms where a car is an absolute necessity to get to jobs, schools, parks, shops and services. It also appears that this Ordinance will ossify the imbalance of very low income rentals in the urban center thus decreasing economic diversity. Have you reviewed other alternatives? Portland, Oregon has an aggressive policy of red-tagging and fining owners of substandard buildings so that they are either appropriately rehabilitated or placed into new ownership. Other communities seize substandard houses and make them available at reduced prices to owner-occupants who agree to rehabilitate them and live in them for 5 years. Wouldn't mixed-use or Traditional Neighborhood zoning strategies that increase the number of rentals in new developments and increase owner occupied dwellings for moderate or upper income cohorts in older neighborhoods better meet the "economically integrated, balanced community" goals and, in addition, address sustainability and historic preservation goals?

8.. The Alternatives to On-site Construction shift the housing target from Moderate and Low Income Owner Occupied units to the rehabilitation of rental housing that is at least 40 years old that will be restricted to Very Low Income households for at least 55 years. Since most of the housing meeting the stated criteria is located in historic urban neighborhoods that are currently predominately rentals, how does that create "economically integrated, balanced" neighborhoods?

9.. How have you addressed Section 106 of the National Historic Preservation Act if any Federal monies, such as HUD Section 8 will be used for Very Low Income rental units developed under this Ordinance in neighborhoods that are listed on or eligible for the National Register of Historic Places? It appears that a Neg Dec is not appropriate as this Ordinance may have a negative effect on historic resources protected under CEQA. The Vallejo Architectural Heritage Foundation has requested "Consulting Party" status under 36CFR800 for the new "Projects". Please extend that request to all actions by the Vallejo Housing Authority that will involve any federal money or subsidies.

10.. Who will own and manage the new very low income rentals for 55 years in older neighborhoods? It appears that the very low income rentals will require subsidies, such as Section 8 Housing Choice Vouchers, where regulating "nuisances" is the responsibility of the absentee owners. Who will be responsible for protecting the quality of life in predominantly rental older neighborhoods?

11.. The staff report indicates that approximately \$250,000 will be generated for in-lieu fees but it does not appear that any funds are identified to pay for monitoring the Very Low Income units for 55 years.

The staff report estimates that \$75,000 to \$125,000 would be required to administer the Program. For the 1,800 units projected at build-out, one staff person would be able to spend one hour a year on each unit. This is not enough to take care of Very Low Income rentals in very low income rental neighborhoods. So will Code Enforcement staff be increased and how will that be funded?

Thank you for your assistance!

Responses to Questions from Judy Irvin  
May 14, 2007

1. What approved document are the statements "balanced neighborhood goals" and "economically integrated, balanced community" referenced on Page 2 pp 3 of the staff report taken from? What is the complete list of goals in that document?

These are objectives listed in Vallejo's Housing Element. The Housing Element is available on the City's website at [www.ci.vallejo.ca.us](http://www.ci.vallejo.ca.us) e-government, downloadable documents, Planning, Housing Element.

2. From the staff report, it is unclear how this ordinance will reduce "issues around concentration of low income units and provide a greater array of housing options, resulting in increased economic diversity ." when the housing provided will still be all owner occupied housing in the new developments and all very low income rental housing in older neighborhoods. It appears that the concentration of very low income rentals will be increased in older neighborhoods not reduced. Please explain how that meets the stated goals.

It is not clear what you mean when you state that the housing will still be all owner-occupied in the new developments. New developments, whether owner-occupied or rental, will have a Moderate, Low or Very Low income requirement. I'm not sure that you can state with assurance that new rental development will only occur in the older neighborhoods. If however, that were the case, there would still be Low and Moderate units produced in the new for-sale housing developments throughout the city; whereas, without the ordinance, there would be no Low or Moderate units produced in new for-sale developments, as we have seen in new single-family subdivisions built over the past five years.

3. As of April 18, 2007, the official State AMI for Solano County is \$75,400. This is higher than the average income in Vallejo. Are there any ABAG regionally based goals to balance affordability throughout Solano County or the San Francisco Bay region? It appears that other communities in Solano County might have a greater responsibility to provide "affordable" housing since they are less affordable under the criteria. Please explain.

ABAG Fair Share Goals are set by a methodology that includes looking at factors such as: existing transit, excluding planned transit; and weighting as follows: 45% household growth; 22.5% existing employment; 22.5% employment growth; 5% household growth near existing transit; and 5% employment growth near existing transit.

4. Page 7 of the Staff report suggests that "insufficient market rent levels" damp the construction of new "affordable" housing. Since supply and demand affect market rent levels, it appears that that there may too much "affordable" housing in Vallejo. There are lots of "for rent" signs in my neighborhood but I still regularly receive offers from out-of-town investors seeking to purchase my home in Saint Vincent's Hill for rental housing. The Section 8 Program provides higher than market rate rents which then tends to skew the market upward making properties less affordable to renters but more desirable to

absentee landlords. Have you taken into account the decrease in "affordability" for rentals created by the expanding Section 8 program and the reduction in demand for owner occupied housing meeting the moderate affordability criteria that has resulted in the large inventory of unsold homes and decreasing prices?

Section 8 Fair Market Rent is determined by a review of comparable unassisted units (market rate) units within a particular neighborhood. Landlords participating in Section 8 cannot charge more for rent than comparable units in the similar geographic area in Vallejo. Comparables are looked at prior to any determination of fair market rent, and landlords also are not allowed to request rents that exceed 40% of the household income on initial occupancy. There is no evidence of a correlation between a reduction in demand for moderately priced for-sale housing and Section 8 rental assistance. In fact, it is not clear that there is a reduction in demand for moderate for-sale housing, but that there is a reduction in available financing and/or inventory. It is also not clear how you are defining moderately-priced for-sale housing in your question. The City defines it as about \$275,000 or below for a 3-bedroom unit.

5. On page 5 of the staff report under Definitions, please clarify the distinction between a sales price of 70% AMI for Low Income families and 60% for Low Income Renters. Shouldn't these be the same if there is no difference between owner occupied and rental dwellings?

These definitions were based upon Redevelopment income guidelines for Low-income ownership and Low-income rental units. The revised draft ordinance targets 70% AMI (Low Income) for ownership units and 50% AMI (Very Low Income) for rental units. For a family of 3 currently, maximum income for Very Low is \$33,950, and maximum income for Low is \$53,300.

6. Do the agreements exempting Lennar Mare Island and the Callaghan/DeSilva Projects from this Ordinance result in "unequal treatment"?

The agreements exempting Lennar and Callahan/DeSilva were entered into prior to the Housing Element update of 2002 and prior to the City Council's consideration of an inclusionary ordinance. The inclusionary ordinance will be applied on a "going forward" basis. The Waterfront development team has agreed to provide nine percent affordable to Moderate income in a later phase of the development.

7. Why are there no "sustainability" or "historic preservation" goals included in your analysis? It is unclear how placing low income families in unwalkable, new outlying subdivisions will be beneficial given the rising cost of gasoline. Today, many architects and planners are resurrecting the "not so big house" and traditional, mixed use walkable communities with commercial services included. It appears that this Ordinance will encourage the unsustainable "too big house" with one bedroom per child and multiple bathrooms where a car is an absolute necessity to get to jobs, schools, parks, shops and services. It also appears that this Ordinance will ossify the imbalance of very low income rentals in the urban center thus decreasing economic diversity. Have you reviewed other alternatives? Portland, Oregon has an aggressive policy of red-tagging and fining owners of substandard buildings so that they are either appropriately rehabilitated or placed into new ownership. Other communities seize substandard houses and make them available at reduced prices to owner-occupants who agree to rehabilitate them and live in them for 5 years. Wouldn't mixed-use or Traditional

Neighborhood zoning strategies that increase the number of rentals in new developments and increase owner occupied dwellings for moderate or upper income cohorts in older neighborhoods better meet the "economically integrated, balanced community" goals and, in addition, address sustainability and historic preservation goals?

Each residential project must still comply with any environmental review requirements on a case by case basis. The ordinance as drafted does allow some flexibility to allow off-site construction under certain circumstances, or alternative product types that may make access to transit and services more feasible. Economic integration is a policy goal that may be achieved through inclusionary zoning and because Vallejo is a transit-oriented city with bus routes, a ferry terminal, and access to BART transit, it is a relatively accessible city overall.

8. The Alternatives to On-site Construction shift the housing target from Moderate and Low Income Owner Occupied units to the rehabilitation of rental housing that is a least 40 years old that will be restricted to Very Low Income households for at least 55 years. Since most of the housing meeting the stated criteria is located in historic urban neighborhoods that are currently predominately rentals, how does that create "economically integrated, balanced" neighborhoods?

This was incorporated due to feedback from Council and the community that rehabilitation of deteriorated rental housing stock was also a City goal. This would be allowable on a proposed basis and may not be feasible in most cases, however, staff proposes including it in the ordinance to make the ordinance as flexible as possible for developer compliance. The City may not achieve every goal with every project, but overall, the inclusionary ordinance may allow the City to achieve many of its housing goals.

9. How have you addressed Section 106 of the National Historic Preservation Act if any Federal monies, such as HUD Section 8 will be used for Very Low Income rental units developed under this Ordinance in neighborhoods that are listed on or eligible for the National Register of Historic Places? It appears that a Neg Dec is not appropriate as this Ordinance may have a negative effect on historic resources protected under CEQA. The Vallejo Architectural Heritage Foundation has requested "Consulting Party" status under 36CFR800 for the new "Projects". Please extend that request to all actions by the Vallejo Housing Authority that will involve any federal money or subsidies.

Section 8 Vouchers are not used for specific projects. Federal Fair Housing Law requires that families be allowed to use their voucher in any housing of any location, subject to meeting eligibility requirements.

10. Who will own and manage the new very low income rentals for 55 years in older neighborhoods? It appears that the very low income rentals will require subsidies, such as Section 8 Housing Choice Vouchers, where regulating "nuisances" is the responsibility of the absentee owners. Who will be responsible for protecting the quality of life in predominantly rental older neighborhoods?

Rent-restricted units that are developed in any neighborhood would be managed by property management company of the private developer, or nonprofit proposing the development. The City Police Department and Code Enforcement division would be

available to pursue and municipal code violations. If Section 8 vouchers are involved in a complaint at a particular site, Housing Authority staff will notify the landlord and tenant of any violation and pursue termination if appropriate.

11. The staff report indicates that approximately \$250,000 will be generated for in-lieu fees but it does not appear that any funds are identified to pay for monitoring the Very Low Income units for 55 years. The staff report estimates that \$75,000 to \$125,000 would be required to administer the Program. For the 1,800 units projected at build-out, one staff person would be able to spend one hour a year on each unit. This is not enough to take care of Very Low Income rentals in very low income rental neighborhoods. So will Code Enforcement staff be increased and how will that be funded?

As the program grows over time, it is anticipated that staffing costs will increase to include monitoring additional new units. These costs may be paid for out of in-lieu fees collected under the program, or if necessary a fee for project could be proposed as part of the initial development application fee. Initially, staff can include new units within the existing cycle of rental monitoring. Nonprofit organizations, such as HOMEBRICKS charge a fee of \$125 per home per year, which is about \$225,000 per year at buildout, and is anticipated to be covered under the in-lieu fee collections.

**From:** "gailmanning" <gailmanning@pacbell.net>  
**To:** "Don Hazen" <dhazen@ci.vallejo.ca.us>, <lsimpson@ci.vallejo.ca.us>  
**Date:** 2/27/2007 7:20 PM  
**Subject:** My suggestions on Inclusionary Housing

**CC:** <charles@criticalcontacts.com>, "Brian Dolan" <Bdolan@ci.vallejo.ca.us>  
Don and Laura,

Here are my recommendations and thoughts regarding Inclusionary Housing Ordinance

Ordinance MUST be "benefits-based" including more incentives for Developers to build. All the research I read sites incentives as one of the key success factors.

- \* Density Bonus should not be just compliant with the CA density bonus law; it should include >% and more flexibility
- \* Building code revisions and incentives such as reduced or fee exemptions and expedited review should be included
- \* Please keep in mind in-fill housing in particular as this is where most of our new housing will come from. So things like Adaptive Use (including using building code requirements for historic properties), Mixed Use, Up Zoning should be included
- \* Set a threshold of >20 units to start and reduce to 10 units after Ordinance in place for a few years (and program is successful). Don't create an ordinance that reduces the number of smaller in-fill housing. These small projects are crucial to the revitalization of our community. Don't price these out with this ordinance!
- \* In lieu fees should be allowed and these \$s could be set aside for funding the new owner's down payments. This also could cover the additional administrative costs needed to administer this ordinance. In the DRA survey all the cities surveyed exempted projects < 5 units. The current Vallejo Ordinance is < 3. There will not be enough profit margin in this smaller build projects. And it sends wrong message. Set the number higher to start and write the ordinance in a way that can be modified later.
- \* Exclude the smaller projects already in the pipeline, the Sandy Beach project in particular. What about the six manufactured houses we approved on Illinois street? Would they also be caught in the change? Again, wrong message! They planned, negotiated and filed permits without any knowledge of this ordinance. A large developer can manage these additional costs, but this will take any profit out of these smaller projects like Sandy Beach.
- \* Unit interiors or exterior finishes, alternative product type, parking reduction, larger unit incentives: I agree with these incentives. Let's add more!!

Other general comments:

- \* Proposed rental fees too high, close to market rate. Suggest you use a percentage of market rate instead
- \* Condo conversion % seem very high. We don't have very many large apartment buildings that could become condos. I suggest more analysis based on average Vallejo # of apartment units.
- \* I'm still concerned about the little to know equity of the buyers. It seems that this hasn't been a disincentive in other communities. More important is helping them get the down payment.
- \* Why did you pick 45 years for ownership? Looking at the survey and the other reports I found on line, the norm seemed to be 30 years.
- \* I heard several good ideas during the public hearing, hope you took good notes!
- \* I understand the concern raised by the Vallejo School District, however I feel that if this Ordinance is crafted correctly any initial decrease in land value can be kept to a minimum.

Thank you for allowing me to give my input. I learned a lot and I hope my comments help.

Gail Manning

707-373-3079



Questions from Commissioner McConnell and staff responses.

1. Why is there a difference of 15% for rental set aside vs. 10% for purchases for low and Moderate income?

Because rental development was economically feasible at the time of the study, our consultant recommended putting in place a lower percentage requirement for rental. When the rental market heats up again, the City could consider a higher requirement.

2. Comment on the desirability of the goal of having units distributed evenly throughout the city.

Distributing affordable housing throughout the city allows families to have housing opportunities in all areas of the city, in all communities. This avoids one neighborhood being overly concentrated with very low income housing at a high density, and attendant issues.

3. What can the city do to contest the assignment of required low, very low and moderate income required units by ABAG? What has and will the City of Vallejo do with respect to this assigned figure? How do other cities compare?

The City of Vallejo is not contesting the ABAG figures. Other cities have significant requirements, particularly more urban areas, Oakland, San Francisco, and San Jose. Cities have not met their goals but have not received penalties as long as their city is sufficiently zoned for residential. Some cities have been sued because they do not have a certified Housing Element.

4. What other tools are there to develop affordable housing exist for the City of Vallejo aside from what is discussed this report?

The main options for affordable housing are through land use policy- as we are proposing with inclusionary, setting aside funds from the General Fund-which is already under funded, creating a Commercial Linkage fee for commercial development, or raising revenue which requires 2/3rds or a majority vote, which is extremely difficult to achieve.

5. Do you consider the cut off line of having received a tentative map approval or final planning approval as a fair point of establishing a cut off point? What other alternatives exist or can be utilized?

A cut off must be established at some point--the 40 units in the pipeline could be grandfathered in and exempted.

6. Why is the process and the criteria for selecting buyer and renter qualification for affordable housing not established as a part of this ordinance? It seems we will be anointing a very few select individuals with the blessing of buyer assisted. It only seems proper to establish this criteria at this time. Your presentation indicated as many as 80%

of the population of the City of Vallejo meets the criteria of moderate, low income, or very low income.

The criteria for buyers is in the ordinance. Income eligibility and being a first-time homebuyer is established. If the Council wants to establish preferences such as living or working in Vallejo it can be proposed. However, Fair Housing Law indicates that even with preferences we must still allow anyone to apply.

7. Why the establishment of such a small number as 3 units for requiring compliance with the paying for affordable housing subsidies?

So that all projects are required to comply, with every new project land becomes less and less available for new development. Also, if we set the threshold higher, developers may try to avoid it by building fewer units, which is an undesirable outcome. Could be established at 5 units.

8. Which 40 units and developers will be affected by the establishing of a Nov. 7, 2006 establishment date?

Two projects, Sandy Beach Estates (developer Cole Carter) 17 units, and Skyline Estates 23 units.

9. There are 571 units in the pipeline that have not received a planning approval. After exempting Lennar Mare Island due to a Development Agreement there are only 40 units affected. Which ones and whose are they? Same as above.

10. Will the 223 unit project at Rollingwood & Benician Road project be subject to the requirement. Where are they in the process. Please address the concerns expressed by the Vallejo School Board at the hearing of Feb. 21, 2007.

Yes, they will be subject as stated in the staff report. They have not submitted an application to Planning yet. They are concerned about their land value being impacted by the requirement, however, that dollar estimate was established before the draft Ordinance was made available. In other words, there are incentives and options in the ordinance that would make compliance easier and less costly to the developer. The developer is trying to use this to negotiate a lower land price.

11. The 300 unit project at Crossroads. Where are they in the process of not being subject to this project?

They would be subject to the ordinance, as stated in the staff report.

12. What will be the cost per unit on the remaining Units at both Rollingwood and Crossroads if this ordinance applies to them. Why should they be included since they have already incurred substantial expenses in moving this project along on a foundation that such a requirement did not exist?

Because they have not submitted Planning applications at this point and they will be taking substantial land out of commission that could be used for affordable housing. The Inclusionary ordinance was under direction from Council since June 2006.

13. What is the projected breakdown on the 1,800 projected requirement of very low vs. low vs. moderate income? What number of this will be for rental vs. purchase?

It would likely be primarily for sale housing, given past trends, and therefore, mostly 10% Moderate, and 5% Low based on the draft ordinance. But if the rental market improves, this could change.

14. If Triad is only being required to provide 9% affordable units, why is it not fair and equal to require more from later projects?

Triad is subject to a DDA which was negotiated and under which they receive other benefits such as Redevelopment subsidized land, and because they are a catalyst project, the Agency agreed to take on the 6% Very Low requirement. However, the City does not have resources to meet this Redevelopment Law requirement, beyond that which will be used toward the Triad requirement. Any new development in a Redevelopment Area must meet the 9% Mod, and 6% Very Low Requirement. The Agency does not have any further resources to meet the 9% and 6% requirement on future projects.

15. How can a Low income owner occupied house with a fair market value of \$700,000.00 be afforded under this ordinance with a projected purchase date of summer, 2009?

Because the price will be set to an affordable price in 2009 based on the Area Median Income limit in Solano County in 2009.

16. Are we defining affordable housing based upon the purchase price or upon the ability of very low, low, and moderate income people to pay a pre defined amount? If the definition is based upon the ability to pay, isn't this ignoring the reality of the market place?

Yes, we are, and yes it is.

17. If the fair market value of housing increases by 25% in the next three years, but income increases by only 7% does the developer have to hold the price on sales or does the City have to further subsidize the chosen applicant?

The developer would be limited in the affordable sales price. The city does not have resources to add to make the units affordable.

18. If union members who earn more than non union members are only at 80% of Area Median Income, they are Low Income or below. That either relegates them to rental

subsidy or makes them compete with others for the owner subsidized unit. What do we do about those who don't obtain a purchase subsidy?

There will very likely be a very large demand for the for-sale units, and typically cities hold lotteries to determine an order of application review. Then those who meet all the lender's qualifications will be approved in the order of the lottery selection. We will not be able to meet all of the demand.

19. Why do you represent that rents will continue to rise in 2007? If so, for how long and at what percentage compared to the 2007-2013 ABAG required period of projected required units? What do we do if the housing market tightens even more, or reduces?

The projections are based upon projections from real estate professionals, such as California Apartment Owners Association. We don't know for how long. But the point of the Inclusionary Zoning ordinance is that it is long-term policy and should not be based upon fluctuating market conditions. It is part of the General Plan implementation which is a visioning document.

20. The staff report seems contradictory in whether to permit units that appear different on the outside of the structure compared to non subsidized units. What position are you advocating and why?

Affordable units should architecturally blend in with the overall site development and be incorporated into the development in such a way that they do not stand out. The attached units could be placed on corner lots so as to blend in with the single family units. We are trying to allow some flexibility to developers in meeting the requirement, and still reach the goal of mixed-income communities.

21. How many 4 bedroom units will be permitted in a subsidized unit or project?  
There is no limit, it is up to the developer.

22. If we permit 4, 5, 6, or more bedrooms in a subsidized unit what restrictions are there from the occupying owner or renter using it as a home business, such as a care home or half way house?

The units would be restricted to be Owner-occupied, not rental. The owner could use them for home business if City zoning allows for that.

23. If we have a limitation of years on a large subsidized unit, what do you envision happening to that unit at the end of the restrictive period? What is to stop a purchaser at that time from buying the unit and using it for a Rehab house for registered sex offenders if it qualifies geographically? Or, a drug or prison parole half way house? This would be a particular concern for the multiple bedroom units.

This question is irrelevant. Anyone can buy any home for sale in Vallejo at anytime and use it for any legal purposes.

24. If we build a mixed use at the lot on Redwood & Sonoma, will there be a subsidized housing requirement at that location?

There will be an affordable housing requirement on all new projects with residential components. The City is not subsidizing inclusionary housing. INCLUSIONARY HOUSING is NOT SUBSIDIZED- subsidized means the City finances the project in some way- inclusionary housing is AFFORDABLE based upon the rent or sales price restrictions required.

25. If a purchaser places the subsidized unit into a living trust there might never be a "sale" where the City recoups it's money. How does the use of a living trust affect the appreciation allocation on the unit? How will the City of Vallejo track this and impose the 45 year limitation if the Recorder does not alert the City?

In the Resale Restriction Agreement the city can designate allowable transfers, if resident remains in unit for 45 years, could will the unit to children. If 45 years is not up, must be sold to eligible buyer.

26. What is to stop a subsidized owner from sub letting or placing the purchased unit in a living trust and then having the trust rent it out? How would the City ever learn of this without a period review process in place?  
INCLUSIONARY HOUSING is NOT SUBSIDIZED- subsidized means the City finances the project in some way- inclusionary housing is AFFORDABLE based upon the rent or sales price restrictions required.

27. The report contends that the city has the ability to enforce provisions. The city is widely acknowledged as not being able to enforce it's own codes unless there is a complaint, and then it is limited by staff availability. How do you expect the city to enforce the maintenance of units requirement as contended on page 9 of the staff report, last paragraph.

The ownership units will be inspected upon resale and either the seller would have to pay for repairs, or the funds would have to be deposited out of the sale into escrow to ensure work is completed.

28. If you offer off site construction of affordable units, doesn't that destroy, weaken, or minimize the concept of affordable housing being diffused throughout the entire city? How does the City protect those neighborhoods where there are already many subsidized units in place such as the downtown, historical district, St. Vincent Hill, and the area surrounding Sereno Village?

Off-site construction might result in some units built off-site, but the requirements are stringent and would be useful where a developer owns other land in the City. It would lessen the dispersal effect of the ordinance, but it allows flexibility for the developer.

29. What will be the financial impact of building a small, i.e. 3 unit project if the "in lieu" fee is paid? Page 10 seems to state that the in lieu fee per affordable unit is \$504,100.00 However, the report contends that this results in a fee payment of \$252,050. Explain this.

A fee payment is made where a fractional unit of less than .5 is required, so a fee on a three-unit project would be  $3 \times .15 \times 504,100$ , equals \$226,845. A fee for a fractional unit would always be less than .5 of the \$504,100, or less than \$252,050.

30. If land dedication is selected as a mitigation, what criteria exists to determine the acceptability of the offered land? Will there be a requirement of the lot being "buildable" or buildable with additional expenses due to slope, slide, noise, or other environmental mitigation requirements?

Yes, I would expect it would have criteria of being buildable and a minimum value.

31. What is the difference in dollars for a 3 unit building if the in lieu fee is based on an affordability gap vs. a cost to build gap formula?

Don't have that information at this time.

32. How far away from tentative map approval or other final planning approval are any of the projects now in the pipeline?

A few months.

33. If we generate \$250,000 of in lie fees and your estimate of one half staff person being required or an outside contractor requiring up to \$125,000 PER YEAR is accurate, isn't the effect of this requirement mostly enabling more government employees?

No, any funds not needed for administration would be used for new affordable housing development or downpayment assistance.

End of questions on staff report material.

Questions generated by a review of the language of the proposed ordinance:

1. How can housing designated as student housing only utilize these provisions? Should student housing such as might be built for the state college Maritime Academy or the private school on Mare Island be subjected to these requirements?

Full-time Students are typically not eligible for affordable housing programs unless the housing is sponsored by the university or academy, because student income is "artificially" low in that it is a short-term situation. Exclusively student housing might not make sense, however, housing that is open to faculty, students, and others, should have a requirement.

2. How much does it cost the agency to buy down an interest rate to a Freddie Mac thirty year mortgage rate? Does or has the agency done this?

The Agency does not do this typically.

3. HSC §50053. (b) reads: for any rental housing development that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent," including a reasonable utility allowance, shall not exceed:

(1) For extremely low income households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.

(2) For very low income households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(3) For lower income households whose gross incomes exceed the maximum income for very low income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower income households with gross incomes that exceed 60 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

How do you apply the mandates of this section without nearly everyone in the City of Vallejo compared to the citizens of Vacaville or Lafayette qualifying?

We are using Solano County Area Median Income. Many households in Vallejo will qualify.

4. How many first time home buyers has the agency assisted in the last 3 years? What are the actual dollars placed into a purchase through affordable housing purchases?

Roughly 15 homebuyers through downpayment assistance loans. Loans average around \$80,000 per loan, some are higher.

5. I Recommend to City Council that Section 16.56.030 be amended by adding Paragraph G to read as follows: Affordable Units must be geographically dispersed throughout the City of Vallejo giving consideration to the already existing presence of affordable units whether as authorized by this ordinance or as established or existing under the provisions of the Section 8 program within the City of Vallejo.

6. 16.56.040 provides for alternative housing type, such as townhouses in a single family detached project. Isn't this drawing attention to the difference of anyone who lives there by having observable and known differences? Or, is this a practice that is supported?

This assists the developer financially in meeting the Inclusionary obligation and other cities allow it as well.

7. 16.56.040 permits a 20% reduction in parking spaces. I recommend that this be limited to projects within walking distance of the ferry building or the park and drive lot. Other areas such as the downtown transit station and the Sereno Transit Village are all ready over impacting the area.

8. 16.56.040: provides a credit of 1.25 units for those over 4 bedrooms. I recommend that there be a provision that this credit can not be transferred to projects off site. I recommend specific restriction against any home businesses being conducted at these locations.

9. 15.56.040. What restrictions or controls will exist for the use of funds created by this ordinance as permitted by 15.56.040 F (1) and (2). (Where "excess" of affordable units exists or the project serves households with lower incomes than required under 16.56.020A and B).

10. 16.56.060. I recommend a deed restriction on type of uses that may be permitted at such a unit.

11. 16.56.060B requires restarting the 45 year restriction upon a transfer. I recommend that the deed restriction also include the placing of the unit into trust or the creation of a life estate or any other type of remainder interest in property.

12. 16.56.060C prohibits rental use unless approved for hardship reasons. What are the criteria for hardship exceptions, and, shouldn't they be specified in this ordinance?

We can specify them in the Resale Restriction Agreement in the implementation procedures. Could be life-threatening illness, divorce, or lay offs.

13. 16.56.060D - profit on resale. What is the procedure that a real estate agent or a resident without an agent will be able to determine what the purchase price will be. Should there be a limitation on the commission that can be charged on a subsidized unit? Otherwise, the commission comes out of the equity share that the owner would otherwise have.

The purchase price will be set by the city based upon AMI at the time of sale.

14. 16.56.070B If you permit a developer to "make possible construction by another developer" the building of affordable units not physically contiguous to the market rate units, doesn't this violate the fundamental purpose of having affordable units interspersed throughout the city and not concentrated in the same area time and time again.



15. 16.56.070C(1) requires the City Council to establish the in lieu fee by resolution. Had that fee been established on Feb. 15, 2007, what would the recommended by staff fee have been?

It is in the draft fee resolution.

16. 16.56.080A permits the city to charge administrative fees on funds generated by this ordinance. Section B permits the city to charge the seller 1% of the restricted resale price. What are the projections as to whether the tracking of these funds will cost the city money compared to the 1% fee or will make the City money.

It will not be costly to track fees. They will be deposited into a separate Inclusionary Housing Fund.

17. 16.56.095 enables the City Manager, and thus his designate, to adopt rules and regulations to calculate buyers or tenants eligible under this ordinance. My recommendation is that these rules and regulations be required to be reviewed and specifically approved by a city council.

18. 16.56.120 establishes Nov. 7, 2006 as the deadline for designating projects that will not be required to be under this ordinance. My recommendation is that there be a procedure by which a developer can petition directly to the City Council for an exclusion of this requirement. This seems harsh when applied to Crossroads and the Sandy Beach developer. 16.56.130 seems to be overly restrictive for adjustments or waivers.

19. 16.56.130D exempts the developer if there is a "taking" Who gets to decide whether there is a taking and on what grounds? Isn't this just inviting a law suit?

The courts decide. No Inclusionary ordinance in the country has ever been found to result in a taking.

Questions generated during the hearing process:

1. What is the current and projected vacancy rate for rentals in each of the next 7 years?

Through September 2006, North Bay Apt. vacancy rate was 4.1% compared to 5.3% a year ago. Average apartment rent rose 3.8% through Sept. 06. Hendricks and Partners Apartment Update.

2. Comments suggested that eligibility for entitlement under this ordinance be limited to those who actually work in the City of Vallejo and thus increase our job base. How do we implement such a restriction in an ordinance? What Constitutional rights of freedom of

travel might be restricted? Or, can this be made an enforceable clause of contract? Even if it is, how do we monitor and enforce it?

We can put in preference for live/work in Vallejo as a criteria, but we cannot exclusively limit it to this group under Fair Housing Law.

3. What is the date by which you currently forecast residential build out will occur?

Cannot forecast.

4. Can we use Marina slips as sites for affordable housing? Can houseboats be used?

Staff would not recommend this, for both safety and economic development reasons.

5. The concept of equity share was created by Roy Malone in San Francisco during the 1970's housing increase. He and his partner wrote a book on this subject. It called for a equity share that matched the per-centage of down payment advanced by the investor and the purchaser. It called for sale of the unit within a period of time more limited than 45 years. Shouldn't the City of Vallejo call for a similar approach on the percentage of share and the time limitation in which the unit should be sold?

This is not a wealth creation policy, nor a lottery, it is a policy to create affordable units for the long-term.

6. Please integrate the mobile home park owners into this formula.

New mobile home parks would be required to comply as residential projects.

7. If the ordinance permits credit for the rehabilitation of 40 year plus projects that are deteriorated, it appears to me that this simply further encourages the tax code policies of rewarding deterioration and encumbering enhancement. The good property owner suffers while the "slum lord" prospers without capital expenditure. This practice is what has resulted in Vallejo having so many deteriorated buildings. We need a new and different approach on what units qualify for transfer credit under this ordinance. Otherwise, you simply further encourage those properties that are or shortly will be at the 40 year eligibility and can certainly be let go.

Commissioner Peterman's questions and staff responses:

Inclusionary Housing Ordinance Comments/Questions

I realize that Inclusionary Zoning/Housing is a huge issue. I feel that everyone in Vallejo deserves the opportunity to have a home. I feel that we should be very thoughtful in this ordinance and give our city the best we possibly can. I personally have spent hours reading the material and researching the subject in a variety of sources. Also I must state that I certainly appreciate the many hours of hard work that you have put into this. Thank you for taking the time to read this and respond to my questions and comments.

Kent Peterman  
Vice-Chair City of Vallejo Planning Commission

1. I think that we all wish to provide housing opportunities for all members of our community and all segments of our society and I also believe that to do so was the intent of the City Council in requesting this ordinance; I do however have some concerns about the ordinance as presented.

2. I'm concerned about the disincentive to maintain property if the price can't go up.

A. The price will rise as the Area Median Income rises. If the owner improves the property, such as adding a bathroom, the price will be adjusted to include the fair market value of improvements. The Resale Restriction Agreement recorded on ownership units and the Regulatory Agreement for rental units will have requirements to meet certain maintenance standards. The city will inspect for-sale units prior to resale to ensure that unit is maintained, and funds would be held in escrow for deferred maintenance or repairs at the resale. Based on information from other inclusionary zoning jurisdictions, deterioration above and beyond normal depreciation was not a significant issue.

3. If the residents can't sell for more money would it not affect people's ability to move up?

A. Salaries will likely increase, and because housing costs will be limited, the initial buyer will be more likely to save future funds for a down payment for a move up house. If the market goes up dramatically, it may make it more difficult for an owner to afford another home at time of resale. Alternative language has been proposed in the Planning Commission report that could gradually increase equity in the home (up to fair market value), the longer a family remains in the home.

4. Putting different kinds of houses in a specific area seems to me to counteract the purpose of Inclusionary Housing and would serve to spotlight the residents of inclusionary housing rather than helping them to blend in.

A. The basic requirement of the ordinance is to provide inclusionary units within the project so that they are indistinguishable. The alternative, which a developer may request, of providing an attached product is an incentive to help the developer defray the cost of the inclusionary units. Allowing alternative product type would still allow for mixed-income communities. The off-site compliance option would not achieve a mixed-income community; however, it would meet the goal of providing new affordable rental housing at a lower targeted affordability level.

5. If price of market rate houses increase might we price a whole other segment out of the market?

A. Answer above.

6. Forty five years seems too long. Many ordinances have a lesser period which would allow people to see a "light at the end of the tunnel" and actually own their house.

A. The 45-year period allows the units to be counted toward State Fair Share goals and Redevelopment goals because it is in compliance with Redevelopment law. Staff recommends keeping the 45-year term.

7. On p. 6 it is stated that waterfront Development is exempt but waterfront Disposition is at 9% can you explain this?

A. The Triad Downtown development has a 9% requirement to be affordable to Moderate-income. The Waterfront Development was very recently amended to include an affordable housing component. There is a clause in the scope of Waterfront development which states a goal to achieve 9% affordability at moderate income for the Kaiser property (Parcel T-1) only.

8. Applying the ordinance to three units or more seems extremely low. I think we should raise that considerably.

A. The draft ordinance is revised to raise the threshold to 5, to conform with the 5 lot parcel threshold for a major subdivision.

9. DRA report says "even in the absence of Inclusionary requirements multifamily rental housing is not economically feasible in the current VJO market." So what would the requirements do to that scenario?

A. The requirements would not affect current projects because there are currently no apartment projects in the pipeline. Land prices will adjust for future rental development proposals to factor in an inclusionary requirement, and this may slow the initiation of new rental projects somewhat as landowners' price expectations adjust.

10. On Page ES-8 of the DRA report there is mention of a Negative impact on landowners. Can you explain this further?

A. The entire report addresses the financial impact of an inclusionary requirement. Powerpoint slides located on the City website under Inclusionary Study on the Housing page show that per square foot land value is reduced with an inclusionary requirement because the sales price and profit of a project are reduced with restricted affordability, so the land price is negotiated downward. However, ownership projects are still well in the threshold for significant profit and overhead for developers, (16%). The impact to the developer is summarized in the November 28, 2006 Memorandum from DRA, which was included in the Planning Commission packet.

11. Concessions:

a. Density bonus: How does that affect quality of life? Might it cause problems? (P.30)

A. Vallejo's existing general plan allows higher density zoning than developer's request, in most cases. Developers tend to request the density needed for their development and usually fall below the maximum, or require a re-zoning. The density bonus could only apply in limited situations so staff does not believe it will affect quality of life in any significant way. Each project will be evaluated as it comes in.

b. Report says "density bonus can reduce market appeal" (p. 39) also states that it may result in different materials making it less attractive to developers "a density bonus with Stacked Flat Condominium prototype substantially reduces land residual value" (p.43) I am concerned about this.

A. Developers need not request the density bonus if it does not improve the bottom line of their project.

c. A reduction in site development standards including architectural design requirements. (Page 31). What would that do to VJO? I think it imperative that we maintain high standards of design.

A. The draft ordinance does not recommend any change in architectural design requirements.

12. Numbers of parking spaces in tables do not seem to allow for guest/visitor parking. Where will they park? An incentive to change parking requirements would further exacerbate this situation.

A. Parking requirements do include a proportion for visitor parking.

13. Agreement with buyer p.2 Article 2...property may not appreciate/may depreciate and Selling restrictions: Extraordinary sale...no great profit. This is a disincentive again to maintain/improve property.

14. I feel we should explore alternatives:

a. We have an incredible model in VNHS (Vallejo Neighborhood Housing Services) I think that they are a better way to bring about inclusionary housing that would truly be inclusionary. They place people in various parts of the city and a variety of neighborhoods. They have a proven track record for doing this and they have the infrastructure so it could cost less in the end. (I have attached an information sheet about VNHS and some of their programs.)

A. If you are referring to the Downpayment Assistance Program which VNHS administers for the City, the City has provided an average of about \$300,000 in downpayment assistance loan funds to VNHS over the past two years. VNHS has provided 3 loans per year with an average loan amount of \$163,500 this year, and \$115,000 last year. Inclusionary Zoning would allow as proposed would allow the City to achieve a significantly greater number of affordable ownership units. Using the current VNHS model requires additional resources to be used to provide downpayment assistance loans, and there are not significant other resources available for these loans, other than funds that are currently targeted under City Council direction to City Park and the Country Club Crest. The Staff Report discusses the downpayment loan option in the alternative section under In-lieu fee payments.

b. Dedicating land to a nonprofit developer or jurisdiction such as VNHS or Christian Help Center or one of the many organizations that are already helping people to acquire homes. This could help with needed infill

A. This option has been included in the discussion in the alternatives section of the Planning Commission staff report for projects that come into Planning for a tentative map approval in the first 12 months after ordinance adoption.

c. Habitat for Humanity model is a good one  
i. From what I've read Habitat holds second mortgage for the difference between affordable price and market price and the second is only paid back if the property is sold.

A. The draft ordinance is proposing the same idea, and it also includes a resale restriction agreement, which Habitat also uses, to limit the resale price.

d. . In lieu fees  
i. give people a wider choice of housing possibly

ii. Can builders get together to build an "in lieu"?

A. In lieu fees are discussed in the Planning Commission staff report, in general, the City could accept fees for all projects, which does not result in mixed-income communities, or concurrent affordable construction. It also requires waiting to accumulate enough funds to fund a new affordable development, or using the funds for downpayment assistance for homebuyers. This is a policy decision for consideration.

e. Off Site Compliance

i. More affordable houses built

ii. Partner with non profits who have a vested interest (see 14a/b)

A. Off-site compliance is already included in the draft ordinance as an alternative option.

f. Can developer credits be pooled and transferred to other locations?

A. This option has been added under the Alternatives discussion section of the Planning Commission staff report.

g. What about incentives for building? (see p. 5 from HBA...home builders association).

A. HBA's requested incentives have been in some measure incorporated in the revised ordinance or discussed in the Alternatives section of the staff report.

VNHS (included by Commissioner Peterman)

Vallejo Neighborhood Housing Services, Inc. (VNHS) was incorporated in 1980, at which time its target area was the Southside of Vallejo, California. In its 25th year in business, VNHS is recognized as one of the premier providers of home ownership opportunities for low and moderate-income residents of Solano, Napa and Contra Costa counties. VNHS is currently ranked 17th in production in the National NeighborWorks® Campaign for Home Ownership 2002 (which includes over 100 NeighborWorks® organizations), in spite of serving one of the ten least affordable markets in the nation.

Led by a resident-majority volunteer board and managed by an eight-member professional staff,

VNHS offers a variety of programs such as:

- 1) The Homebuyers Club, a six-week training course for potential homebuyers,
- 2) Fastrack, an eight-hour course for more mortgage-ready buyers, below-market rate first mortgage loans
- 3) Second mortgages for down payment assistance,
- 4) Closing cost grants for first time homebuyers
- 5) Post purchase products such as exterior paint grants,

- 6) Very low interest rate housing rehabilitation loans,
- 7) Foreclosure prevention and early intervention delinquency counseling.
- 8) VNHS also builds housing for sale to very low and low-income families,
- 9) Purchases vacant housing and rehabilitates it for sale to first time homebuyers
- 10) Manages its own stock of rental housing available to very low and low-income residents.
- 11) Additionally, VNHS continues its work with the Vallejo Neighborhood Revitalization (VNR) initiative, a multi-agency approach to promote and measure targeted neighborhood revitalization.



**From:** "Katy Miessner" <katym@mindspring.com>  
**To:** <LSimpson@ci.vallejo.ca.us>  
**Date:** 5/24/2007 9:55 PM  
**Subject:** Notes for Inclusionary Housing

Hi Laura -

Here are my thoughts on inclusionary housing ordinance:

I thought the Eden Project sounded good, and I think it could have worked in the area although I do have concerns about affordable housing near to I-80 since there seems to be a beeline of drug deals/dealers between Vallejo and Richmond, and being near to I-80 can fall prey to that. Unfortunately, the affordable rentals that already exist in Central Vallejo (and I think more so the absentee landlord issues for which no housing element can address), have created a lot of opposition for anymore affordable rental projects in Central Vallejo. Everyone keeps talking about "scattered sites" which might or might not be feasible - they'll certainly cost more and - based on your comments that projects of a certain size (50?) make them eligible for other funding which relieves some of Vallejo's burden - they will cost more. But could the ordinance limit rental projects to a certain size - XX amounts of units per project?

Also, maybe the ordinance could include some language such as - affordable rental projects will not be placed in census track areas that already contain XX% of subsidized housing.

I am vehemently opposed to the idea that developers of new homes can get out of having to participate by paying in-lieu fees. I am not as concerned about transit oriented development as I am concerned about the economic gated communities being created in Vallejo and the pressure this puts on the older neighborhoods. I think it is imperative that new developments - Hiddenbrooke or wherever - should have affordable units included in the development. If the City allows more new developments, they should include some inclusionary housing, regardless of where they are located (transit vs. non transit). And since eligible folks will go through a rigorous process of evaluating their income, I assume that transit expenses will be included in this evaluation? I believe there is a conflict between the realtor/mortgage brokers wish for inclusionary housing to be near transit, and the Vallejo Architectural Heritage Foundation's concern that affordable units not continue to be placed in Central Vallejo - where all the best transit happens to be. I think it is better to take into account the VAHF's concerns and require inclusionary housing in new developments.

Regarding equity - I liked the model that the presenter gave us on April 25 - where the owner was able to earn \$140K in equity. I think credit given for owner's investment into the property would be great since that is a reward for maintaining and up-keeping the home (whether that is a part of

the \$140K or a model that gives them more I am not so concerned with although I prefer the former). I would want this credit to be given to major structural stuff - for instance, credit given for a new roof but not credit for installing a hot tub or a pool - there should be some kind of limit on credit for improvements.

Let me know when this gets on the agenda - thank you!

-Katy

Staff Proposed Vallejo Inclusionary Housing Ordinance  
 Suggested Changes from Nicole Byrd, Greenbelt Alliance 707-427-2308 or nicole@greenbelt.org

	Current	Proposed Changes	Rational
<b>Income Target</b>			
Owner Occupied	10% Moderate, 5% Low		
Rental Projects	10% Low		
Condo Conversions	15% Low		
<b>Incentives</b>			
Finishes	Affordable unit interior finishes can be different if durable and good quality		
Alternative product types	Town homes, or smaller homes (not more than 75% of the size of market rate units) allowed for affordable units. Can apply for 20% reduction in total parking spaces required under Vallejo's zoning (must document no adverse affect on parking conditions)	Proportion of 1,2, 3 and 4 bedroom units are the same as the market rate homes.  Increase parking reduction to 50% reduction if project is 1/2 miles from transit	Ensure that even if units are smaller than market rate, there is still a variety of unit bedroom types  Provide more incentives to builders near transit.
Parking			
Larger Units	4-bedroom units counts as 1.25 affordable units		
Zoning Concessions	Density Bonus - consistent with state law	Can anything better be done here?	
Fee Waiver/Deferral	Not currently in Ordinance	Allow fee deferrals for "low" units.	Helps developer reach lower affordability level.
<b>Other</b>			
Time performance	phased projects must incorporate affordable units proportionately w/ market rate units Units must stay affordable for 55 yrs for rental housing, 45 yrs for ownership		
Continued affordability housing			

Staff Proposed Vallejo Inclusionary Housing Ordinance  
 Suggested Changes from Nicole Byrd, Greenbelt Alliance 707-427-2308 or nicole@greenbelt.org

	Current	Proposed Changes	Rational
Equity sharing	AMI model		

Staff Proposed Vallejo Inclusionary Housing Ordinance  
 Suggested Changes from Nicole Byrd, Greenbelt Alliance 707-427-2308 or nicole@greenbelt.org

	Current	Proposed Changes	Rational
Alternatives to on-site construction			
Acquisition and Rehabilitation	Acquisition and rehabilitation may be allowed for the same number of rental or owner units (housing >40 yrs old) for rental units (restricted 55 yrs to low and very low)	This should apply to rental units for low or owner units at 10% moderate and 5% low.	Should apply to both rental and owner units
Off-site construction	Off-site construction of affordable units by original developer or another developer. Building permits for affordable units issued before market rate. Final inspections for occupancy for market rate units only after those for off-site affordable units issued. Site purchased and planning entitlements secured for affordable units before building permit issued for market rate units. And complete off-site affordable units must be secured by a letter of credit for developer (amt >= in lieu fee amt)	Ensure that off-site is within 1-mile of the market-rate development, OR allow developer to acquire and rehabilitate rental or owner units at a higher ratio (say 2 to 1) off-site.	Ensure that if projects are not built "on-site" they are at least close to market rate housing to encourage "mix"

Staff Proposed Vallejo Inclusionary Housing Ordinance  
 Suggested Changes from Nicole Byrd, Greenbelt Alliance 707-427-2308 or nicole@greenbelt.org

	Current	Proposed Changes	Rational
In-Lieu Fees	<p>Only available for fractional units of less than .5 Due prior to building permit issue. Calculated as average affordability gap b/t affordable sales price and median sales price of new construction sales (weighed for low and moderate income requirements). Current fee is \$504,100 for one unit.</p>	<p>Available for projects of 20 units and smaller. In Lieu fees can be used for acquiring and rehabbing older units (as explained in "Acquisition and Rehabilitation") and down payment assistance, provided that the same number of units (or more) are provided as required by income targeting percentages. • Allow production of affordable units within project, OR allow payment of in-lieu fee equal to the cost of producing the unit into a City Housing Trust Fund which could then be used for the acquisition and rehabilitation of either ownership or rental housing with deed restrictions for long term affordability, or for new affordable construction. Funds could then be allocated by City to a nonprofit or community land trust that could acquire and rehabilitate units.                      -- I also like the in lieu ordinance features that were identified in the May 9th talk.</p>	<p>Increase flexibility of in-lieu fees.</p>

**From:** "arcirvin" <arcirvin@earthlink.net>  
**To:** "Michele Lewis-Adamou" <madamou@ci.vallejo.ca.us>  
**Date:** 6/17/2007 2:30 PM  
**Subject:** Re: UPDATE ON INCLUSIONARY ZONING ORDINANCE REVIEW PROCESS

**CC:** <nicole@greenbelt.org>, "Laura Simpson" <LSimpson@ci.vallejo.ca.us>, "Gu...  
Hi again...

OK so I understand that we will be providing comments on the old, superseded IZ Ordinance for the Administrative Record. Can you provide me with the revised final date for comments?

One more question, the Official State Income Limits for 2007 from the Department of Housing and Community Development, Division of Housing Policy Development shows an additional income strata between Lower and Moderate Income levels called Median and another income strata below Very Low Income called Extremely Low Income. Your ordinance addresses Very Low, Lower and Moderate Income Levels but does not recognize the other two. How will you be addressing the needs of Median and Extremely Low Income Levels? It appears that Median Income Households are a critical unserved group and probably more important than the Moderate category for which the Solano County mean is \$90,500 (about \$35,000 more than the average household income in Vallejo). I recognize that the Extremely Low Income group is probably served by Section 8 HCV or other Federal subsidies.

Thanks...

HOME  
BUILDERS  
ASSOCIATION



OF NORTHERN CALIFORNIA

December 5, 2006

Mayor and City Council  
City of Vallejo  
555 Santa Clara Street  
Vallejo, CA 94590

Dear Mayor and City Council:

This letter is being written on behalf of the Home Builders Association of Northern California (HBANC). Our group is a professional association comprised of home builders, developers, trade contractors, suppliers and related industry specialists who are dedicated to the advancement of the home building industry. In preparation for the study session to discuss establishing an inclusionary housing requirement at your Tuesday, December 5 meeting, HBANC would like to share some of the thoughts of our industry on this subject.

Localities throughout the state are under pressure to meet the need for affordable housing for their citizens. The California housing crisis is driven by the fact that we are not building enough housing of the right types in local jurisdictions to keep up with our population growth and job creation. Our builders are committed to constructing as many units as possible; however, land use and other constraints limit construction. The Bay Area alone falls short of meeting its housing demand by 20,000 more units every year. This housing deficit has pushed up prices of both new and existing homes.

Counties and cities often respond to the housing crisis by imposing inclusionary zoning ordinances. However, studies have found that inclusionary housing programs:

- Act as a form of price control, preventing builders and subsequent owners from selling or leasing at market prices
- Make housing less affordable
- Frequently push middle-income households out and down to lower quality units while placing low-income households in higher quality units
- Impose significant additional costs on market-rate buyers because the prices of all homes in the development must be increased to cover the affordable sales
- May not result in any additional low-income housing.
- Serve as a tax on the housing industry without commitment on the part of the larger community

Mailing Address:

P.O. Box 5160

San Ramon

California 94583-5160

Tel (925) 820-7626

Fax (925) 820-7296

[www.hbanc.org](http://www.hbanc.org)



Understanding that the Council has already taken action to move forward with the development of an inclusionary ordinance we would like recommend that the following suggestions be included in the draft ordinance:

- Market rate builders should be able to satisfy an inclusionary requirement by donating land to the local government or a non-profit housing developer.
- Market rate builders should be able to choose to satisfy the requirement by providing for the units to be constructed outside the project location through offsite construction
- The pooling of credits and credit transfers should be allowed
- Projects of all sizes should be able to satisfy the requirement by paying a fee in lieu of directly developing the units.
- At least one density bonus for each unit of affordable housing required should be provided to the builder
- The cost of program administration should not come from fees or other exactions imposed on builders.

We would further recommend that the City begin with a tiered requirement. This would require that the builder provide either 10% of the project be dedicated to moderate income residents, 7% be dedicated to low income residents or 4% be dedicated to very-low income residents. We would suggest that the City adopt this tiered requirement and review its effectiveness after one years time and then evaluate whether or not to make changes to the requirement.

While we were unable to attend the initial stakeholder meeting we look forward to attending the future stakeholders meeting mentioned in the staff report. Thank you for your consideration of the comments and suggestions of HBANC during your review of inclusionary housing requirements.

Sincerely yours,

Bob Glover  
Executive Director  
Eastern Division

May 29, 2007

Laura Simpson  
Housing Authority Manager  
City of Vallejo  
555 Santa Clara St.  
Vallejo, CA 94590

Dear Ms. Simpson:

As you know, a group of Vallejo citizens has met on numerous occasions since November of 2006 to learn about Inclusionary Zoning; to examine the various aspects of the ordinance as initially proposed by the City; and to develop proposed changes which we believe will make the ordinance more responsive to the needs of the Vallejo community. This working group has been fluid in its makeup, sometimes including members of the business and real estate communities along with representatives of various non-profit groups interested in housing issues. The study sessions arranged by the City have been attended by these representatives as well as a few members of the public at large with no stated affiliation to any group or specific segment of the community. It should be noted that, because the more vocal members of the working group are affiliated with the Solano Association of Realtors in one way or another, there is a perception that this is the Realtors' proposal. Nothing could be further from the truth. These proposed changes were developed by and are presented by the working group. The Solano Association of Realtors Board of Directors has not reviewed this proposal, and so that organization has not taken any position on the document, or the elements included within it, at this point in time.

We would like to emphasize that we would much prefer a postponement on any action concerning the Inclusionary Zoning ordinance until such time as it can be included in a complete program aimed at addressing our affordable housing needs. That is really the only way IZ makes sense. We are concerned that if an IZ ordinance is adopted there may be a perception that we have done all we can to promote affordable housing in Vallejo when, in fact, IZ will only ever be one small component of a comprehensive approach to affordable housing. Effective affordable housing strategies are comprised of a continuum of programs, such as down payment assistance programs (DPAs), Community Land Trusts (CLTs), section 8 housing choice vouchers, and rehab financing- in addition to inclusionary zoning. This ordinance needs to be drafted in the context of this larger picture. I would like to see staff obtain a feasibility study on establishing a Community Land Trust prior to resubmitting the proposal. This would allow the commission and council the opportunity to study a variety of options at one time and come up with a solution that would most benefit Vallejo.

While we strongly urge a postponement, if the Inclusionary Zoning ordinance is to be adopted now we feel that these proposed changes (attached) need to be included in the ordinance. Our suggestions are based on research into what other communities similar to Vallejo have found to be successful solutions to the affordable housing problem. We feel that if these elements are incorporated they will make the ordinance a far better fit for the City of Vallejo.

Thank you for your time and attention during these months of working on this issue.

Sincerely,

Jennifer Wilson for the Vallejo Affordable Housing Working Group  
707-648-8136



July 23, 2007

Laura J. Simpson  
Housing & Community Development Manager  
City of Vallejo  
200 Georgia Street  
Vallejo, CA 94590

**RECEIVED**  
City of Vallejo  
Housing and Community  
Development Division

JUL 24 2007

Dear Laura:

Referred to \_\_\_\_\_

As you progress with your efforts to draft a Vallejo inclusionary housing ordinance reasonably acceptable to the many special interests organizations that are weighing in on the issue, please consider that a stronger housing market will likely provide a better platform for such an ordinance to require integration of affordable units with market rate.

As you know, without the necessity of an ordinance, Triad has previously agreed to provide approximately 90 new moderate income units out of our 1,000 in the downtown revitalization project as integrated. Long-term, we believe (as do many others) that inclusionary housing holds better value and is maintained to a higher level when it is mixed with market rate.

The challenge we are facing downtown is that the current soft market for housing combined with the pre-existing challenge of underwriting housing in Vallejo's core downtown have resulted in a project that may not work financially without considerable further assistance.

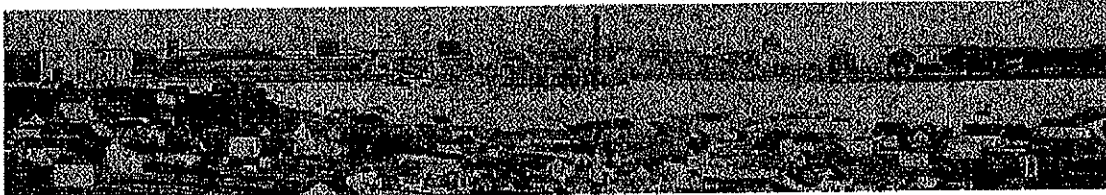
It is our recommendation that a more stable housing market (which we hope will emerge within the coming 12 - 18 months) will provide a greater opportunity to build consensus among parties in interest to an inclusionary policy that includes integrated housing.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Curt Johansen".  
Curt Johansen

Copy: Mark Ruebsamen, Nicole Byrd



VALLEJO ARCHITECTURAL HERITAGE FOUNDATION

June 28, 2007

Laura J. Simpson  
Housing & Community Development Manager  
City of Vallejo  
200 Georgia Street  
Vallejo, CA 94590

RECEIVED  
City of Vallejo  
Housing and Community  
Development Division

JUL 02 2007

Dear Ms. Simpson

Referred to \_\_\_\_\_

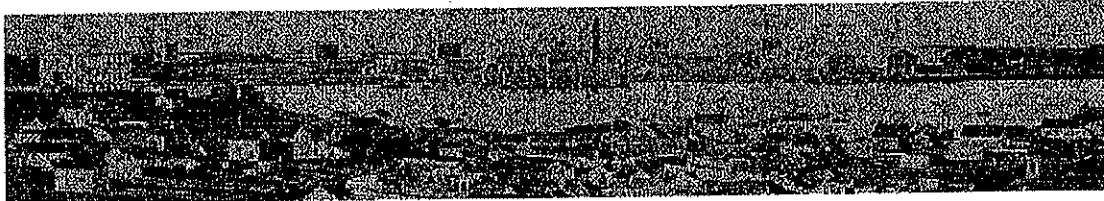
Re: Proposed Inclusionary Housing Ordinance

In response to your request for comments, the Vallejo Architectural Heritage Foundation formally opposes the draft Inclusionary Housing Ordinance contained in your staff report dated February 21, 2007 to the City of Vallejo Planning Commission. We understand that that the contents of the draft Ordinance has been the subject of several meetings and revisions are likely, so these comments are provided for the record on the original draft as you requested by July 2, 2007.

VAHF, founded in 1972, is dedicated to protecting and celebrating the rich history and culture embodied in Vallejo's historic resources. The City of Vallejo has several historic districts listed in the National Register of Historic Places with several other historic districts adjudged eligible. All undertakings that involve Federal funds, such as HUD, CDBG or HOME, must take into account the affect on historic resources and avoid adverse effects as outlined in 36 CFR 800. Adverse effects are found when an undertaking alters, directly or indirectly, any of the characteristics that qualify the historic resource for inclusion on the National Register. Since Vallejo is a working class community largely associated with Mare Island, most of the older neighborhoods were made up of modest, owner occupied dwellings with a mix of housing types and uses. These older historic neighborhoods are particularly vulnerable to the cumulative effects of undertakings that decrease their stability and livability.

VAHF does not agree with the Purpose and Need outlined in the staff report for the Inclusionary Housing Ordinance. While this could be an important implementation strategy of the Housing Element of a revised General Plan, this stand alone Ordinance does not foster an "economically integrated, balanced community" as stated but appears instead to foster a diametrically opposed outcome. Inclusionary Housing Ordinances might be very important for newer suburban communities in the Bay Area such as Walnut Creek, San Rafael or Napa where the median price of a home is clearly out of the range of families earning a median income. But the City of Vallejo is, historically, a working class town where most of the older housing stock is more modest and would be affordable to median income families if City of Vallejo policies, programs and implementation strategies were changed to promote safe, livable and affordable older neighborhoods.

The older areas of the City of Vallejo west of Highway 80 and south of Highway 37 have an imbalance of non-owner occupied housing with up to 66% federally subsidized housing while the other, newer areas of the city are mostly larger owner occupied single family housing with no federally subsidized housing.



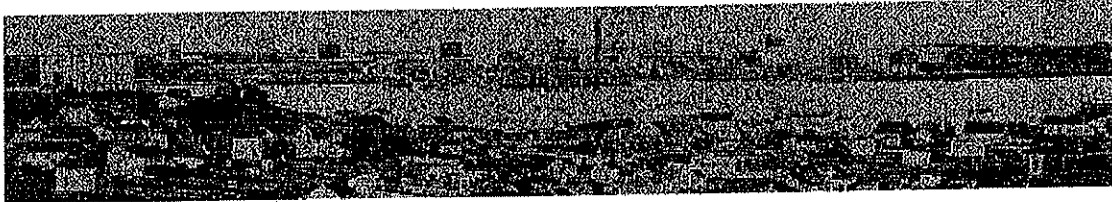
While the draft Inclusionary Housing Ordinance appears to be focused on creating opportunities for "Affordable Ownership" for Moderate and Low income cohort groups in new developments, the Alternatives to On-Site Construction appear to shift the outcome to Very Low income (subsidized) rental units in older neighborhoods. As written, market rate rental housing will be converted to subsidized rental housing thereby decreasing the livability of older neighborhoods while having little impact on new developments.

Currently, the City of Vallejo has a total of 4,019 Housing Choice and Project Based Vouchers and a waiting list of 6,000 more families. The City of Fairfield has a total of 851 vouchers and the City of Benicia has 372 Housing Choice Vouchers. Factored on total population and existing vouchers, the City of Vallejo is 3.4% vouchers or using the average household size provided by the Housing Authority of 2.7 people per voucher, 9% of Vallejo's population lives in subsidized housing. Based on total population, Benicia is 1.2% vouchers and Fairfield is 0.8% vouchers. The Brookings Institute Policy Brief 18 addresses the economic impacts to communities bearing a disproportionate share of the direct and indirect costs associated with concentrations of poor residents. As referenced in the Brookings Brief, the Wharton Real Estate Center found that, in one instance, 3% of the city's total expenditures financed "excess spending" on police protection stemming from an above average poverty rate. This finding supports the fact that costs of providing police and emergency services to "the Projects" such as Marina Vista and Sereno Village affects the Vallejo City Budget. In addition, it appears that all residents in poorer communities pay more indirectly for insurance, property damage and travel costs to obtain commercial services unavailable locally. When residents must drive out of town to obtain services or when the "fear" factor keeps potential visitors away, then the City's sales tax revenues are reduced.

While an urban audit would be necessary to calculate the actual costs in Vallejo, factoring the differences identified in the Brookings Brief it appears that the total fiscal impact on the City's budget from the concentration of poverty could approach millions of dollars that could be spent on roads, parks, community groups and other "quality of life" items. In addition, Brookings found that the total cost of concentrations of poverty drives many non-poor residents and viable businesses to migrate to the suburbs where the "quality of life" remains high and indirect costs are lower. With this in mind, the City of Vallejo is already a difficult place for a residential developer to make a profit because less costly housing opportunities are offered outside Vallejo just a few miles east along Highway 80. If the goal is an "economically integrated, balanced community", then Vallejo needs to develop incentives to build market rate infill housing and reduce the number of all rentals in older neighborhoods and include some rental or alternative housing in the newer suburban developments.

Officially, "affordability" is based on income limits established by the State of California and HUD for each county. Solano County's Official State Income Limits for 2007 are as follows for Solano County:

# of people	1	2	3	4	5	6	7	8
Extremely Low	15,800	18,100	20,350	22,600	24,400	26,200	28,000	29,850
Very Low	26,400	30,150	33,950	37,700	40,700	43,750	46,750	49,750
Low	41,450	47,350	53,300	59,200	63,950	68,650	73,400	78,150
Median	52,800	60,000	67,900	75,400	81,400	87,500	93,511	99,500
Moderate	63,300	72,400	81,500	90,500	97,700	105,000	112,200	119,500



The Federal government considers "affordable housing" to be subsidized, single and multifamily housing for individuals and families that make less than 80% of the area's median income which is Low, Very Low and Extremely Low income. Median and Moderate income individuals and families are not considered disadvantaged by the Federal government. For the purposes of this Ordinance, these Solano County income levels translate into the following allowable rents for Low, Very Low and Extremely Low income at 1/12 of 30% rounded to the nearest dollar:

# of people	1	2	3	4	5	6	7	8
Extremely Low	\$395	\$452.50	\$508.75	<b>\$565</b>	\$610	\$655	\$700	\$746
Very Low	\$660	\$754	\$846	<b>\$943</b>	\$1,018	\$1,094	\$1,169	\$1,244
Low	\$1,036	\$1,184	\$1,333	<b>\$1,480</b>	\$1,599	\$1,716	\$1,835	\$1,954

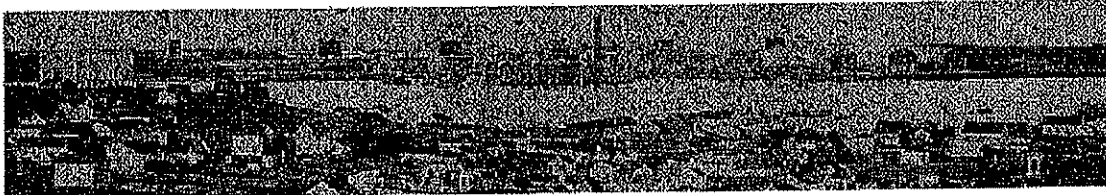
Currently, there are market rate rental units available in Vallejo for individuals and families falling into the Low Income category. Most Very Low and Extremely Low income units would require rent subsidies or would stretch family expenditures beyond the 30% of total income recommended.

For home ownership under the proposed Ordinance, Solano County income levels translate into the following allowable average monthly payment for Low Income at 1/12 of 30% rounded to the nearest dollar and 1/12 of 35% for Moderate Income. This total amount must cover principal, interest, taxes and insurance. Note that the draft Ordinance does not address the needs of Median Income individuals and families.

# of People	1	2	3	4	5	6	7	8
Low	\$1,036	\$1,184	\$1,333	<b>\$1,480</b>	\$1,599	\$1,716	\$1,835	\$1,954
Median	-	-	-	-	-	-	-	-
Moderate	\$1,848	\$2,114	\$2,380	<b>\$2,643</b>	\$2,843	\$3,066	\$3,276	\$3,489

At the Moderate Income level, a family of 4 would be able to justify a loan of about \$350,000. Currently, there are new homes selling in Solano County along the Highway 80 corridor at this price. Home prices in Vallejo are skewed upwards by the huge number of Subsidized Vouchers which tends to replace opportunities for ownership of affordable homes with opportunities for investors. But there are homes available in Vallejo currently at this price point. Their marketability tends to relate more to "quality of life" factors associated with concentrations of poverty.

The Draft Inclusionary Housing Ordinance appears to be targeted to creating opportunities for home ownership in new developments for Low and Moderate Income families. The needs of Median Income families are curiously not addressed. So why is Vallejo's Ordinance focused on Moderate Income families when the market provides numerous housing options? Why would a family buy an "Affordable" house developed under this Ordinance when the appreciation is limited, inspections by the Housing Authority will take place every year and an additional 1% will be added to the real estate commission? Secondly, why would a developer tie up 15% of a new development in units for which the market is extremely limited?



So the listed Alternatives to On-Site Construction include two options. A developer who does not want to target 15% of their new units to a limited market will be allowed to pay in-lieu fees of approximately \$500,000 per required unit or purchase existing "blighted" market rate rental housing in older neighborhoods and rehabilitate it for Very Low Income rental housing with a 55 year rent restriction. This adds new questions. Why would a developer chose to pay the in-lieu fee when creating more subsidized housing would be cheaper? Who defines "blight"? How would shifting market rate rentals to subsidized rentals in older neighborhoods that already carry the economic burdens of concentrations of poverty help create "economically balanced" neighborhoods? Where is the logic in shifting the focus from creating ownership opportunities for above median income families to actually building more subsidized rental housing? Finally, since the City of Vallejo has a number of listed and eligible National Register Districts wherein the effects of Federal HUD monies must be taken into account in accordance with Federal law, how will the City of Vallejo go about protecting the integrity of historic neighborhoods that once achieved the City's stated goal of an "economically integrated, balanced community" but now are adversely affected by concentrations of poverty and too many substandard rentals?

It appears that Vallejo's proposed Inclusionary Housing Ordinance is a smoke screen for developing more subsidized housing in older neighborhoods while making little difference in the ownership/rental ratio in the new developments....except that the additional cost to the developers for adding subsidized rentals must be borne by the purchasers of the new housing units thus increasing costs and further damping demand.

A new General Plan for the City of Vallejo is long overdue. As a community, we need to address some tough questions about balancing livability and sustainability with taking care of a wide range of housing needs. The historic downtown and the adjacent neighborhoods are struggling to survive with an overload of rental housing, subsidized and otherwise. The City of Vallejo would be better served by programs to seize substandard rental units in the urban core and sell them to owner occupants who would agree to rehabilitate them using the Secretary of the Interior's Standards as single family homes and add rentals to the new developments through New Urbanist principles.

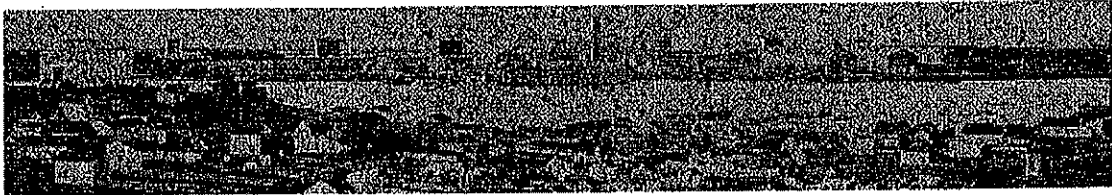
The President's Advisory Council on Historic Preservation and HUD have developed a Policy Statement on Affordable Housing and Historic Preservation that was noticed on the Federal Register on February 15, 2007. The Policy recognizes that "one-size-fits-all approaches" are unlikely to produce a successful balance of providing affordable housing and protecting historic resources. The Policy's 8 implementation principles include the following:

#### **IV. Consultation Should Consider the Overall Preservation Goals of the Community.**

When assessing, and negotiating the resolution of the effects of affordable housing projects on historic properties, consultation should focus not simple on individual buildings but on the historic preservation goals of the broader neighborhood or community. If the affected historic property is a historic district, the agency official should assess effects on the historic district as a whole.

#### **VI Section 106 Consultation Should Emphasize Consensus Building**

Section 106 review strives to build consensus with affected communities in all phases of the process. Consultation with affected communities should be on a scale appropriate to that of the undertaking. Various stakeholders, including community members and neighborhood residents, should be included in the Section 106 review process as consulting parties so that the full range of issues can be addressed in developing a balance between historic preservation and affordable housing goals.



As a Certified Local Government, the City of Vallejo takes on the role of Lead Agency and is required to address Section 106 of the National Historic Preservation Act since federal money will be required to support the subsidized rental units produced. Vallejo is a unique, historic city that is recognized by the Federal government for its importance in American History as California's first official capitol. Historically, Vallejo welcomed a diverse mix of immigrants which provided the workforce for the oldest naval base on the West Coast. The Vallejo Architectural Heritage Foundation has requested Consulting Party status under 36CFR800 for new subsidized Projects and formally extends that request to all actions by the City of Vallejo Housing Authority. The Vallejo Architectural Heritage Foundation looks forward to working with you to achieve our common goals.

Sincerely,

  
Adrienne Waterman, President

By: Judy Irvin, architect

Cc: Mayor Tony Intintoli  
City Council  
Joe Tanner, City Manager  
Milford Wayne Donaldson, SHPO  
Blythe Semmer, Advisory Council for Historic Preservation  
Ernest Molins, SF HUD  
Nicole Byrd, Greenbelt Alliance