

## REPORT TO CITY COUNCIL

**DATE: JUNE 25, 2008**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: GREG RAMIREZ, CITY MANAGER**

**BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT**

**SUBJECT: PUBLIC HEARING ON INCLUSIONARY HOUSING ORDINANCE (CASE NO. 08-ZOA-002)**

---

The purpose of this item is to conduct a public hearing and to introduce Ordinance No. 08-353, the Inclusionary Housing Ordinance, for adoption.

The purpose of inclusionary housing is to provide affordable housing opportunities as part of each residential development project constructed in the City. The Inclusionary Housing Ordinance Amendment (Attachment 1) would supplement other affordable housing programs in the City, including those in the Redevelopment Project Area, and the Residential Density Bonus. This Ordinance requires that residential and mixed-use projects include a share of housing that is affordable to very low-, low- and moderate-income households.

Currently in the Municipal Code, Section 9133 details the Inclusionary Housing Program. This Ordinance updates the existing Zoning Code in two main ways: (1) offers the option of providing a land donation instead of constructing the affordable units; and (2) updates the in lieu fee amount. The Ordinance also provides more clarification regarding program procedures and affordable housing standards.

The City Council authorized staff to draft the Inclusionary Housing Ordinance Amendment as part of the acceptance of the "Affordable Housing Implementation Strategy Report" on June 27, 2007. The City Attorney has reviewed the draft Ordinance, and has found it acceptable as to form. The City Council Housing Subcommittee reviewed the draft Ordinance at its meeting on March 18, 2008, and found it acceptable. On June 5, 2008, the Planning Commission reviewed the draft Ordinance, and, per Resolution No. 08-936 (Attachment 2), the Planning Commission recommended that the City Council adopt the Zoning Ordinance Amendment Case No. 08-ZOA-002, the Negative Declaration, and make the necessary environmental findings pursuant to the California Environmental Quality Act (CEQA). A copy of the Planning Commission staff report is included as Attachment 3.

As with the current Inclusionary Housing Ordinance, this proposed amendment requires that at least 15 percent of all newly constructed dwelling units in a residential development of at least 10

dwelling units be affordable. The affordable units must be developed, sold to or rented to, and occupied by very low-, low- and moderate-income households (as defined in the Ordinance, based on State Housing and Community Development Department figures). Of the 15 percent, a minimum six percent (6%) of all the units would be sold to or rented to very low-income households, while the remaining nine percent (9%) would be rented or sold to low- or moderate-income households.

The Ordinance provides alternatives to constructing the required affordable units on the primary development site, at the discretion of the Planning Commission. Where the provision of affordable units onsite is determined to be economically infeasible, the Ordinance allows the following, in order of preference: 1) offsite construction of the affordable units; 2) donation of offsite land, the value of which is at least equal to the in lieu amount that would be applied to the project; and 3) in lieu fee, as established by a fee schedule. The City Council will be asked to adopt a resolution outlining an updated fee schedule as a separate item and public hearing, subsequent to approval of the ZOA. This meeting is tentatively set for July 9, 2008. The current fee is \$6,277 per unit for ownership units, and \$4,541 per unit for rental units. Based on a recent cost analysis prepared by RSG, Inc. (Attachment 4), the fee would increase to \$21,821 per unit for ownership units, and \$15,313 per unit for rental units. The in lieu fee amount is derived from the difference in the construction costs between the market rate and affordable units.

The Inclusionary Housing Ordinance Amendment would apply to all portions of the City, with the exception of the Redevelopment Project Area. In these cases, the inclusionary housing provisions under California Redevelopment Law (CRL) would prevail. Therefore, there is limited practical applicability of the ZOA in the City, as there is not much vacant residential land in the City, outside of the Redevelopment Project Area, where a multi-unit housing project could be developed.

The project was analyzed for potential environmental impacts pursuant to the California Environmental Quality Act (CEQA), including the preparation of an Initial Study (IS). The project, being a ZOA and not a specific physical development, was found to have no potential environmental impacts, and a Negative Declaration (ND) was issued (Attachment 4). The IS/ND was circulated for public comment starting on April 17, 2008, and ending on May 19, 2008. No comments were received.

The City's Inclusionary Housing Ordinance Amendment consultant, Jim Draughon of RSG, will be present at the meeting to provide a presentation and respond to questions you may have.

## **RECOMMENDATION**

Staff recommends the City Council adopt Zoning Ordinance Amendment No. 08-353, including the environmental findings pursuant to the California Environmental Quality Act contained therein, and adopt the Negative Declaration.

Attachments:

1. Inclusionary Housing Ordinance (No. 08-353)

2. Planning Commission Resolution No. 936
3. Planning Commission staff report, dated June 5, 2008
4. *Agoura Hills Inclusionary Housing Ordinance and In Lieu Fee Update Memorandum Nexus Report*, prepared by RSG (March 3, 2008)
5. Initial Study/Negative Declaration

**ORDINANCE NO. 08-353**

**AN ORDINANCE OF THE CITY OF AGOURA HILLS REVISING REGULATIONS APPLICABLE TO THE PROVISION OF INCLUSIONARY HOUSING, AND AMENDING SECTION 9133 OF PART 4 OF CHAPTER 1 OF TITLE IX OF THE CITY OF AGOURA HILLS MUNICIPAL CODE**

**A. Recitals.**

- (i) The purpose of this Ordinance is to amend the City's Municipal Code to update the regulations pertaining to the provision of inclusionary housing units in the City.
- (ii) On June 25, 2008, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the zoning code amendments contained herein as required by law.
- (iii) At the public hearing on June 25, 2008, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.
- (iv) All legal prerequisites to the adoption of the Ordinance have occurred.

**B. Ordinance.**

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

**Section 1.** The facts set forth in the Recitals, Part A of this Ordinance, are true and correct.

**Section 2.** The provisions of this Ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The City Council held a public hearing on June 25, 2008 to consider the Negative Declaration. Evidence, both written and oral, was duly presented to and considered by the City Council at this said hearing. The City Council finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The City Council has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment, and hereby adopts the Negative Declaration..

**Section 3.** Section 9133 of Part 4 of Chapter 1 of Title IX of the Agoura Hills Municipal Code is hereby repealed in its entirety.

**Section 4.** New Section 9133. Inclusionary Housing is hereby added to Part 4 of Chapter 1 of Title IX of the Agoura Hills Municipal Code.

**“Section 9133  
INCLUSIONARY HOUSING**

**Subsections:**

- 9133.1 Purpose**
- 9133.2 Definitions**
- 9133.3 Applicability**
- 9133.4 Exemptions**
- 9133.5 Inclusionary Unit Requirements**
- 9133.6 Alternatives**
- 9133.7 Procedures**
- 9133.8 Standards**
- 9133.9 Enforcement**
- 9133.10 Regulations**
- 9133.11 Inclusionary Housing Trust Fund**
- 9133.12 Administrative Fees**
- 9133.13 Appeal**
- 9133.14 Taking Determination**

**9133.1 Purpose**

The provisions of this section establish standards and procedures that encourage the development of housing affordable to a range of households with varying income levels. The purpose of this section is to encourage the development and availability of such housing by ensuring that the addition of affordable housing units to the City’s housing stock is in proportion with the overall increase in new housing units and to provide standards and procedures to that effect.

**9133.2 Definitions**

As used in this section, the following terms shall have the following meanings:

“Adjusted for Household Size Appropriate for the Unit” means for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

“Affordable Housing Cost” means the total housing costs paid by a qualifying household, which shall not exceed a specified fraction of its gross income, adjusted for household size appropriate for the unit, as follows:

- A. Very Low-Income Households, rental or for-sale units: thirty (30) percent of fifty (50) percent of the Los Angeles County median income.
- B. Low Income-Households, rental units: thirty (30) percent of sixty (60) percent of the Los Angeles County median income.
- C. Low Income-Households, for-sale units: thirty (30) percent of seventy (70) percent of the Los Angeles County median income.
- D. Moderate-Income Households, rental units: thirty (30) percent of one hundred and ten (110) percent of the Los Angeles County median income

E. Moderate-Income Households, for sale units: thirty-five (35) percent of one hundred and ten (110) percent of the Los Angeles County median income.

“Developer” means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a residential development.

“Development Agreement” means an agreement entered into between the City and a developer pursuant to Section 65864 of the California Government Code and Sections 9681 and 9682 of Division 1, Part 4 of Title IX of the City of Agoura Hills Municipal Code.

“Director” means the City’s Director of Planning and Community Development.

“Discretionary Approval” means any entitlement or approval pursuant to Section 9133 of the Municipal Code, including but not limited to a use permit, variance, design approval, and subdivision map.

“Dwelling Unit” One (1) or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household.

“HCD” The California Department of Housing and Community Development.

“HUD” The United States Department of Housing and Urban Development.

“Inclusionary Housing Agreement” means a legally binding agreement between a developer and the City, in form and substance satisfactory to the Director and City Attorney, setting forth those provisions necessary to ensure that the requirements of this section, whether through the provision of inclusionary units or through an alternative method, are satisfied.

“Inclusionary Housing Plan” means the plan referenced in paragraph “A” of Subsection 9133.8 and further described in the regulations, which sets forth the manner in which the requirements of this section will be implemented for a particular residential development.

“Inclusionary Housing Trust Fund” shall have the meaning set forth in subsection 9133.12.

“Inclusionary Unit” means a dwelling unit that will be offered for rent or sale to and for occupancy by very low, low and moderate-income households, at an affordable housing cost, pursuant to this section.

“In-Lieu Fee” A fee paid to the City by a developer instead of providing the required inclusionary units.

“Low-Income Households” means households whose gross income is greater than 50% and does not exceed eighty (80%) percent of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

“Low-Income Units”; “Moderate-Income Units”; and “Very Low-Income Units” mean inclusionary units restricted for sale or rent to and for occupancy by low, moderate, or very low-income households, respectively, at an affordable housing cost.

“Market Rate Units” means those dwelling units in a residential development that are not inclusionary units.

“Moderate Income Households” means households whose gross income is greater than 80% and does not exceed one hundred and twenty (120%) percent of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

“Off Site Construction” Erection of affordable housing units on land other than that on which the developer intends to place a project within the City.

“Redevelopment Agreement” means an Owner Participation Agreement, Disposition and Development Agreement, Affordable Housing Agreement, Regulatory Agreement or similar agreement entered into between the City of Agoura Hills Redevelopment Agency and a developer.

“Regulations” means the regulations adopted by the Agoura Hills City Council pursuant to Subsection 9133.11 for the implementation and enforcement of the provisions of this section.

“Residential Development” means the construction of projects consisting of ten (10) or more dwelling units.

“Substantial Rehabilitation” or “Substantially Rehabilitated” means the rehabilitation of a dwelling unit(s) for very low and low income households, which has substantial building and other code violations, and has been vacant for at least six (6) months, such that the unit is returned to the City’s housing supply as decent, safe, and sanitary housing, and the cost of such work exceeds Forty Thousand Dollars (\$40,000) per unit, as that amount may be adjusted for inflation pursuant to the Regulations.

“Total Housing Costs” means the total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs include the monthly rent payment and a reasonable allowance for utilities. For an ownership unit, total housing costs include the mortgage payment (principal and interest), mortgage insurance, property taxes, property insurance, utilities, homeowner’s association dues, and any other related fees and assessments.

“Very Low Income Households” means households whose gross income is equal to fifty (50%) percent or less of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

### **9133.3 Applicability**

This subsection shall apply to all residential developments, except those that are exempt pursuant to Section 9133.4, and excluding here from residential developments located in the Agoura Hills Redevelopment Project Area, which are separately subject to inclusionary housing requirements under the California Health and Safety Code Section 33000 et seq., and related regulations and policies of the Agoura Hills Redevelopment Agency.

#### **9133.4 Exemptions**

The following residential developments are exempt from the requirements of this Section:

- A. Residential developments that obtain a variance, conditional use permit, or design review approval (pursuant to Sections 9676, 9673, and 9677 of Division 6 of Part 3 of Title IX of the Municipal Code, respectively) from the City prior to the effective date of this section, which obtain a building permit pursuant to that discretionary approval within one year of the effective date of this section, and which obtain a certificate of occupancy pursuant to that same discretionary approval.
- B. Residential developments that are exempt from this section pursuant to state law, including, but not limited to, those for which the City enters into a development agreement.
- C. Residential developments for which the Redevelopment Agency enters into a Redevelopment Agreement, so long as the Redevelopment Agreement is in full force and effect at the time the residential development would otherwise be required to comply with the requirements of this Section, and there is no uncured breach of the Redevelopment Agreement prior to the earlier of a) issuance of Certificate of Completion for the Redevelopment Agreement, or b) issuance of the first certificate of occupancy for the residential development.

#### **9133.5 Inclusionary Unit Requirements**

- A. Affordable inclusionary units shall be reserved for very low, low and moderate income households. Such units shall be provided at affordable housing cost, as defined by California Health and Safety Code Section 50052.5 for owner-occupied units and Section 50053(b) for rental units, which calculates affordable housing rates for each applicable income category. At least fifteen percent (15%) of all newly constructed dwelling units in residential developments shall be developed, sold to or rented to, and occupied by very low, low and moderate-income households, at an affordable housing cost. A minimum of six percent (6%) of all the units shall be sold to or rented to very low income households; the remaining nine percent (9%) shall be sold to or rented to low or moderate income households.
- B. The City shall on an annual basis set the maximum allowable rents and sale prices for inclusionary units, adjusted for family size.
- C. The inclusionary unit requirement set forth in Paragraph A of this subsection may be reduced as follows:
  - 1. If very low-income units are provided in lieu of required low income units, a credit of 1.5 units shall be granted for every 1 unit actually provided.
  - 2. If very-low income units are provided in lieu of required moderate income units, a credit of 2 units shall be granted for every 1 unit actually provided.
  - 3. If low-income units are provided in lieu of required moderate income units, a credit of 1.5 units shall be granted for every 1 unit actually provided.
- D. In calculating the required number of inclusionary units, fractional units of 0.50 or above will be rounded-up to a whole unit if the residential development consists of ten (10) or more units.



E. In setting priorities among eligible households, first priority shall be given to public safety employees and primary and secondary school teachers. Second priority shall be given to Agoura Hills' residents. Third priority shall be given to persons employed within Agoura Hills. Fourth priority shall be given to all other persons.

### **9133.6 Alternatives**

As an alternative to developing the inclusionary units in the residential development pursuant to Subsection 9133.5, the requirements of this section may be satisfied at the Planning Commission's discretion by off-site development of required units, donation of off-site land, or an in-lieu fee payment. Where provision of affordable units onsite is determined to be economically infeasible, off-site units are preferred, followed by donation of off-site land, to payment of an in-lieu fee. If neither on site or off-site mitigation is feasible, an in lieu housing fee will be collected in accordance with procedures and standards set forth in the regulations.

A. Off-site units. Upon application by the developer and at the discretion of the Planning Commission, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by constructing or substantially rehabilitating the required inclusionary units at a site different than the site of the residential development.

B. Land Donation. Upon application by the developer and at the discretion of the Planning Commission, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by conveying land to the City for the construction of the required inclusionary units. The donated land must at least be equal in value to the in lieu amount that would be applied to the project, vacant and suitable for development for affordable housing units, and fully served by utilities and related infrastructure improvements.

C. In-Lieu Fee. At the discretion of the Planning Commission, the developer may satisfy the requirement for providing inclusionary units as part of the residential development, in whole or in part, by paying a fee in lieu for all or some of the inclusionary units as follows:

1. The amount of the fee shall be calculated using the fee schedule established by resolution of the City Council.
2. One-half of the in-lieu fee required by this subsection shall be paid (or an irrevocable letter of credit posted) prior to issuance of a building permit for all or any part of the residential development. The remainder of the fee shall be paid before a certificate of occupancy is issued for any unit in the residential development.
3. The fees collected shall be deposited in the Inclusionary Housing Trust Fund for use exclusively for the development of housing units affordable to very low, low or moderate income households.

### **9133.7 Procedures**

A. At the times and in accordance with the standards and procedures set forth in the regulations, developers shall:

1. Submit an inclusionary housing plan for approval by the Director, setting forth in detail the manner in which the provisions of this section will be implemented for the proposed residential development.

2. Execute and cause to be recorded an inclusionary housing agreement unless developer is complying with this section pursuant to paragraphs “B” (land donation) or “C” (in lieu fee) of Subsection 9133.6.

B. No discretionary approval shall be issued for all or any portion of a residential development subject to this section until the developer has submitted an inclusionary housing plan.

C. No building permit shall be issued for all or any portion of a residential development subject to this section unless the Director has approved the inclusionary housing plan, and the inclusionary housing agreement, if required, recorded.

D. No certificate of occupancy shall be issued for all or any portion of a residential development subject to this section unless the approved inclusionary housing plan has been fully implemented.

### **9133.8 Standards**

A. All inclusionary units shall be:

1. Reasonably dispersed throughout the residential development.
2. Proportional, in number, bedroom size and location, to the market rate units.
3. Comparable with the market rate units in terms of the base design, appearance, materials and finished quality.

B. All inclusionary units in a residential development shall be constructed concurrently with or prior to the construction of the market rate units. In the event the City approves a phased project, the inclusionary units required by this section shall be provided within each phase of the residential development.

C. Inclusionary units shall be reserved for very low, low and moderate income households at the ratios established pursuant to California Health and Safety Code Section 33413(b)(2) and shall be provided at the applicable affordable housing cost.

1. An inclusionary unit that is for rent shall remain restricted for occupancy by the target income category at the applicable affordable housing cost for a period of not less than fifty-five (55) years.
2. An inclusionary unit that is for sale shall remain restricted for owner-occupancy the target income category at the applicable affordable housing cost for a period of not less than forty-five (45) years.

The occupancy and rents of the inclusionary units shall be governed by the terms of a deed restriction recorded with the property.

D. Notwithstanding paragraph C (2) of this Subsection 9133.8, if an inclusionary unit for-sale is sold to an above moderate income purchaser, the sale shall result in a recapture by the City or its designee of a financial interest in the unit equal to (1) the difference between the initial affordable sales price and the appraised “fair market” value of the unit at the time of the initial sale, and (2) a proportionate share of any appreciation, provided that there are no more restrictive agreements executed by and between the home owner and the City or Redevelopment Agency, in which case the more restrictive requirement will apply.

E. Where the developer contends that onsite provision of inclusionary units is economically infeasible, the developer may request that the Planning Commission review the proposed

residential development for a determination of economic infeasibility. The developer is required to submit to the City all necessary documentation demonstrating economic infeasibility. Upon a determination of economic infeasibility by the Planning Commission, the units may then be provided at another location in the City's jurisdiction at the Planning Commission's discretion. Any such off-site inclusionary units shall be completed prior to the issuance of a certificate of occupancy for the market rate housing development. The occupancy and rents of any such off-site units shall be governed by the terms of a deed restriction similar to that used for onsite inclusionary units, as referenced in Paragraph C of Subsection 9133.8.

### **9133.9 Enforcement**

A. Any violation of this section constitutes a misdemeanor.

B. The provisions of this Section shall apply to all Developers and their agents, successors and assigns proposing a Residential Development. All Inclusionary Units shall be rented or sold in accordance with this Section and any regulations adopted pursuant to this section.

C. Any individual who sells or rents an Inclusionary Unit in violation of the provisions of this Section shall be required to forfeit all monetary amounts so obtained. Recovered funds shall be deposited into the Inclusionary Housing Trust Fund.

D. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Section, including but not limited to: (1) actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; and (2) actions for injunctive relief or damages.

E. In any action to enforce this Section or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.

### **9133.10 Regulations**

The City Council may by resolution establish additional regulations for the implementation of this section.

### **9133.11 Inclusionary Housing Trust Fund**

There is an established separate fund of the City, known as the Inclusionary Housing Trust Fund. All monies collected pursuant to Paragraph "C" of Subsection 9133.6 shall be deposited in the Inclusionary Housing Trust Fund.

### **9133.12 Administrative Fees**

The City Council may by resolution establish reasonable fees and deposits for the administration of this Chapter.

### **9133.13 Appeal**

Within fifteen (15) calendar days after the date of the Director's decision, an appeal may be filed pursuant to Section 9804 of Division 4 of Part 1 of Chapter 8 of Title IX of the Municipal Code in which appeal procedures are set forth.

**9133.14 Taking Determination**

A. Commencing upon the approval or disapproval of the inclusionary housing plan by the Planning Commission pursuant to the regulations, and within fifteen (15) days thereafter, a developer may request a determination that the requirements of this section, taken together with the inclusionary incentives, as applied to the residential development, would legally constitute a taking of property of the residential development without just compensation under the California or Federal Constitutions.

B. The developer has the burden of providing economic information and other evidence necessary to establish that application of the provisions of this section to the residential development would constitute a taking of the property of the proposed residential development without just compensation. The Director shall make the determination, which may be appealed in the manner and within the time set forth in Subsection 9133.13, except that the City Council shall serve as the review body.

C. In making the taking recommendation or determination, the decision maker shall assume each of the following:

1. Application of the inclusionary housing requirement to the residential development;
2. Application of the inclusionary incentives;
3. Utilization of the most cost-efficient product type for the inclusionary units; and
4. External funding where reasonably likely to occur.

D. If it is determined that the application of the provisions of this section would be a taking, the inclusionary housing plan shall be modified to reduce the obligations in the inclusionary housing component to the extent and only to the extent necessary to avoid a taking. If it is determined no taking would occur though application of this section to the residential development, the requirements of this section remain applicable.”

**Section 5.** On or before the date that is forty-two (42) months after the effective date of this Ordinance, the Director shall prepare and present to the City Council an evaluation of the effectiveness of Section 9133 during the first three (3) years of its implementation, and recommendations for changes (if any), to be followed thereafter with an annual summary report.

**Section 6.** If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

**Section 7.** The City Clerk shall certify the adoption of this Ordinance and cause its publication in accordance with applicable law.

PASSED, APPROVED AND ADOPTED this 25th day of June 2008, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
John M. Edelston, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Craig A. Steele, City Attorney

**RESOLUTION NO. 936**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS RECOMMENDING THAT THE CITY COUNCIL REVISE REGULATIONS APPLICABLE TO THE PROVISION OF INCLUSIONARY HOUSING IN THE CITY OF AGOURA HILLS MUNICIPAL CODE, AND RECOMMENDING THAT THE CITY COUNCIL MAKE ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE # 08-ZOA-002)**

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

WHEREAS, the Planning Commission has considered a Zoning Ordinance Amendment (ZOA) to update the regulations pertaining to the provision of inclusionary units in Section 9133 of Part 4 of Chapter 1 of Title IX of the City of Agoura Hills Municipal Code; and

WHEREAS, a duly noticed public hearing was held on June 5, 2008 at 6:30 p.m. in the City Hall Council Chambers, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given; and

WHEREAS, evidence, both written and oral, was duly presented to and considered by the Planning Commission of the City of Agoura Hills at the aforesaid public hearing; and

WHEREAS, after close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff report, the recommendations, and all other pertinent documents and associated actions regarding the proposed ordinance amendment and fee resolution; and

WHEREAS, the inclusionary housing program of the Municipal Code provides parameters that require at least fifteen (15) percent of all newly constructed dwelling units in residential developments to be developed, sold to or rented to, and occupied by very low, low and moderate-income households at an affordable housing cost, and that under certain conditions allow for payment of a fee in lieu of constructing the units; and

WHEREAS, changes need to be made to the Municipal Code to offer the option of providing a land donation instead of constructing the units; to indicate that the amount of the in lieu fee shall be calculated using a fee schedule established by resolution of the City Council; and to provide more clarification regarding inclusionary housing program procedures and affordable housing standards; and

WHEREAS, the proposed amendments to the inclusionary housing program are consistent with the purposes of the General Plan in that they would help to provide a broad range of housing opportunities in the City.

WHEREAS, the provisions of the Municipal Code have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated

thereunder. The Planning Commission held a public hearing on June 5, 2008 to consider the Negative Declaration. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at this said hearing. The Planning Commission finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The Planning Commission has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Agoura Hills recommends that the City Council adopt the ZOA to Section 9133 of Part 4 of Chapter 1 of Title IX of the City of Agoura Hills Municipal Code, and that the City Council adopts the Negative Declaration prepared for the ZOA.

PASSED, APPROVED AND ADOPTED this 5th day of June 2008, by the following vote to wit:

AYES: (3) Nouzille, Rishoff, Zacuto  
NOES: (0)  
ABSENT: (2) Buckley Weber, O'Meara  
ABSTAIN: (0)

---

Curtis Zacuto, Vice-Chair

ATTEST:

---

Doug Hooper, Secretary



**DEPARTMENT OF PLANNING AND  
COMMUNITY DEVELOPMENT**

**TO: PLANNING COMMISSION**

**FROM: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY  
DEVELOPMENT**

**DATE: JUNE 5, 2008**

**SUBJECT: INCLUSIONARY HOUSING ORDINANCE (CASE NO. 08-ZOA-  
002)**

---

**I. BACKGROUND**

The purpose of inclusionary housing is to provide affordable housing opportunities as part of each residential development project constructed in the City. The Inclusionary Housing Ordinance Amendment (Attachment 1) would supplement other affordable housing programs in the City, including those in the Redevelopment Project Area, and the Residential Density Bonus. This Ordinance requires that residential and mixed-use projects include a share of housing that is affordable to very low, low and moderate income households.

Currently in the Municipal Code, Section 9133 details the Inclusionary Housing Program. This Ordinance updates the existing Zoning Code in two main ways: (1) offers the option of providing a land donation instead of constructing the affordable units; (2) updates the in lieu fee amount. The Ordinance also provides more clarification regarding program procedures and affordable housing standards.

The City's Inclusionary Housing Ordinance Amendment consultant, Jim Draughon of RSG, will be present at the meeting to provide a presentation and respond to questions you may have.

**II. SUMMARY OF ORDINANCE**

As with the current Inclusionary Housing Ordinance, this amendment requires that at least 15 percent of all newly constructed dwelling units in a residential development of at least 10 dwelling units be affordable. The affordable units must be developed, sold to or rented to, and occupied by very low-, low- and moderate-income households (as defined



in the Ordinance, based on State Housing and Community Development Department figures). Of the 15 percent, a minimum six percent (6%) of all the units would be sold to or rented to very low income households, while the remaining nine percent (9%) would be rented or sold to low or moderate income households.

The Ordinance provides alternatives to constructing the required affordable units on the primary development site, at the discretion of the Planning Commission. Where the provision of affordable units onsite is determined to be economically infeasible, the Ordinance allows the following, in order of preference: 1) offsite construction of the affordable units; 2) donation of offsite land the value of which is at least equal to the in lieu amount that would be applied to the project; 3) in lieu fee, as established by a fee schedule. The City Council will be asked to adopt a resolution outlining an updated fee schedule subsequent to approval of the ZOA. As detailed further below, the proposed fee is \$21,821 per market rate unit for ownership units and \$15,313 per market rate unit for rental units. In comparison, the current fee, established by ordinance in 2000, is \$6,277 per unit for ownership units and \$4,541 per unit for rental units. The fee schedule would be updated annually by resolution of the City Council.

RSG prepared detailed data to demonstrate how the in lieu fee amount was derived. Rather than identify the developer's financial impact from providing the affordable units as being equal to the difference between the market rate sales prices or rents and the affordable sales or rental price for the affordable units, the difference in the construction costs between the market rate and affordable units is used. The estimated construction funding gap for ownership units (primarily condominiums) is \$145,475 per unit, and is \$102,084 for rental apartments. This difference is referred to as the funding gap. The funding gap is then translated into the in lieu fee amount that would have to be charged to provide the City with adequate funds to produce the required inclusionary units off site with a similar product type at another location in the City. RSG has calculated the in lieu fee as \$21,821 for ownership units and \$15,313 for rental units. The total amount of fee is determined by applying these factors to the entire number of dwelling units proposed onsite (not just the portion of the units that are allocated as affordable). RSG evaluated these in lieu fees with those of other cities, and found them to be comparable.

The Inclusionary Housing Ordinance Amendment would apply to all portions of the City, with the exception of the Redevelopment Project Area. In these cases, the inclusionary housing provisions under California Redevelopment Law (CRL) would prevail. Therefore, there is limited practical applicability of the ZOA in the City, as there is not much vacant residential land in the City, outside of the Redevelopment Project Area, where a multi-unit housing project could be developed.

### **III. ENVIRONMENTAL REVIEW**

The project was analyzed for potential environmental impacts pursuant to the California Environmental Quality Act (CEQA), including the preparation of an Initial Study (IS). The project, being a ZOA and not a specific physical development, was found to have no potential environmental impacts, and a Negative Declaration (ND) was issued

(Attachment 2). The IS/ND was circulated for public comment starting on April 17, 2008, and ending on May 19, 2008. No comments were received.

#### **IV. RECOMMENDATION**

Staff recommends that the Planning Commission adopt a Resolution (Exhibit 3) recommending that the City Council: (1) adopt Zoning Ordinance Amendment Case No. 08-ZOA-001, including the environmental findings pursuant to the California Environmental Quality Act found therein; and (2) adopt the Negative Declaration.

Attachments:

1. Draft Inclusionary Housing Ordinance
2. Initial Study/Negative Declaration
3. Draft Resolution

CASE PLANNER: Allison Cook, Senior Planner



INTELLIGENT COMMUNITY DEVELOPMENT

ROSENOW SPEVACEK GROUP INC.  
309 WEST 4TH STREET  
SANTA ANA, CALIFORNIA  
92701-4502

T 714 541 4585  
F 714 541 1175  
E INFO@WEBRSG.COM  
WEBRSG.COM

Via Electronic Mail

DATE: March 3, 2008

TO: Mike Kamino, Director of Planning and Redevelopment  
CITY OF AGOURA HILLS

FROM: Jim Draughon, Housing Manager

SUBJECT: **AGOURA HILLS INCLUSIONARY HOUSING ORDINANCE AND IN-LIEU FEE  
UPDATE MEMORANDUM NEXUS REPORT**

Rosenow Spevacek Group Inc. (RSG) prepared the following evaluation pertaining to updating the City of Agoura Hills (the "City") Inclusionary Housing Ordinance (Ordinance) and proposed revised in-lieu fee payment program. The Ordinance is to assist and encourage development of affordable housing in proportion with the overall increase in residential units in the City. The Ordinance provides developers with several options for fulfilling the defined affordable housing requirements, including the payment of an in-lieu fee. The purpose of this memorandum is to assist the City in updating its Inclusionary Housing Ordinance and in-lieu fee payment amount, which will allow the City to provide mixed-income housing in off-site locations under the Ordinance.

#### AFFORDABLE HOUSING OVERVIEW

The City's affordable housing needs fall within two categories, which include the citywide targets as reflected by the City's Regional Housing Needs Assessment (RHNA), as promulgated by the Southern California Association of Governments (SCAG) and incorporated in the City's Housing Element, and the obligations within the Agoura Hills Redevelopment Project Area (the "Project Area") as reflected in the Five-Year Implementation Plan. The 2006 RHNA numbers reflect a projected Citywide need for a total of 109 dwelling units including 66 affordable units, which are targeted to be produced over the period from 2006 to 2014. During the same period of time, the Redevelopment Implementation Plan estimates that a total of 661 dwelling units will be produced in the Project Area, which reflects a requirement for 100 affordable units to be produced pursuant to the California Health and Safety Code Section 33000 et seq. (California Redevelopment Law (the "CRL").

The following table provides a summary of the total City and Agency needs per the RHNA and the CRL, as well as the surplus or deficit number of RHNA units which would result from the Agency's production of inclusionary housing units pursuant to the CRL.

REDEVELOPMENT PLANNING  
REAL ESTATE ECONOMICS  
HOUSING  
FINANCING  
REAL ESTATE ACQUISITION  
ECONOMIC DEVELOPMENT  
GOVERNMENT SERVICES

**SUMMARY AFFORDABLE HOUSING NEEDS**

Household Income Categories	Redevelopment Affordable Housing Units	2006 – 2014 RHNA Units	Citywide RHNA Production Surplus (Deficit)
Very Low-Income	40	29	11
Low-Income	30	18	12
Moderate-Income	30	19	11
Subtotal Affordable Units	100	66	34
Above Moderate-Income	561	43	518
<b>TOTAL UNITS</b>	<b>661</b>	<b>109</b>	<b>555</b>

Affordable housing activities in the City fall primarily under the Redevelopment Agency's responsibility due to its continuing legal obligations and access to the only reliable source of ongoing funding via statutory deposits to its Low and Moderate-Income Housing Set-Aside Fund (LMIHF). Agencies are required to deposit each year not less than 20% of the total annual tax increment from each project area into a separate low- and moderate-income housing set-aside fund, which may only be used for the purposes of increasing, improving and preserving the community's supply of low- and moderate-income housing. Units produced using LMIHF monies must be made available to and occupied by persons and families of very low-, low- and moderate-income at an affordable housing cost as defined under the CRL (see Attachment 1 – 2007 Los Angeles County Income Limits & Affordable Housing Cost Calculation).

LMIHF monies may be used citywide subject to a number of limitations on their expenditure under Redevelopment Law. The CRL also requires the proportional expenditure of LMIHF monies in accordance with the community's proportional housing needs for very low- and low-income households. Proportional housing needs are identified as those reflected in the City's RHNA targets, thus the Agency's expenditure limitations are governed by the City's RHNA income category distribution adjusted to reflect only the proportion of very low-, low- and moderate-income categories. The Agoura Hills Redevelopment Agency's proportion expenditure requirements, as reflected by the City's 2006 RHNA, is 43.9% for very low-income households, 27.3% for low-income households, and the remaining 28.8% available for distribution to moderate-income households or lower income categories.

**SUMMARY FINANCIAL NEEDS ASSESSMENT**

The Agency's Five Year Implementation Plan Mid-Term Review, adopted December 2007, estimated that the cumulative deposits to 2014 would result in approximately \$6.7 million available for very low-, low-, and moderate-income housing expenditures. The proportional expenditure allocation would reflect about \$2,948,875 (\$73,271 per unit) for very low-income, \$1,833,810 (\$61,127 per unit) for low-income, and \$1,934,570 (\$64,485 per unit) for moderate households. If LMIHF monies that are otherwise available for moderate-income units are applied to the very low-income units the amount available would increase to \$4,883,445 (\$122,086 per unit) for very low-income units, but require that the required moderate-income units in the Project Area be developed without public assistance.

The affordable housing gap funding analysis discussed below identifies that the gap funding assistance requirement (weighted average) for new construction affordable rental units (using 4% LIHTC) in the City is about \$144,965 for very low-income units and \$128,552 for low-income units. This would require over \$9.6 million to assist in constructing the required 70 very low- and low-income units identified in the Implementation Plan. In addition, the weighted average gap funding assistance requirement for new construction ownership condominium units about \$145,475 for moderate-income units, which would require over \$2.9 million to assist in developing the 30 moderate-income units identified in the Implementation Plan.

The foregoing indicates that only about 49 rental housing units could be assisted using LMIHF monies during the period to 2014. While the 49 units would meet a portion of the City's RHNA requirements (47 very low- and low-income units), it would reflect about 71% of the City's total RHNA target, and less than 50% of the Agency's total housing production obligation for the planning period. Additional funding resources will be required to assist the City and Agency if fulfilling their respective goals and obligations. The additional funding amount needed to assist the Agency's very low- and low-income requirements would be over \$2.8 million, with an additional amount of over \$2.9 million to provide assistance in developing the 30 moderate-income condominium units.

The attached draft Inclusionary Housing Ordinance and In-Lieu Fee program is intended to provide some additional measure of assistance to the City and the Agency towards achieving their respective affordable housing needs.

#### **INCLUSIONARY HOUSING ORDINANCE REQUIREMENTS**

The Ordinance requirements that must be considered in establishing an in-lieu fee amount are:

1. New for sale and rental housing projects must make at least 15% of the new, converted or substantially rehabilitated units available to very low-, low- and moderate-income households, of which at least 40% must be affordable to very low-income households. Inclusionary units that are produced within market rate projects must comply with the following requirements:
  - a. The units must be dispersed throughout the project.
  - b. The units must be proportional in number, bedroom size and location to the market rate units.
  - c. The units must be comparable with the market rate units in terms of design, materials, finish quality, and interior amenities.
  - d. The units must be comparable in infrastructure, including sewer, water and other utilities.
  - e. The units must be constructed and occupied concurrently with, or prior to, the construction and occupancy of market rate units.
  - f. Income and affordability covenants must remain in place for at least forty-five (45) years for ownership units and fifty-five (55) years for rental units.
2. The inclusionary housing requirements may be satisfied by payment of the in-lieu fee in an amount established by resolution of the City Council.
  - a. The in-lieu fees must be deposited in the City's dedicated affordable housing trust account to be held and administered separately from the Agency's LMIHF.

- b. The trust account will only be used to provide funding assistance for construction or retention of affordable housing, and for reasonable administration costs.
  - c. The trust account funds may be combined with LMIHF monies for developing affordable housing subject to City Council approval.
3. The inclusionary housing requirements may also be satisfied by an irrevocable dedication of land. The value of the land dedication cannot be less than the amount of the in-lieu fee that would be imposed on the project.

### **In-Lieu Fee Approach and Methodology**

The majority of new residential developments within the City is expected to be comprised of "for sale" home subdivisions. However, it is possible that rental development may also occur. Recognizing that the project economics vary broadly between ownership and rental projects, and to avoid imposing too onerous requirements on development in the City, the RSG analysis evaluates both development types.

In evaluating the potential financial impact of the requirements under the proposed inclusionary ordinance, RSG first identified the difference between the affordable housing costs and the market rate rents or housing prices. An evaluation of local market conditions was made using information obtained from DataQuick.com, RealFacts.com, the LA County Recorder Office, and independent field investigations performed. The data was summarized and compared to the affordable housing costs, as defined under the CRL. According to DataQuick Information Systems (dqnews.com), the 2007 median single family home price in the City was about \$845,000, which reflects a market affordability gap of about \$787,225 for very low-income households, \$748,550 for low-income households, and \$635,800 for moderate-income households. Since the median price for single family homes in the City is fairly high, it was determined that the single family calculations would be based on ownership condominiums. The resulting average housing affordability gap for existing market rate condominiums was identified at \$289,285 per unit. In addition, based on the capitalization of the identified rent differential between market rate rents and affordable rents, the average affordability gap for existing apartments in the City was identified at \$209,385 per unit. Due to the relatively high affordability gap between existing market rate units and the affordable housing costs, it was determined that an evaluation of the cost of developing inclusionary condominium and apartment units would be made using the most feasible funding and financing means available.

The principal of substitution serves as the basis for evaluating the prospective cost associated with developing new condominiums and apartments in the City under the restrictions imposed by the Inclusionary Housing Ordinance. The approach is based on the premise that the City will, and needs to, limit its assistance in developing inclusionary housing units to projects that use a combination of local, federal and state financing mechanisms. Rather than identify the financial impact as being equal to the difference between the market rate sale prices or rents and the affordable price for the required income-restricted units, the estimated costs to develop comparable replacement units is calculated to identify the funding shortfall, if any, to produce the inclusionary unit. The difference is identified as the affordable housing "construction funding gap". The costs associated with developing in affordable units using a combination of higher development density, reduced developer fees and profits, and leveraging City funds with other local, state and federal assistance are generally lower than comparable market rate units. This serves to substantially reduce the need for City assistance, which serves to lower the related in-

lieu fee requirement accordingly. The estimated weighted average construction funding gap for condominiums is \$145,475 per unit (see Attachment 3) and \$102,084 per unit for apartments (see Attachment 4), which is about 50% lower than the market rate affordability gap for existing units.

The methodology for identifying the construction funding gap and determining the corresponding in-lieu fee is as follows:

1. Preparation of a detailed development financial pro forma for each product type using a comparable market building prototype to estimate direct and indirect construction costs including, but not limited to, financing cost and a base developer fee to identify the total estimated development costs.
2. Identification the total rents or sales revenue based on the maximum affordable sales price or rent limits, as defined under the affordability standards imposed by the Ordinance.
3. For ownership condominium units the difference between the affordable sale price per unit and the total estimated development cost per unit represents the affordable construction funding gap associated with each income category's affordable sale price.
4. For rental units, the difference between the total permanent loan amount per unit based on the supporting debt service derived from the unit's affordable rent and net operating income represents the affordable construction funding gap associated with each income category's affordable rent.
5. The weighted average of the three income categories comprising the inclusionary units is then calculated based on the income category's proportion of the total affordable units, as reflected in the City's current RHNA allocation, (i.e., very low-income (0.42 X very low-income gap) + low-income (0.28 X low-income gap) + moderate-income (0.30 X moderate-income gap) = weighted average affordable unit gap).
6. The weighted average construction funding gap for the inclusionary unit multiplied times the total number of units that must be income restricted. This represents the estimated effective cost to a developer of fulfilling the inclusionary housing requirements on site.
7. If a fee is going to be paid in-lieu of providing the inclusionary units on site, the total effective cost is divided by the total number of units in the project. This represents the in-lieu fee amount that can be justified per each market rate unit in the project based on the affordability gap associated with the Inclusionary Housing Ordinance requirements.

#### Household Income Limits

The Ordinance defines the income limits for very low-, low- and moderate-income households as defined in the California Health and Safety Code Section 50105 for very low-income, Section 50079.5 for low-income, and Section 50093 for moderate-income households. The income information is published by the State of California Housing and Community Development Department (HCD) annually. The income limits for Los Angeles County cities in 2007 are as follows:

<u>Household Size</u>	<u>Very Low-Income</u>	<u>Low-Income</u>	<u>Moderate Income</u>
1 Person	\$25,900	\$41,450	\$47,500
2 Person	\$29,600	\$47,350	\$54,200
3 Person	\$33,300	\$53,300	\$61,000
4 Person	\$37,000	\$59,200	\$67,800
5 Person	\$39,950	\$63,950	\$73,200
6 Person	\$42,900	\$68,650	\$78,600
7 Person	\$45,900	\$73,400	\$84,100
8 Person	\$48,850	\$78,150	\$89,500

(Note: Revised Income Limits for 2008 are due to be published by HCD in late March 2008.)

#### Affordable Housing Cost Calculation Methodology

The Ordinance identifies the affordable housing cost calculation as those imposed by the California Health and Safety Code, which provides the methodologies for calculating affordable housing costs for ownership units (Section 50052.5(b)), and for rental units (Section 50053(b)).

### **AFFORDABILITY GAP ANALYSIS - OWNERSHIP PROJECTS**

#### Affordable Housing Cost Calculations

Calculation of affordable housing cost for ownership units pursuant to Section 50052.5(b) is performed based on household income adjusted for family size appropriate to the unit.

1. Household size incomes are applied based on unit sizes as follows:
  - a. 3-person households for two-bedroom units;
  - b. 4-person household for three-bedroom units;
  - c. 5-person-household for four-bedroom units; and
  - d. 6 person-household for five-bedroom units.
2. Affordable housing cost calculations are defined as follows:
  - a. For very low-income units, the affordable housing cost calculation is set at 30% X 50% of the Los Angeles County area median income (AMI);
  - b. For low-income units, the affordable housing cost calculation is set at the average of 30% X 70% AMI and, at the City's option, for household earning between 70% and 80% AMI an amount equal to 30% X the household's gross income; and
  - c. For moderate-income units, the affordable housing cost calculation is set at the average of 35% X 110% AMI and, at the City's option, for households earning between 110% and 120% AMI an amount equal to 35% X the household's gross income.



- d. The defined monthly affordable housing cost is adjusted to reflect housing related expenses. These expenses are defined as mortgage debt service payments, property taxes, homeowner fees, insurance costs and utility costs.
- e. The adjusted (net) monthly affordable housing cost reflects the maximum amount available for payment of monthly principal and interest and for purposes of calculating the maximum supportable loan amount for an inclusionary unit. The calculation is based on a 30-year fully amortizing mortgage at 6.25% interest rate.

Assuming the homebuyer makes a down payment equal to 5% of the affordable purchase price, the affordable purchase prices for the income-restricted units are summarized below. See Attachment 2 for complete analysis by income category, applicable income limits and unit sizes.

<b>Very Low-Income Households</b>	<u>One Bedrooms</u>	<u>Two Bedrooms</u>	<u>Three Bedrooms</u>	<u>Four Bedrooms</u>
Max Loan Amt.	\$ 41,123	\$ 44,026	\$ 50,097	\$ 52,186
+ 5% Down Payment.	<u>\$ 2,164</u>	<u>\$ 2,318</u>	<u>\$ 2,636</u>	<u>\$ 2,747</u>
Affordable Price	\$ 43,287	\$ 46,344	\$ 52,733	\$ 54,933

<b>Low-Income Households</b>	<u>One Bedrooms</u>	<u>Two Bedrooms</u>	<u>Three Bedrooms</u>	<u>Four Bedrooms</u>
Max Loan Amt.	\$ 72,092	\$ 110,011	\$ 123,715	\$ 133,002
+ 5% Down Payment.	<u>\$ 3,794</u>	<u>\$ 5,790</u>	<u>\$ 6,511</u>	<u>\$ 7,001</u>
Affordable Price	\$ 75,886	\$ 115,801	\$ 130,226	\$ 140,003

<b>Moderate-Income Households</b>	<u>One Bedrooms</u>	<u>Two Bedrooms</u>	<u>Three Bedrooms</u>	<u>Four Bedrooms</u>
Max Loan Amt.	\$ 162,434	\$ 192,958	\$ 215,912	\$ 232,493
+ 5% Down Payment.	<u>\$ 8,549</u>	<u>\$ 10,156</u>	<u>\$ 11,364</u>	<u>\$ 12,236</u>
Affordable Price	\$ 170,983	\$ 203,114	\$ 227,276	\$ 244,729

Funding/Affordability Gap Calculations

Calculation of the difference between the total construction costs and the maximum affordable purchase prices for inclusionary units identifies the construction funding gap. Assuming a project unit mix of 10% on bedroom units, 40% two bedroom units, 40% three bedroom units, and 10% four bedroom units, the weighted average construction funding gap is \$213,808 for very low-income units, \$145,377 for low-income units, and \$54,462 for moderate-income units (see Attachment 3 – For Sale Condominium Construction Funding Gap Analysis).

The weighted average construction funding gap amounts are then multiplied by the proportion of very low- (40%), low- (30%), and moderate income (30%) units required to identify the weighted average of the construction funding gap per the inclusionary housing unit requirements under the Ordinance. The weighted average housing affordability gap amount identified in Attachment 3 is \$145,475 per each affordable unit required, which is multiplied by the number of

inclusionary units required in a project to reflect the total inclusionary in-lieu fee amount for a project.

#### For Sale Units Inclusionary Housing Obligation Cost / In-Lieu Fee Amount

The Ordinance requires developers to allocate 15% of the units in an ownership project to moderate income households, thus for a 20-unit project, three (3) inclusionary units would be required onsite. If developed off site, the total in-lieu fee amount would be \$436,425 (3 X \$145,475). When the total \$487,797 in-lieu fee is distributed across all units in a project, the cost is equal to \$21,821 for each market rate unit developed ( $\$436,425 / 20 \text{ units} = \$21,821$ ). To fully reflect total costs associated with developing the inclusionary units off site, payment of an in-lieu in the amount of \$21,821 per residential unit in a project is required ( $\$21,821 / 15\% = \$145,475$ ).

#### **AFFORDABILITY GAP ANALYSIS - RENTAL PROJECTS**

Calculation of the affordable housing gap associated with inclusionary rental units is similar to that for ownership units. The construction funding gap, however, is determined by the difference between the supportable loan amount based on the net operating income from the affordable rents, as defined under the CRL, and the total projected cost to develop the affordable unit.

#### Affordable Housing Cost Calculations

Calculation of affordable housing cost for rental units pursuant to Section 50053(b) is performed based on household income adjusted for family size appropriate to the unit.

1. Household size incomes are applied based on unit sizes as follows:
  - a. 3-person household for two-bedroom units;
  - b. 4-person household for three-bedroom units;
  - c. 5-person household for four-bedroom units; and
  - d. 6-person household for five-bedroom units.
2. Affordable housing cost calculations for rental units are defined as follows:
  - a. For very low-income units, the income calculation limit is set at 30% X 50% of the Los Angeles County area median income (AMI);
  - b. For low-income units, the income calculation limit is set at the average of 30% X 60% AMI and, at the City's option, for households earning between 60% and 80% AMI an amount equal to 30% X the household's gross income; and
  - c. For moderate-income units, the income calculation limit is set at the average of 30% X 110% AMI and, at the City's option, for households earning between 110% and 120% AMI, an amount equal to 30% X the household's gross income.
3. The maximum allowable rent must be adjusted to an allowance for payment of utility cost. Based on the 2007 allowances provided by the Los Angeles County Housing Authority, the utilities are estimated at \$35 for studio units, \$50 per month for one-

bedroom units and \$65 per month for two-bedroom units, \$79 for three-bedroom units, and \$102 for four-bedroom units.

The maximum allowable 2007 affordable rents under the defined income categories are as follows:

<b>Very Low-Income Households</b>	<u>Studio/ Efficiency</u>	<u>One Bedrooms</u>	<u>Two Bedrooms</u>	<u>Three Bedrooms</u>
Monthly Housing Cost	\$ 495.00	\$ 565.00	\$ 636.25	\$ 706.25
- Utility Allowance	<u>\$ 35.00</u>	<u>\$ 50.00</u>	<u>\$ 65.00</u>	<u>\$ 79.00</u>
Affordable Rent	\$ 460.00	\$ 515.00	\$ 571.25	\$ 627.25
<b>Low-Income Households</b>	<u>Studio/ Efficiency</u>	<u>One Bedrooms</u>	<u>Two Bedrooms</u>	<u>Three Bedrooms</u>
Monthly Housing Cost	\$ 594.00	\$ 678.00	\$ 763.50	\$ 847.50
- Utility Allowance	<u>\$ 35.00</u>	<u>\$ 50.00</u>	<u>\$ 65.00</u>	<u>\$ 79.00</u>
Affordable Rent	\$ 559.00	\$ 628.00	\$ 698.50	\$ 768.00
<b>Moderate-Income Households</b>	<u>Studio/ Efficiency</u>	<u>One Bedrooms</u>	<u>Two Bedrooms</u>	<u>Three Bedrooms</u>
Monthly Housing Cost	\$1,089.00	\$1,243.00	\$1,399.75	\$1,553.75
- Utility Allowance	<u>\$ 35.00</u>	<u>\$ 50.00</u>	<u>\$ 65.00</u>	<u>\$ 79.00</u>
Affordable Rent	\$1,054.00	\$1,243.00	\$1,399.75	\$1,474.75

Funding/Affordability Gap Calculations

The calculation of the difference between the estimated total construction costs and the maximum supportable loan amount based on the available net operating income from the affordable rents for inclusionary units identifies the construction funding gap (see Attachment 4 – Mixed Income 4% LIHTC Apartments Construction Funding Gap Analysis). Assuming a project unit mix of 10% studio units, 40% one bedroom units, 40% two-bedroom units, and 10% three-bedroom units, the weighted average construction funding gap under a mixed-income 4% LIHTC project scenario is \$149,394 for very low-income units, \$132,935 for low-income units, and \$8,212 for moderate-income units.

The weighted average construction funding gap amounts are then multiplied by the proportion of the very low- (40%), low- (30%), and moderate income (30%) units to identify the weighted average of the housing affordability gap per the affordable unit requirements under the Ordinance. The weighted average housing affordability gap amount identified in Attachment 3 is \$102,084 per each affordable unit required, which is multiplied by the number of inclusionary units required in a project to reflect the total inclusionary in-lieu fee amount for a project.

Rental Units Inclusionary Housing Obligation Cost / In-Lieu Fee Amount

The Ordinance requires developers to allocate 15% of the units in a project to low and moderate-income households, thus for a 20-unit project, three (3) inclusionary units would be required onsite. If developed off site, the total in-lieu fee amount would be \$306,252 (3 X

\$102,084). When the \$102,085 construction funding gap amount is distributed across all units in a project, the cost is equal to \$15,313 per market rate unit ( $\$15,313 / 20 \text{ units} = \$15,313$ ). To fully reflect total costs associated with developing the inclusionary units off site, payment of an in-lieu in the amount of \$15,313 per residential rental unit in a project is required ( $\$15,313 / 15\% = \$102,084$ ).

### SUMMARY 2007 MAXIMUM IN-LIEU FEES

As identified above, the housing affordability gap is determined to be reflected by the construction funding gap associated with developing new condominium or apartment units. The construction funding gap is translated into the in-lieu fee amount that would have to be charged to provide the City with adequate funds to produce the required inclusionary units off site with similar product types at another location in the City. Key assumptions used in setting the in-lieu fee amounts include the following:

1. The in-lieu fee is calculated at the 100% estimated construction funding gap.
2. The in-lieu fee is calculated independently for ownership housing units and for rental units to reflect current market factors and availability of financing and other funding sources.
3. The in-lieu fee should be updated at least annually to reflect current household income limits, affordable housing costs, and housing market conditions.

The 2007 maximum in-lieu fees that are supported by this analysis are as follows:

	<u>Ownership Projects</u>	<u>Rental Projects</u>
Per Affordable Unit	\$ 145,475.00	\$ 102,084.00
Per Market Rate Unit	\$ 21,821.00	\$ 15,313.00

### IN-LIEU FEE COMPARISON ANALYSIS

To assist the City in setting the in-lieu fee payment amount, RSG reviewed information for over 180 other California jurisdictions that have inclusionary housing requirements including those that allow payment of in-lieu fees. Pursuant to emerging case law and best practices identified by HCD, many cities require the City Council to provide discretionary approval for a fee to be paid in-lieu of producing the affordable units. However, a number of cities calculate the in-lieu fee on a case-by-case basis, which has become legally problematic since the fees may not be uniformly applied within a jurisdiction.

For the cities that have established fee schedules, in-lieu fees are generally established by resolution of the City Council and calculated on the one of the following bases:

1. Per square foot of gross building area (GBA) included in the project;
2. Per the identified pricing difference between the market rate unit and the affordable unit;
3. Per funding or financing deficit for units developed in a market rate project; or
4. As a percentage of project construction value.

The review inclusionary ordinances in other cities are summarized below.

1. Inclusionary requirements are generally applied to all new residential (owner and rental) projects and require that 15% of the units be affordable.
2. Generally, projects with fewer than 10 units are exempt from the Inclusionary Housing Ordinance requirements, or where a city's ordinance requirements are applicable to a lower number of units, there is generally a lower fee charged to such units.
3. A separate (generally lower) fee is typically charged for apartment projects and a separate (generally higher) fee is charged for ownership projects, which may or may not make a distinction between single family detached and condominium units.

As can be seen, the methods for calculation of in-lieu fees the resulting in-lieu fees that are being charged by the surveyed cities vary widely. Moreover, since many cities negotiate the in-lieu fee on a case-by-case basis, it is very difficult to identify the "typical" in-lieu fee being charged by cities that are implementing inclusionary housing programs. However, based on the available information, the fees identified for Agoura Hills are comparable with the fees being charged by other Southern California cities.

#### **IN-LIEU FEE RECOMMENDATIONS**

As previously stated, the provision of an in-lieu fee payment as an option to producing the inclusionary housing units onsite may provide the City with greater flexibility in meeting its affordable housing requirements, particularly if developed in projects that receive additional federal or state funding assistance such as LIHTC's and tax-exempt bond financing. Identification of an in-lieu fee amount, however, requires several qualitative and quantitative judgments and decisions by the City. These judgments typically are based on a community's total housing needs and the level of community "buy-in" to achieving affordable housing objectives as having a beneficial economic impact in the community. To provide a framework for our in-lieu fee recommendations, RSG considered the following factors.

1. The City's primary objective is to attract sufficient housing to fulfill affordable housing requirements identified in the Redevelopment Project Area, as well as its RHNA targets.
2. The market characteristics in Agoura Hills strongly favor ownership single family detached housing development over condominium and/or rental development. Nevertheless, the potential exists to develop affordable housing on a more cost efficient basis in infill locations through development of attached townhomes, condominiums and/or apartment projects. If the City uses the revenues generated by the in-lieu fee to implement such a strategy, it would be financially beneficial and assist the City in meeting its housing objectives.
3. The estimated median sale price for single-family homes in Agoura Hills averages about \$845,000. The gap between the market price and the price that would be affordable to a moderate income household for a three bedroom home averages about \$635,800 with the average increasing to \$748,550 for low-income households, and to about \$787,225 for very low-income households. The affordability gaps at lower income levels are clearly too large to be filled by the inclusionary housing requirement.
4. The City has only limited financial resources that are available to assist in providing affordable housing citywide, while, as identified above, the Agency's LMHF monies are

insufficient to fund the number of affordable housing units that it is required produce in the Redevelopment Project Area. The funding deficiency is particularly critical in the Redevelopment Project Area since the affordable housing requirements are a legal mandate under the CRL, which must be fulfilled within defined time periods. This indicates that a large proportion of the units needed to fulfill the City's and Agency's affordable housing needs will have to be accomplished either through the production of inclusionary units onsite and/or assisted with revenues generated by inclusionary housing in-lieu fees coupled with LMIHF monies. Based on these factors, it is the RSG recommendation that the in-lieu fee be set to reflect 100% of the estimated construction funding gap.

Use of the in-lieu fees deposited into the City Affordable Housing Development Trust Account should be combined with the Agency's LMIHF monies to expand the funding resources available for developing very low- and low-income housing units when possible. This is particularly applicable to affordable housing units developed outside of the Redevelopment Project Area, since the CRL provides that a unit may be produced outside a project area but requires that two units must be produced outside the project area for each one unit required to be produced in the project area.

Based on the preceding analysis, RSG's conclusion is that the in-lieu fee could legitimately be set at as much as \$145,475 per affordable unit required in an ownership project, and \$102,084 per affordable unit required in a rental project. To better reflect the total per unit development cost for units not developed onsite, RSG recommends allocation of the affordable housing gap among all of the units developed in a project, which results in an in-lieu fee amount of \$21,821 per unit in an ownership housing project and \$15,313 per unit in a rental housing project.

RSG also recommends that the City establish a mechanism for re-evaluating the in-lieu fee amount on a periodic basis. RSG suggests that the re-evaluation be performed at least annually so that the in-lieu fee will keep pace with changes in affordable household income limits, the calculation of affordable housing costs, and the changes in the local housing market.

#### **ADMINISTRATIVE FEE**

CRL Section 33418(c) provides that an agency may establish and impose fees upon owners of properties monitored pursuant to its ongoing annual affordable housing compliance monitoring requirements. RSG surveyed cities with inclusionary housing ordinances to determine whether administrative fees are being charged to reimburse the cities for the staff time spent administering the program. RSG's review of inclusionary housing provisions for large and small cities failed to identify a city that currently charges an administrative fee. While the City of Pasadena has a provision in their ordinance that allows the City Council to set an administrative fee, to date the City continues to fund the staff time expenditures from the in-lieu fees generated by the inclusionary housing program and/or its redevelopment LMIHF monies. Nevertheless, since the annual affordable housing compliance monitoring responsibilities fall on the Redevelopment Agency, RSG recommends the City of Agoura Hills establish a fee to recover the cost related to the monitoring and administrative activities in order to mitigate future financial impacts to the Agency's LMIHF. The amount of the annual administrative fee should be established by resolution of the City Council, as it deems appropriate.

Mr. Mike Kamino, Planning and Redevelopment  
CITY OF AGOURA HILLS  
March 3, 2008  
Page 13

### **LIST OF ATTACHMENTS**

**Attachment 1 – 2007 Los Angeles County Income Limits & Affordable Housing Cost  
Calculation**

**Attachment 2 – 2007 Los Angeles County Affordable Ownership Price Calculations**

**Attachment 3 – For Sale Condominium Construction Funding Gap Analysis**

**Attachment 4 – Mixed-Income 4% LIHTC Apartments Construction Funding Gap Analysis**

## Attachment 1 - 2007 Los Angeles County Income Limits & Affordable Housing Cost Calculations

### Los Angeles County - 2007 Affordable Rental Housing Cost Limits

Median Income	Utility Allowance	Section 8 Voucher	Number of		Very Low-Income 50% of Median		Low-Income 80% of Median			Moderate-Income 120% of Median		
			Persons   Bedrooms		Qualifying Income Limit	Max. Rent 30% X 50%	Qualifying Income Limit	Maximum Rent Range 30% X 60%   30% X 80%		Qualifying Income Limit	Maximum Rent Range 30% X 110%   30% X 120%	
			H&S Code 500053.(h)		H&S Code 500053.(b)(2)		H&S Code 500053.(b)(3)			H&S Code 500053.(b)(4)		
\$39,600	\$35	\$789	One	Studio	\$25,900	\$460.00	\$41,450	\$559.00	\$1,001.25	\$49,700	\$1,054.00	\$1,207.50
\$45,200	\$50	\$952	Two	One	\$29,600	\$515.00	\$47,350	\$628.00	\$1,133.75	\$56,800	\$1,193.00	\$1,370.00
\$50,900	\$65	\$1,189	Three	Two	\$33,300	\$571.25	\$53,300	\$698.50	\$1,267.50	\$63,900	\$1,334.75	\$1,532.50
\$56,500	\$79	\$1,597	Four	Three	\$37,000	\$627.25	\$59,200	\$768.50	\$1,401.00	\$71,000	\$1,474.75	\$1,696.00
\$61,000	\$102	\$1,921	Five	Four	\$39,950	\$660.50	\$63,050	\$813.00	\$1,474.25	\$76,700	\$1,575.50	\$1,815.50
\$65,500	\$117	\$1,921	Six	Five	\$42,900	\$701.75	\$68,650	\$865.50	\$1,599.25	\$82,400	\$1,684.25	\$1,943.00

Note: Maximum Rent reflects net rent amount after deduction for utility allowance per LA PHA 2006 Schedule.

### Los Angeles County - 2007 Ownership Housing Cost Limits

Median Income	Utility Allowance	Section 8 Voucher	Number of		Very Low-Income 50% of Median		Low-Income 80% of Median			Moderate-Income 120% of Median		
			Persons   Bedrooms		Qualifying Income Limit	Max. Rent 30% X 50%	Qualifying Income Limit	Affordable Housing Cost 30% X 70%   30% X 80%		Qualifying Income Limit	Affordable Housing Cost 35% X 110%   35% X 120%	
			H&S Code 500053.(h)		H&S Code 500052.5(b)(2)		H&S Code 500052.5(b)(3)			H&S Code 500052.5(b)(4)		
\$39,600	\$60	n.a.	One	Studio	\$25,900	\$594.00	\$41,450	\$693.00	\$1,036.25	\$49,700	\$1,270.50	\$1,449.58
\$45,200	\$85	n.a.	Two	One	\$29,600	\$678.00	\$47,350	\$791.00	\$1,183.75	\$56,800	\$1,450.17	\$1,656.67
\$50,900	\$110	n.a.	Three	Two	\$33,300	\$763.50	\$53,300	\$890.75	\$1,332.50	\$63,900	\$1,633.04	\$1,863.75
\$56,500	\$134	n.a.	Four	Three	\$37,000	\$847.50	\$59,200	\$988.75	\$1,480.00	\$71,000	\$1,812.71	\$2,070.83
\$61,000	\$173	n.a.	Five	Four	\$39,950	\$915.00	\$63,050	\$1,067.50	\$1,576.25	\$76,700	\$1,957.08	\$2,237.08
\$65,500	\$198	n.a.	Six	Five	\$42,900	\$982.50	\$68,650	\$1,146.25	\$1,716.25	\$82,400	\$2,101.46	\$2,403.33

Note: Affordable Housing Cost reflects gross amount available for housing before deductions for utility allowance, RE Taxes & Insurance, HOA and other fees.



## Attachment 2 – Los Angeles County Affordable Ownership Housing Price Calculations

### Agoura Hills 2007 Projected Affordable Housing Price Calculations - Ownership Units

SUMMARY	Very Low-Income (50% of median income)					Low-Income (80% of median income)				Moderate-Income (120% of median income)			
	\$29,800	\$33,300	\$37,000	\$39,950	\$42,900	\$53,300	\$59,200	\$63,050	\$68,650	\$63,900	\$71,000	\$76,700	\$82,400
	2 person	3 person	4 person	5 person	6 person	3 person	4 person	5 person	6 person	3 person	4 person	5 person	6 persons
Household Income Limits													
Households Size													
Dwelling Unit Size	1 Bedrooms	2 Bedrooms	3 Bedrooms	4 Bedrooms	5 Bedrooms	2 Bedrooms	3 Bedrooms	4 Bedrooms	5 Bedrooms	2 Bedrooms	3 Bedrooms	4 Bedrooms	5 Bedrooms
<b>Max. Monthly Housing Cost</b>	\$678.00	\$763.50	\$847.50	\$915.00	\$982.50	\$1,111.63	\$1,234.38	\$1,321.88	\$1,431.25	\$1,748.40	\$1,941.77	\$2,097.08	\$2,252.40
Less: Taxes (1.15%)	0.00	67.75	73.70	78.19	80.69	114.62	125.83	132.44	141.16	225.50	242.36	265.46	284.15
Insurance (0.3%)	0.00	49.69	58.13	65.63	72.19	49.69	58.13	65.63	72.19	49.69	58.13	65.63	72.19
HOA Fees & Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Utilities	85.00	110.00	134.00	173.00	198.00	110.00	134.00	173.00	198.00	110.00	134.00	173.00	198.00
Other Fees & Assmts.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Available For Debt Service</b>	<b>\$593.00</b>	<b>\$536.06</b>	<b>\$581.68</b>	<b>\$600.19</b>	<b>\$631.62</b>	<b>\$837.32</b>	<b>\$916.42</b>	<b>\$950.81</b>	<b>\$1,019.90</b>	<b>\$1,363.21</b>	<b>\$1,507.28</b>	<b>\$1,593.00</b>	<b>\$1,698.06</b>
						<i>*Max. Low-Income Reflects Average 70% &amp; 80% AMI</i>				<i>*Max. Moderate-Income Reflects Average 110% &amp; 120% AMI</i>			
<b>Max. Loan Amount</b>	<b>\$96,310</b>	<b>\$87,062</b>	<b>\$94,472</b>	<b>\$97,478</b>	<b>\$102,563</b>	<b>\$135,991</b>	<b>\$148,638</b>	<b>\$154,423</b>	<b>\$165,644</b>	<b>\$221,402</b>	<b>\$244,801</b>	<b>\$258,723</b>	<b>\$275,786</b>
@ Interest Rate 6.25%						<i>Amortized Years: 30</i>							
<b>Affordable Housing Price</b>	<b>\$91,645</b>	<b>\$99,444</b>	<b>\$102,608</b>	<b>\$107,982</b>	<b>\$143,149</b>	<b>\$156,672</b>	<b>\$162,550</b>	<b>\$174,362</b>	<b>\$233,055</b>	<b>\$257,686</b>	<b>\$272,340</b>	<b>\$290,301</b>	
<i>Reflects 5% Down Payment Requirement</i>													

## Attachment 3 – For Sale Condominium Construction Funding Gap Analysis

	Very Low-Income	Low-Income Units	Moderate-Income Units	Total	
Acres	0.29	0.21	0.21	3.9	
Est. Density (d.u./acre)	28	28	28	28	
Wt. Avg. Unit Size	974	974	974	974	
Wt. Avg. Unit Price	\$49,453	\$120,000	\$213,727		
Total Units	8 40%	6 30%	6 30%	20	
<b>I. Revenue</b>					
Total Gross Sale Revenue	\$395,624	\$720,000	\$1,282,362	\$2,397,986	
<b>II. Costs</b>					
		\$ Per	\$ Per	\$ Per	Cost
<b>Directs</b>		<b>Bkda. SF</b>	<b>Bkda. SF</b>	<b>Bkda. SF</b>	<b>Per Unit</b>
Site Work /Sq.Ft.	\$80,897	6.50	\$60,673	6.50	\$202,243
Residential Building	\$849,226	101.80	\$636,919	101.80	\$2,123,064
Garages/Parking Structure	\$85,958	24.42	\$64,469	24.42	\$214,896
Construction Contingency	6.0%	\$60,965	7.82	\$45,724	7.82
General Conditions	3.5%	\$35,563	4.56	\$26,672	4.56
Insurance & Bonds	3.5%	\$35,563	4.56	\$26,672	4.56
Contractor Fee	5.0%	\$50,804	6.52	\$38,103	6.52
<b>Total Directs</b>		<b>\$1,198,976</b>	<b>153.87</b>	<b>\$899,232</b>	<b>153.87</b>
		58.9%	58.9%	58.5%	58.5%
<b>Indirects</b>					
A&E Fees	5.0%	\$50,804	6.52	\$38,103	6.52
City Fees & Permits	5.7%	\$58,000	7.73	\$51,000	7.73
Taxes	1.1%	\$4,714	0.61	\$3,536	0.61
A&D Loan Fees	2.0%	\$23,980	3.08	\$17,985	3.08
Construction Interest	7.0%	\$83,928	10.77	\$62,946	10.77
Sales & Marketing	3%	\$11,869	1.52	\$21,600	3.70
Builder G&A	1.5%	\$17,985	2.31	\$13,488	2.31
<b>Total Indirects</b>		<b>\$261,280</b>	<b>33.53</b>	<b>\$208,658</b>	<b>35.70</b>
<b>Subtotal Costs</b>		<b>\$1,460,255</b>	<b>187.40</b>	<b>\$1,107,890</b>	<b>189.58</b>
		69.3%	69.3%	69.6%	69.6%
<b>Builder Profit</b>	15.0%	\$217,258	27.88	\$162,943	27.88
		10.3%	10.2%	10.1%	10.1%
<b>Land Value Allocation</b>		\$428,571	55.00	\$321,429	55.00
		20.3%	20.2%	20.0%	20.0%
<b>Total Costs</b>		<b>\$2,106,085</b>	<b>270.29</b>	<b>\$1,592,262</b>	<b>272.46</b>
		100%	100%	100%	100%
<b>Total Sale Revenue</b>		395,624		720,000	
<b>Funding Excess (deficit)</b>		(\$1,710,461)	(\$213,808) Per Unit	(\$872,262)	(\$145,377) Per Unit
		56.8%	56.8%	11.2%	11.2%
<i>Eligible Basis :</i>	\$1,665,645		\$1,249,233		
<i>TCAC Basis Limit :</i>	\$1,889,206		\$1,416,904		
<i>High Cost Area Adj. :</i>	130%		130%		
<i>Adjusted Basis :</i>	\$2,165,338		\$1,624,003		
<i>Applicable Fed. LIHTC Factor :</i>	3.41%		3.41%		
<i>Maximum Fed. LIHTC :</i>	\$738,380		\$553,785		
<i>Est. Net LIHTC Proceeds :</i>	\$708,846		\$531,634		
<i>@ \$0.96</i>					
<b>IN-LIEU FEE ANALYSIS</b>					
<i>Wt. Avg. Construction Funding Gap :</i>	\$145,475		<i>Per Affordable Unit Required</i>		
<i>Indicated In-Lieu Fee Amount :</i>	\$21,821		<i>Per Project Residential Unit</i>		

## Attachment 4 – Mixed Income 4% LIHTC Apartment Construction Funding Gap Analysis

	Very Low-Income	Low-Income Units	Moderate-Income Units	Total	
Acres	0.29	0.21	0.21	3.9	
Est. Density (d.u./acre)	28	28	28	28	
Wt. Avg. Unit Size	974	974	974	974	
Total Units	8 40%	6 30%	6 30%	20	
<b>I. Revenue</b>					
Annual Gross Schedule Rent	\$52,150	\$47,761	\$91,006	\$190,917	
Vacancy & Collection Loss 5.0%	\$2,607	\$2,388	\$4,550	\$9,546	
RE Taxes & Assessments 1.1%	\$0 <i>(exempt)</i>	\$0 <i>(exempt)</i>	\$0	\$0	
Annual Op. Exp. & Reserves	\$36,000	\$27,000	\$27,000	\$90,000	
Net Operating Income	\$13,542	\$18,373	\$122,557	\$154,472	
Max. Loan Amount 1.1 @ 6.5%	\$162,311	\$220,214	\$1,468,922	\$1,851,447	
<b>II. Costs</b>					
		\$ Per	\$ Per	\$ Per	Cost
<b>Directs</b>		Bidg SF	Bidg SF	Bidg SF	Per Unit
Site Work /Sq.Ft.	\$80,897	6.50	\$60,673	6.50	\$202,243 10,112
Residential Building	\$833,226	101.80	\$624,919	101.80	\$2,083,064 104,163
Garages/Parking Structure	\$85,958	24.42	\$64,469	24.42	\$214,896 10,745
Construction Contingency 6.0%	\$80,005	7.70	\$45,004	7.70	\$150,012 7,501
General Conditions 3.5%	\$35,003	4.49	\$26,252	4.49	\$87,507 4,375
Insurance & Bonds 3.5%	\$35,003	4.49	\$26,252	4.49	\$87,507 4,375
Contractor Fee 5.0%	\$50,004	6.42	\$37,503	6.42	\$125,010 6,251
Total Directs	\$1,180,096	151.45 58.3%	\$885,072	151.45 58.3%	\$2,950,239 \$147,512
<b>Indirects</b>					
A&E Fees 3.5%	\$35,003	4.49	\$26,252	4.49	\$87,507 4,375
City Fees & Permits 3.1%	\$36,000	4.62	\$27,000	4.62	\$90,000 4,500
Taxes 1.1%	\$0	0.00	\$0	0.00	\$0 0
A&D Loan Fees 1.5%	\$17,701	2.27	\$13,276	2.27	\$44,254 2,213
Construction Interest 6.5%	\$76,706	9.84	\$57,530	9.84	\$191,766 9,588
Sales & Marketing Allow	\$28,000	3.59	\$21,000	3.59	\$70,000 3,500
Builder G&A 1.5%	\$17,701	2.27	\$13,276	2.27	\$44,254 2,213
Total Indirects	\$211,112	27.09	\$158,334	27.09	\$527,760 \$26,389
Subtotal Costs	\$1,391,208	178.54 68.7%	\$1,043,406	178.54 68.7%	\$3,478,019 \$173,901
Builder Profit (TCAC) 15.0%	\$204,481	26.24 10.1%	\$153,361	26.24 10.1%	\$511,203 \$25,560
Land Value Allocation	\$428,571	55.00 21.2%	\$321,429	55.00 21.2%	\$1,071,429 \$53,571
Total Costs	\$2,024,260	259.79 100%	\$1,518,195	259.79 100%	\$5,060,651 \$253,033
Loan Proceeds (deficit)	(1,861,949)		(1,297,981)		(49,274) (3,209,203)
4% LIHTC Inv. Funds	\$667,158		\$500,369		\$0 \$1,156,068
Financing Excess (deficit)	(\$1,194,791)	(\$149,349) Per Unit 58.5%	(\$797,612)	(\$132,935) Per Unit 39.1%	(\$49,274) (\$8,212) Per Unit 2.4%

### IN-LIEU FEE ANALYSIS

Wt. Avg. Construction Funding Gap : **\$102,084** Per Affordable Unit Required

Indicated In-Lieu Fee Amount : **\$15,313** Per Project Residential Unit

# **INCLUSIONARY HOUSING ZONING ORDINANCE AMENDMENT**

*Final*  
**Initial Study and  
Negative Declaration**

**Prepared by:**

City of Agoura Hills  
Planning and Community Development Department  
30001 Ladyface Court  
Agoura Hills, CA 91301  
Contact: Allison Cook, Senior Planner  
(818) 597-7310

May 2008

# TABLE OF CONTENTS

	Page
<b>Introduction</b>	
Legal Authority and Findings	1
Impact Analysis and Significance Classification	1
<b>Initial Study</b>	
Project Title	3
Case Number	3
Lead Agency Name and Address	3
Contact Person	3
Project Location and APN	3
Project Sponsor's Name and Address	3
General Plan Designation and Zoning	3
Project Description	3
Surrounding Land Uses	3
Site Description and Environmental Setting	3
Other Public Agencies Whose Approval is Required	3
Entitlements	3
Environmental Factors Affected	4
Determination	4
Evaluation of Environmental Impacts	5
Land Use and Planning	5
Biological Resources	5
Air Quality	7
Cultural Resources	7
Geology and Soils	8
Hazards and Hazardous Materials	9
Hydrology and Water Quality	10
Aesthetics	11
Noise	12
Population and Housing	13
Public Services	14
Recreation	15
Transportation/Traffic	15
Utilities and Service Systems	16
Mandatory Findings of Significance	17
References	18

**INCLUSIONARY HOUSING**  
**ZONING ORDINANCE**  
**AMENDMENT**

*Final*  
**Initial Study and Negative Declaration**



**City of Agoura Hills**

**May 2008**

# INTRODUCTION

This Initial Study and Negative Declaration (IS/ND) addresses the potential environmental effects resulting from a Zoning Ordinance Amendments (ZOA) to revise regulations applicable to requirements for inclusionary housing in residential areas of the City of Agoura Hills.

## LEGAL AUTHORITY AND FINDINGS

This Initial Study/ Negative Declaration has been prepared in accordance with the CEQA Guidelines and relevant provisions of the California Environmental Quality Act (CEQA) of 1970, as amended.

**Initial Study.** Section 15063(c) of the CEQA Guidelines defines an Initial Study as the proper preliminary method of analyzing the potential environmental consequences of a project. The purposes of the Initial Study are:

- (1) To provide the Lead Agency with the necessary information to decide whether to prepare an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND);
- (2) To enable the Lead Agency to modify a project, mitigating adverse impacts, thus avoiding the need to prepare an EIR; and
- (3) To provide sufficient technical analysis of the environmental effects of a project to permit a judgment based on the record as a whole, that the environmental effects of a project have been adequately mitigated.

**Negative Declaration or Mitigated Negative Declaration.** Section 15070 of the CEQA Guidelines states that a public agency shall prepare a Negative Declaration or Mitigated Negative Declaration for a project subject to CEQA when:

- (a) The Initial Study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment; or
- (b) The Initial Study identifies potentially significant effects but:
  1. Revisions in the project plans or proposals made by, or agreed to by, the applicant before a proposed Mitigated Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and
  2. There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

An IS/ND may be used to satisfy the requirements of CEQA when the physical effects of the proposed project are anticipated to have no significant unmitigable effects on the environment. As discussed further in subsequent sections of this document, implementation of the proposed project would not result in any significant effects on the environment.

## IMPACT ANALYSIS AND SIGNIFICANCE CLASSIFICATION

The following sections of this IS/ND provide discussions of the possible environmental effects of the proposed project for specific issue areas that have been identified in the CEQA Initial Study Checklist. For each issue area, potential effects are discussed and evaluated.

A "significant effect" is defined by Section 15382 of the CEQA Guidelines as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by a project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." According to the CEQA Guidelines, "an economic or social change by itself shall not be

considered a significant effect on the environment, but may be considered in determining whether the physical change is significant.”

The following information applies to the Initial Study Checklist:

- (1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- (2) All answers must take account of the whole action involved, including off site as well as on site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- (3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, and EIR is required.
- (4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level.
- (5) Earlier analyses may be used where, pursuant to the tiering, Program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D) In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
- (6) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - (a) Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
  - (b) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- (7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- (8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- (9) The explanation of each issue should identify:
  - (a) The significance criteria or threshold, if any, used to evaluate each question; and
  - (b) The mitigation measure identified, if any, to reduce the impact to less than significant.



## INITIAL STUDY CHECKLIST

**Project Title:** Inclusionary Housing Bonus Zoning Ordinance Amendment

**Case Number:** 08-ZOA-002

**Lead Agency Name and Address:** City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, California 91301

**Contact Person and Phone Number:** Allison Cook – Senior Planner  
City of Agoura Hills  
(818) 597-7310

**Project Location:** Citywide

**Project Sponsor's Name and Address:** City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, CA 93101

**General Plan Designation:** All designations Citywide

**Zoning:** All zones Citywide

**Project Description:** The project consists of an amendment to Section 9133 Inclusionary Housing of Part 4 of Chapter 1 of Title IX of the Municipal Code. The purpose of the Inclusionary Housing Program is to provide affordable housing opportunities as part of each residential development project constructed in the City. Currently, the Municipal Code requires that residential and mixed-use projects of ten (10) dwelling units or more include a share of housing that is affordable to very low, low and moderate income households. For each such project, at least 15 percent of the total units must be affordable. Of this 15 percent, a minimum six (6) percent of all the units must be sold to or rented to very low income households, and the remaining nine (9) percent must be rented or sold to low or moderate income households. The Code currently allows an alternative to providing these affordable units onsite, which is payment of an in lieu fee to be placed in an affordable housing trust fund. Additionally, the Code allows for construction of the units off-site, if an on-site location is not suitable.

The ZOA is meant to repeal and replace the current Code Section 9133 Inclusionary Housing in its entirety. The ZOA updates the existing Code in two main ways: (1) offers the option of providing a land donation instead of constructing the affordable units; (2) updates the in lieu fee amount. The ZOA also provides more clarification regarding program procedures and affordable housing standards. The Draft Ordinance is included in its entirety as Exhibit 1.

The Ordinance would apply to all areas of the City where residential uses are permitted.

The project being analyzed as part of this environmental document is simply the ZOA, and not any specific development proposal. In the future, each individual residential development project being proposed and requiring inclusionary housing would need to undergo separate and specific CEQA review, beyond this current document.

**Surrounding Land Uses:** Citywide

**Site Description and Environmental Setting:** Citywide

**Other Public Agencies Whose Approval Is Required:** Agoura Hills Redevelopment Agency

**Entitlements:** No entitlements or permits are required for the ZOA.

## ENVIRONMENTAL FACTORS AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that could be lessened to a level of insignificance through incorporation of mitigation.

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Aesthetics              | <input type="checkbox"/> Air Quality                   | <input type="checkbox"/> Biological Resources               |
| <input type="checkbox"/> Cultural Resources      | <input type="checkbox"/> Geology/Soils                 | <input type="checkbox"/> Hazards/Hazardous Materials        |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Noise                         | <input type="checkbox"/> Land Use/Planning                  |
| <input type="checkbox"/> Public Services         | <input type="checkbox"/> Population/Housing            | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Transportation/Traffic  | <input type="checkbox"/> Utilities and Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

### DETERMINATION

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	X
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a "potential significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to an earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	

Report Preparer:

  
 \_\_\_\_\_  
 Allison Cook  
 Senior Planner  
 City of Agoura Hills

5-26-08  
 \_\_\_\_\_  
 Date

## EVALUATION OF ENVIRONMENTAL IMPACTS

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(1) LAND USE AND PLANNING.** Would the project:

a) Physically divide an established community?				X
b) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural communities conservation plan?				X

Discussion:

- a) The project consists of a Zoning Ordinance Amendment (ZOA), and is therefore not a physical development capable of dividing an established community. The proposed changes would not alter the amount of inclusionary housing currently required in the Municipal Code, and would not alter the areas of the City in which residential uses would be allowed. Each individual proposal for residential development would be analyzed pursuant to CEQA, separate from this ND. The project would result in **no impact**.
  
- b) The ZOA would be consistent with the General Plan, which offers broad policies and programs, including the provision of adequate affordable housing. In particular, it is consistent with the City's Housing Element, which includes inclusionary housing requirements as one of key programs of the Element. The ZOA amends the Municipal Code, but is generally consistent with the current Inclusionary Housing Program. The proposed changes would not alter the amount of inclusionary housing currently required in the Municipal Code, and would not alter the areas of the City in which residential uses would be allowed per zoning or land use designations. As noted above under Item a), each proposed residential development project would be analyzed per CEQA as individual project applications come forward. Therefore, there would be **no impact** from implementation of the ZOA.
  
- c) There are no habitat conservation plans or natural communities conservation plans applicable to the geographical area of the ZOA, either within or in the vicinity of, and so the project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(2) BIOLOGICAL RESOURCES.** Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				X
---	--	--	--	---

b) Have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?				X
g) Result in damage to, loss of, or removal of native oak trees or other locally identified specimen trees of significance?				X

Discussion:

- a) Much of the ZOA project area (and the City as a whole) is already developed with urban uses, and any additional development would be considered infill. Because there are mostly infill lots, the potential habitat is somewhat limited, being adjacent to urban uses and subject to annual brush clearance for fire prevention purposes. In any case, the project consists of a ZOA, and therefore is not a physical development that could adversely affect sensitive biological species. Therefore, there would be **no impact**. Any proposal to build residences would be analyzed separately under CEQA as part of project specific environmental review, which would need to consider the habitat further.
- b), c) Please see the discussion in Item a) above. The project is not a physical development that could adversely affect wetlands, riparian habitat or other sensitive natural communities regulated by the California Department of Fish and Game or the U.S. Fish and Wildlife Service or the Army Corps of Engineers. Therefore, there would be **no impact**. Any future proposals to develop the residential sites would be separate projects under CEQA, and would undergo environmental review, including considering the habitat further, as a specific development proposal comes forward for review.
- d) Please see the discussion in Item a) above. Because the project is not a physical development, it does not have the potential to interfere with the movement of fish or wildlife. Any future proposals to develop the residential sites would be separate projects under CEQA, and would undergo environmental review, including considering wildlife movement further, as a specific development proposal comes forward for review. Therefore, there would be **no impact**.
- e), g) Since the project is not a proposal for a physical development in the area, there would be no impacts to oak trees in the area. Any future proposals to develop these residential sites, which would be a separate project under CEQA, would need to consider the oak trees. However, the current project would not adversely affect the oak trees, and there would be **no impact**.
- f) There are no Habitat Conservation Plans (HCPs) or Natural Communities Conservation Plans (NCCPs) or other conservation plans in or near the project area, nor in the City as a whole, so there would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(3) **AIR QUALITY.** Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

Discussion:

- a)-c) The City of Agoura Hills is located within the South Coast Air Basin, and is governed by the South Coast Air Quality Management District (SCAQMD). Since the project is not a proposal for a physical development, there would be no impacts to air quality as a result of the amendments and additions to the Zoning Ordinance. In any case, according to the Air Pollution Control District (APCD) Guidelines, to be consistent with the Air Quality Management Plan (AQMP), a project must conform to the local General Plan and must not result in or contribute to an exceedance of the City's projected population growth forecast. The ZOA requires that, as part of the allowed number of residential units in a project, a certain percentage of these units be reserved for households in the affordable categories. This would not be in addition to, but would be consistent with, any density or dwelling unit limitations or buildout estimates contained in the General Plan and General Plan Environmental Impact Report (EIR), or in the Zoning Ordinance. Therefore, the project would be consistent with the City's General Plan, and does not change the buildout assumptions of the General Plan. As such, there would be **no impact**.
- d)-e) While the project does not include a physical development that could result in air quality emissions, it should be noted nonetheless that residential uses do not typically generate substantial pollutant concentrations or create objectionable odors that could affect nearby sensitive receptors or populations. The project would not adversely affect air quality in these circumstances, and so there would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(4) **CULTURAL RESOURCES.** Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
---	--	--	--	---

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
e) Result in physical disruption of an identified sacred place or other ethnographically documented location of significance to native Californians?				X

Discussion:

a)-e) The project is not a physical development capable of impacting cultural resources that may exist on or under the ground, or within a given area. In any case, the remaining vacant lots in the City are not currently known areas of historical, archaeological, or paleontological sensitivity, nor are there any human remains expected to be located here. Additionally, the area is not considered an identified sacred place or other ethnographically documented location of significance to native Californians. None of the proposed regulations under the ZOA would create cultural resource preservation concerns. Any proposal to build residential units would be analyzed separately under CEQA as part of project specific environmental review as a development proposal is submitted to the City, which would need to consider potential site specific cultural resources. Therefore, the current project would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(5) GEOLOGY AND SOILS.** Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
(ii) Strong seismic ground shaking?				X
(iii) Seismic-related ground failure, including liquefaction?				X
(iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?				X

Discussion:

- a)-e) Per the City's General Plan Master Environmental Assessment, there are no active or inactive faults within the City limits, and so potential hazard from fault rupture is remote. However, there are several active and/or potentially active faults in the surrounding region that could produce ground shaking in the area. Other geologic or soil conditions are specific to individual sites. Nonetheless, the project that is the subject of this IS/ND is not a physical development with the potential for causing adverse impacts in the area of geology and soils. None of the proposed regulations or changes to the Zoning Ordinance would create additional geologic safety concerns. As previously noted, any proposal to build residential units would need to be analyzed separately under CEQA as part of project specific environmental review. The site specific geologic conditions and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(6) HAZARDS AND HAZARDOUS MATERIALS.** Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?				x
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?				x
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				x
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				x
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				x
g) Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?				x
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wild lands?				x

Discussion:

- a)-d) The underlying zones and land use designations for the project area, being residential and open space, and possibly some areas allocated for mixed-uses, would not typically permit uses capable of containing

substantial hazardous materials, such as manufacturing businesses. Because it is not a physical development proposal, the project would not result in the use of substantial hazardous materials, nor their storage, disposal or transport. The project, being a ZOA, would also not cause an accidental release or upset of such materials. Any future proposal to develop such a use in these residential areas would be considered a separate project under CEQA, and would need to undergo separate project and environmental review per CEQA, aside from the current project, where these environmental issues would be further analyzed. Therefore, the current project would result in **no impact**.

- e)-f) There are no airports or airstrips in the vicinity of the City of Agoura Hills. Therefore, the ZOA project would result in **no impact**.
- g) There are no known currently adopted emergency response plans or emergency evacuation plans in the project area. In any case, the project itself, not being a physical development, would not interfere with such plans if created in the future. None of the proposed regulations or changes to the Zoning Ordinance would interfere with such plans. As specific development projects are proposed, they would be analyzed under separate CEQA review to ensure that they do not conflict with such plans. Therefore, the ZOA project would result in **no impact**.
- h) Some of the residential areas affected by the proposed ZOA are within and/or adjacent to wildland areas. In any case, the project does not include specific physical development proposals. Any future proposal to develop in these residential and open space zones would be considered a separate project under CEQA, and would need to undergo separate project and environmental review per CEQA, aside from the project. The project would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(7) HYDROLOGY AND WATER QUALITY.** Would the project:

a) Violate any water quality standards or waste discharge requirements?				x
b) Substantially degrade groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				x
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off site?				x
d) Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				x
e) Otherwise substantially degrade water quality?				x
f) Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				x
g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				x
h) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				x
i) Inundation by seiche, tsunami, or mudflow?				x



Discussion:

- a)-e), i) The project that is the subject of this IS/ND is not a physical development with the potential for causing adverse impacts in the area of hydrology and water quality. None of the proposed regulations or changes to the Zoning Ordinance would adversely affect hydrology and water quality. As noted previously, any proposal to build a residence would be analyzed separately under CEQA as part of project specific environmental review. The site specific hydrology and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project would result in **no impact**.
- f)-h) The project is not a physical development that could cause flood concerns. None of the proposed regulations or changes to the Zoning Ordinance would result in greater flood concerns in the project area. Each specific future development proposal would be considered a separate project under CEQA that would need to undergo separate environmental review, including flood impact analysis. Therefore, the current project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(8) AESTHETICS.** Would the project:

a) Have a substantial adverse affect on a scenic vista?				X
b) Substantially damage scenic resources including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the project site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
e) Significantly impact any existing streetscape or public space which has been designed to provide areas of public assembly and congregation?				X

Discussion:

- a) The project area consists of a diverse range of neighborhoods and physical – both built and natural – features. The City General Plan Scenic Highways Element identifies Local Scenic Highways, County Scenic Highway, and areas eligible for state scenic highway designation. Many of the City’s residential areas provide excellent vistas of Ladyface Mountain and the ridgelines along the south side of the City. Nonetheless, the project consists of a ZOA, and is not a physical development proposal. The project does not involve any direct physical changes to the environment. As such, it would result in **no adverse impact** to scenic vistas. As individual development projects are proposed, and the details of the proposed building design and grading known, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction in the future.
- b) There are no state scenic highways in the project area, although U.S. Highway 101 is eligible for state scenic highway designation. There are no historic buildings or rock outcroppings in or adjacent to the U.S. Highway 101. In any case, since the project is not a specific physical development proposal, the project would result in **no impact**. As individual development projects are proposed, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction on aesthetics.

- c) The project does not involve any direct physical changes to the environment. As such, it would result in **no impact** to the visual character or quality of the area. As individual development projects are proposed, and the details of the proposed building design and grading known, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction in the future.
- d) Since the project is not a physical development proposal, it would not result in impacts from lighting and glare. As previously described, any proposal to build a residence would be analyzed separately under CEQA as part of project specific environmental review, which would include a development project-specific lighting and glare assessment. Therefore, the current project would result in **no impacts**.
- e) The area subject to the ZOA is not located in the immediate vicinity of any known streets or public spaces used for the assembly and congregation of people. Therefore, there would be **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(9) NOISE.** Would the project result in:

a) Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				x
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				x
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				x
d) A substantial, temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				x
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				x

Discussion:

Noise level (or volume) is generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). The A-weighting scale is an adjustment to the actual sound power levels to be consistent with that of human hearing response, which is most sensitive to frequencies around 4,000 Hertz (about the highest note on a piano) and less sensitive to low frequencies (below 100 Hertz). For the most sensitive uses, such as single family residential, 60 dBA Day-Night average level (Ldn) is the maximum normally acceptable exterior level. Ldn is the time average of all A-weighted levels for a 24-hour period, with a 10 dB upward adjustment added to those noise levels occurring between 10:00 PM and 7:00 AM to account for the general increased sensitivity of people to nighttime noise levels. The Community Noise Equivalent Level (CNEL) is similar to the Ldn except that it adds 5 dB to evening noise levels (7:00 PM to 10:00 PM). The City of Agoura Hills utilizes the CNEL for measuring noise levels. Sensitive noise receptors include residential units, libraries, hospitals and nursing homes. In the project vicinity, the sensitive noise receptors would be residences, schools and homes for the elderly.

- a),c),d) The project would not result in any physical development. The proposed regulations would not result in any changes to the types of uses allowed in the residential and open space zones, or to any noise standards. Any proposal for development in the project area would be analyzed separately under CEQA as part of project specific environmental review. The site specific noise conditions and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project itself would result in **no impacts**.
- b) Because it is not a physical development, the proposed project would not result in any impacts related to excessive groundborne vibration. As specific development projects are proposed, along with information about construction and grading details and methods, these projects would need to undergo separate CEQA review, including analysis of this issue area. Therefore, the current project would result in **no impacts**.
- e),f) The area affected by the proposed project is not located within the vicinity of an airport or private airstrip, and would not be affected by air traffic noise impacts. There would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(10) POPULATION AND HOUSING.** Would the project:

a) Result in direct or indirect population related growth inducement impacts (significantly expand employment opportunities, remove policy impediments to growth, or contribute to potential extensions of growth inducing infrastructure)?				x
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				x

Discussion:

- a) The project would not result in any physical development. In any case, regulations proposed by the ZOA would not increase the total number of residential units accounted for in the General Plan (See Section (3) AIR QUALITY), and so there would not be any increase in population above that already accounted for in the General Plan as a result of the project. Therefore, the project would result in **no impacts** to population growth.
- b) The project does not consist of any physical development. Consequently, the proposed regulations do not result in the displacement of current housing. As specific development projects are proposed, along with information about any existing residences on the site, these projects would need to undergo separate CEQA review, including analysis of this issue area. Therefore, there would be **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(11) PUBLIC SERVICES.** Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

a) Fire protection				X
b) Police protection				X
c) Schools				X
d) Parks				X
e) Other public facilities				X

Discussion:

- a),b) The City of Agoura Hills is served by the Los Angeles County Fire Department (LACFD) and the Los Angeles County Sheriff's Department (LACSD). The project itself would not require additional police or fire protection services, as no development is proposed. As such, the project would result in **no impacts**. As individual development projects are proposed in the project area at a later date, separate CEQA review would be undertaken to assess potential fire and police protection services impacts on an individual level. In any case, as the area affected by the project is already within a developed area currently served by these agencies, impacts to such services would likely not be significant, especially regarding the need to expand such services. Any future development project would be required to comply with Fire Code and LACFD standards, including specific construction specifications, access design, location of fire hydrants, and other design requirements.
- c) In 1990, school facilities legislation (California Government Code Section 65995) was enacted to generate revenue for school districts for capital acquisitions and improvements. This legislation allows a maximum one-time fee of \$1.93 per square foot of residential floor area and \$0.31 per square foot of commercial and industrial space for development projects. This fee is divided between the primary and secondary schools and is termed a "Level One Fee." Adjustments to these Level One fees have occurred periodically, and the fees have been increased. The project would not result in impacts to schools, as no physical development is being proposed as part of the project itself. Therefore, there would be **no impacts** from the current project. As individual self-storage development proposals come forward, each development would undergo specific CEQA review and be assessed for school impacts. Such a development project would likely be required to pay school impact fees at the current commercial/industrial development rate to the local school district, Las Virgenes Unified School District.
- d) The project would not result in physical development. As individual development proposals come forward, each development would undergo specific CEQA review and be assessed for parks impacts. Such a development project would likely be required to pay the City park fee. Therefore, there would be **no impacts**.
- e) Since the proposal is for a ZOA, not a development proposal, the project would not contribute to the demand for any other public facilities. Therefore, there would be **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(12) RECREATION.** Would the project:

a) Increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

Discussion:

- a),b) Since the project is not a particular development proposal, there would be **no impacts** to recreational facilities. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to recreation.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(13) TRANSPORTATION/TRAFFIC.** Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards related to existing intersections or roadway design features (e.g., sharp curves or dangerous intersections), or to incompatible uses (e.g., residential traffic conflicts with farm equipment)?				X
e) Result in inadequate secondary or emergency access?				X
f) Result in inadequate parking capacity?				X

Discussion:

- a) Since the project is not a particular development proposal, there would be **no impacts** to traffic and circulation. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to traffic and circulation.

- b) The Los Angeles County Congestion Management Plan (CMP) requires a regional traffic impact analysis when a project adds 150 or more trips in each direction to a freeway segment. Based on the discussion in Item "a" above, there would be **no impacts**.
- c) There are no airports or airfields in the project vicinity, so the proposal would result in **no impacts**.
- d), e) As discussed in Section (11) PUBLIC SERVICES, the ZOA is not a development proposal and so would not result in traffic-related hazards or impacts to access. As individual residential development projects are proposed, separate CEQA review would be undertaken to determine the specific project's impacts these items. The current project would result in **no impacts**.
- f) The proposed project is not a development proposal and so would not result in impacts to parking. As individual residential development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts on parking capacity. The current project would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

**(14) UTILITIES AND SERVICE SYSTEMS.** Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statues and regulations related to solid waste?				X

Discussion:

- a) - e) As the project is not a physical development proposal, it would not result in impacts to wastewater, water or storm water. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to these services. The current project would result in **no impacts**.
- f) - g) As noted above, the proposed ZOA would not constitute a development proposal and so would not result in impacts to solid waste. As individual development projects are proposed in the ZOA, separate CEQA

review would be undertaken to determine the specific project's impacts to these services. The ZOA would result in **no impacts**.

<b>Issues and Supporting Information</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant Impact with Mitigation Measures</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
--	---------------------------------------	--	-------------------------------------	------------------

**(15) MANDATORY FINDINGS OF SIGNIFICANCE.**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?				x
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?				x
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				x

Discussion:

- a) Given that the project consists of a ZOA, but with no physical development component, it would not have the potential to significantly degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. Therefore, there would be no impacts.
- b) As listed in the specific environmental issue sections, the project is not expected to have any impacts, so there would be no cumulative impacts.
- c) As listed in the specific environmental issue sections, the project is not expected to have any impacts, so there would be no effects that would cause substantial adverse effects on human beings.

**REFERENCES**

Agoura Hills, City of. *General Plan*. May 1993.

Agoura Hills, City of. *Architectural Standards and Guidelines*. November 1992.

Agoura Hills, City of. *Municipal Code*, revised June 2005.

Agoura Hills, City of. *General Plan Master Environmental Assessment*, July 1992.

Agoura Hills, City of. *General Plan EIR*, March 1992.



D R A F T

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

**AN ORDINANCE OF THE CITY OF AGOURA HILLS REVISING REGULATIONS APPLICABLE TO THE PROVISION OF INCLUSIONARY HOUSING, AND AMENDING SECTION 9133 OF PART 4 OF CHAPTER 1 OF TITLE IX OF THE CITY OF AGOURA HILLS MUNICIPAL CODE**

**A. Recitals.**

- (i) The purpose of this Ordinance is to amend the City's Municipal Code to update the regulations pertaining to the provision of inclusionary housing units in the City.
- (ii) On \_\_\_\_\_, 2008, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the zoning code amendments contained herein as required by law.
- (iii) At the public hearing on \_\_\_\_\_, 2008, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.
- (iv) All legal prerequisites to the adoption of the Ordinance have occurred.

**B. Ordinance.**

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

**Section 1.** The facts set forth in the Recitals, Part A of this Ordinance, are true and correct.

**Section 2.** The provisions of this Ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The City Council held a public hearing on \_\_\_\_\_, 2008 to consider the Negative Declaration. Evidence, both written and oral, was duly presented to and considered by the City Council at this said hearing. The City Council finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The City Council has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment, and hereby adopts the Negative Declaration..

**Section 3.** Section 9133 of Part 4 of Chapter 1 of Title IX of the Agoura Hills Municipal Code is hereby repealed in its entirety.

**Section 4.** New Section 9133. Inclusionary Housing is hereby added to Part 4 of Chapter 1 of Title IX of the Agoura Hills Municipal Code.

**“Section 9133  
INCLUSIONARY HOUSING**

**Subsections:**

<b>9133.1</b>	<b>Purpose</b>
<b>9133.2</b>	<b>Definitions</b>
<b>9133.3</b>	<b>Applicability</b>
<b>9133.4</b>	<b>Exemptions</b>
<b>9133.5</b>	<b>Inclusionary Unit Requirements</b>
<b>9133.6</b>	<b>Alternatives</b>
<b>9133.7</b>	<b>Procedures</b>
<b>9133.8</b>	<b>Standards</b>
<b>9133.9</b>	<b>Enforcement</b>
<b>9133.10</b>	<b>Regulations</b>
<b>9133.11</b>	<b>Inclusionary Housing Trust Fund</b>
<b>9133.12</b>	<b>Administrative Fees</b>
<b>9133.13</b>	<b>Appeal</b>
<b>9133.14</b>	<b>Taking Determination</b>

**9133.1 Purpose**

The provisions of this section establish standards and procedures that encourage the development of housing affordable to a range of households with varying income levels. The purpose of this section is to encourage the development and availability of such housing by ensuring that the addition of affordable housing units to the City's housing stock is in proportion with the overall increase in new housing units and to provide standards and procedures to that effect.

**9133.2 Definitions**

As used in this section, the following terms shall have the following meanings:

“Adjusted for Household Size Appropriate for the Unit” means for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

“Affordable Housing Cost” means the total housing costs paid by a qualifying household, which shall not exceed a specified fraction of its gross income, adjusted for household size appropriate for the unit, as follows:

- A. Very Low-Income Households, rental or for-sale units: thirty (30) percent of fifty (50) percent of the Los Angeles County median income.
- B. Low Income-Households, rental units: thirty (30) percent of sixty (60) percent of the Los Angeles County median income.
- C. Low Income-Households, for-sale units: thirty (30) percent of seventy (70) percent of the Los Angeles County median income.
- D. Moderate-Income Households, rental units: thirty (30) percent of one hundred and ten (110) percent of the Los Angeles County median income
- E. Moderate-Income Households, for sale units: thirty-five (35) percent of one hundred and ten (110) percent of the Los Angeles County median income.

"Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a residential development.

"Development Agreement" means an agreement entered into between the City and a developer pursuant to Section 65864 of the California Government Code and Sections 9681 and 9682 of Division 1, Part 4 of Title IX of the City of Agoura Hills Municipal Code.

"Director" means the City's Director of Planning and Community Development.

"Discretionary Approval" means any entitlement or approval pursuant to Section 9133 of the Municipal Code, including but not limited to a use permit, variance, design approval, and subdivision map.

"Dwelling Unit" One (1) or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household.

"HCD" The California Department of Housing and Community Development.

"HUD" The United States Department of Housing and Urban Development.

"Inclusionary Housing Agreement" means a legally binding agreement between a developer and the City, in form and substance satisfactory to the Director and City Attorney, setting forth those provisions necessary to ensure that the requirements of this section, whether through the provision of inclusionary units or through an alternative method, are satisfied.

"Inclusionary Housing Plan" means the plan referenced in paragraph "A" of Subsection 9133.8 and further described in the regulations, which sets forth the manner in which the requirements of this section will be implemented for a particular residential development.

"Inclusionary Housing Trust Fund" shall have the meaning set forth in subsection 9133.12.

"Inclusionary Unit" means a dwelling unit that will be offered for rent or sale to and for occupancy by very low, low and moderate-income households, at an affordable housing cost, pursuant to this section.

"In-Lieu Fee" A fee paid to the City by a developer instead of providing the required inclusionary units.

"Low-Income Households" means households whose gross income is greater than 50% and does not exceed eighty (80%) percent of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

"Low-Income Units"; "Moderate-Income Units"; and "Very Low-Income Units" mean inclusionary units restricted for sale or rent to and for occupancy by low, moderate, or very low-income households, respectively, at an affordable housing cost.

"Market Rate Units" means those dwelling units in a residential development that are not inclusionary units.

"Moderate Income Households" means households whose gross income is greater than 80% and does not exceed one hundred and twenty (120%) percent of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

"Off Site Construction" Erection of affordable housing units on land other than that on which the developer intends to place a project within the City.

"Redevelopment Agreement" means an Owner Participation Agreement, Disposition and Development Agreement, Affordable Housing Agreement, Regulatory Agreement or similar agreement entered into between the City of Agoura Hills Redevelopment Agency and a developer.

"Regulations" means the regulations adopted by the Agoura Hills City Council pursuant to Subsection 9133.11 for the implementation and enforcement of the provisions of this section.

"Residential Development" means the construction of projects consisting of ten (10) or more dwelling units.

"Substantial Rehabilitation" or "Substantially Rehabilitated" means the rehabilitation of a dwelling unit(s) for very low and low income households, which has substantial building and other code violations, and has been vacant for at least six (6) months, such that the unit is returned to the City's housing supply as decent, safe, and sanitary housing, and the cost of such work exceeds Forty Thousand Dollars (\$40,000) per unit, as that amount may be adjusted for inflation pursuant to the Regulations.

"Total Housing Costs" means the total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs include the monthly rent payment and a reasonable allowance for utilities. For an ownership unit, total housing costs include the mortgage payment (principal and interest), mortgage insurance, property taxes, property insurance, utilities, homeowner's association dues, and any other related fees and assessments.

"Very Low Income Households" means households whose gross income is equal to fifty (50%) percent or less of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

### **9133.3            Applicability**

This subsection shall apply to all residential developments, except those that are exempt pursuant to Section 9133.4, and excluding here from residential developments located in the Agoura Hills Redevelopment Project Area, which are separately subject to inclusionary housing requirements under the California Health and Safety Code Section 33000 et seq., and related regulations and policies of the Agoura Hills Redevelopment Agency.

#### **9133.4 Exemptions**

The following residential developments are exempt from the requirements of this Section:

A. Residential developments that obtain a variance, conditional use permit, or design review approval (pursuant to Sections 9676, 9673, and 9677 of Division 6 of Part 3 of Title IX of the Municipal Code, respectively) from the City prior to the effective date of this section, which obtain a building permit pursuant to that discretionary approval within one year of the effective date of this section, and which obtain a certificate of occupancy pursuant to that same discretionary approval.

B. Residential developments that are exempt from this section pursuant to state law, including, but not limited to, those for which the City enters into a development agreement.

C. Residential developments for which the Redevelopment Agency enters into a Redevelopment Agreement, so long as the Redevelopment Agreement is in full force and effect at the time the residential development would otherwise be required to comply with the requirements of this Section, and there is no uncured breach of the Redevelopment Agreement prior to the earlier of a) issuance of Certificate of Completion for the Redevelopment Agreement, or b) issuance of the first certificate of occupancy for the residential development.

#### **9133.5 Inclusionary Unit Requirements**

A. Affordable inclusionary units shall be reserved for very low, low and moderate income households. Such units shall be provided at affordable housing cost, as defined by California Health and Safety Code Section 50052.5 for owner-occupied units and Section 50053(b) for rental units, which calculates affordable housing rates for each applicable income category. At least fifteen percent (15%) of all newly constructed dwelling units in residential developments shall be developed, sold to or rented to, and occupied by very low, low and moderate-income households, at an affordable housing cost. A minimum of six percent (6%) of all the units shall be sold to or rented to very low income households; the remaining nine percent (9%) shall be sold to or rented to low or moderate income households.

B. The City shall on an annual basis set the maximum allowable rents and sale prices for inclusionary units, adjusted for family size.

C. The inclusionary unit requirement set forth in Paragraph A of this subsection may be reduced as follows:

1. If very low-income units are provided in lieu of required low income units, a credit of 1.5 units shall be granted for every 1 unit actually provided.
2. If very-low income units are provided in lieu of required moderate income units, a credit of 2 units shall be granted for every 1 unit actually provided.

3. If low-income units are provided in lieu of required moderate income units, a credit of 1.5 units shall be granted for every 1 unit actually provided.

D. In calculating the required number of inclusionary units, fractional units of 0.50 or above will be rounded-up to a whole unit if the residential development consists of ten (10) or more units.

E. In setting priorities among eligible households, first priority shall be given to public safety employees and primary and secondary school teachers. Second priority shall be given to Agoura Hills' residents. Third priority shall be given to persons employed within Agoura Hills. Fourth priority shall be given to all other persons.

### **9133.6 Alternatives**

As an alternative to developing the inclusionary units in the residential development pursuant to Subsection 9133.5, the requirements of this section may be satisfied at the Planning Commission's discretion by off-site development of required units, donation of off-site land, or an in-lieu fee payment. Where provision of affordable units onsite is determined to be economically infeasible, off-site units are preferred, followed by donation of off-site land, to payment of an in-lieu fee. If neither on site or off-site mitigation is feasible, an in lieu housing fee will be collected in accordance with procedures and standards set forth in the regulations.

A. Off-site units. Upon application by the developer and at the discretion of the Planning Commission, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by constructing or substantially rehabilitating the required inclusionary units at a site different than the site of the residential development.

B. Land Donation. Upon application by the developer and at the discretion of the Planning Commission, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by conveying land to the City for the construction of the required inclusionary units. The donated land must at least be equal in value to the in lieu amount that would be applied to the project, vacant and suitable for development for affordable housing units, and fully served by utilities and related infrastructure improvements.

C. In-Lieu Fee. At the discretion of the Planning Commission, the developer may satisfy the requirement for providing inclusionary units as part of the residential development, in whole or in part, by paying a fee in lieu for all or some of the inclusionary units as follows:

1. The amount of the fee shall be calculated using the fee schedule established by resolution of the City Council.
2. One-half of the in-lieu fee required by this subsection shall be paid (or an irrevocable letter of credit posted) prior to issuance of a building permit for all or any part of the residential development. The remainder of the fee

shall be paid before a certificate of occupancy is issued for any unit in the residential development.

3. The fees collected shall be deposited in the Inclusionary Housing Trust Fund for use exclusively for the development of housing units affordable to very low, low or moderate income households.

**9133.7 Procedures**

A. At the times and in accordance with the standards and procedures set forth in the regulations, developers shall:

1. Submit an inclusionary housing plan for approval by the Director, setting forth in detail the manner in which the provisions of this section will be implemented for the proposed residential development.
2. Execute and cause to be recorded an inclusionary housing agreement unless developer is complying with this section pursuant to paragraphs "B" (land donation) or "C" (in lieu fee) of Subsection 9133.6.

B. No discretionary approval shall be issued for all or any portion of a residential development subject to this section until the developer has submitted an inclusionary housing plan.

C. No building permit shall be issued for all or any portion of a residential development subject to this section unless the Director has approved the inclusionary housing plan, and the inclusionary housing agreement, if required, recorded.

D. No certificate of occupancy shall be issued for all or any portion of a residential development subject to this section unless the approved inclusionary housing plan has been fully implemented.

**9133.8 Standards**

A. All inclusionary units shall be:

1. Reasonably dispersed throughout the residential development.
2. Proportional, in number, bedroom size and location, to the market rate units.
3. Comparable with the market rate units in terms of the base design, appearance, materials and finished quality.

B. All inclusionary units in a residential development shall be constructed concurrently with or prior to the construction of the market rate units. In the event the City approves a phased project, the inclusionary units required by this section shall be provided within each phase of the residential development.

C. Inclusionary units shall be reserved for very low, low and moderate income households at the ratios established pursuant to California Health and Safety Code Section 33413(b)(2) and shall be provided at the applicable affordable housing cost.

1. An inclusionary unit that is for rent shall remain restricted for occupancy by the target income category at the applicable affordable housing cost for a period of not less than fifty-five (55) years.

2. An inclusionary unit that is for sale shall remain restricted for owner-occupancy the target income category at the applicable affordable housing cost for a period of not less than forty-five (45) years.

The occupancy and rents of the inclusionary units shall be governed by the terms of a deed restriction recorded with the property.

D. Notwithstanding paragraph C (2) of this Subsection 9133.8, if an inclusionary unit for-sale is sold to an above moderate income purchaser, the sale shall result in a recapture by the City or its designee of a financial interest in the unit equal to (1) the difference between the initial affordable sales price and the appraised "fair market" value of the unit at the time of the initial sale, and (2) a proportionate share of any appreciation, provided that there are no more restrictive agreements executed by and between the home owner and the City or Redevelopment Agency, in which case the more restrictive requirement will apply.

E. Where the developer contends that onsite provision of inclusionary units is economically infeasible, the developer may request that the Planning Commission review the proposed residential development for a determination of economic infeasibility. The developer is required to submit to the City all necessary documentation demonstrating economic infeasibility. Upon a determination of economic infeasibility by the Planning Commission, the units may then be provided at another location in the City's jurisdiction at the Planning Commission's discretion. Any such off-site inclusionary units shall be completed prior to the issuance of a certificate of occupancy for the market rate housing development. The occupancy and rents of any such off-site units shall be governed by the terms of a deed restriction similar to that used for onsite inclusionary units, as referenced in Paragraph C of Subsection 9133.8..

#### **9133.9 Enforcement**

A. Any violation of this section constitutes a misdemeanor.

B. The provisions of this Section shall apply to all Developers and their agents, successors and assigns proposing a Residential Development. All Inclusionary Units shall be rented or sold in accordance with this Section and any regulations adopted pursuant to this section.

C. Any individual who sells or rents an Inclusionary Unit in violation of the provisions of this Section shall be required to forfeit all monetary amounts so obtained. Recovered funds shall be deposited into the Inclusionary Housing Trust Fund.

D. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Section, including but not limited to: (1) actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; and (2) actions for injunctive relief or damages.



E. In any action to enforce this Section or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.

**9133.10 Regulations**

The City Council may by resolution establish additional regulations for the implementation of this section.

**9133.11 Inclusionary Housing Trust Fund**

There is an established separate fund of the City, known as the Inclusionary Housing Trust Fund. All monies collected pursuant to Paragraph "C" of Subsection 9133.6 shall be deposited in the Inclusionary Housing Trust Fund.

**9133.12 Administrative Fees**

The City Council may by resolution establish reasonable fees and deposits for the administration of this Chapter.

**9133.13 Appeal**

Within fifteen (15) calendar days after the date of the Director's decision, an appeal may be filed pursuant to Section 9804 of Division 4 of Part 1 of Chapter 8 of Title IX of the Municipal Code in which appeal procedures are set forth.

**9133.14 Taking Determination**

A. Commencing upon the approval or disapproval of the inclusionary housing plan by the Planning Commission pursuant to the regulations, and within fifteen (15) days thereafter, a developer may request a determination that the requirements of this section, taken together with the inclusionary incentives, as applied to the residential development, would legally constitute a taking of property of the residential development without just compensation under the California or Federal Constitutions.

B. The developer has the burden of providing economic information and other evidence necessary to establish that application of the provisions of this section to the residential development would constitute a taking of the property of the proposed residential development without just compensation. The Director shall make the determination, which may be appealed in the manner and within the time set forth in Subsection 9133.13, except that the City Council shall serve as the review body.

C. In making the taking recommendation or determination, the decision maker shall assume each of the following:

1. Application of the inclusionary housing requirement to the residential development;
2. Application of the inclusionary incentives;
3. Utilization of the most cost-efficient product type for the inclusionary units; and

4. External funding where reasonably likely to occur.

D. If it is determined that the application of the provisions of this section would be a taking, the inclusionary housing plan shall be modified to reduce the obligations in the inclusionary housing component to the extent and only to the extent necessary to avoid a taking. If it is determined no taking would occur though application of this section to the residential development, the requirements of this section remain applicable.”

**Section 5.** On or before the date that is forty-two (42) months after the effective date of this Ordinance, the Director shall prepare and present to the City Council an evaluation of the effectiveness of Section 9133 during the first three (3) years of its implementation, and recommendations for changes (if any), to be followed thereafter with an annual summary report.

**Section 6.** If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

**Section 7.** The City Clerk shall certify the adoption of this Ordinance and cause its publication in accordance with applicable law.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_  
2008 , by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
John M. Edelston, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

---

Craig A. Steele, City Attorney