

THE CITY OF



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PLEASANTON®

**MEMORANDUM**

**Date:** July 11, 2018  
**To:** Planning Commissions  
**From:** Gerry Beaudin, Director of Community Development  
**Subject:** P17-0903 – Inclusionary Zoning Ordinance (IZO)

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On June 27, 2018, the Planning Commission continued the above-referenced item to the Planning Commission meeting of July 11, 2018.

The attached correspondence, received after the June 27, 2018 agenda report was published and previously distributed to the Planning Commission, is provided again for the Commission's information and reference.



**SUPPLEMENTAL MATERIAL**  
Provided to the Planning Commission  
After Distribution of Packet

Date Distributed: 6/27/18

DATE: May 17, 2018

TO: Pleasanton Housing Commissioners Anthony Soby, Jay Galvin, Ann Welsh, Matthew Gaidos, Zarina Kiziloglu and Alyx MacTernan

FROM: BIA|Bay Area East Bay Executive Director  
For Government Affairs [REDACTED]

RE: Proposal to Require Accessory Dwelling Units/Compact Units as Part of Inclusionary Ordinance

Dear Housing Commissioners,

As a membership organization that represents more than 400 companies dedicated to developing and constructing homes, BIA|Bay Area would like to make the following comments regarding the proposed requirement that single-family residential developers construct 20 percent of a project's total units as "compact" or accessory dwelling units (ADUs.)

BIA applauds the City of Pleasanton's "affordable by design" concept, which, if done correctly, will result in more housing units at prices that more families can afford to purchase or rent. The timing is excellent, as growing numbers of home buyers are demanding multi-generational housing. To that end, we strongly encourage the city to make the following modifications to its ordinance in order to make the city's program financially feasible on the housing production side:

- A. **Give the developer credit for at least half of the "compact" or ADUs toward the 20 percent inclusionary or low-income unit requirement. As an added incentive, allow the developer to pay by-right the in-lieu inclusionary fee on the mandated affordable units.** While the "affordable by design" units will not be deed restricted, many will be occupied by people who cannot afford to live market-rate homes elsewhere in town. Mandating the inclusionary AND "compact" requirements burdens 40 percent of the homes in every new single-family housing project and makes projects financially infeasible. Offering a partial incentive to offset the impact is fair and reasonable. Imposing both restrictions could also be interpreted by the state Housing and Community Development Department as an excessive constraint on housing approvals and jeopardize the city's approved Housing Element.
- B. **Offer a flexible density bonus incentive.** Attached is an example of the impacts of the "compact unit" option. It is based on a 45-lot single-family project with average 4,306 sq. ft. homes, which would trigger a requirement for nine "compact" units. If the developer replaced the larger homes with 1,800 sq. ft. units on the existing lots, the developer has the same site costs but achieves some savings in construction and fees on the nine houses. The houses are sold at a lower price, however, and on balance, the net profit declines from 8 percent to less than 2 percent. No developers will move forward under this scenario. A density bonus could mean the difference between a project going forward or not. An example would be a density bonus based on the underlying zoning such as 2:1 for MDR and 3:1 for LDR zoned properties.

- C. **Establish alternative compliance options that mesh with the city's General Plan:** While ADUs are suitable for homes of 3,000 sq. ft. and larger, they may not work for smaller units or senior projects. The revised ordinance should allow developers to comply through placement of alternative duplexes or detached compact units on appropriately sized lots where it makes economic and planning sense. This coupled with a density bonus would allow a developer to comply with the "compact" provision and help the city achieve its "affordable by design" goals. But unlike ADUs, the duplexes and other types of compact housing envisioned in this ordinance are not streamlined under the recent state statutes adopted for accessory units. Questions of General Plan and Housing Element consistency, allowed densities, lot sizes, zoning and other issues could arise. Staff should make every effort to resolve these questions as part of this process rather than wait until a project comes along and suffers costly delays while the city irons out the wrinkles.
- D. **Waive or significantly reduce all city fees for affordable inclusionary units, ADUs and "compact" houses.** The cost of housing has reached crisis levels throughout the Bay Area and much of California. State and regional leaders have identified high fees as one source of high housing costs. We strongly encourage Pleasanton to offer fee waivers and reductions for affordable housing.

In conclusion, we applaud Pleasanton for its initiative in the "affordable by design" arena. But the ordinance needs additional incentives, more options and greater flexibility if it is to become financially feasible in the residential construction marketplace. Many of the Pleasanton Housing commissioners voiced support at the November 2017 joint hearing with the Planning Commission for incentives and other policies that would help mitigate the high housing costs, and we are disappointed that the proposed ordinance fails to include few, if any, of the commissioners' recommendations.

Additionally, multi-generational housing is also still waiting for the mortgage industry to catch up. Most lenders do not yet recognize rental income from accessory dwelling units when evaluating buyers for loans. Given the higher prices for the typically larger houses that offer ADUs, this narrows the potential buyer pool.

Thank you for your time and consideration. Feel free to call with any questions or comments.

Sincerely,



*BIA | Bay Area East Bay Executive Director for Government Affairs*  
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[lvorderbrueggen@biabayarea.org](mailto:lvorderbrueggen@biabayarea.org)

CC:  
City Manager Nelson Fialho  
Assistant City Manager Brian Dolan  
Finance Director Tina Olson  
Housing Manager Steve Hernandez





City of Pleasanton Planning Commission  
City Council Chamber  
200 Old Bernal Ave  
Pleasanton, CA 94566

**SUPPLEMENTAL MATERIAL**  
**Provided to the Planning Commission  
After Distribution of Packet**

June 20, 2018

**Date Distributed:** 6/21/18 

Dear Members of the City of Pleasanton Planning Commission;

The Tri-Valley Anti-Poverty Collaborative (TVAPC) is a collaborative of professionals from Livermore, Pleasanton, and Dublin working together to improve four areas within the Tri-Valley: health, education, food access and housing. Our members represent specialists in non-profit organizations, safety-net services, government, businesses, foundations, and the faith-based community. Increasing access to affordable housing in the Tri-Valley across income categories is a primary focus for TVAPC.

TVPAC wishes to acknowledge the intent of the City of Pleasanton to increase access to affordable housing and better balance the needs of all community members through proposed amendments to its Inclusionary Zoning Ordinance. Specifically, with regard to the proposed amendment to Chapter 17.44 Inclusionary Zoning Ordinance currently under consideration, the TVAPC supports the proposed change that would add a requirement for the construction of compact units within single-family development projects of 15 units or more with the understanding that, in doing so, future projects will help create additional housing stock that is more affordable by design. However, we further believe that the current inclusionary requirements for providing 15% of new units at deed restricted prices for low income and very low-income residents, or paying the in-lieu fee, are still critical to addressing Pleasanton's substantial shortage of affordable housing. We hope that the city will use these new provisions to help develop projects that combine both deed restricted units and smaller units to the greatest extent possible to further the development of additional affordable housing. TVAPC likewise encourages the city to more closely examine all of the resources that can be leveraged, both from future projects and city resources (including fees, land dedications, General Fund contributions, increases to the housing stock to address demand, ADU construction, etc.), as in-lieu fees alone, particularly at their current level, do not adequately financially support the development of sufficient affordable housing to meet Pleasanton's needs.

Signed,



Project Manager, Tri-Valley Anti-Poverty Collaborative



**SUPPLEMENTAL MATERIAL**  
Provided to the Planning Commission  
After Distribution of Packet

BUILDING INDUSTRY ASSOCIATION

Date Distributed: 6/27/18

DATE: June 26, 2018

TO: Pleasanton Planning Commissioners Nancy Allen, David Nagler, Herb Ritter,  
Greg O’Conner and Jack Balch

FROM: BIA|Bay Area East Bay Executive Director for Governmental Affairs  
[REDACTED]

RE: Item 6.c. Mandatory Inclusion of “Compact” Units in Single-Family Projects

As a membership organization that represents more than 400 companies dedicated to developing and constructing homes, BIA|Bay Area would like to make the following comments regarding the proposed requirement that single-family residential developers construct 20 percent of a project’s total units as “compact” units.

BIA applauds the City of Pleasanton’s focus on “affordable by design,” which, if done correctly, will result in more housing units at prices that more families can afford to purchase or rent. But we are deeply dismayed to see Pleasanton city staff reverse course and recommend the exclusion of accessory dwelling units (ADUs) from the list of options that qualify as “compact” units.

Up and down the state, communities are encouraging the construction of granny flats or in-law-units through reduced regulations and fee waivers as a means to increase the affordable housing supply. Homeowners are using the extra income to help pay their mortgages while renters welcome the added inventory at a time when supplies are short. And while it is true that the city cannot force homeowners to rent out ADUs to the general public, the space is unlikely to go unused in one of the most expensive housing markets in the United States. If they are not put on the rental market, they are likely to serve as invaluable living quarters for a family’s elderly parent, an adult child saving money for a house or attending college, or perhaps a developmentally disabled adult – all individuals who would otherwise have to seek housing elsewhere.

As your staff noted, given the market interest in multi-generational housing, residential developers of larger homes may well include ADUs without a mandate. But as written, the current ordinance is so onerous and expensive that single-family housing projects will fail to make financial sense and few, if any, will be constructed. **In combination with the 20 percent inclusionary requirement, Pleasanton is proposing to place an additional cost burden on 40 percent of the homes in nearly every new single-family housing project.** Imposing both restrictions could also be interpreted by the state Housing and Community Development Department as an excessive constraint on housing approvals and jeopardize the city’s approved Housing Element.

Consider the attached example of the financial impacts of the compact unit mandate. It is based on a 45-lot single-family project with average 4,306 sq. ft. homes, which would trigger a requirement for nine “compact” units. If the developer replaced nine larger homes with 1,800 sq. ft. units on the existing lots, the developer has the same site costs but achieves some savings in construction and fees on the nine houses. The houses are sold at a lower price, however, and on balance, the net profit declines from 8 percent to less than 2 percent. No developer will move forward under this scenario.

BIA respectfully requests that the Planning Commission put the ordinance on hold, direct staff to meet with residential developers and other stakeholders and come back with a proposal that will result in an increase in the city’s affordable housing supply. To that end, we would like to make the following recommendations in order to make the city’s ordinance financially feasible on the housing production side:

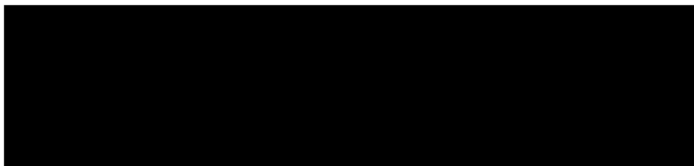
- A. Restore the ADU option and give the developer credit for at least half of the ADUs toward the 20 percent inclusionary or low-income unit requirement. As an added incentive, allow the developer to pay by-right the in-lieu inclusionary fee on the mandated affordable units. While the “affordable by design” units will not be deed restricted, many will be occupied by people who cannot afford to live market-rate homes elsewhere in town.
- B. Most would agree that plopping down a 1,800 sq. ft. house on a 10,000 sq. ft. lot is not practical or financially feasible. But perhaps with an appropriate density bonus, a “compact house” program could be incorporated in communities with 5,000 sq. ft. lots or smaller. In the attached 45-lot single-family home project example, a density bonus could mean the difference between the project going forward or not. An example would be a density bonus based on the underlying zoning such as 2:1 for MDR and 3:1 for LDR-zoned properties.
- C. On Page 6 of the draft ordinance, the alternative means of compliance listed under “Land Dedication” is undefined. How much land must be dedicated? What is the formula?
- D. While we appreciate the inclusion of duplexes and duets as compliance options, the introduction of denser product types on parcels for which the underlying zoning lacks current designations for those uses will almost certainly trigger the need for applicants to apply for additional permits such as a PUD. Questions of inconsistent zoning and General Plan designations will require additional processing and permits, lengthening the approval time and adding to the project costs and risk. Have all property owners with residentially zoned parcels been notified of the potential new “compact” requirements? How many parcels are impacted? What is the likely impact on the city’s housing production rates? And unlike ADUs, permitting for duplexes and other types of compact housing envisioned in this ordinance are not streamlined under the recent state statutes adopted to encourage accessory units. Staff should make every effort to resolve these questions as part of this process rather than wait until a project comes along and it suffers costly delays while the city irons out the wrinkles.
- E. Waive all city impact fees for affordable inclusionary units, ADUs and “compact” houses. The cost of housing has reached crisis levels throughout the Bay Area and much of California. State and regional leaders have identified high fees as one source of high housing costs.


In conclusion, we again applaud Pleasanton for its initiative in the “affordable by design” arena. But the ordinance must include ADUs as an option and it needs additional incentives and greater flexibility if it is to become financially feasible in the residential construction marketplace.

If adopted as it currently reads, this ordinance will impede far more housing than it will enable and the few homes that might be constructed will be that much more expensive. We cannot continue to drive up the cost of our housing if we hope to have places for our children to live. For every \$1,000 increase in the price of a house in California in 2016, about 15,328 households were priced out of the market for a median-priced home, according to the National Association of Home Builders. We encourage you to direct staff to bring back an affordable by design ordinance that will work for the city, its residents, homebuyers and homebuilders.

Thank you for your time and consideration. Feel free to call with any questions or comments.

Sincerely yours,



  
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Attachment: Example of Financial Impact of Ordinance on 45-Lot Project

cc:

Pleasanton Mayor Jerry Thorne, Vice Mayor Arne Olson and  
Councilmembers Karla Brown, Kathy Narum and Jerry Pentin  
Pleasanton Associate Planner Jennifer Hagen  
Pleasanton City Manager Nelson Fialho  
Pleasanton Assistant City Manager Brian Dolan  
Pleasanton Director of Community Development Gerry Beaudin  
Pleasanton Planning Manager Ellen Clark





Date Distributed: 6/27/18 B

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June 27, 2018

**VIA E-MAIL**

David Nagler  
Chair and Planning Commissioners  
Planning Commission  
Planning Division, City of Pleasanton  
200 Old Bernal Avenue  
Pleasanton, CA 94566

Re: Amendment to Chapter 17.44 - Inclusionary Zoning Ordinance Update

Dear Chair Nagler and Planning Commissioners:

This evening, the Pleasanton Planning Commission will consider revised amendments to Chapter 17.44 – Inclusionary Zoning (IZO) of the Pleasanton Municipal Code (“Revised IZO Amendments”). We appreciate the opportunity to submit comments on behalf of our client, TL Partners IV LP (“TL Partners”), regarding the Revised IZO Amendments for the Planning Commission’s consideration.

As you may recall, TL Partners is the applicant for a proposed 39-unit, single-family residential project within the 31-acre portion of the Spotorno Flat Area in the Happy Valley Specific Plan (the “Spotorno Project”). TL Partners satisfies the requirements of the City’s existing IZO through the payment of applicable Lower Income Housing Fees (LIHF) in lieu of constructing inclusionary units on site. Additionally, TL Partners is proposing to construct up to 8 accessory dwelling units (ADUs) as part of the Spotorno Project, resulting in approximately 20 percent of the 39 single-family resident lots including an ADU.

TL Partners submitted a formal application for a development permit for the Spotorno Project on April 27, 2016, and the Project complies with the City’s ordinances and regulations in place at the time the application was filed, including the IZO. Because the City did not provide notice that it was considering amendments to the IZO before the Spotorno Project application

was filed and subsequently deemed complete, any amendments that the City decides to adopt would not apply to the Spotorno Project. Nonetheless, TL Partners' proposal meets the adopted IZO and would have met the objectives of the original IZO amendment proposal through the inclusion of accessory dwelling units on 8 of the 39 proposed single-family residential parcels. With the Revised IZO Amendments, however, the TL Partners' ADU proposal would not qualify as Compact Units.

We believe that ADUs provide Pleasanton with a great opportunity for the inclusion of "affordable by design" housing as part of a diverse housing inventory. Therefore, we urge the Planning Commission to adopt an IZO amendment that defines compact units as units ranging from 500 to 1,800 square feet, *including* ADUs. The proposed staff recommendation to eliminate the ADU component from the Compact Unit requirement would impose a substantially more onerous requirement that may further constrain the provision of affordable housing in the City.

With respect to specific comments regarding the Revised IZO Amendments, we note the following for your consideration:

1. Duplex/Duet Units. The Revised IZO Amendments define compact units as units between 750 and 1800 square feet, excluding townhomes, condominiums, or ADUs. The requirement can be met by providing detached units or attached duplex/duet units. It is unclear if the Revised IZO Amendments take into consideration whether the duplex/duet units would be deemed to comply with existing zoning. It is also unclear whether detached units could have smaller lot sizes commensurate with the smaller unit size.

2. Inclusionary Units v. Compact Units. The Revised IZO Amendments require new single-family developments to include 20% inclusionary units and 20% compact units, but does not clearly state whether a unit can fulfill *both* the inclusionary unit requirement and compact unit requirement. Section 17.44.060 states that the inclusionary units can be of a smaller square footage than the size of the market units. Thus, it is possible to design an inclusionary unit that also meets the definition of a compact unit. Nonetheless, would a compact unit that is also deemed restricted for low income units also qualify as an inclusionary under the Revised IZO Amendments?

3. Determination at Tentative Map Approval. Section 17.44.050(A)(1) of the Revised IZO Amendments states that the percentage of compact units required for a project shall be determined at the time of tentative map approval. As the City has been processing TL Partners' tentative map application for two years based on the adopted IZO, we recommend that the City grandfather Projects that the City has reviewed and processed prior to the proposed IZO amendment process so that projects, like the Spotorno Project which have been under the City's review for more than 2 years, would be exempt from new and inconsistent requirements.

4. Discretionary v. Ministerial Approval. Section 17.44.050(A)(2) of the Revised IZO

Chair Nagler and Planning Commissioners  
June 27, 2018  
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Amendments states that the “specific mix of compact units shall be subject to approval by the city.” The city maintains discretion to reject a developer’s decision to use duplex units versus detached units, or a mix of both. We request that the City revise the Revised IZO Amendments to provide flexibility to satisfy the requirement without further discretionary approval by the City consistent with the ADU provisions of State Law that contemplate a ministerial approval process for “affordable by design” housing.

We request that the City notify TL Partners of any future changes to the IZO, as well as any responses to our comments submitted on behalf of TL Partners. Thank you for your consideration of TL Partner’s comments regarding the City’s proposed amendments to the Inclusionary Zoning Ordinance.

Very truly yours,

BUCHALTER  
A Professional Corporation

By  

cc: Brian Dolan, Assistant City Manager  
Gerry Beaudin, Director of Community Development  
Ellen Clar, Planning Manager  
Jennifer Hagen, Associate Planner  
James Meek  
Michael O’Hara  
Jessica Grossman

**SUPPLEMENTAL MATERIAL**

Provided to the Planning Commission  
After Distribution of Packet

Date Distributed: 6/27/18

Jennifer

Thank you for asking for my input.

I certainly think the “ salt & pepper “ approach to inclusionary housing is a good concept where ever it is workable ( 1500 sf dwellings mixed in with 4500- 5000 sf units is probably not a good idea ).

Our state, region, and county are definitely in a housing availability crises.

If the determination is that our current crises is a societal problem it should be addressed and debated – and hopefully solved on a total societal basis and not try to solve it with extraordinary burden on one segment of society.

Reading the proposal going to Planning Commission on 6/26 it certainly appears that considerably more input and vetting is not only desirable but necessary.

The homebuilding industry should have considerable input.

Affordable Housing advocates should have considerable input.

The Urban Land Institute probably has considerable experience and ideas.

Please forward this to the Commissioners and recommend an extended postponement to better address the City Housing Goals and how best to achieve them.

Thank You for your consideration. Best Wishes in this endeavor.

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# PONDEROSA

June 26, 2018

Mr. Gerry Beaudin  
Community Development Director  
CITY OF PLEASANTON  
200 Old Bernal Avenue  
Pleasanton, CA 94588

## SUPPLEMENTAL MATERIAL

Provided to the Planning Commission  
After Distribution of Packet

Date Distributed: 6/27/18 *JB*

RE: P17-0903 Inclusionary Ordinance Update

Dear Gerry:

Thank you for the opportunity to comment on this item. We support the City of Pleasanton for seeking ways to address the Housing Affordability Crisis affecting this community and the Bay Area. That said, we support the concept of including Compact Units in new residential projects if it is implemented to increase the housing stock beyond what often occurs in the planning process (projects often approved at the lower end of general plan density ranges).

If this is going to be a realistic and workable solution that doesn't deter new market-rate housing development and results in an increase in "affordable by design housing stock", several issues should to be addressed:

1. There should be a minimum project size in acres for requiring the compact units rather than a minimum project size in terms of number of units. For instance, a 10-acre site could provide 2 acres for compact units (20%) rather than a 30-unit project providing 6 compact units (20%). There are fixed costs in terms of product design and project marketing that make it expensive per unit to provide a small number of compact units. In our opinion, 10 would be the minimum number of compact units built on-site to make these fixed costs feel not unreasonable.
2. The compact unit portion of a new project should be geared toward the higher side of the residential land use density ranges (8du/acre or more) and overall project density should not be limited by the inclusion of compact units. Otherwise, you will be substituting compact units for larger units and impacting a project's top line revenue which could have a negative effect on new housing production.
3. There needs to be different development standards and smaller lot sizes allowed for the compact units. For example, compact units could comfortably fit on 2000-3000sf lots with an FAR in the 50%-75% range. In particular, three story homes can provide a good design solution for smaller lots and appeal to a younger demographic who typically are looking for their first homes to purchase.
4. Mixing the units within the project may not be practical given the varied lot sizes, particularly for smaller projects. Good site planning can lead to an attractively planned cohesive community with compact units located in one part of a new community.

5. There needs to be consideration of lowering fixed costs such as impact fees for considerably smaller compact units. It is hard to justify water, sewer and other fees at the same rate for a 1,400 sf unit vs. a 3,000 sf unit. We recognize some of these items are not under control of the City, however, the inability to address this issue will make the creation of these projects more expensive. We suggest creating a separate fee class for compact units that are 1,400 sf or smaller.

6. New projects with development applications filed prior to city council approval of this ordinance should have the option of being exempt from providing compact units. As you know, we spend considerable time and money 1-2 years before a development application is filed in the City of Pleasanton in order to align our project design with other stakeholders in the community. These efforts should not be penalized by a creating a potential situation where a significant redesign would be required to incorporate compact units which may reduce the financial feasibility of a project and potential reduced prices to land sellers.

7. We support the staff's concept that the project should have to meet only one requirement on-site, not both. Requiring both inclusionary units AND compact units on-site will be very difficult to plan and market, particularly for small projects. If a project provides compact units, the Inclusionary component should be addressed via the in-lieu fee. *In general, we oppose on-site inclusionary requirements imposed on for-sale residential projects as it typically only produces a handful of affordable units that typically only meet the income requirement one time (due to very low turnover) and require substantial City administrative resources for monitoring and compliance.*

These are some of our general thoughts and comments after our staff's initial review of the proposal. We were unaware that this idea for compact units was moving forward to planning commission after the November 2017 study session we attended. We would be happy to meet with staff, commissioners and interested parties to further this important conversation prior to taking action on these recommendations.

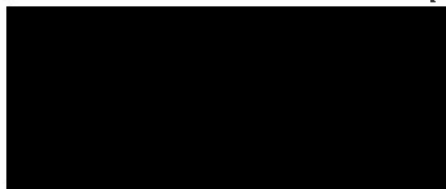
Thank you for your assistance with this matter and please contact me with any questions.

Sincerely,

PONDEROSA HOMES III, INC



Senior Vice President, Land Acquisition & Planning



Manager – Forward Planning