Housing Commission Agenda Report

February 28, 2022
Item 4

SUBJECT: **P21-0751, 6th Cycle (2023-2031) Housing Element Update**

APPLICANT: City of Pleasanton

PURPOSE: Review and provide a recommendation on housing policy topics including the Inclusionary Zoning Ordinance, Lower-Income Housing Fund, Workforce Housing, and Affordability by Design and other City housing programs as part of the 2023-2031 (6th Cycle) Housing Element Update

EXHIBITS:

A. Excerpted General Plan Policies for Lower Income Housing Fund
B. Inclusionary Zoning Ordinance Comparison among Tri-Valley Jurisdictions
C. *Inclusionary Housing in the US*, by Fannie Mae, dated December 2020
D. *Best Practices for IZOs*, by Local Government Commission, dated November 2018
E. *Zoning for Missing Middle Housing* Guidebook, by ABAG and Opticos Design, Inc., dated November 2021

STAFF RECOMMENDATION

Staff recommends the Housing Commission review and provide a recommendation on housing policy topics including the Inclusionary Zoning Ordinance (IZO), Lower-Income Housing Fund (LIHF), Workforce Housing, Affordability by Design and other City housing programs as part of the 2023-2031 (6th Cycle) Housing Element Update.

SUMMARY

On September 16, September 22, and October 19, 2021, the Housing Commission, Planning Commission and City Council, respectively, reviewed four sections of the Preliminary Report prepared for the Housing Element. The report included: a *Housing Needs Assessment*, a *Housing Constraints Analysis*, a *Review of Existing Programs*, and information on Housing Resources.

The *Review of Existing Programs* portion of the report provided an overview of the existing Housing Element policies and programs and is a means to measure and demonstrate to the California Department of Housing and Community Development (HCD) progress in implementation. In addition to the existing policies and programs in the Housing Element, the City Council, Planning Commission, and Housing Commission considered a suggested list of additional policy topics that might be addressed in the Housing Element update, and agreed these items were worthy of additional discussion.

The Housing Commission is now requested to review these additional policy topics and provide a recommendation to City Council regarding whether or not these topics should be included as new or modified goals, policies and programs of the Housing Element. Staff has presented these policy topics to Planning Commission; feedback from the Planning Commission at its February 9, 2022, meeting has been incorporated into this report. Staff will provide a verbal update regarding the Planning Commission's meeting on February 23. This item will be subsequently scheduled for City Council (tentatively on March 15) to provide direction.

BACKGROUND

The City has a number of existing programs to support and facilitate the production of affordable housing. The most significant among those are two related programs are those that the Housing Commission is familiar with: the LIHF, which allows the City to assess fees on new development to offset the demand such projects generate for new affordable housing; and the IZO, which requires new market-rate housing projects to provide a proportion of affordable housing units or provide alternative mitigation such as payment of fees. The topics of workforce housing and affordability by design have also been discussed at various Housing Element Update meetings; background and discussion on both of these are included in this report as well.

Lower-Income Housing Fund

Upon adoption of AB 1600 by the state legislature in the 1980s, the City established development impact fees to mitigate the impact of new housing and commercial developments on City facilities, infrastructure, and affordable housing.

An ordinance specifically codifying the LIHF was adopted in 1990; this ordinance required for the first time that non-residential development be required to either contribute to the LIHF or construct affordable units as part of the project (prior to this time the LIHF applied only to residential development). The City's development impact fees were restructured in 1998, followed by an update in 2018 based on the General Plan and other planning documents. The City's impact fees currently include the Capital Facility Fee, Transportation Fee, and the LIHF.

AB 1600 requires cities to justify and account for development fees that they exact as a condition of approval on new development and establishes a number of parameters to ensure that those fees represent a fair and justifiable nexus between the new demands on City infrastructure and services created by the project, and the amount of the fee. The nexus is based on the premise that new development should pay for its pro rata share of public improvement costs, and that new residents, businesses, and their employees will create the need for and benefit from the availability of public services and infrastructure improvements.

Pursuant to a decision by the California Supreme Court in *California Building Industry v City of San Jose*, local jurisdictions may impose LIHFs as part of its "..general broad discretion to regulate the use of real property to serve the legitimate interests of the general public and community at large," without completion of a Nexus Study. However, the Nexus Study is beneficial in establishing an appropriate and justifiable ceiling for fees, and is the basis upon which the City has chosen to rely in determining the LIHF fee rates.

Accordingly, related to the LIHF, new residential development is required to provide 15 to 20 percent of the units at affordable levels or provide payment of in-lieu fees (as established by the nexus study) at the City's discretion. The LIHF is also charged to residential projects that are not subject to the IZO – i.e., projects with fewer than 15 units are not subject to the IZO. And, new commercial development is required to contribute LIHF, generally on a per square foot basis, assigned to different land use types (industrial, office, retail, etc.) based on their employee generation and associated housing needs.

The maximum amount that the City can charge for the LIHF was identified in a Nexus Study completed by Economic & Planning Systems (EPS) and presented to City Council for action in September 2018 and is shown in Table 1.[1]

At its September 18, 2018, meeting, City Council voted to increase the LIHF from the previously established levels, based on an analysis comparing Pleasanton's fees with those of other Tri-Valley cities. It should be noted that the City Council made a policy decision to establish the fees at level somewhat below the maximum amount justified in the Nexus Study, in part to ensure that Pleasanton would remain competitive and attractive for new businesses seeking to locate within the region.

The amounts shown in Table 1 are based on fees for calendar year 2022; per the PMC, the fee is subject to an annual inflation adjustment on January 1 of each year, based on the Consumer Price Index (CPI) for the San Francisco/Oakland region.

The modified LIHF when adopted in 2018, reflected a significant change from the prior fee rates, particularly for residential projects, and the office and industrial categories of non-residential projects.

Table 1: Lower-Income Housing Fee

Residential ***(per dwelling unit)***				
	Current Fee (2022)	Calendar Year 2019 (after fee increase)	Calendar Year 2018 (before fee increase)	Maximum Fee
Single-family detached (over 1,500 sq. ft.)	$47,762	$44,248	$27,187	$44,930 to $75,857 *Depending on square footage*
Single-family detached (1,500 sq. ft. or less)	$46,732	$43,293	$15,694	
Multifamily (Apartment or Condominium)	$46,732	$43,293	$15,694	$24,911 to $46,631 *Depending on number of bedrooms*
Non-Residential ***(per square foot)***				
Retail	$4.93	$4.56	$3.15	$211.08
Hotel/Motel	$3.40	$3.15	$3.15	$49.69

[1] The complete September 18, 2018, Agenda Report, including the Nexus Studies, is available on-line at http://weblink.cityofpleasantonca.gov/weblink/0/doc/280943/Page1.aspx

	Office	$8.22	$7.61	$3.15	$82.56
	Industrial	$13.64	$12.64	$3.15	$82.56

As noted in Table 1, the fee for single-family detached residential dwelling units increased significantly, from approximately $27,000 in 2018 to the current fee of $47,700, and from $15,700 in 2018 to the current fee of approximately $46,700 for smaller detached single-family detached and multifamily units. Instead of a universal fee of $3.15 per square foot for non-residential projects, the fee requires a different per square foot fee for retail, hotel/motel, office, and industrial uses. Certain uses, including churches/religious institutions, and affordable housing projects, are deemed exempt from some or all fees, pursuant to the PMC. And, in other cases, the PMC recognizes there may be variation in the employment density (and thus demand for housing) of projects across a particular land use category and provides a process whereby the City Council can approve modifications or reductions of the typical fee.

Since fiscal year 1990, the City has collected approximately $27 million in LIHFs from new development. Expenditure of these funds has principally been to facilitate loans to private developers, individuals, and corporations for the development of affordable housing. More specifically, the city spends the LIHF on affordable housing-related activities/programs, such as:

- Administration of a “rapid re-housing program” that provides diminishing rental subsidies to income eligible households that help them become self-sufficient after 12 months.
- Legal eviction services
- Homeless intervention services (e.g., motel vouchers, security deposits)
- Independence-nurturing services for clients with developmental/physical disabilities
- Housing counseling services for both tenants and landlords
- Housing rehabilitation program (grants and loans)
- Maintenance of Tri-Valley REACH’s single-family homes that provide housing for residents with developmental disabilities
- Down Payment Assistance Loan Program
- Emergency Rental Assistance Program for residents with back-rent owed due to the COVID-19 pandemic
- Affordable Rental Housing projects (most recently Sunflower Hill and Kottinger Gardens)

Generally, since County, State, and Federal funds require “local match” funds to be even eligible to apply, one of the benefits of the City’s LIHF is that it can be used as leverage (“seed money” or partial matching funds) for other funding sources.

The existing Housing Element of the General Plan identifies policies and priorities for expenditure of funds. These policies are excerpted and included as Exhibit A to this report.

Generally, the policies support construction of new affordable housing, supplementing other sources of funding to facilitate construction or conversion of units as affordable, or using the LIHF to ensure the long-term viability of existing affordable units and supporting access to housing (rental or down-payment assistance, for example). The following provides additional details for use of the LIHF:

- providing incentives (e.g., reduced development fees, assistance in public improvements, or increased density) to encourage construction of affordable housing, including three-bedroom units;
- using LIHF to provide financial support to ensure the long-term stability and viability of existing affordable units, such as in the form of rehabilitation funds or funding to reduce financial costs of construction and rent levels of affordable units;
- encouraging other elements of the General Plan and related City policies to facilitate affordable housing;
- ensuring compliance with the IZO such that each development provides its pro-rata share of the LIHF or provides the affordable housing units;
- providing financial contributions to facilitate construction of projects with affordability greater than that required by the IZO;
- offering projects low-interest loans to support alternative energy usage and/or significant water conservation systems in exchange for affordable housing units.

Inclusionary Zoning Ordinance
The City's IZO was adopted by the City Council in 2000, to require development to provide affordable units *constructed* as part of a housing project. Prior to this, only the LIHF was levied to facilitate the City's affordable housing goals. While payment of fees to the LIHF furthers the City's ability to support housing production, typically by providing a proportion of project funding, and to fund programs that facilitate access to housing, the amounts collected do not come close to meeting the actual costs to fully fund construction of new housing units, which are instead established per the AB1600 Nexus Study. As outlined in the attached publication from the Local Government Commission (Exhibit D), the legal basis for inclusionary housing programs is long-established, based on a local government's "broad police powers" – after facing legal challenges in the early 2010s, this authority was reaffirmed by the same 2015 State Supreme Court decision noted in discussion of the LIHF, above, and a 2017 Assembly Bill, AB 1505.

The adoption of the IZO provided a much more robust means of achieving the actual production of units affordable to households of various income levels and has been responsible for a significant proportion of the new affordable housing built in Pleasanton since 2000.

The City's IZO requires:

- New <u>multifamily</u> residential projects of 15 units or more to provide at least 15 percent of the dwellings as affordable to very low- and/or low-income households

- New single-family residential projects of 15 units or more to provide at least 20 percent of the project's units as affordable to very low-, low-, and/or moderate-income households.

- Commercial, office and industrial development to either pay the LIHF or provide affordable housing as part of the project.

The specific mix of the units within the three affordability categories is subject to approval by the City Council; inclusionary units are required to remain affordable in perpetuity through recordation of an affordable housing agreement for the project. When constructed as part of a project the inclusionary units are required to be dispersed throughout the project and made to look identical to the market rate units, with the same exterior materials and architectural design. However, the inclusionary units may be of smaller size and have fewer interior amenities, subject to standards identified in the affordable housing agreement for the project.

Although the IZO specifies inclusion of units, provisions of the Ordinance allow discretion for the City to approve payment of fees in-lieu of actually constructing units on-site. Generally, the City has preferred to require rental housing units be provided by multi-family rental housing developers (the City has over 1,000 below-market rental units) and has allowed single-family developers to pay in-lieu fees more often (the City has approximately 100 below-market rate ownership units).

On an implementation basis, the IZO requires approval of an Affordable Housing Agreement in conjunction with projects not automatically exempt from building inclusionary units. These agreements, which receive input and a recommendation from the Housing Commission, are typically used to negotiate the specific affordability levels, mix of units (bedroom counts), payment of in-lieu fees, and other project requirements.

Density Bonus Ordinance

To implement Program 9.6 of the Housing Element adopted in 2012, City Council adopted a density bonus ordinance in 2013, codified as Chapter 17.38. As outlined further below, state law prescribes an extensive housing density bonus (HDB) program (Government Code Section 65915 et. seq.) In large part, adoption of the local ordinance was to address a requirement of State law for local jurisdictions to adopt a local ordinance that implements Section 65915.

Since 2013, the scope of the State HDB program has been greatly modified and expanded, and today offers an array of incentives to developers who include various proportions and types of affordable units in residential and mixed-use development projects. State law incentives include not only density bonuses (an increment of units over and above that specified in local zoning), but also the ability to request waivers and concessions (modifications or relief from) a broad array of local development standards. Provided that specified requirements are met, the City must generally approve both requested bonuses and concessions. Given the numerous amendments that have been adopted to the State housing density bonus law since 2012, at this time, the City's local Density Bonus Ordinance does not appear to align well with State law and is in need of significant update.

Workforce Housing

Existing Policies for Workforce Housing

The General Plan has several existing goals and policies related to workforce housing, excerpted below. It acknowledges the need to provide affordable housing to a wide range of households and identifies a specific program to assess the need for workforce housing, and references the City's Economic Development Strategic Plan, which recognizes that the housing stock in Pleasanton is primarily single-family homes in traditional settings, which could be a potential barrier to attracting talented workers. The strategic plan (dated 2013) cites that about 64 percent of Pleasanton's housing stock is single-family detached but about half of households are small (one to two persons)[2]. Therefore, increasing the diversity of housing products (related to housing units that are smaller and "affordable by design," also discussed in this report), along with providing high-quality multifamily housing near employment centers and amenities could make Pleasanton more attractive for smaller and younger households.

General Plan Policies, Workforce Housing

- Goal 5: Produce and retain a sufficient number of housing units affordable to extremely low-, low- and very low-income households to address the City's responsibility for meeting the needs of Pleasanton's workforce, families, and residents, including those with special needs.

- Goal 14: Provide adequate locations for housing of all types and in sufficient quantities to meet Pleasanton's housing needs.
  - *Policy* 36: Encourage development of workforce housing that helps to achieve the goals of the Economic Development Strategic Plan.
  - *Program* 36.1: Regularly assess the need for workforce housing (including stock, type and quantity of housing) in the community. Develop routine planning and economic development activities to better integrate assessment information into efforts that produce a built environment responsive to the need for workforce housing, in accordance with the Economic Development Strategic Plan. The City Council shall consider the appropriate steps to address the identified needs.

Defining Workforce Housing in Pleasanton

While the concept of workforce housing in Pleasanton has been discussed numerous times during the course of the current and past Housing Element updates, a formal definition has yet to be established. Based on discussions with the City Council, Planning Commission and Housing Commission, some common themes have emerged, including: (1) ensuring that Pleasanton is able to provide housing options for those who work in Pleasanton, in jobs at a variety of wage levels including those who perform lower-wage jobs essential to the local economy; and (2) the needs of households who may earn an income that would be at or above the Moderate or Above-Moderate Area Median Income (AMI), but yet cannot afford to purchase or rent housing in Pleasanton.

The Planning Commission and Housing Commission both commented on a statistic cited in the Housing Element Background Report, that only 8 percent of local workers reside in Pleasanton; and only 15 percent of local residents work within the city. The observation was made that providing more workforce housing opportunities could reduce commuting, with related benefits to traffic congestion and GHG emissions.[3]

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[2] The California State Department of Finance, as of May 2021, estimates single-family detached units to be comprise 60.5 percent of Pleasanton's housing stock; it also estimates population density at 2.85 persons per household.

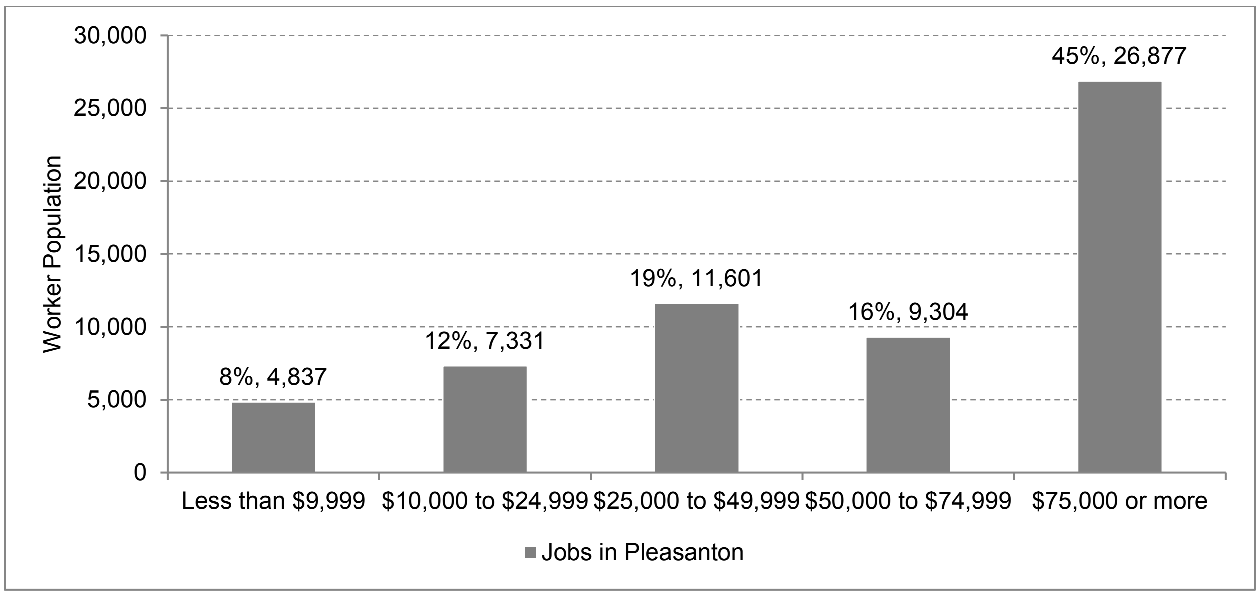
[3] Although Pleasanton has relatively large in-flows and outflows of people commuting to and from jobs, these levels are relatively comparable with many cities in our immediate region (e.g. San Ramon, Walnut Creek). These rates are slightly better than those in Dublin (approximately 4.7% of Dublin residents work in Dublin), and somewhat worse than Livermore (20 percent of Livermore residents also work in Livermore).

While the first category is a critical component of Pleasanton's housing need, the Housing Element will include a range of programs and strategies aimed at increasing the supply of lower-income housing more generally; the very-low and low-income categories (though still underfunded/undersupplied), tend to be the income levels most often targeted in state and federal grant and funding programs, and through inclusionary housing.

The second category then, is the suggested focus of this policy discussion, and particularly the need to provide more housing opportunities for the "workforce," referred to in the context of housing that is affordable to workers making wages that are above what is considered low-income (so as to not qualify for affordable, subsidized housing), but not enough to qualify for market-rate housing.

For context regarding wages in Pleasanton, Figure 1 is based on the pre-approved data package for the Housing Element (the empirical data is from the American Community Survey (ACS), 2019 5-year Estimates). The wages in Figure 1 can be compared to the *median* household income in Pleasanton of $156,400 (ACS, 2019 5-year Estimates), and an *average* annual wage of $96,000 (Payscale.com).

Figure 1: Wages for Jobs in Pleasanton (*ACS, 2019 5-year Estimates*)



Another approach to defining workforce housing is to consider the AMI, i.e., households earning over 80% AMI (households with annual incomes over 80% of AMI are not qualified to access most government or nonprofit housing subsidies but cannot afford market-rate housing).

In Pleasanton, this generally refers to households earning between 80% and 180% AMI (e.g., a four-person household earning between $110,000 and $225,000 per year). This can be reviewed in conjunction with the typical Pleasanton home value estimated at $1,584,380

(Zillow, December 2021) and the median rent at $2,290 per month[4] (ACS, 2019 5-Year Estimates). Table 2 below provides a summary for the ability to pay for housing, based on household size[5]. As shown, even at 200% AMI, a household of four would not be able to afford a for-sale home in Pleasanton. Rental prices are relatively more affordable, with most households making 80% AMI or more, able to afford the average-priced rental unit. However, since the data is based on the average rental or for-sale costs, it likely hides some of the more nuanced aspects of affordability, where, for example, that larger and more recently constructed units are likely to be higher priced and could potentially be unaffordable to many households.

Table 2: Ability to Pay for Housing (*entries in red text indicate the for-sale or rent price exceeds that affordable to a household*)

Pleasanton Ability to Pay for Housing Above 80% AMI				
Number of Persons in Household	1	2	3	4
Median (100% Area Median Income)				
Annual Income Limit	$87,900	$100,500	$113,050	$125,600
Monthly Income	$7,325	$8,375	$9,421	$10,467
Max. Monthly Gross Rent[1]	$2,198	$2,513	$2,826	$3,140
Max. Purchase Price 5% down[2]	$388,000	$449,000	$476,951	$508,420
Max. Purchase Price 20% down[3]	$506,000	$566,430	$630,000	$704,800
Moderate (120% Area Median Income)				
Annual Income Limit	$105,500	$120,550	$135,650	$150,700
Monthly Income	$8,792	$10,046	$11,304	$12,558
Max. Monthly Gross Rent[1]	$2,638	$3,014	$3,391	$3,768
Max. Purchase Price 5% down[2]	$495,500	$568,000	$640,500	$713,250
Max. Purchase Price 20% down[3]	$648,250	$743,250	$838,500	$934,750
150% of Area Median Income				
Annual Income Limit	$131,850	$150,750	$169,575	$188,400
Monthly Income	$10,988	$12,563	$14,131	$15,700
Max. Monthly Gross Rent[1]	$3,296	$3,769	$4,239	$4,710
Max. Purchase Price 5% down[2]	$559,400	$646,200	$732,400	$818,700
Max. Purchase Price 20% down[3]	$754,000	$871,300	$987,500	$1,104,000
180% of Area Median Income				
Annual Income Limit	$158,220	$180,900	$203,490	$226,080
Monthly Income	$13,185	$15,075	$16,958	$18,840
Max. Monthly Gross Rent[1]	$3,956	$4,523	$5,087	$5,652
Max. Purchase Price 5% down[2]	$682,600	$786,900	$890,600	$994,500
Max. Purchase Price 20% down[3]	$917,400	$1,057,600	$1,197,000	$1,336,900
200% of Area Median Income				
Annual Income Limit	$175,800	$201,000	$226,100	$251,200

[4] Other sources with more current data estimate that rent for a one-, two-, and three-bedroom unit is $2,278, $2,700, and $3,550, respectively.
[5] Table 2 assumes an interest rate 2.875% for purposes of calculation of the mortgage payment. While this rate may be feasible under some market conditions, current interest rates are higher.

Pleasanton Ability to Pay for Housing Above 80% AMI				
Number of Persons in Household	1	2	3	4
Monthly Income	$14,650	$16,750	$18,842	$20,933
Max. Monthly Gross Rent[1]	$4,395	$5,025	$5,653	$6,280
Max. Purchase Price 5% down[2]	$763,300	$879,300	$994,700	$1,110,100
Max. Purchase Price 20% down[3]	$1,026,000	$1,181,700	$1,336,910	$1,492,000

Notes:

[1] 30% of income devoted to maximum monthly rent or mortgage payment, including utilities, taxes, and insurance

[2] Assumes 95% loan (i.e., 5% down payment) @ 2.875% annual interest rate and 30-year term

[3] Assumes 80% loan (i.e., 20% down payment) @ 2.875% annual interest rate and 30-year term

[4] Red text indicates that the maximum monthly rent or mortgage payment is lower than the median monthly rent ($2,290) or typical home value in Pleasanton ($1,584,380), meaning that those units are not affordable to the applicable household. Values shown in black represent units that are technically affordable to the applicable household based on income and household size.

Source: HCD, Zillow Mortgage Calculator

Of the estimated 29,000 households in Pleasanton, there are there are approximately 1,799 Pleasanton households that earn 81-100% AMI (6.2% of total households), and a considerably greater number of households earning between 100% and 180% AMI.[6]

To provide some context, some examples of occupations for a four-person household earning 81% to 180% AMI with two working adults include[7]:

- Retail supervisor ($50,430/year)
- Automotive mechanics ($61,560/year)
- Transit bus driver ($61,810/year)
- Licensed vocational nurse ($74,520/year)
- Paralegals and legal assistants ($75,820/year)
- Teachers (elementary, middle, and high school) ($86,200-$92,940/year)
- Accountants ($101,090/year)
- Physical therapists ($103,350/year)

Draft Definitions for "Workforce Housing"
Below are two possible definitions for workforce housing, one focused on local wages as defined by reliable and readily available data, and another that uses AMI as a metric.

"Workforce housing" draft definition #1: "Housing intended for and affordable to employees and households earning local wages, as defined by the Decennial Census, American Community Survey, or other approved data set."

"Workforce housing" draft definition #2: Housing intended for and affordable to households that earn over 80% area median income (AMI), but which cannot afford market-rate housing.

[6] While 20,688 Pleasanton households earn over 100% AMI, there is no readily available data that provides a more refined breakdown of household incomes over 100% AMI and up to 180% AMI.
[7] Source: BLS OEWS, San Francisco-Oakland-Hayward MSA, May 2020; City of Pleasanton

While both definitions have similar intent, staff recommends the second option, since AMI is oftentimes used in affordability criteria for housing.

<u>Housing Element Policies for Workforce Housing</u>
Should the Housing Commission want to incorporate additional policies in the Housing Element regarding workforce housing, staff recommends incorporating a definition of workforce housing into the Housing Element, along with policies that could be aligned with affirmatively declaring support for the production of workforce housing in Pleasanton.

Affordable by Design
Another concept related to providing varied types of housing is that referred to as, "affordable by design." Generally, units that are affordable by design have been referred to in the context of smaller units that command a lower rent or for-sale price, and are therefore affordable due their more compact size, compared to traditional detached single-family homes. One example of such a unit is an accessory dwelling unit (ADU). The City's ADU Ordinance, in accordance with state law, limits ADUs with two or more bedrooms to 1,000 square feet. These modestly sized infill units are therefore likely to require a lower payment compared to a larger, single-family unit. SB9, a more recently passed law that allows for subdivision and multiple units (up to four) to be constructed on single family lots, is also intended to encourage the production of smaller, "missing middle" housing units.

A concept related to affordability by design is referred to as, "missing middle housing." This term typically refers to housing that has a scale and form more similar to traditional single-family housing, but includes smaller and more compact units; examples include duplexes, triplexes, townhomes, courtyard-style homes, as shown in Figure 2, excerpted from Exhibit E. A key concept of missing middle housing is to allow for "house-scale" buildings with multiple units in areas of the jurisdiction where infill is appropriate. Some examples in Pleasanton of missing middle housing include the older housing stock seen downtown, with multiple units in a single building, constructed prior to the traditional single-family neighborhoods found outside of downtown. Some of the more recent projects that include attached housing types such as townhomes also provide examples of missing middle housing; although prices of these homes are high, they are relatively more affordable than new, detached single-family homes built in the same timeframe.

Figure 2: Examples of Missing Middle Housing (*source: Opticos Design, Inc*.)

While the City's municipal code allows for ADUs and SB9 units, the Housing Commission may want to consider whether it supports policy in the Housing Element encouraging alternative types of housing in select neighborhoods where additional infill may be appropriate.

DISCUSSION

The purpose of this meeting with the Housing Commission is to seek recommendations on additional or modified policies in the Housing Element related to the above-listed policy topics.

As mentioned in this report, the policies and programs in the Housing Element are subject to review by HCD and will be subject to ongoing monitoring and future progress reports provided annually to HCD. Thus, the City should identify only actions and programs for which meaningful progress can be made during the eight-year Housing Element period.

<u>Amount of the Lower-Income Housing Fee</u>

The City has adopted the LIHF based on the parameters established by AB 1600, including that the City demonstrate the fee will be used and applied with a reasonable relationship between both the fee's use and the need for the public improvement and type of development on which the fee is imposed. If the City were to modify it (beyond the update in 2018), the new fee should also be established within these parameters – i.e. not exceed the maximum fee levels identified in the 2018 study. If modified beyond this level, the City should update the existing nexus study, including an analysis of the fees compared to surrounding jurisdictions, impacts of new development, and costs to mitigate new housing demand.

As part of its 2021-2022 Work Plan, the City Council identified an update to the City's Affordable Housing Fees as a "Priority B" project, meaning that the project should either be completed or a significant milestone accomplished by the second year of the work plan (i.e. 2022).

Therefore, a first step would be for the City Council to evaluate whether fees should be increased closer to, or at, the maximum levels allowed by the 2018 study; and, potentially consider if the study should be more comprehensively updated. Staff notes that the prior update took approximately three years to complete, although was combined with an update of other City development impact fees, which added time and complexity to the process.

While the Work Plan identifies the review of the LIHF as a priority, staff notes that the COVID-19 pandemic has caused significant shifts and disruptions in the economy, particularly for commercial development, affecting both business locational decisions and aspects that contribute to the calculation of fees, such as construction costs for housing. As a result, a thoughtful approach to the timing and methodology for data collection will be important, to ensure that any anomalous market conditions are accounted for - it may also be beneficial to wait for these conditions to stabilize, before embarking on the comprehensive study, potentially during the first one to three years of the next Housing Element cycle if a decision is made to move forward with its preparation.

Finally, while staff notes there is the opportunity to consider raising the LIHF, there may be unintended consequences if they are set at an excessively high rate. For example, high impact fees imposed on market-rate housing projects may be viewed as an impediment or barrier to housing production. If commercial fees are set at too high of a rate, it may discourage investment in the community, and ultimately mean that there are fewer new and long-term sources of revenue available to the community, whether in the form of impact fees or ongoing revenues such as sales tax and property tax, that support essential government services, including support for housing programs.

Allocation and Expenditure of the LIHF

The current policies in place regarding the LIHF allow the funds to be used for a variety of reasons, and in a relatively flexible manner, as outlined in this report and in Exhibit A. Some of the priorities established in City policies, that help to provide guidance to staff and City officials in making funding recommendations, and/or allocating incentives to projects (such as fee reductions or permit streamlining) include:

- Projects that provide the greatest number of units at the greatest level of affordability. (Housing Element Program 11.1)

- Projects that provide for long-term affordability for extremely low, very-low, low-income units (Housing Element Policy 14)

- Projects involving partnerships between non-profit and for-profit housing developers that can potentially secure better funding and be more feasible to have the highest priority for approval and funding (Housing Element Program 18.5, and Policy 26)

- Housing developments with at least 25 percent units affordable to extremely low, very-low and low-income households to have the second highest priority for approval. (Housing Element Policy 27)

- Projects that provide "seed money" for State and Federal Tax Credits to promote affordable housing. (Housing Element Policy 24)

- Projects which accommodate the needs of special housing groups such as for persons with physical, mental, and/or developmental disabilities, and persons with extremely low-incomes. (Housing Element Program 43.4)

- Programs to provide low-interest loans for developing three bedroom rental units affordable to large low- and very low-income households (Housing Element Policy 47 and Programs 47.2 and 47.3)

In addition to the above-listed priorities that are specifically called out in the existing Housing Element, the Affordable Housing Fees (i.e., the LIHF) Chapter 17.40 of the PMC also notes, in Section 17.40.040.C. : *"When the city uses affordable housing fund moneys to construct or assist in the construction of lower-income units, the city may establish the rules which will apply to occupancy of said units. It is the intention of this chapter to and the general plan that such units be made available on a priority basis to Pleasanton residents and workers*."[8]

[8] It should be noted that, while the Ordinance's policy intention is clear, many affordable housing projects have used a combination of local- and non-local sources of funding; the majority of these funding sources come with limitations on the types of preferences that may be set and may preclude an explicit local preference being established or used as the primary basis for determining eligibility for a housing unit.

In reviewing the listed policies and priorities, staff believes they provide reasonable guidance that aligns well both with the most important housing needs in the community, particularly the groups for which state law dictates a particular or special effort must be made to serve.

In recognition that housing projects are often opportunistic, it is likely in the City's interest to retain flexibility and discretion in how to allocate the LIHF, rather than set up a more rigid framework of policy preferences for allocation of City housing funds. However, the Housing Commission may wish to weigh in on whether other priorities should be established, or an alternative approach taken to that which is in place today.

Modification of IZO

The IZO, while relatively recently adopted into the PMC respective to other sections, has nonetheless been in place for over 20 years. Policies in the Housing Element could indicate future review or refinement of existing policies or suggest areas of refinement.

As outlined above, the IZO includes a requirement for 15 percent of multifamily units in projects over 15 unit to be affordable; and 20 percent of units in a single-family residential project over 15 units.

One topic area that has been raised during the Housing Element process, is increasing the percentage of affordable units for a project required by the IZO, to be greater than the current maximum of 20 percent.

Having reviewed the field of Inclusionary Zoning programs, Pleasanton's current 15-20 percent range is very consistent, and in fact, on the higher end, of many cities' inclusionary percentage, locally within the Tri-Valley, and across California and the United States. Because building below-market-rate units requires significant subsidy, an overly aggressive inclusionary rate could become a constraint to overall housing production, have unintended consequences of making most housing projects infeasible, and potentially drive up the cost of the market rate units. Exhibit B to this report provides a summary of the IZO requirements for Livermore, Dublin, San Ramon, and Danville; Exhibit C is a comparison by Fannie Mae of inclusionary housing nationwide, and Exhibit D is a report by the Local Government Commission identifying best practices for IZOs, all of which suggest that Pleasanton's current inclusionary rate appears appropriate.

Compared to significantly increasing the percentage of affordability required for residential projects, a more modest, but nonetheless beneficial, approach could be to align the percentage of affordable units required between multifamily and single-family development to both be set at 20 percent. It has also been suggested that the inclusionary percentages be "flipped" – such that the higher, 20 percent requirement be tied to multi-family developments, and the lower, 15 percent requirement to single-family projects.

This latter change would make sense, given several factors that include: the relatively lower per-unit cost to construct a typical multifamily unit, providing less cost burden and risk of escalation of costs/prices for the project's market-rate units; the larger number of units in a typical multifamily project that will result in a larger yield of affordable units; the greater inherent affordability of rental versus for-sale housing; and the fact that rental housing units typically benefits more individual households over time, as occupancy of such units tends to turn over more quickly. In the City's experience, single-family residential projects are more challenged to provide the high proportion of inclusionary units and have almost all sought (and achieved) alternative means of compliance such as payment of fees, dedication of land, or other approaches allowable under the IZO.

Other opportunities for modifying the IZO include:

- Identify percentage split between income levels, instead of leaving the percentage to discretion in the Affordable Housing Agreement. This would provide an objective and predictable requirement for the affordability levels.

- Instead of requiring a percentage of the total number of units in projects to be affordable, modify the requirement to require a certain number of units per square feet of development. Staff notes that this is not a common approach and would likely need further review before implementation.

- Allow for a sliding scale or otherwise modify the percentage affordable required such that if a project proposes more units at a lower affordability level, a lesser percentage of overall units is required (deeper affordability across fewer units).

Of these possibilities, staff recommends:

1. Modifying the affordability levels to be consistent between single-family and multifamily development as an implementation of the Housing Element (i.e., 20 percent) OR "flipping" the percentages between single-family and multi-family projects. Staff does not recommend at this time increasing the percentage of affordable units to more than 20 percent since Pleasanton's requirement is consistent with (or greater than) most other local jurisdictions, and a greater requirement could have unintended consequences[9].

2. Identifying a percentage split between income levels so that this requirement is objectively and consistently applied for all projects subject to the IZO. While this is recommended, staff also suggests that an "escape valve" be provided for a project to propose (or for the City to require) a different mix of units, if it would better meet other housing policy objectives to do so - for example, to achieve deeper affordability, or support production of units more suitable for special needs groups, such as larger households, seniors, or disabled individuals.

If supported by the Housing Commission and ultimately City Council, a policy in the Housing Element would indicate that the municipal code be modified to reflect these changes.

Density Bonus

As mentioned in this report, the density bonus section was added to the municipal code in 2013 as implementation of the 2012 Housing Element. Since then, state law related to the state density bonus has been modified significantly, and the City's ordinance is no longer in

[9] Staff also notes that new requirements included in 2017's AB 1505 could subject the City to HCD review of an updated inclusionary ordinance requiring more than 15% of rental units to be restricted to lower-income households, if the City has failed to meet its Above-Moderate RHNA or to submit its Annual Planning Report (APR). The review, if required, could require preparation of an economic feasibility report demonstrating that the requirement would not "unduly constrain" the production of housing. (Government Code 65850.01.(a).

alignment with state law. Accordingly, staff recommends that a policy in the Housing Element indicate that the municipal code be updated to mirror current state law.

Affordable Housing Overlay Zone

An option that could be considered for further investigation or study, related to density bonus, is the concept of an Affordable Housing Overlay Zones (AHOZ). This model typically prescribes, either citywide or within certain areas, that a project may be eligible for additional density based on providing a requisite number of affordable housing units. Generally speaking, this type of overlay is focused on achieving high proportion of affordable housing units, up to 100 percent affordable, in exchange for more generous allocations of density, and potentially other specific concessions such as relaxation of height limits, FAR, or setbacks.

One example that has come to national attention in recent years, is the AHOZ adopted by the City of Cambridge, Massachusetts, in 2020. Cambridge's AHOZ is applied city-wide and provides significant development incentives to 100% affordable housing projects, along with design guidance, a review process, and parameters for approval. Several cities in California have also used an AHOZ approach to incentive affordable housing within specific geographic areas including: Menlo Park, Brisbane, Capitola, Los Gatos, and Buellton, with many of these cities using this approach to encourage units in their downtown areas.

Although this approach would mirror, to some extent, the housing density bonuses offered by the State, a local ordinance could allow the City to specify and tailor a program and process to its own local needs, target particular geographies, and develop incentives structured to the scale and character of the city, rather than the "one-size-fits-all" approach of state law.

However, there are many policy questions that would need to be considered in such a program for Pleasanton, including suitable locations, interface with State density bonus law and programs, appropriate "base" and "bonus" densities, and the sorts of concessions or modifications that should be applied, requiring an exhaustive effort that could likely not be concluded prior to adoption of the Housing Element. Nonetheless, if there were interest in investigating such a program, potentially to encourage or incentivize projects with very high levels of affordability (such as 100 % affordable), the study of such a program could be considered as an action for inclusion in the Housing Element.

Workforce Housing and Affordability by Design

Rental versus Ownership

As noted above, multifamily development has more often than single-family development *constructed* affordable units required by the City's IZO.

At the February 9, 2022 Planning Commission discussion on potential changes to the City's Inclusionary Housing Ordinance, the Commission was supportive both of increasing the inclusionary percentage for single-family units, and making an effort to encourage projects to build those units on-site, versus paying an in-lieu fee (and/or increasing in-lieu fees to be more commensurate with the cost of actually building affordable housing units).

One strategy that the Housing Commission may consider is whether to recommend policy/ies for affordable housing for ownership, designed for the "missing middle" population or for the workforce. However, staff notes that, whether for sale or for rent, smaller housing units tend to provide more affordability, and rental housing tends to be more affordable than for-sale housing. Thus, any strategy should not be to the detriment of providing rental housing since this may undermine overall affordability and access to workforce housing opportunities.

The most appropriate strategies, therefore, may be to focus on production of units "affordable by design" – whether for rent or for sale; and basic approaches such as those noted above with respect to the IZO, to encourage affordable for-sale units.

Partnerships

There may be opportunity to partner with local employers to provide workforce housing. Partnerships between the City and organizations like the Pleasanton Unified School District (PUSD) or employers such as Valley Care could facilitate identification of the challenges of workforce housing, how to best inform this population of existing programs related to housing, and to brainstorm additional solutions. In its discussion of the PUSD-District Office site, as part of the sites inventory review, the City Council expressed interest in facilitating teacher housing or workforce housing on the site; as the land use agency, the City could consider offering incentives such as reduced fees or streamlined review for a project that specifically targeted the local workforce.

Smaller Units/Missing Middle Housing

One of the key concepts of affordability by design is the unit size, as this lowers the cost of a unit, making it more affordable. The Housing Commission could consider additional policies in the Housing Element to encourage smaller units, particularly in multifamily projects. For example, a policy that called for a unit size mix, with a certain proportion of units required to be less than a certain square footage and/or have fewer bedrooms.[10]

At the February 9 meeting, the Planning Commission also expressed interest in having scaled impact fees for different sized units. Adjusting fees to be based on unit size, could encourage more production of smaller units, since there could be considerable cost savings to a developer in building a smaller versus a larger unit, depending on the cost differential.

As noted, "missing middle" housing types tend to produce more compact and affordable units, and there may be some benefit to encouraging some alternative, innovative housing types that may not be feasible or permissible to build today under current zoning standards. As mentioned, the City already has an ADU Ordinance and an ordinance for SB9, including Objective Design Standards (ODS) for both types of units.[11] Identified in the Recommendations section of this report, related to the ADU Ordinance, is a suggestion to streamline ADU development, in recognition that ADUs can be a beneficial form of affordable and "missing middle" housing. There are also areas of the city, aside from the larger Housing Element sites, where additional infill housing could occur. To ensure compatibility with existing neighborhoods, staff is working with a professional services team to develop ODS for existing, smaller infill sites.

[10] While this is a feasible strategy, it is cautioned that Housing Element Guidance, as well as the Settlement Agreement associated with the 4th Cycle Housing Element, required the City to have proactive policies to encourage production of affordable family housing units (i.e., units with three bedrooms). The City will likely need to maintain a balanced approach, and continue to allow for an encourage the production of larger affordable units, as well as smaller units.

[11] The City Council has requested a discussion of affordability restrictions for SB 9 units; this item is expected to be brought to the Council this spring.

In addition to these sites, however, there could also be additional opportunities for integrating alternative types of housing. This would be a focused approach in identifying specific areas of the city that could benefit from infill and where smaller, multifamily development could be integrated into the neighborhood. Some modifications may be needed to City zoning standards to accommodate such units; for example – smaller minimum lot sizes or dimensions, flexibility in how parking or on-site circulation is accommodated, or adjustments to setbacks. The potential pros and cons of such adjustments would need to be studied and analyzed to ensure projects would fit well into existing neighborhoods, and not create unintended impacts. Any changes to the municipal code as a result of Housing Element policy would be drafted with input from the public. Since many neighborhoods have unique characteristics that may not be reflected in other areas, modifications to the code to allow additional units or an alternative style of housing would be aligned with the objectives of the policy in addition to be customized to fit in with and be aligned with the preferences of the neighborhood.

<u>California Statewide Communities Development Authority (CSCDA) Workforce Housing Program</u>
Another approach is to evaluate unique financing programs. In March or April, the City Council is anticipated to review and evaluate the Workforce Housing Program, run by the California Statewide Communities Development Authority (CSCDA), which supports local jurisdiction's acquisition and conversion of market-rate apartment projects to deed-restricted moderate-income housing units.

The City Council will provide direction on whether the City should join the Joint Powers Authority that administers the program, which would facilitate the City participating in the program should an opportunity for a specific project arise.

SUMMARY OF STAFF RECOMMENDED POLICY DIRECTION
The following is a summary of staff's recommendation regarding the various policy topics in this report:

1. <u>LIHF</u>.
   - Consider increasing LIHF fees based on the current Nexus Study
   - Consider a more comprehensive update to LIHF and supporting Nexus Study as a future effort, potentially mid-way through the Housing Element cycle
   - Retain the existing policy basis for expenditure of LIHF that allows flexibility for the City Council to allocate these funds as needs and opportunities arise

   The Planning Commission was generally supportive of increasing the LIHF, to the extent permitted by the existing Nexus Study, with a follow-up study to occur as needed in the future. Staff notes that the gap between the current, and the maximum fee levels varies widely between land use categories, and it unlikely to be appropriate to increase every fee to the maximum allowable, since doing so could have a significant unintended consequence if it discouraged investment in Pleasanton of otherwise desirable uses (e.g. sales-tax generating retail, or high-wage employment).

2. <u>IZO</u>.
   - Make the percentage of affordable units between single-family and multifamily developments consistent, or "flip" the percentage requirements. The Planning

Commission generally supported increasing the affordability percentages such that both single-family and multifamily are both required 20 percent.

- Identify a target affordable unit split between income levels, with potential for exceptions to be granted where warranted. The Planning Commission generally supported identifying the affordability split.

3. Density Bonus. Update the City's Density Bonus ordinance to be consistent with state law. The Planning commission supported this recommendation.

4. AHOZ. Staff does not have a recommendation on this item, but the Housing Commission could consider whether or not the further study of an AHOZ for 100% affordable housing should be included as a program in the Housing Element. Some members of the Planning Commission supported exploring this concept in greater detail, whereas others thought an overlay would add unnecessary complexity to the City's requirements.

Staff will report Planning Commission's recommendations for the following at the Housing Commission meeting.

5. Define, "Workforce housing." Workforce housing has been discussed during the Housing Element update at various stages, but has yet to be defined. Staff recommends that the Housing Commission review the two draft definitions provided in this report and provide a recommendation for a definition.

6. Streamline ADU production. One of the objectives after adopting the ADU ordinance was to strategize on how to streamline ADU production. An approach that some jurisdictions have taken is to secure the services of a local architect or design firm to provide the public with preapproved plan sets for ADUs so that a property owner does not bear the cost and time associated with obtaining design and construction plans. After speaking with staff from other cities that have taken this approach, however, staff is considering alternative approaches, such as having companies that specialize in ADUs provide plans for the City to pre-approve, as opposed to the City hiring a design team to prepare the plans.

7. Complete Objective Design Standards. As mentioned in this report, the City is undertaking completion of ODS for residential development. In September 2021, the Planning Commission reviewed draft standards for larger-scale multifamily development (i.e., the remaining sites designated as part of the 2012 Housing Element); these standards would incorporate the additional sites that are included as part of the current Housing Element effort. Also, objective standards were incorporated into the City's SB 9 ordinance. As a complement to development that could occur on smaller sites (not the larger Housing Element sites), staff will be working with the consultant team to draft objective standards for smaller infill projects.

8. Smaller Units, Multifamily Projects. The Housing Commission may consider incorporating a Housing Element policy, with appropriate flexibility, to encourage smaller units in multifamily projects. These units would not necessarily be in lieu of larger sized units appropriate for families but would be targeted to smaller households or working professionals that may not require larger units.

9. Municipal Code Amendments for Small-scale Infill. A Housing Element policy could indicate to study the municipal code for possible amendments and accompanying ODS to facilitate small-scale, infill sites based on prototypes for "missing middle" housing.

10. Consider Partnerships with Key Local Employers. The City could foster partnerships with local employers, such as PUSD or Valley Care, to better support workforce housing for employees of these organizations.

NEXT STEPS
After Housing Commission provides its feedback at tonight's meeting, staff will present its recommendation and those of the Planning Commission to City Council in March, with Council's final direction to be incorporated into the Housing Element.

PUBLIC NOTICE
This item was identified in the Pleasanton Weekly's "Agenda Highlights" for upcoming public meetings, and an email notification was sent to all interested parties who have signed up on the Housing Element website: pleasantonhousingelement.com. As of the writing of this report, staff has not received any comments on this topic.

CONCLUSION
The policy topics for discussion at this meeting and the follow-up meeting are intended to provide an opportunity for focused discussion about possible implementation measures in the Housing Element. Feedback from the Housing Commission, along with that of the Planning Commission, will be provided to the City Council for final direction and integration into the Housing Element.

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