

Housing Commission Agenda Report

November 17, 2022

Item 04

SUBJECT **Review and Recommendation to City Council an Affordable Housing Agreement with Stoneridge Associates, LLC for the Stoneridge Mall Residential project (PUD-136)**

RECOMMENDATION

Review the Affordable Housing Agreement for the Stoneridge Mall Residential Project and recommend its approval to the City Council.

ATTACHMENTS

1. Draft Affordable Housing Agreement (AHA)
2. Inclusionary Zoning Ordinance (PMC Ch. 17.44)

BACKGROUND

The Simon Property Group (SPG), also referred as Stoneridge Associates, LLC, (the “Applicant”), has submitted an application to construct 360 residential units and a new parking garage exclusively serving the residents of the proposed Stoneridge Mall Residential Project (“Project”). Located at 1008 Stoneridge Mall Road in Pleasanton, the Project will redevelop the southeast corner of the existing Stoneridge Shopping Center by replacing a portion of the existing southeast surface parking lot located adjacent to the existing parking deck of the former Sears store and east of the Macy’s Women’s store with 360 residential rental units and a new parking garage for the Project residents. The location of the proposed residential project (APN 941-1201-94-3) is shown in the figure on the opposite page.

Originally constructed in the early 1980s, the Stoneridge Shopping Center, commonly referred to as Stoneridge Mall, is a 1.34 million square foot mall with over 6,600 parking spaces on an approximately 75-acre property. As described below, the property is one of two locations within the mall that were zoned for residential development in 2012, as part of the 4th Cycle Housing Element Update, with the other location in the northwest portion of the mall. These two sites, and the proposed residential development, is separate and distinct from the potential housing sites being considered as part of the current (6th Cycle) Housing Element update.

4th Cycle Housing Element (2012) Residential Rezoning

In the 4th Cycle Housing Element update, which was adopted and certified in 2012, the City designated the mall site as one of several sites that were rezoned for multifamily residential housing in order to accommodate the City’s Regional Housing Needs Allocation (RHNA). The mall site already has an existing utility infrastructure and street access, and since the site is an in-fill site, it can be efficiently developed without the design and construction of major new public facilities or private improvements. The site is also located near public transit, has

convenient freeway access and is close to employment centers. Two locations of the mall, totaling 10 acres, were designated as Mixed Use-Planned Unit Development (PUD) – a designation that allows for housing at a density of up to 40 units to the acre, for a total of 400 housing units.

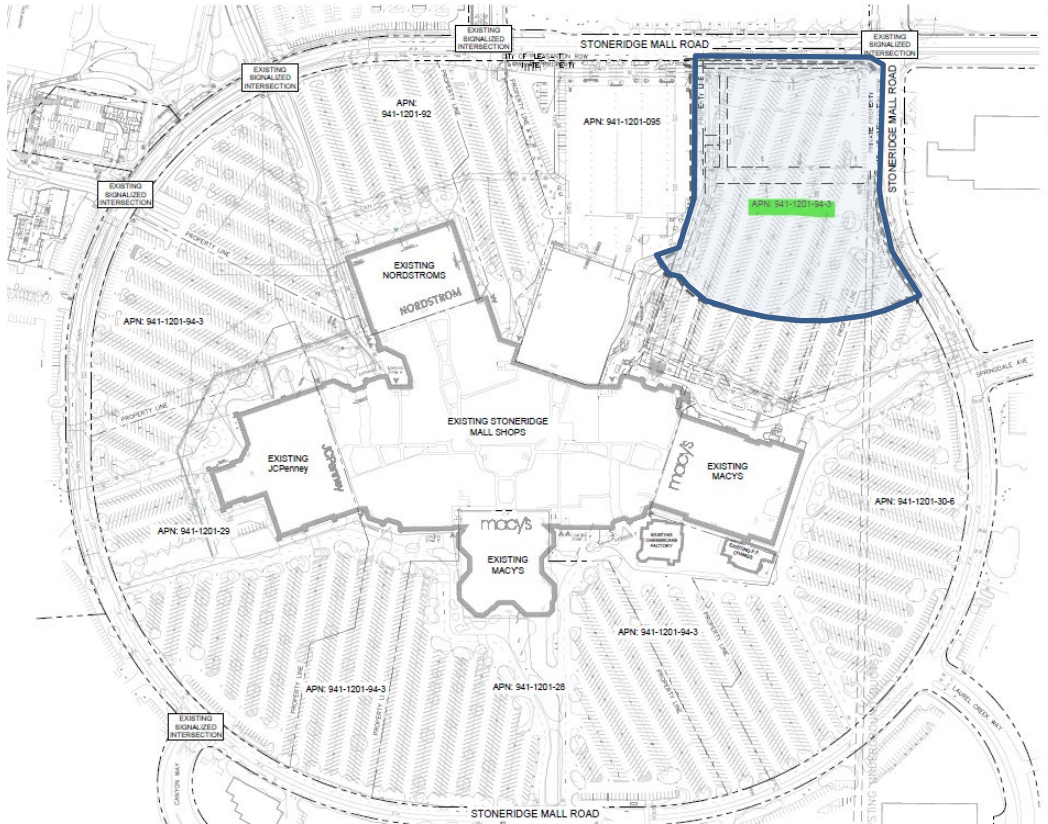


Figure 1: Project Location

Multifamily Residential Application (PUD-136)

In Summer 2022, SPG submitted this PUD application for 360 rental residential units on six acres of the larger 10-acre site. SPG qualifies to use the State Density Bonus Law (SDBL) which requires the City to allow a 50 percent increase of the base density which is originally at 40 dwelling units per acre (du/ac), and with the SDBL is proposed at 60 du/ac.

This Project has a net proposed density of 60 du/ac which would allow SPG to construct 360 rental housing units, as legally required to be permitted under SDBL. By proposing to restrict 58 of the units for rent to low-income households (which is 24 percent of the 240 base rental housing units; and 16 percent of the total 360 units), SPG will comply with the SDBL requirement that at least 24 percent of the total units to be for lower-income households earning up to 80% of the Area Median Income (AMI), which is currently at \$106,000 for a household of four.

The anticipated unit mix of the entire development is as follows:

Anticipated Unit Mix

Unit Type	Number of Units	Average Unit Size (SF)
Studio	29	570
1-bedroom units	173	766
2-bedroom units	131	1,090
3-bedroom units	27	1,451
Total Units	360	

DISCUSSION

Affordable Housing Requirements

This rental housing development meets the 15 or more total unit threshold, and therefore, is subject to the City’s Inclusionary Zoning Ordinance (IZO) (Attachment 2) that requires that 15 percent of the units in multifamily residential developments (e.g., apartments and condominiums) must be affordable to very low- and/or low-income households (50% to 80% AMI). SPG’s proposal to restrict 58 units (or 16 percent) of the 360 total units complies with the City’s IZO as well as with the SDBL previously described above. SPG will be counting the inclusionary units towards the density bonus requirements; therefore, the Project is required to comply with both City’s IZO and SDBL requirements.

City staff have been negotiating with SPG on how its project can meet both the intent of the IZO and the requirements of SDBL. As an outcome of these negotiations, a recommended draft Affordable Housing Agreement (AHA) has been prepared. A listing of the AHA’s most notable terms are as follows:

- Provide 58 units restricted for households whose income does not exceed 80% (low income) AMI. California Health & Safety Code section 50079.5 states that “low income households” include very low income (50% AMI) and extremely low income (30% AMI) households.

Unit Type	Household Size	Income (≤80% AMI)*
1 Bedroom ¹	Two (2) person household	32
2 Bedroom	Three (3) person household	20
3 Bedroom	Four (4) person household	6
Total Units		58

**The 2022 published HUD 80% Area Median Income for a household of four is \$106,000.*

- Rent restrict the 58 affordable units to low-income households with rent charged calculated based on the household income. As allowed by the SDBL, there are two tiers of rent proposed for the Project:

¹ The City and SPG have agreed that no studios will be income and rent restricted. The City targets its affordable rental housing units to households that have multiple members. 1-bedroom units are also better suited than studio units to support households that may grow in size. For SPG’s standpoint, this mix of unit types makes it easier to sort applicants during the tenant turnover process.

- 1) For households whose income do not exceed 60% AMI, monthly rent is calculated at 1/12 of 30% of 60% AMI, adjusted for household size, per SDBL (see California Health and Safety Code section 50053(b)(4)).
 - 2) For households earning between 61% to 80% AMI, monthly rent is calculated at 1/12 of 30% of the gross household income, as permitted by SDBL (see California Health and Safety Code section 50053(b)(4)).
- The affordable units shall be marketed by the developer and rented based on the City's Preference System and in compliance with federal and state Fair Housing laws.
 - The agreement will be recorded with the land and remain affordable in perpetuity. This City IZO requirement is longer than SDBL, and hence the stricter rule applies.
 - Requires the development to accept Section 8 housing vouchers from eligible qualified applicants.

Staff Recommendation

As outlined in the IZO, the Housing Commission's role is to recommend to the City Council to accept, reject, or amend the terms of the proposed AHA. The Commission may also make recommendations to the Planning Commission concerning conformance with the IZO. However, the Planning Commission does not have an identified role in determining project affordability, and therefore, any such recommendation would be related to project planning issues as they relate to affordable units. Based on review of the overall project site plan, staff has not identified any concern regarding building or site design that impact affordability. Should the Commission reject the proposed AHA, staff recommends that the Commission provide detailed rationale to the City Council for their consideration of the AHA as part of the City Council's review of the Project. The Commission's request for specific amendments to the AHA may also be discussed and forwarded to the City Council for review and consideration.

Overall, staff's opinion is that the proposed AHA is consistent with both the Inclusionary Zoning Ordinance and mandatory State Density Bonus Law; and therefore, suggests that the Commission recommend approval of the AHA to the City Council. Following the Commission's action, staff will forward the Commission's recommendation to the City Council concurrent with and as part of the City Council's review of the proposed Planned Unit Development.

Recorded at the request of
and when recorded return to:

City of Pleasanton Office
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CA 94566

[This document is exempt from recording fees
Pursuant to Government Code § 27383 and
Exempt from Documentary Transfer Tax pursuant
To Revenue and Taxation Code § 11922]

AFFORDABLE HOUSING AGREEMENT

This **AFFORDABLE HOUSING AGREEMENT** ("Agreement") is made this _____ day of _____, 202__, by the **CITY OF PLEASANTON**, a Municipal Corporation ("City"), and **STONERIDGE PROPERTIES, LLC**, a Delaware limited liability company, doing business in California as **STONERIDGE ASSOCIATES, LLC**, successor in interest to **SECURITY TRUST COMPANY**, as **TRUSTEE** under TRUST NO. 1860-0 ("Owner").

RECITALS

- A. Owner currently owns a legal or equitable interest in land consisting of approximately six (6.0) acres in Pleasanton, California, more particularly described in Attachment 1 attached hereto and incorporated herein by reference (the "Property").
- B. For the Property, Owner has obtained City approval (PUD-____) to develop a 360-unit multi-family residential project (collectively the "Project").
- C. Developer and the City wish to make a certain number of the apartment units within the Project available to households with incomes generally at or below eighty percent (80%) (low income) of the Area Median Income.
- D. Area Median Income (AMI) shall mean the area median income for the San Francisco-Oakland-Fremont Metropolitan Statistical Area adjusted for household size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development (HUD) pursuant to Section 8 of the United State Housing Act of 1937 or any successor statute.
- E. Execution of this Agreement meets the requirements of the City's Inclusionary Zoning Ordinance for the apartment units and shall be in lieu of paying the City's "Lower Income" Housing Fee for the project.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and conditions contained herein, City and Owner agree as follows:

1. Of the 360 apartment units, 58 shall be "Affordable" units. Developer shall make all Affordable units available for rent to households generally at or below 80% of the Area

Median Income as provided in Cal. Government Code §65915 and Cal. Health & Safety Code §50053(b)(4). The Affordable units shall be consistent with the following:

A. The Affordable unit mix shall be as follows:

Unit Type	Low Income (Generally at or below 80% of AMI)
1 Bedroom	32
2 Bedroom	20
3 Bedroom	6
Total:	58

B. Affordable unit rents shall be based on the following household sizes:

Unit Type	Household Size
Studio	One (1) person household
1 Bedroom Unit	Two (2) person household
2 Bedroom Unit	Three (3) person household
3 Bedroom Unit	Four (4) person household

C. The monthly rent for each of the Affordable units shall not exceed: (1) one-twelfth of 60% of the Area Median Income for households whose gross incomes generally exceed the maximum income for very low income households up to sixty percent (60%) of Area Median Income adjusted for the household sizes listed in Section B above multiplied by 30%; or (2) one-twelfth gross income for households whose gross incomes exceed sixty percent (60%) up to eighty percent (80%) of Area Median Income adjusted for the household sizes listed in Section B above multiplied by 30%.

D. Rent for Affordable units shall be based on the AMI at the time the City issues Certificate of Occupancy and shall adjust consistent with HUD's adjustment in the AMI. If HUD fails to issue revised Area Median Income/household income statistics for the San Francisco-Oakland-Fremont Metropolitan Statistical Area within 15 months of the previous revision, rents for the Affordable units may be adjusted based on the annual percentage increase in the San Francisco-Oakland Consumer Price Index for urban wage earners and clerical workers.

E. The rents described herein shall exclude utilities in the broadest sense, including, but not limited to gas, electricity, water, garbage, television cable, telephone, and internet service; provided, however, that if any or all of such utilities are offered at no cost to market rate units they shall also be offered at no cost to the Affordable units.

F. The Affordable units shall be dispersed throughout the apartment units located in the Project unless otherwise approved by the City. The Affordable units shall not be fixed and may change within the apartment units depending on vacancies.

G. The Affordable units shall have comparable interior standards of quality (e.g., appliances, interior features/amenities, services, etc.) as the market rate units.

H. All Affordable units shall be rented to qualified applicants in accordance with the

City's Preference System, as may be amended, with the most current version set forth in Attachment 2; unless otherwise amended by federal or state law governing fair housing and low income tax credits upon which the City and Developer shall mutually agree to a different process as permitted by such laws. The City's Preference System shall not be adjusted based on household income.

- I. Once each year, the Developer (or the Developer's successor in interest) shall provide the City a report detailing the average annual income of tenants occupying the Affordable units for each of the income categories listed in Section 1(A) above, the number of persons each household occupying the Affordable units, the number of vacancies and new rentals during the year for the Affordable units.
 - J. All Affordable units shall be subject to this Agreement for perpetuity.
2. The Developer, with City consultation, shall assume all responsibility to market the Affordable units. Marketing shall be in accordance with City eligibility and income guidelines in conformance with the City's Preference System, when otherwise mandated by federal or state laws governing fair housing and low-income tax credits upon which the City and Developer shall initially agree to a different process as permitted by such laws. Marketing material, leases, rent-up schedules, and other printed materials related to the Affordable units is subject to City approval in its reasonable discretion.
 3. Developer shall accept Section 8 vouchers as a means of assisting qualified applicants/residents.
 4. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, administrators and assigns.
 5. Owner shall have the right to transfer and assign all of its rights, duties and obligations under this Agreement to any person or entity acquiring fee simple title to any portion of the Property. Owner shall be immediately released from its obligations under this Agreement upon such assignment so long as: (i) Owner was not in default of this Agreement at the time of conveyance, (ii) Owner provided to City prior written notice of such transfer, and (iii) the transferee executes and delivers to City a written assumption agreement in which: (1) the name and address of the transferee is set forth, and (2) the transferee expressly assumes the obligations of Owner under this Agreement. Failure to deliver a written assumption agreement hereunder shall not negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Agreement. Nothing herein contained shall be deemed to grant to City discretion to approve or deny any such transfer.
 6. The execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate either of the parties hereto to, any person or entity not a party to this Agreement.
 7. If Owner fails to perform an obligation hereunder, and such failure continues for thirty (30) days after receipt of written notice of such failure by the City (or such longer period of time as may be reasonably necessary to cure such failure) then Owner shall be in default hereunder and the City's sole remedy hereunder shall be to pursue an action for specific performance against Owner.

8. Any notice, consent or other communication required or permitted under this Agreement shall be in writing and shall be delivered by hand, sent by air courier, or sent by prepaid registered or certified mail with return receipt requested, and shall be deemed to have been given on the earliest of (1) receipt or refusal of receipt; (b) one business day after delivery to an air courier for overnight expedited delivery service; (c) five (5) business days after the date deposited in the United States mail, registered or certified, with postage prepaid and return receipt requested (provided that such return receipt must indicate receipt at the address specified); or (d) on the day of its transmission by facsimile if transmitted during the business hours of the place of receipt, otherwise on the next business day, provided that a copy of such notice, consent or other communication is also delivered pursuant to clause (b) or (c) above. All references to "business days" herein shall exclude weekends and State or Federal holidays. All notices shall be addressed as follows (or to such other or further addresses as the parties may designate by notice given in accordance with this section):

If to the City, at:

City of Pleasanton
Attention: City Manager
P.O. Box 520
Pleasanton, CA 94566

If to the Owner, at:

Stoneridge Properties, LLC
c/o Simon Property Group
Attention: Legal Department
One Stoneridge Mall
Pleasanton, CA 94588

With a Copy to:

Perkins Coie, LLP
Attention: Cecily Barclay
505 Howard Street, Suite 1000
San Francisco, CA 94105

9. Notwithstanding anything to the contrary in this Agreement, the restrictions set forth in this Agreement shall be enforceable solely by the City and not by, or on behalf of, any tenant of the Project.
10. Counterparts. This Agreement may be executed in counterparts, and when all counterpart documents are executed, the counterparts shall constitute a single binding agreement.
11. This Agreement shall be recorded in Alameda County and shall run with the land.

THIS AGREEMENT is executed as of the date and year first above written.

[Signatures on following page.]

CITY:

CITY OF PLEASANTON, a Municipal Corporation

By:

Gerry Beaudin, City Manager

ATTEST:

Jocelyn Kwong, City Clerk

APPROVED AS TO FORM:

Daniel Sodergren, City Attorney

Owner:

STONERIDGE PROPERTIES LLC, a Delaware limited liability company, doing business in California as STONERIDGE ASSOCIATES, LLC

By: SIMON-MILLS 11, L.L.C., a Delaware limited liability company, its Managing Member

By: _____
Title: _____

Attachments:

1. Legal Description
2. City of Pleasanton's Preference System

Attachment 1
LEGAL DESCRIPTION
[TO BE ATTACHED]

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Attachment 2

CITY'S PREFERENCE SYSTEM

(Adopted January 19, 2021)

Preference System for City-Assisted Affordable Housing Projects

Section 1. Council adopts this revised City preference system described herein to be used for determining eligibility among prospective beneficiaries for existing and future affordable housing projects assisted by the City.¹

Section 2. Affordable units will be made available to qualified households based upon the preference categories listed below. The City may modify the preference categories from time to time by giving written notice to Lessor/Owner of such modifications, and Lessor/Owner shall adhere to such preference categories starting no later than ten (10) days following receipt of such notice. Each preference category is assigned a specific number of points as noted below. At the time of application, each applicant household will be assigned to one preference category and a corresponding point allocation in accordance to the criteria listed below. Households with the highest number of points will be given first priority for the affordable units. In the event there is more than one household with the same amount of points, which is likely, a lottery will be held at which time names of households with an equal number of preference points will be randomly drawn and assigned priority.

Section 3. The criteria for preference categories and corresponding point allocations are as follows:

20 POINTS

Households where at least one of the signators of the tenant lease or purchase agreement (and who is a member of the household) is a Pleasanton resident and a Pleasanton employee at the time of application and has continuously lived and worked in the City of Pleasanton for two years or more prior to the time of application.

18 POINTS

Households where at least one of the signators of the tenant lease or purchase agreement (and who is a member of the household) is a Pleasanton resident and a Pleasanton employee at the time of application and has continuously lived and worked in the City of Pleasanton less than two years prior to the time of application.

¹ A project assisted by the City may include, but is not limited to, a project which: (a) has inclusionary units subject to the requirements of the Pleasanton Municipal Code (PMC) Chapter 17.44; (b) receives grants or loans of affordable housing fees pursuant to PMC Chapter 17.40; (c) receive waivers or reductions of development impact fees; or (d) is subject to an affordable housing agreement or development agreement which provides for affordable units.

16 POINTS

Households where at least one of the signators of the tenant lease or purchase agreement (and who is a member of the household) is either a Pleasanton resident or a Pleasanton employee at the time of application and has continuously lived or worked in the City of Pleasanton for two years or more prior to the time of application.

14 POINTS

Households where at least one member of the signators of the tenant lease or purchase agreement (and who is a member of the household) is either a Pleasanton resident or a Pleasanton employee at the time of application and has continuously lived or worked in the City of Pleasanton less than two years prior to the time of application.

12 POINTS

Households where at least one member of the signators of the tenant lease or purchase agreement (and who is a member of the household) has an immediate relative (defined as a son, daughter, brother sister, and/or parent) who is a Pleasanton resident at the time of application, provided the immediate relative has lived in the City of Pleasanton for at least two years prior to the time of application.

10 POINTS

All other households.

Section 4. In addition to the above points, one (1) bonus point will be given to households which meet one or more of the following criteria:

- a) single parent head of household;
- b) disabled person as defined herein;
- c) households in which at least one of the signators of the tenant lease or purchase agreement has been a Pleasanton resident for seven continuous years or longer prior to the time of application.

A maximum of one (1) bonus point may be awarded to any one household.

Section 5. In addition to the above points, a maximum of one (1) additional point will be given to households where at least one of the signators of the tenant lease or purchase agreement is:

- a) An employee (sworn or civilian personnel) of the Pleasanton Police Department, Livermore-Pleasanton Fire Department, or other first responder² who primary works in Pleasanton.

² "First Responder" is defined as a person with specialized training who is among the first to arrive and provide assistance at the scene of an emergency, such as an accident, natural disaster or terrorism. First responders include, but are not limited to, law enforcement officers, paramedics, emergency medical technicians (EMTs) and firefighters.

- b) Pleasanton Unified School District or private school employees, including teachers, providing prekindergarten through 12th grade education that are registered with the Alameda County Superintendent of Public Education per Cal. Education Code section 33190 and are located in Pleasanton.
- c) Public employees of city or county governments.
- d) Employees of not-for-profit agencies granted tax-exempt status by the IRS that provide social services (including, but not limited to, food subsidies, health care, job training, subsidized housing, adoption, support for persons with disabilities, school readiness, etc.) from a Pleasanton location.
- e) To qualify for the maximum one (1) point for the employment categories described in this Section 5, the signator must be both: (a) currently employed at such position at the time of application; and (b) have been continuously employed in such position for at least six (6) months prior to the date of application.

Section 6. For persons who are retired at the time of application, the applicant's work history immediately prior to the date of retirement shall be considered in determining the length of employment in Pleasanton for the first four point categories listed above.

Section 7. For persons who moved away from the City of Pleasanton less than six months prior to the time of application and who resided in the City of Pleasanton continuously for at least ten (10) years immediately prior to moving away, the residency history prior to the date of moving away shall be considered in determining the length of residency in the first four point categories listed above.

Section 8. "Pleasanton Resident" is defined as a person or household who resides permanently and continuously at a residential address which is physically located within the then current incorporated area of the City of Pleasanton and where that location is considered to be the household's permanent place of residence. The City may require applicants to submit a driver's license, voter registration, utility bill, or other evidence as proof of residency in Pleasanton. "Pleasanton employee" is defined as a person who is permanently and continuously employed on at least a half-time basis (i.e., 20 or more hours per week) at a business which is physically located within the then current incorporated area of the City of Pleasanton. The City may require applicants to submit pay stubs, W-2 forms, tax returns, or other evidence as proof of employment at a Pleasanton business.

Section 9. "Disabled Person" is defined as a head of household who has a medically documented permanent physical or mental impairment which prevents them from maintaining full time regular employment. Any individual claiming Disabled Person status must submit verification from a licensed doctor of the disability and its effect on the ability to maintain full time employment. A Disabled Person shall be assigned a number of points as if the person was employed regardless of the Disabled Person's employment status plus one bonus point. If an individual has a disability that substantially limits one or more major life activities and has a medical record of such

impairment, but the disability does not prevent the ability to maintain full-time regular employment the individual shall be assigned the appropriate number of points as detailed in Section 3 above plus one bonus point as detailed in Section 4 above. Examples of a disability include limitations on caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, or working.

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Attachment 2

CITY'S PREFERENCE SYSTEM

(Adopted January 19, 2021)

Preference System for City-Assisted Affordable Housing Projects

Section 1. Council adopts this revised City preference system described herein to be used for determining eligibility among prospective beneficiaries for existing and future affordable housing projects assisted by the City.¹

Section 2. Affordable units will be made available to qualified households based upon the preference categories listed below. The City may modify the preference categories from time to time by giving written notice to Lessor/Owner of such modifications, and Lessor/Owner shall adhere to such preference categories starting no later than ten (10) days following receipt of such notice. Each preference category is assigned a specific number of points as noted below. At the time of application, each applicant household will be assigned to one preference category and a corresponding point allocation in accordance to the criteria listed below. Households with the highest number of points will be given first priority for the affordable units. In the event there is more than one household with the same amount of points, which is likely, a lottery will be held at which time names of households with an equal number of preference points will be randomly drawn and assigned priority.

Section 3. The criteria for preference categories and corresponding point allocations are as follows:

20 POINTS

Households where at least one of the signators of the tenant lease or purchase agreement (and who is a member of the household) is a Pleasanton resident and a Pleasanton employee at the time of application and has continuously lived and worked in the City of Pleasanton for two years or more prior to the time of application.

18 POINTS

Households where at least one of the signators of the tenant lease or purchase agreement (and who is a member of the household) is a Pleasanton resident and a Pleasanton employee at the time of application and has continuously lived and worked in the City of Pleasanton less than two years prior to the time of application.

¹ A project assisted by the City may include, but is not limited to, a project which: (a) has inclusionary units subject to the requirements of the Pleasanton Municipal Code (PMC) Chapter 17.44; (b) receives grants or loans of affordable housing fees pursuant to PMC Chapter 17.40; (c) receive waivers or reductions of development impact fees; or (d) is subject to an affordable housing agreement or development agreement which provides for affordable units.

16 POINTS

Households where at least one of the signators of the tenant lease or purchase agreement (and who is a member of the household) is either a Pleasanton resident or a Pleasanton employee at the time of application and has continuously lived or worked in the City of Pleasanton for two years or more prior to the time of application.

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12 POINTS

Households where at least one member of the signators of the tenant lease or purchase agreement (and who is a member of the household) has an immediate relative (defined as a son, daughter, brother sister, and/or parent) who is a Pleasanton resident at the time of application, provided the immediate relative has lived in the City of Pleasanton for at least two years prior to the time of application.

10 POINTS

All other households.

Section 4. In addition to the above points, one (1) bonus point will be given to households which meet one or more of the following criteria:

- a) single parent head of household;
- b) disabled person as defined herein;
- c) households in which at least one of the signators of the tenant lease or purchase agreement has been a Pleasanton resident for seven continuous years or longer prior to the time of application.

A maximum of one (1) bonus point may be awarded to any one household.

Section 5. In addition to the above points, a maximum of one (1) additional point will be given to households where at least one of the signators of the tenant lease or purchase agreement is:

- a) An employee (sworn or civilian personnel) of the Pleasanton Police Department, Livermore-Pleasanton Fire Department, or other first responder² who primary works in Pleasanton.

² "First Responder" is defined as a person with specialized training who is among the first to arrive and provide assistance at the scene of an emergency, such as an accident, natural disaster or terrorism. First responders include, but are not limited to, law enforcement officers, paramedics, emergency medical technicians (EMTs) and firefighters.

- b) Pleasanton Unified School District or private school employees, including teachers, providing prekindergarten through 12th grade education that are registered with the Alameda County Superintendent of Public Education per Cal. Education Code section 33190 and are located in Pleasanton.
- c) Public employees of city or county governments.
- d) Employees of not-for-profit agencies granted tax-exempt status by the IRS that provide social services (including, but not limited to, food subsidies, health care, job training, subsidized housing, adoption, support for persons with disabilities, school readiness, etc.) from a Pleasanton location.
- e) To qualify for the maximum one (1) point for the employment categories described in this Section 5, the signator must be both: (a) currently employed at such position at the time of application; and (b) have been continuously employed in such position for at least six (6) months prior to the date of application.

Section 6. For persons who are retired at the time of application, the applicant's work history immediately prior to the date of retirement shall be considered in determining the length of employment in Pleasanton for the first four point categories listed above.

Section 7. For persons who moved away from the City of Pleasanton less than six months prior to the time of application and who resided in the City of Pleasanton continuously for at least ten (10) years immediately prior to moving away, the residency history prior to the date of moving away shall be considered in determining the length of residency in the first four point categories listed above.

Section 8. "Pleasanton Resident" is defined as a person or household who resides permanently and continuously at a residential address which is physically located within the then current incorporated area of the City of Pleasanton and where that location is considered to be the household's permanent place of residence. The City may require applicants to submit a driver's license, voter registration, utility bill, or other evidence as proof of residency in Pleasanton. "Pleasanton employee" is defined as a person who is permanently and continuously employed on at least a half-time basis (i.e., 20 or more hours per week) at a business which is physically located within the then current incorporated area of the City of Pleasanton. The City may require applicants to submit pay stubs, W-2 forms, tax returns, or other evidence as proof of employment at a Pleasanton business.

Section 9. "Disabled Person" is defined as a head of household who has a medically documented permanent physical or mental impairment which prevents them from maintaining full time regular employment. Any individual claiming Disabled Person status must submit verification from a licensed doctor of the disability and its effect on the ability to maintain full time employment. A Disabled Person shall be assigned a number of points as if the person was employed regardless of the Disabled Person's employment status plus one bonus point. If an individual has a disability that substantially limits one or more major life activities and has a medical record of such

impairment, but the disability does not prevent the ability to maintain full-time regular employment the individual shall be assigned the appropriate number of points as detailed in Section 3 above plus one bonus point as detailed in Section 4 above. Examples of a disability include limitations on caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, or working.

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Pleasanton Municipal Code							
Up	Previous	Next	Main	Collapse	Search	Print	No Frames
Title 17 PLANNING AND RELATED MATTERS							

Chapter 17.44 INCLUSIONARY ZONING

Article I. General Provisions

17.44.010 Title.

This chapter shall be called the “Inclusionary Zoning Ordinance of the City of Pleasanton.” (Ord. 1818 § 1, 2000)

17.44.020 Purpose.

The purpose of this chapter is to enhance the public welfare and assure that further housing development attains the city’s affordable housing goals by increasing the production of residential units affordable to households of very low, low, and moderate income, and by providing funds for the development of very low, low, and moderate income ownership and/or rental housing. In order to assure that the remaining developable land is utilized in a manner consistent with the city’s housing policies and needs, 15 percent of the total number of units of all new multiple-family residential projects containing 15 or more units, constructed within the city as it now exists and as may be altered by annexation, shall be affordable to very low and low income households. For all new single-family residential projects of 15 units or more, at least 20 percent of the project’s dwelling units shall be affordable to very low, low, and/or moderate income households. These requirements shall apply to both ownership and rental projects. (Ord. 1818 § 1, 2000)

17.44.030 Definitions.

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended.

“Affordable housing proposal.” A proposal submitted by the project owner as part of the city development application (e.g., design review, planned unit development, etc.) stating the method by which the requirements of this chapter are proposed to be met.

“Affordable rent.” A monthly rent (including utilities as determined by a schedule prepared by the city) which does not exceed one-twelfth of 30 percent of the maximum annual income for a household of the applicable income level.

“Affordable sales price.” A sales price which results in a monthly mortgage payment (including principal and interest) which does not exceed one-twelfth of 35 percent of the maximum annual income for a household of the applicable income level.

“Amenities.” Interior features which are not essential to the health and safety of the resident, but provide visual or aesthetic appeal, or are provided as conveniences rather than as necessities. Interior amenities may include, but are not limited to, fireplaces, garbage disposals, dishwashers, cabinet and storage space and bathrooms in excess of one. Amenities shall in no way include items required by city building codes or other ordinances that are necessary to ensure the safety of the building and its residents.

“Applicant.” Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks city permits and approvals for a project.

“City.” The city of Pleasanton or its designee or any entity with which the city contracts to administer this chapter.

“Commercial, office, and industrial project.” For the purposes of this chapter, any new nonresidential (commercial, office, or industrial) development or redevelopment greater than 10 gross acres 250,000 square feet of gross building area, whichever is less.

“Dwelling unit.” A dwelling designed for occupancy by one household.

“HUD.” The United States department of housing and urban development or its successor.

“Household.” One person living alone; or two or more persons sharing residency whose income is considered for housing payments.

“Household, low income.” A household whose annual income is more than 50 percent but does not exceed 80 percent of the annual median income for Alameda County, based upon the annual income figures provided by the U.S. department of housing and urban development (HUD), as adjusted for household size.

“Household, moderate income.” A household whose annual income is more than 80 percent but does not exceed 120 percent of the annual median income for Alameda County, based upon the annual income figures provided by HUD, as adjusted for household size.

“Household, very low income.” A household whose annual income does not exceed 50 percent of the annual median income for Alameda County, based upon the annual income figures provided by HUD, as adjusted for household size.

“Inclusionary unit.” A dwelling unit as required by this chapter which is rented or sold at affordable rents and/or affordable sales prices (as defined by this chapter) to very low, low, or moderate income households.

“Inclusionary unit credits.” Credits approved by the city council in the event a project exceeds the total number of inclusionary units required in this chapter. Inclusionary unit credits may be used by the project owner to meet the affordable housing requirements of another project subject to approval by the city council.

“Income.” The gross annual household income as defined by HUD.

“Life of the inclusionary unit.” The term during which the affordability provisions for inclusionary units shall remain applicable. The affordability provisions for inclusionary units shall apply in perpetuity from the date of occupancy, which shall be the date the city of Pleasanton performs final inspection for the building permit.

“Lower income housing fee.” A fee paid to the city by an applicant for a project in the city, in lieu of providing the inclusionary units required by this chapter.

“Median income for Alameda County.” The median gross annual income in Alameda County as determined by HUD, adjusted for household size.

“Off-site inclusionary units.” Inclusionary units constructed within the city of Pleasanton on a site other than the site where the applicant intends to construct market rate units.

“Ownership units.” Inclusionary units developed as part of a residential development which the applicant intends will be sold, or which are customarily offered for individual sale.

“Project.” A residential housing development at one location or site including all dwelling units for which permits have been applied for or approved.

“Project owner.” Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which holds fee title to the land on which the project is located.

“Property owner.” The owner of an inclusionary unit, excepting a “project owner.”

“Recapture mechanisms.” Legal programs and restrictions by which subsidies provided to inclusionary units will be controlled and repaid to the city and/or other entity upon resale, to ensure the ongoing preservation of affordability of inclusionary units or to ensure funds for inclusionary units remain within the city’s affordable housing program.

“Rental units”: Inclusionary units which the applicant intends will be rented or leased, or which are customarily offered for lease or rent.

“Resale restrictions.” Legal restrictions which restrict the price of inclusionary units to ensure that they remain affordable to very low, low, and moderate income households on resale.

“Residential project, multiple-family.” A residential project consisting of condominiums, apartments, and similar dwellings attached in groups of four or more units per structure and including multiple units located on a single parcel of land under common ownership.

“Residential project, single-family.” A residential project consisting of detached and attached single-family homes, including paired single-family, duets, duplexes, townhomes, and similar unit types where each unit is located on a separate parcel of land.

“Unit type.” Various dwelling units within a project which are distinguished by number of bedrooms and/or the type of construction (e.g., detached single-family, duets, townhomes, condominiums). (Ord. 1818 § 1, 2000)

Article II. Zoning Requirements

17.44.040 General requirements/applicability.

A. Residential Development. For all new multiple-family residential projects of 15 units or more, at least 15 percent of the project’s dwelling units shall be affordable to very low, and/or low income households. For all new single-family residential projects of 15 units or more, at least 20 percent of the project’s dwelling units shall be affordable to very low, low, and/or moderate income households. These dwelling units shall be referred to as “Inclusionary Units”. Special consideration will be given to projects in which a significant percentage of the inclusionary units are for very low and low income households. The specific mix of units within the three affordability categories shall be subject to approval by the city.

The inclusionary units shall be reserved for rent or purchase by eligible very low, low, and moderate income households, as applicable. Projects subject to these requirements include, but are not limited to, single-family detached dwellings, townhomes, apartments, condominiums, or cooperatives provided through new construction projects, and/or through conversion of rentals to ownership units.

The percentage of inclusionary units required for a particular project shall be determined only once on a given project, at the time of tentative map approval, or, for projects not processing a map, prior to issuance of building permit. If the subdivision design changes, which results in a change in the number of unit types required, the number of inclusionary units required shall be recalculated to coincide with the final approved project. In applying and calculating the 15 percent requirement, any decimal fraction less than or equal to 0.50 may be disregarded, and any decimal fraction greater than 0.50 shall be construed as one unit.

B. Commercial, Office, and Industrial (COI) Development. In lieu of paying the lower income fee as set forth in city Ordinance No. 1488, COI development may provide affordable housing consistent with this chapter. As a result, new COI developments are strongly encouraged to submit an affordable housing proposal as set forth in Section 17.44.090 of this chapter. Upon submittal of the affordable housing proposal, city staff will meet with the developer to discuss the potential for providing incentives to encourage on-site construction of affordable housing units and alternatives to constructing affordable units as set forth in this chapter. In the event a developer requests incentives or alternatives as a means of providing affordable housing in connection with a COI development, the affordable housing proposal will be reviewed as set forth in Section 17.44.090 of this chapter. COI development not pursuing the inclusion of affordable housing shall be subject to the lower income fees as set forth in city ordinance 1488. (Ord. 1818 § 1, 2000)

17.44.050 Inclusionary unit provisions and specifications.

A. Inclusionary units shall be dispersed throughout the project unless otherwise approved by the city.

B. Inclusionary units shall be constructed with identical exterior materials and an exterior architectural design that is consistent with the market rate units in the project.

C. Inclusionary units may be of smaller size than the market units in the project. In addition, inclusionary units may have fewer interior amenities than the market rate units in the project. However, the city may require that the inclusionary units meet certain minimum standards. These standards shall be set forth in the affordable housing agreement for the project.

D. Inclusionary units shall remain affordable in perpetuity through recordation of an affordable housing agreement as described in Section 17.44.060 of this chapter.

E. All inclusionary units in a project shall be constructed concurrently within or prior to the construction of the project’s market rate units.

F. For purposes of calculating the affordable rent or affordable sales price of an inclusionary unit, the following household size assumptions shall be used for each applicable dwelling unit type:

Unit Size	HUD Income Category by Household Size
Studio unit	1 person
1 bedroom unit	2 persons
2 bedroom unit	3 persons
3 bedroom unit	4 persons
4 or more bedroom unit	5 or more persons

G. The city's adopted preference and priority system shall be used for determining eligibility among prospective beneficiaries for affordable housing units created through this inclusionary zoning ordinance. (Ord. 1818 § 1, 2000)

17.44.060 Affordable housing agreement.

An affordable housing agreement shall be entered into by the city and the project owner. The agreement shall record the method and terms by which a project owner shall comply with the requirements of this chapter. The approval and/or recordation of this agreement shall take place prior to final map approval or, where a map is not being processed, prior to the issuance of building permits for such lots or units.

The affordable housing agreement shall state the methodology for determining a unit's initial and ongoing rent or sales and resale price(s), any resale restrictions, occupancy requirements, eligibility requirements, city incentives including second mortgages, recapture mechanisms, the administrative process for monitoring unit management to assure ongoing affordability and other matters related to the development and retention of the inclusionary units.

In addition to the above, the affordable housing agreement shall set forth any waiver of the lower income housing fee. For projects which meet the affordability threshold with very low and/or low income units, all units in the project shall be eligible for a waiver of the lower income housing fee. For single-family residential projects which meet the affordability threshold with moderate income units, or multiple-family residential projects which do not meet the affordability threshold, only the inclusionary units shall be eligible for a waiver of the lower income housing fee except as otherwise approved by the city council.

To assure affordability over the life of the unit, the affordable housing agreement shall be recorded with the property deed or other method approved by the city attorney. In the event an inclusionary unit is affordable by design the affordable housing agreement shall stipulate the method for assuring that the units retain their affordability as the housing market changes.

The community development director may waive the requirement for an affordable housing agreement for projects approved prior to the effective hereof and/or for projects that have their affordable housing requirements included in a development agreement or other city document. (Ord. 2000 § 1, 2009; Ord. 1818 § 1, 2000)

17.44.070 Incentives to encourage on-site construction of inclusionary units.

The city shall consider making available to the applicant incentives to increase the feasibility of residential projects to provide inclusionary units. Incentives or financial assistance will be offered only to the extent resources for this purpose are available and approved for such use by the city council or city manager, as defined below, and to the extent that the project, with the use of incentives or financial assistance, assists in achieving the city's housing goals. However, nothing in this chapter establishes, directly or through implication, a right of an applicant to receive any assistance or incentive from the city.

Any incentives provided by the city shall be set out in the affordable housing agreement pursuant to Section 17.44.060 of this chapter. The granting of the additional incentives shall require demonstration of exceptional circumstances that

necessitate assistance from the city, as well as documentation of how such incentives increase the feasibility of providing affordable housing.

The following incentives may be approved for applicants who construct inclusionary units on-site:

A. Fee Waiver or Deferral. The city council, by resolution, may waive or defer payment of city development impact fees and/or building permit fees applicable to the inclusionary units or the project of which they are a part. Fee waivers shall meet the criteria included in the city's adopted policy for evaluating waivers of city fees for affordable housing projects. The affordable housing agreement shall include the terms of the fee waiver.

B. Design Modifications. The granting of design modifications relative to the inclusionary requirement shall require the approval of the city council and shall meet all applicable zoning requirements of the city of Pleasanton. Modifications to typical design standards may include the following:

Reduced setbacks;

Reduction in infrastructure requirements;

Reduced open space requirements;

Reduced landscaping requirements;

Reduced interior or exterior amenities;

Reduction in parking requirements;

Height restriction waivers.

C. Second Mortgages. The city may utilize available lower income housing funds for the purpose of providing second mortgages to prospective unit owners or to subsidize the cost of a unit to establish an affordable rent or an affordable sales price. Terms of the second mortgage or subsidy shall be stated in the affordable housing agreement. The utilization of these incentives shall not be the sole source of providing the inclusionary units and they are intended to augment the developer's proposal.

D. Priority Processing. After receiving its discretionary approvals, a project that provides inclusionary units may be entitled to priority processing of building and engineering approvals subject to the approval of the city manager. A project eligible for priority processing shall be assigned to city engineering and/or building staff and processed in advance of all nonpriority items. (Ord. 1818 § 1, 2000)

17.44.080 Alternatives to constructing inclusionary units on-site.

The primary emphasis of this inclusionary zoning ordinance is to achieve the inclusion of affordable housing units to be constructed in conjunction with market rate units within the same project in all new residential projects. However, the city acknowledges that it may not always be practical to require that every project satisfy its affordable housing requirement through the construction of affordable units within the project itself. Therefore, the requirements of this chapter may be satisfied by various methods other than the construction of inclusionary units on the project site. Some examples of alternate methods of compliance appear below. As housing market conditions change, the city may need to allow alternatives to provide options to applicants to further the intent of providing affordable housing with new development projects.

A. Off-Site Projects. Inclusionary units required pursuant to this chapter may be permitted to be constructed at a location within the city other than the project site. Any off-site inclusionary units must meet the following criteria:

1. The off-site inclusionary units must be determined to be consistent with the city's goal of creating, preserving, maintaining, and protecting housing for very low, low, and moderate income households.

2. The off-site inclusionary units must not result in a significant concentration of inclusionary units in any one particular neighborhood.

3. The off-site inclusionary units shall conform to the requirements of all applicable city ordinances and the provisions of this chapter.

4. The occupancy and rents of the off-site inclusionary units shall be governed by the terms of a deed restriction, and if applicable, a declaration of covenants, conditions and restrictions similar to that used for the on-site inclusionary units.

The affordable housing agreement shall stipulate the terms of the off-site inclusionary units. If the construction does not take place at the same time as project development, the agreement shall require the units to be produced within a specified time frame, but in no event longer than five years. A cash deposit or bond may be required by the city, refundable upon construction, as assurance that the units will be built.

B. Land Dedication. An applicant may dedicate land to the city or a local nonprofit housing developer in place of actual construction of inclusionary units upon approval of the city council. The intent of allowing a land dedication option is to provide the city or a local nonprofit housing developer the free land needed to make an inclusionary unit development feasible, thus furthering the intent of this chapter.

The dedicated land must be appropriately zoned, buildable, free of toxic substances and contaminated soils, and large enough to accommodate the number of inclusionary units required for the project. The city's acceptance of land dedication shall require that the lots be fully improved, with infrastructure, adjacent utilities, grading, and fees paid.

C. Credit Transfers. In the event a project exceeds the total number of inclusionary units required in this chapter, the project owner may request inclusionary unit credits which may be used to meet the affordable housing requirements of another project. Inclusionary unit credits are issued to and become the possession of the project owner and may not be transferred to another project owner without approval by the city council. The number of inclusionary unit credits awarded for any project is subject to approval by the city council.

D. Alternate Methods of Compliance. Applicants may propose creative concepts for meeting the requirements of this chapter, in order to bring down the cost of providing inclusionary units, whether on- or off-site. The city council may approve alternate methods of compliance with this chapter if the applicant demonstrates that such alternate method meets the purpose of this chapter (as set forth in Section 17.44.020 of this chapter).

E. Lower Income Housing Fee Option. In lieu of providing inclusionary units in a project, an applicant may pay the city's lower income housing fee as set forth in Chapter 17.40 of this title. (Ord. 1818 § 1, 2000)

Article III. Miscellaneous

17.44.090 Administration.

An applicant of a project subject to this chapter shall submit an affordable housing proposal stating the method by which it will meet the requirements of this chapter. The affordable housing proposal shall be submitted as part of the applicant's city development application (e.g., design review, planned unit development, etc.) to the planning division in a form approved by the city manager. The community development director may waive the requirement for submittal of an affordable housing proposal for projects approved prior to the effective date hereof and/or for projects that have undergone considerable public review during which affordable housing issues were addressed.

The affordable housing proposal shall be reviewed by the city's housing commission at a properly noticed meeting open to the public. The housing commission shall make recommendations to the city council either accepting, rejecting or modifying the developer's proposal and the utilization of any incentives as outlined in this chapter. The housing commission may also make recommendations to the planning commission regarding the project as necessary to assure conformance with this chapter.

Acceptance of the applicant's affordable housing proposal is subject to approval by the city council, which may direct the city manager to execute an affordable housing agreement in a form approved by the city attorney. The city manager or his or her designee shall be responsible for monitoring the sale, occupancy and resale of inclusionary units. (Ord. 2000 § 1, 2009; Ord. 1818 § 1, 2000)

17.44.100 Conflict of interest.

The following individuals are ineligible to purchase or rent an inclusionary unit: (a) city employees and officials (and their immediate family members) who have policymaking authority or influence regarding city housing programs; (b) the project applicant and its officers and employees (and their immediate family members); and (c) the project owner and its officers and employees (and their immediate family members). (Ord. 1818 § 1, 2000)

[17.44.110 Enforcement.](#)

The city manager is designated as the enforcing authority. The city manager may suspend or revoke any building permit or approval upon finding a violation of any provision of this chapter. The provisions of this chapter shall apply to all agents, successors and assigns of an applicant. No building permit or final inspection shall be issued, nor any development approval be granted which does not meet the requirements of this chapter. In the event that it is determined that rents in excess of those allowed by operation of this chapter have been charged to a tenant residing in an inclusionary unit, the city may take appropriate legal action to recover, and the project owner shall be obligated to pay to the tenant, or to the city in the event the tenant cannot be located, any excess rents charged. (Ord. 1818 § 1, 2000)

[17.44.120 Appeals.](#)

Any person aggrieved by any action or determination of the city manager under this chapter, may appeal such action or determination to the city council in the manner provided in Chapter 18.144 of this code. (Ord. 1818 § 1, 2000)

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