



October 27, 2023

The Honorable Mia Casey, Mayor
Members of the City Council
& City Staff
City of Hollister
975 Fifth St.
Hollister, CA 95023
Transmitted via Email

Re: BIA Analysis of Proposed Inclusionary Housing Ordinance

Dear Mayor Casey, City Council Members, and City Staff,

The Building Industry Association of the Bay Area (BIA) strongly urges the City Council of the City of Hollister (“City”) to modify its policy directions for the proposed Inclusionary Housing Ordinance (Ordinance) that was considered at the September 18, 2018 Council Study Session because the sweeping consequences of policies and regulations in the proposed Ordinance would have a deleterious effect on housing production in Hollister.

Instead, BIA requests that the City follow best practices and conduct a thorough study of neighboring and nearby jurisdictions’ inclusionary housing strategies and then use that along with information contained in the attached BIA study to help inform policy direction within the City’s Inclusionary Housing Ordinance & Resolution that will not hinder the production of housing.

BIA Land Valuation Analysis Demonstrates the Crippling Effects of City Policies

BIA has commissioned a study that examines residential project feasibility vis a vis the proposed Ordinance by commissioning a two-part study. Part one analyzes the effect that the Council’s proposed policies regarding income mix (7% VLI, 5% LI, 3% M) on land valuation. Land valuation is a key concept of residential development pro forma known as “residual valuation.” Residual land value is the amount of value remaining to purchase land once projected revenues and all other costs associated with planning, constructing, and leasing/selling the project have been accounted for.

Part one of the study concludes that the fiscal impact of the Council’s policy directions could jeopardize, possibly eliminate, the financial feasibility of new housing developments in the City. The deleterious effect of the Council’s inclusionary income mix policy alone would decrease land values by over \$1 million dollars per acre. Land transactions could potentially cease as

landowners refuse to discount their land enough for housing to become feasible, resulting in no new homes at both affordable and market rates.

BIA Comparative Analysis shows Hollister's Ordinance would be the Worst in Local Area

Part two of the BIA study analyzes neighboring jurisdictions' inclusionary ordinances and policies, revealing that the Hollister's Ordinance, if passed, is much more restrictive than that of any of the eight other neighboring and nearby jurisdictions surveyed.

When compared to one neighboring city, Morgan Hill, which closely parallels Hollister in size and pattern of community development, the drastic imbalance of Hollister's proposed Ordinance becomes crystal clear. The City of Morgan Hill has developed and adopted successful inclusionary housing strategies much more in keeping with good community development practices in local jurisdictions, burdens land value significantly less than Hollister, and incorporates flexible implementation standards and policies that both allow for market residential development to move forward and provide homes affordable to low and moderate income families.

BIA recommends that the City reject onerous policies in the proposed Ordinance and instead direct staff to take the following actions:

- Engage the home building community in a thorough outreach effort;
- Prepare a detailed report on neighboring jurisdiction inclusionary ordinances;
- Cap the inclusionary requirement at 15%;
- Remove the VLI requirements on for sale housing construction;
- Adopt a average mix of moderate and low income requirements on for sale housing;
- Allow all alternative methods of compliance, including in lieu fees, on all housing types.

Onerous and Impractical Policies and Regulations

The City has incorporated several wholly unworkable affordable housing policies and regulations into the Draft General Plan as well as the draft Inclusionary Ordinance. Over the last several years the City has run afoul of HCD with several attempts to stifle housing production. By adopting this Ordinance, the City would be repeating a pattern that will likely have the effect of obstructing all housing production and incurring another inquiry from HCD.

Foremost among these misguided attempts in the Ordinance at burdening market rate housing in an attempt to boost affordable housing construction include:

- 7% VLI Requirement: Unreasonable burden on for sale housing - It has been widely recognized that requiring VLI single-family for sale homes is unworkable. Neighboring jurisdictions do not generally include very low income for-sale housing because not only is this category of affordable housing infeasible, it is nearly impossible to find qualified buyers who can afford all the ancillary costs of home ownership, i.e., down payment, utility bills, home upkeep, insurance and taxes, HOA dues, etc.;

- Lack of Alternative Compliance Options – Neighboring jurisdictions provide a wide range of alternative compliance provisions including in-lieu fees, onsite build, offsite build, land grants, or other flexible means of compliance. Nearly all jurisdictions provide alternative compliance options in their ordinances.

The City’s Ordinance, instead of requiring VLI and LI for sale homes, should allow in lieu fees and/or moderate income units combined with providing incentives for rental housing to build the VLI and LI units that the City needs. In lieu fees collected from market rate for sale homes would provide the City Council with a fund aimed at subsidy of more deeply affordable rental units. This strategy is successful in all of the jurisdictions studied in the Comparative Analysis.

- Council direction given to Staff and Consultants at the IHO Study Session in September appears conflicted with State law. Two California State statutes, Gov’t Code 65850, and Gov’t Code 65589.8. both require that cities provide alternate means of compliance for rental and for sale housing:

Gov’t Code 65850.

The legislative body of any county or city may, pursuant to this chapter, adopt ordinances that do any of the following:

(g) Require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code. The ordinance shall provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

(Amended by Stats. 2017, Ch. 376, Sec. 1. (AB 1505) Effective January 1, 2018.)

Gov’t Code 65589.8.

A local government which adopts a requirement in its housing element that a housing development contain a fixed percentage of affordable housing units, shall permit a developer to satisfy all or a portion of that requirement by constructing rental housing at affordable monthly rents, as determined by the local government.

Nothing in this section shall be construed to expand or contract the authority of a local government to adopt an ordinance, charter amendment, or policy requiring that any housing development contain a fixed percentage of affordable housing units.

(Added by Stats. 1983, Ch. 787, Sec. 1.)

The City of Hollister has an obligation to plan for the development of 4,163 units in the upcoming Housing Element. BIA strongly believes that the City's flawed proposed Ordinance will be a significant and undue constraint on housing production in Hollister. HCD has instituted a much more stringent approach to feasibility of housing construction and this Ordinance, along with the City's steep impact fees and community development fees, will make Hollister's Housing Element very problematic to get certified.

New housing is crucial life blood to the community, bringing new families, jobs, and tax dollars. BIA urges the City modify the proposed Inclusionary Housing Ordinance as recommended and to work with the stakeholder community in a cooperative and productive manner to resolve any issues surrounding housing development in Hollister.

Yours very truly,

Dennis Martin
BIA Bay Area
Government Affairs

cc: David Mirrione, City Manager
Christy Hopper, Community Development Director

encl: DPFPG City of Hollister – Proposed Inclusionary Housing Ordinance Comparative Analysis, October 20, 2023