The 2014-2022 RHNA Cycle:
A Catastrophic California Housing Policy Failure
And Ideas for a Millennial Generation Response

Over the past 50 years, California has vastly underperformed the US housing market with sky high housing prices making adequate housing an impossible goal for most middle class families of the millennial generation. See the tragic 50 year history of California vs. U.S. Housing Prices at Exhibit A.

Over the last seven years, the California housing crunch has worsened considerably, with California housing prices rising 26% more than U.S. housing prices during that period. The 2014-2022 RHNA Cycle, the centerpiece of California's housing policy, is now in its final year.

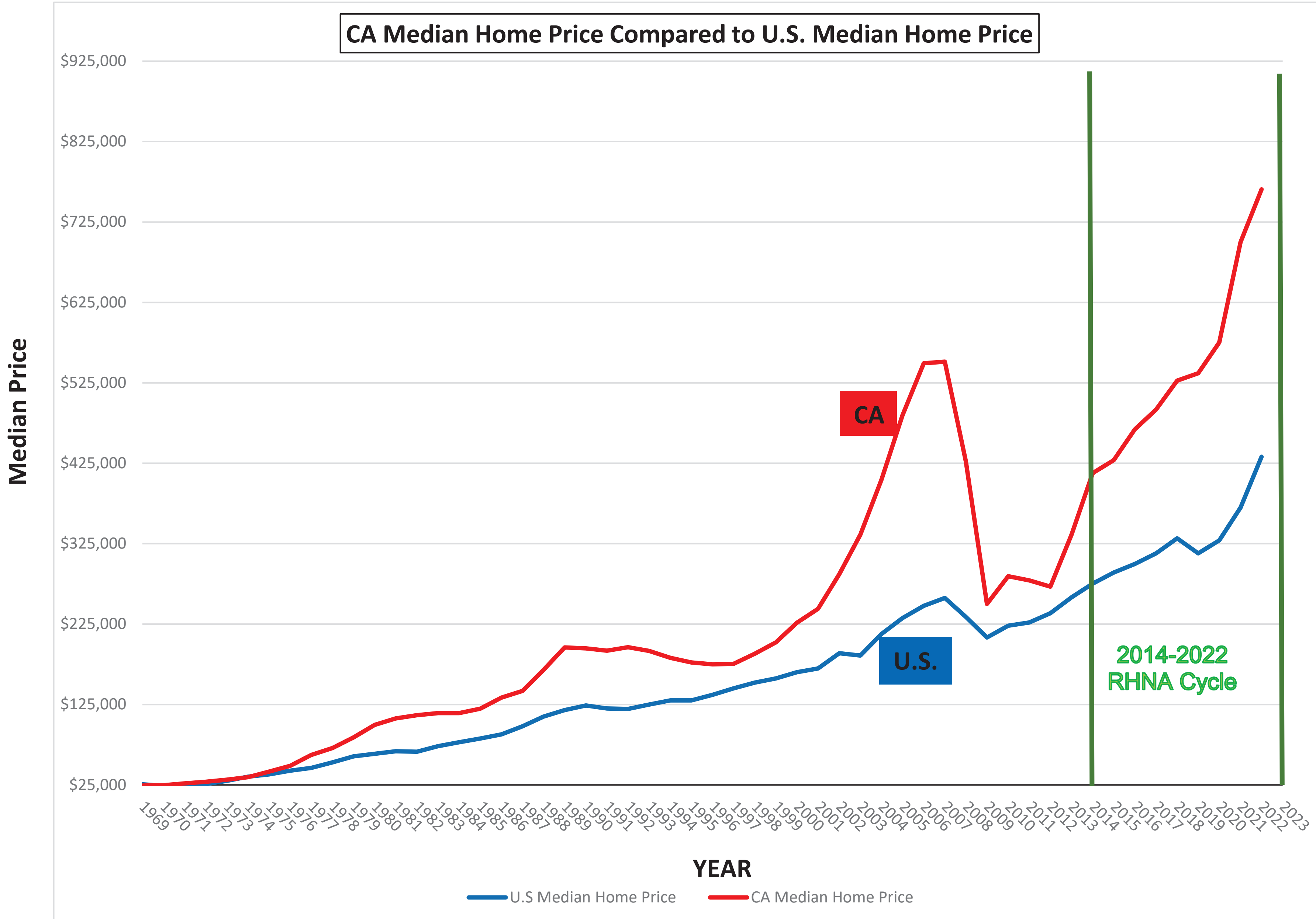
Despite starting in 2014 at a price level 50% higher than the U.S. median priced home ($412,820 CA vs. $275,200 US) California housing policy managed to drive the California median priced home up to about 76% higher than the median priced U.S. home during this RHNA Cycle ($765,580 CA vs. $433,100 U.S.). This RHNA Cycle has been a catastrophic failure.

This article proposes and supports the hypothesis that California housing policy is failing to provide reasonable affordable housing because of increasing price and rent controls on new housing production as directed by RHNA policies. This article also suggests Housing Element policies which Pleasanton, or any city, could institute, consistent with State housing statutes, that would help bring housing prices back within reach of the next generation, our children.

The Victims: Millennial Generation

Among the most impacted victims of California's artificial housing inflation is the millennial generation, those born between 1981 and 2000. In the year 2000, I wrote an analysis of inclusionary rent controls, and their use as a tool of exclusionary zoning, concluding with the statement: "*How ironic, and how just, that people who set out to enrich themselves at the expense of others, succeed primarily in impoverishing their own children.*" (Exhibit D at Bates p. 26) For those born between 1981 and 2000, that sad prediction has come true.

Exhibit A



Back up data for Ex. A is with Ex. A in the Exhibit package.

The baby boomers, who attended college with nominal state tuition levels, gave tax cuts for themselves leading to massive college tuition increases which insured that their children, the baby boom echo, came out of college with record student debt. As of 2021, California millennials had the lowest homeownership rate of any state in the nation, at only 30%, while the nationwide average for millennials is 43% homeownership. Fn 1 & Exhibit I. A primary cause of this underperformance is the reluctance of our baby boomer voters to accept additional housing for anyone including their own children.

The consequences of the artificially high California housing prices for the millennial generation have been later marriage, fewer children, and a lower quality of life than their parents at a comparable age. As the millennials become the dominant voting group, they have the opportunity to correct the disastrous California housing policies of which they are the primary victims. Fn 2.

Summary

First, as to the causes of the RHNA catastrophe, our hypothesis is that with the 2014-2022 RHNA Cycle, the State Housing and Community Development Dept. (HCD) has focused on rent and price controls on new construction as the primary means to address housing affordability. The rent and price controls are implemented primarily through inclusionary zoning – a practice by which a builder is required to set aside a prescribed percentage (5%, 10%, 15%, 20%, 25%, or even higher) of all new housing production for in perpetuity rent controls. In effect, this brings the severe supply crimping impacts of rent controls to housing production, while only a tiny percentage of actual rent controlled housing units are produced. E.g. 15% of 2% per year of the housing units in a city growing at 2% a year is only a 0.3% per year increase in the proportion of rent controlled units, while the resulting housing scarcity causes market rate housing prices to spin out of control.

Second, this article suggests local housing policies which could significantly reduce local housing prices, consistent with State Housing Law and regulations. The key is to base inclusionary requirements for low and moderate income housing on unit size (rather than rent controls). This is how to get to housing that is affordable by design rather than by subsidy. The housing market can and will produce small units in quantity – quantities sufficient to drive the price of small market rate units down to prices which the millennial generation can afford. The same goes for market rate single family: there is a huge unmet market for 1500 sq. ft. single family homes, but our regulatory schemes incentivize construction of 3500 sq. ft. McMansions, partly to cover the cost burden of the inclusionary rent controls.

RHNA Process Basics

In California, each City is required to update the Housing Element of its General Plan with each new eight year RHNA Cycle. Fn 3. The process starts with a Regional Housing Needs Allocation (RHNA), by which each city is assigned a specified number of housing units at various levels of housing affordability. The city is then required to amend its General Plan and zoning to provide specific locations for those housing units. State Housing and Community Development Dept. (HCD) gets to review the draft Housing Element, and decide whether to "certify" that that Housing Element meets State requirements.

For example, for the Pleasanton 2023-2031 RHNA Cycle, here is the regional housing needs allocation:

Income Category	Pleasanton RHNA Allocation	Percentage of Total	Rent affordable to Households at or Below:
Very Low	1,750 units	29.3%	50% AMI*
Low	1,008 units	16.9%	80% AMI*
Moderate	894 units	15.0%	110% AMI*
Above-Moderate	2,313 units	38.8%	
Total	5,965 units	100.0%	

*Area Median Income. Rent plus utilities cannot exceed 30% of income for families making a specified percentage [50%, 80%, or 110%] of the Area Median Income (AMI). "Area" for Pleasanton is "Alameda County".

Thus, <u>61.2% of Pleasanton's new units are prescribed to be price controlled.</u> The subsidy required to maintain the specified rent controls for those 61.2% units would cost about $51,087,552 for the first year, <u>and every year thereafter</u>! (Exhibit C at Bates p. 12). That represents over One Billion Dollars in lost property value. That is not going to happen.

When the city fills out its annual housing report to HCD reporting on how many units have been constructed in each price category, the Official Form requires that the unit be identified as "deed restricted" (rent controlled) or "non-deed restricted" (Exhibit F at Bates p. 56; Pleasanton's Annual Progress Report to State HCD for 2021). With California construction costs and market rent levels, and given HCD's focus on price (rather than unit size), there are virtually no new "non-deed restricted" units that meet HCD's price control standards.

Luckily for Pleasanton, State law provides "*Nothing in [the housing element article] shall require a city . . . to [e]xpend local revenues for the construction of housing, housing subsidies, or land acquisition*" Govt. Code Sec. 65589(a). So, cities are free to shuck the cost of those inclusionary subsidies off on the consumers of new housing.

Thus it is that under pressure from State HCD, most California cities in the last decade have adopted inclusionary zoning requirements.

It should be noted that there is no formal requirement in the State Housing Statutes or regulations requiring the adoption of inclusionary rent controls. Some cities have rejected imposing inclusionary rent controls on new construction. Prior to the year 2000, State HCD opposed adoption of inclusionary rent controls, as when responding to Pleasanton's proposed inclusionary rent control ordinance in the year 2000:

> *"We do not support the City's adoption of inclusionary requirements and are very concerned that existing in-lieu fee and proposed land dedication requirements will add to the cost of housing for all levels. These additional costs could constrain the development of the market rate units upon which the inclusionary units depend".*

Why Cities Go Along
For an exclusionary city, inclusionary rent controls are a triple winner:
-First, the serious cost burden of providing inclusionary units shrinks the feasibility of new market rate housing projects, which substantially reduces the supply of new market rate units and puts upward pressure on housing prices.
-Second, increase in the housing price level increases the home equity of every home voter, dollar for dollar.
-Third, "We adopted inclusionary zoning requirements" is the safe and acceptable answer to State HCD and the public to prove a city is "working" to provide affordable housing.

Calculating the Cost Burden of Inclusionary Rent Controls

To understand the cost impacts of inclusionary rent control requirements on new housing construction, in January of 2021, I took actual rents from a three year old 345 unit apartment project in Pleasanton. Then the rent levels allowed for "deed restricted" units under the applicable Alameda County Guidelines were deducted from market rate rents to determine rent subsidy totals for that apartment project. We ran this scenario under 5%, 10%, 15%, 20%, and 25% inclusionary rent control requirements. Exhibit B. Real Cost of Inclusionary Rent Controls.

The summary results based on actual market rents and actual rent control guidelines shows:

	Annual Rent Increase per Market Rate Unit	Monthly Rent Increase per Market Rate Unit	Percent Increase in Rent per Market Rate Unit
Five percent (5%) Inclusionary:	$733	$61	2.16%
Ten percent (10%) Inclusionary:	$1,507	$126	4.55%
Fifteen percent (15%) Inclusionary:	$2,309	$192	7.15%
Twenty percent (20%) Inclusionary:	$3,326	$277	10.64%
Twenty Five percent (25%) Inclus.:	$4,474	$373	14.85%

The rent increases are more than proportional because each increase in the inclusionary requirement increases the number of units that need to be subsidized, while reducing the number of market rate units available to provide those subsidies.

Unfortunately, but not surprisingly, the draft Pleasanton 2023-2031 Housing Element proposes to increase the rent control requirement on new multi-family projects from 15% to 20% - to “prove” Pleasanton’s world class commitment to affordable housing.

Who Pays for Inclusionary Rent Control Subsidies?

a. Impact on Project Rents

At the project level, the rent subsidy comes from the renters paying market rate rents. There can be no other source for that subsidy. It does not come from developer profits – here is why:

For the project builder, that rent subsidy equals a loss in net operating income (NOI) (and thus net profit) for the project. To justify a new project, the annual net profit (after deducting all expenses and rent subsidies), typically capitalized at about 5%, needs to equal or exceed the cost of constructing the project. If not, no construction takes place until the rent levels for the entire local market rise enough to make the project feasible.

Based on actual rent levels in Pleasanton on the 345 unit example project, and applying Pleasanton’s current inclusionary requirement of 15% rent controlled units, that project would require $678,708 per year of rent subsidies, in perpetuity (Exhibit B-4 at Bates p. 6). The project upon completion, with net profit capitalized at 5%, would be worth $13,574,160 less than if there were no inclusionary rent controls. And, the pro forma (financial projection) still needs to show the builder making a profit, or the project will not be financed or built.

That 345 unit project was fortunate in coming early in that RHNA cycle, at a time when Pleasanton was anxious to show progress on meeting its RHNA numbers, and also needed cash to help rebuild a senior housing project. So, instead of the $13,574,160 loss in project value, the actual developer was allowed to make a measly $4,500,000 contribution to the City's low income housing fund, thus saving the developer about $9,074,160 in lost project value ($13,574,160 - $4,500,000). Without that special deal, the $9,074,160 additional burden of 15% inclusionary probably would have made that project infeasible. Those are the project level impacts of the inclusionary zoning

b. Direct Impact on Local Housing Prices

Housing supply occurs within a larger housing market. In all markets, including housing markets, when the marginal cost of producing a unit of production, like a house, is higher than the price level, production stops until the price level exceeds the marginal cost of producing the next unit. So, adding a cost to housing production, like the cost of inclusionary subsidies, means housing production stops until price levels rise high enough to cover that additional cost. With any increase in housing demand, <u>the cost of any inclusionary subsidies passes through into the price level of all new ***and used*** market rate housing</u>. This results in tremendous negative leverage – the inclusionary analysis I did in the year 2000 showed that for every $1 of rent subsidy generated by inclusionary rent controls, market rate housing consumers will pay $13 in increased housing cost (Exhibit D at Bates p. 13). That is an awful cost-benefit ratio.

c. Effect on Housing Supply- Secondary Impact

But, the impact of inclusionary rent controls is far worse than just a dollar for dollar pass through into the housing price level. If that were the only effect of 15% inclusionary rent controls, local market prices would have lifted by about 7.15% and reached a new equilibrium. The bigger problem is that the inclusionary cost burden makes some or most new housing projects infeasible. When rising demand grinds against restricted supply, housing prices spin out, and up disproportionately – as they have in California. The housing made infeasible by that cost burden, if built, would enforce current price levels by pouring new housing units into the market. Much or most of the huge 26% excess in California housing inflation over U.S. housing inflation during the 2014-2022 RHNA Cycle is likely the result of the price and rent controls on new housing construction, with their devastating impacts upon housing supply.

New construction is always more expensive than existing housing, but typically higher quality. Adding inclusionary costs on top <u>makes new construction</u> that much more expensive than existing building – and <u>non-competitive</u>. Existing property owners and landlords get to free ride on the rising price level of housing. Existing housing is protected on the downside (somewhat) because of lower initial costs, and existing mortgage payments stay constant.

When the overall price level starts to rise to cover the inclusionary cost, e.g. 7.15%, the inclusionary burdened new housing supply does not materialize in sufficient quantity. The resulting scarcity causes the price levels to rise by more than the actual amount of rent subsidies, by far. Meanwhile, the new housing project has to show a profit (feasibility) at the new price level, and its costs are not locked in at the lower levels. Rent seekers, such as landowners selling developable land, cities exercising their State given right to exact as much as possible for the benefit of the community, neighbors intent on maximizing homevoter values, and environmental problems crying for mitigation, all combine to bring costs up from below to absorb the increased price level. And then the cycle repeats at the new price level!

The Pleasanton draft 2023-2031 Housing Element describes the effect of its approval delays as follows:

"However, the cost to complete a project is not likely to affect the price of homes, as the price of housing is based on what the market is willing to bear, and the added costs are more likely to reduce the profit for the property owner rather than increase the price of a housing unit on the market." H.E. Appendix C, p. 25

The authors of Pleasanton's draft Housing Element naively assume (or cynically claim) their delays and exactions are not the cause of the higher price levels.

The impact of State HCD using RHNA to leverage most California cities into imposing inclusionary rent controls appears to be the primary reason California has, once again, somehow, managed to spectacularly underperform the entire country in providing a decent place to live at a reasonable price for its citizens, especially the millennial generation. <u>This can be changed at the local level.</u>

Background for the 2023-2031 RHNA Cycle

The 2023-2031 RHNA Cycle starts with a far different situation than the 2014-2022 RHNA Cycle. In 2014, California and the country were just emerging from a deep and extended recession. But, the coming RHNA Cycle comes after more than a decade of solid economic growth in both California and the U.S.

a. Substantial Pro-housing Legislation

Early in the 2014-2022 RHNA Cycle, several years of runaway housing inflation convinced the State Legislature (correctly) that local government restrictions on housing supply were the primary cause of that housing inflation. What followed was year after year of housing legislation designed to force local governments to approve more housing, especially higher density housing. Single family zoning has been overridden by State laws requiring localities to allow additional Accessory Dwelling Units (ADU), subdivision of single family lots as of right, mandatory approval of high density projects near transit stops, limitations on local parking requirements, as of right zoning with only objective standards for design review, growth management ordinances highly restricted, and on and on. And, there has been a gradual increase in housing supply over this RHNA Cycle (Exhibit H at Bates p. 58), but to only about one third the construction rate during the mid-1980's when the baby boomers were getting their houses.

b. City Resistance

Cities of course, fight back, quite effectively, illustrating the difficulty of running an economy with regulations from a government office in Sacramento. Pleasanton, and probably other exclusionary cities, pioneered the RHNA moratorium during the 2014-2022 RHNA Cycle. Once Pleasanton got its Housing Element certified by State HCD and started several projects, Pleasanton put virtually all other housing projects on hold until the next RHNA Cycle. The City cooked up a discretionary City Council approval required before City Staff would even process a proposed housing project, even if was allowed by the General Plan. That pretty much cut off housing approvals after 2017. See Exhibit E at Bates p. 38 for more detailed description of Pleasanton's RHNA Moratorium. Despite losing a landmark housing element case in 2008, the City managed to suppress new housing supply for the 2014-2022 RHNA Cycle to a level below that specified in the City's Growth Management Ordinance (about 225 units per year); in fact, Pleasanton allowed less than 90 units per year for the period from 2017 to 2021 (Exhibit F at Bates p. 56).

As part of its pretend concern for affordable housing, Pleasanton has adopted an affordable housing fee ($46,732) greater than the fees for all public facilities which the City actually provides for those units ($36,355)! The affordable housing fee for a 900 sf multi-family unit was $45,083 – now inflation adjusted to $46,732. That exceeds the total fees for the public facilities which the City actually provides, as follows: [(Capital Facilities fee – $12,419; Transportation fee - $6,092; Tri-Valley Transportation fee - $3,376; City Sewer Connection fee - $330; DSRSD Sewer Connection fee - $9,016; Impervious Surface Drainage fee - $1450; School Fees - $3,672: Total facilities fees (except Zone 7 water) - $36,355] (Exhibit G at Bates p. 57). The affordable housing fee applies primarily to projects of 10 units or less, which the City has no interest in allowing, maybe because the exemption from inclusionary rent controls means no "affordable" units to help with State HCD expectations.

It is to be expected that exclusionary cities will be developing creative ways to suppress housing supply in the face of the new State mandates. Unfortunately, inclusionary rent controls are the primary legal tool left with which exclusionary cities can suppress housing supply.

c. Vastly Increased Housing Allocations

The coming 2023-2031 Regional Housing Needs Assessment explodes the number of housing units each city is required to zone for. The Bay Area RHNA was increased by 235%. Pleasanton's RHNA allocation jumped from 2,067 units in the 2014-2022 RHNA Cycle to 5,965 units in the 2023-2031 RHNA Cycle, a 188% expansion in units required to be rezoned. One positive effect from the extremely high RHNA numbers is that the City had to offer owners of sites to be rezoned the right to keep their current zoning, and convert to residential at a time chosen by the property owner. According to the City letter asking property owners to agree to high density residential zoning, "*All existing uses would be allowed to continue to operate and expand in the future, and non-residential uses consistent with the existing zoning could continue to be proposed as allowed by the current zoning for your property*". This is an excellent policy to encourage future housing supply in Pleasanton because it makes the transitions to residential, in effect, pre-approved, with the property owner and market conditions rather than planners and politicians in control of when the conversion happens.

If the 2014-2022 RHNA Cycle was the event that proved rent controls fail to improve housing affordability, the 2023-2031 RHNA Cycle can be the event that proves increased housing supply can improve housing affordability.

d. The Housing Cost Driver.

As a commodity, <u>building square footage costs about the same to build in all parts of the U.S.</u> Building techniques are national, as are building codes. Products like lumber, appliances, and glass are purchased from a national market. The difference in housing prices between states is primarily in the cost of government entitlements. Thus, with substantial increases in entitled land (as now required by RHNA), and limitations on local government rent seeking, the housing prices in any California community can be driven down toward the cost of producing those units – to the point of surplus. The younger generation in any given city can have affordable market rate housing, in a relatively short time, by allowing housing supply to meet the existing need.

What Can Pleasanton Do?

1. Repeal the Growth Management Ordinance.

Pleasanton slickly managed to suppress housing supply to below the level specified in its Growth Management Ordinance in the last RHNA Cycle. Now, State law has restricted growth management ordinances. The flawed strategy of government created shortages in housing is hurting life chances for a whole generation. We can start the change in local housing policy by repealing the Growth Management Ordinance.

2. Entitle More Land for Housing.

One key step is to entitle much more land for housing, which the 2023-2031 RHNA requirements are doing, in Pleasanton and everywhere in California.

A related step is for the City to be an honest broker in helping housing proposals that emerge which were not shown on its housing sites inventory (rather than refusing to process any such proposals as is past practice). Drop the RHNA moratorium.

3. Change to Unit Size Inclusionary.

Change the focus of local housing policy toward units that are affordable by design, without subsidies. Pleasanton could substantially increase housing supply in the sizes needed to be affordable to our children's generation by greatly reducing, or eliminating the price controls on new housing construction. This can be done most simply by <u>changing inclusionary requirements from price controls to unit size controls</u>.

For example:

Less than 650 sf. --	[*assumed affordable to] Very Low Income (50% of AMI)
650 sf to 900 sf. –	*Low Income (80% of AMI)
900 sf to 1200 sf –	*Low Moderate Income (100% of AMI)
1200 sf to 1500 sf. –	*High Moderate Income (120% of AMI)
1500 sf to 2000 sf. –	*Low Medium Income
2000 sf to 2500 sf. –	*Medium Income

Right now, rezonings to 30 units per acre are presumed to be affordable (until constructed) under Govt. Code Sec. 65583.2 (c)(3)(B)(iv). Then, after construction, those units rent for more than "affordable" prices and are forced to show up as "above market" units on the Annual Progress Report to HCD required from cities. E.g. Exhibit F. at Bates p. 56. But, if the units meet the unit size criteria set forth above, Pleasanton could show those units on the Annual RHNA Progress Reports as units in that income category. For example, an 850 sf unit would appear as a "Low Income Unit (non-deed restricted)" on the Annual Progress Report, without regard to its actual rent.

If State HCD has any sense, it will endorse this approach explicitly, because the billion dollar subsidies required to provide subsidized housing to over half the population will never materialize.

With an inclusionary policy emphasis on producing most new housing units of 1500 sq. ft. or less, real surpluses and lower prices would follow for smaller units. Our children's generation could get on the first step of homeownership, like a 900 sf. condo, or a 1500 sf 3 br single family home the way most of us baby-boomers did.

The Pleasanton draft 2023-2031 Housing Element is going exactly the wrong direction by proposing to increase the inclusionary rent control requirement on multi-family from 15% to 20%. As shown in Exhibit B, Bates pp 4. & 5., that increases the rent burden on each market rate apartment from about $192 per month to about $277 per month (from 7.15% to 10.64% of rent). The rent increases are more than proportional because each increase in the inclusionary requirement increases the number of units that need to be subsidized, while reducing the number of market rate units available to provide those subsidies.

For the huge acreage being rezoned to 30 units per acre (because of the presumption of affordability granted in State law), the unit size inclusionary requirement could be about 50% of total units (i.e. 50% of units less than 900 sf in size). As an example breakdown, 25% of units could be required to be 650 sf or less, 50% of total units could be required to be 900 sf or less. There would be no need to regulate unit size above 900 sf., but the City could use the chart above to take credit for any remaining apartments between 900 sf and 1500 sf in its RHNA Progress Reports as "moderate income, non-deed restricted".

One issue would be concern about quality of units 650 sf or less. But with good design, 650 sf allows creation of a completely functional 1 bedroom apartment with room for laundry facilities and storage space. Ideally, that part of the market would be flooded with excess supply, lowering entry level housing costs.

In the single family category, requiring at least 50% of new single family and duplex construction to be units be 1500 s.f. or less, and maybe 80% of new single family construction to be units 2500 sf or less (Pleasanton Valley size, but with smaller lots) could restore Pleasanton as a great affordable place for families with children. The market as modified by the political process, left alone, produces 3000 sf to 5000 sf units, which does very little to increase housing affordability or meet housing needs.

4. Limit Inclusionary Rent Controls to Very Low Income Units.

The RHNA emphasis on subsidizing people who make 80% up to 120% of the AMI (Area Median Income) is silly, because the resources do not exist to subsidize half the population. With limited subsidies, the subsidies should be focused on low income families (50% or less of AMI). A 5% Inclusionary rent control requirement would represent only a 2.16% rent burden on new market rate apartments (Exhibit B-2 at Bates p. 4). That equates to an affordable housing fee of about $13,886 per unit. Fn 4. That should be sustainable in conjunction with a substantially increasing supply of small units - especially if that brings down the rent level for 1 bedroom 650 sf units – which would lower the required subsidy, eventually to near zero.

The “affordable housing fee” for small projects and *all single family* should be no more than $13,866 per unit (proportional to reduced rent control percentage). As with the 345 unit project studied, those in lieu fees can be matched and leveraged with the increasing grants and tax benefits available for affordable housing projects for greater impact- creating positive leverage rather than negative leverage. There are numerous non-profit housing groups which organize and produce quality projects, and those projects stay nice under professional non-profit management.

I doubt State HCD could force us to do rent controls if we went with zero rent control inclusionary, but why twist the tigers tail? If State HCD likes inclusionary rent controls as proof of affordable housing commitment, then 5% would check that box in the certification check list.

5. Summary of Example Unit Size Inclusionary Policy:

For projects zoned 30 units/acre:
5% -Inclusionary rent controlled to families making 50% of AMI, or less.
25% -At least 25% of new units have to be 650 sf or less.
50% - At least 50% of new units have to be 900 sf or less (including the 25%).

For projects zoned single family, and lower density PUD:
50% -At least 50% of new units have to be 1500 sf or less.
80% -At least 80% of new units have to be 2500 sf or less. Fn 5.

Builders would gladly produce the above housing unit sizes, which is close to what would they would produce without government controls in the first place. Most importantly, without oppressive levels of rent controls, many more housing units would get built.

Conclusion

Some of us remember the 1970's inflation. 12% per year inflation seemed to be intractable. Then, monetary policy changed, and within a decade the baseline inflation dropped to about 2%, and stayed there for thirty years. The same thing can happen with housing prices.

If the 2014-2022 RHNA Cycle was the event that proved rent controls fail to improve housing affordability, the 2023-2031 RHNA Cycle can be the event that proves increased housing supply can improve housing affordability.

Enlightened local housing policy can energize housing supply with smaller home sizes that the next generation can afford. Unit size inclusionary zoning would spread easily as the benefit of lower priced housing improves the quality of life in California communities. Increased housing supply with smaller unit sizes is key to leaving our children a better State and community than the one we inherited.

Peter MacDonald
pmacdonald@macdonaldlaw.net
(925) 285-3947
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Footnotes and Exhibits on next page.

Peter MacDonald has a B.A. in Economics from the University of Montana, 1969, an M.S. in Urban Planning (1973), and a J.D. in Law (1975) from the University of Arizona. He has a lifetime of planning experience as an urban planner (Tucson, Salinas), City Attorney (Pleasanton 1982-1988) and in private practice in land use and real estate law from 1988 to 2022.

Footnotes

Footnote 1. *Millennials and Housing. Homeownership Demographic Research*. Freddie Mac. 2021. See graphic at Exhibit I.

Footnote 2. *How the Generation Wars Are Playing Out in the Golden State. The cost of living in California may eventually result in millennials gaining the upper hand over entitled baby boomers.* FastCompany.com. Eric Pape. Oct. 3, 2018.

Footnote 3. The eight year RHNA cycles start at different dates for various counties, with some counties starting in late 2013 and some counties starting in early 2015, but overall centered on 2014 calendar year. Pleasanton's (Alameda County's) RHNA cycle is from Jan. 31, 2015 to Jan. 31, 2023.

Footnote 4. From Exhibit B-2: $4,790,880 lost property value divided by 345 units equates to an affordable housing fee of $13,886 per unit.

Footnote 5. For relatively high density single family on small lots, the issue of potential future ADU's or additions, when even feasible, would need to be addressed at project approval, perhaps with pre-approved designs.

Exhibits

Exhibit A. Fifty Year History of California v. U.S. Housing Prices. MacDonald and Vernon. 2022.

Exhibit B. Real Cost of Inclusionary Rent Controls under 5%, 10%, 15%, 20% and 25% Inclusionary Requirements. MacDonald 2022.

Exhibit C. Housing Subsidy Required to Meet Pleasanton 2023-2031 RHNA Allocation. MacDonald. 2021.

Exhibit D. An Economic Impact Analysis of an Inclusionary Zoning Ordinance. MacDonald. Oct. 2000.

Exhibit E. Letter to State HCD re Pleasanton RHNA Moratorium. MacDonald. Feb. 2021.

Exhibit F. Pleasanton Annual Progress Report to State HCD for 2021.

Exhibit G. Pleasanton Development Fees – 2022 (annotated) – from draft Pleasanton Housing Element.

Exhibit H. Housing Supply Data for CA, 1980 to Present. First Tuesday.

Exhibit I. Map of Millennial Homeownership Percentage by State

Link to Exhibits: https://www.dropbox.com/sh/0e4d1b9d9vmefwd/AAAww5rX2DfYpJo2is0xV6Aqa?dl=0

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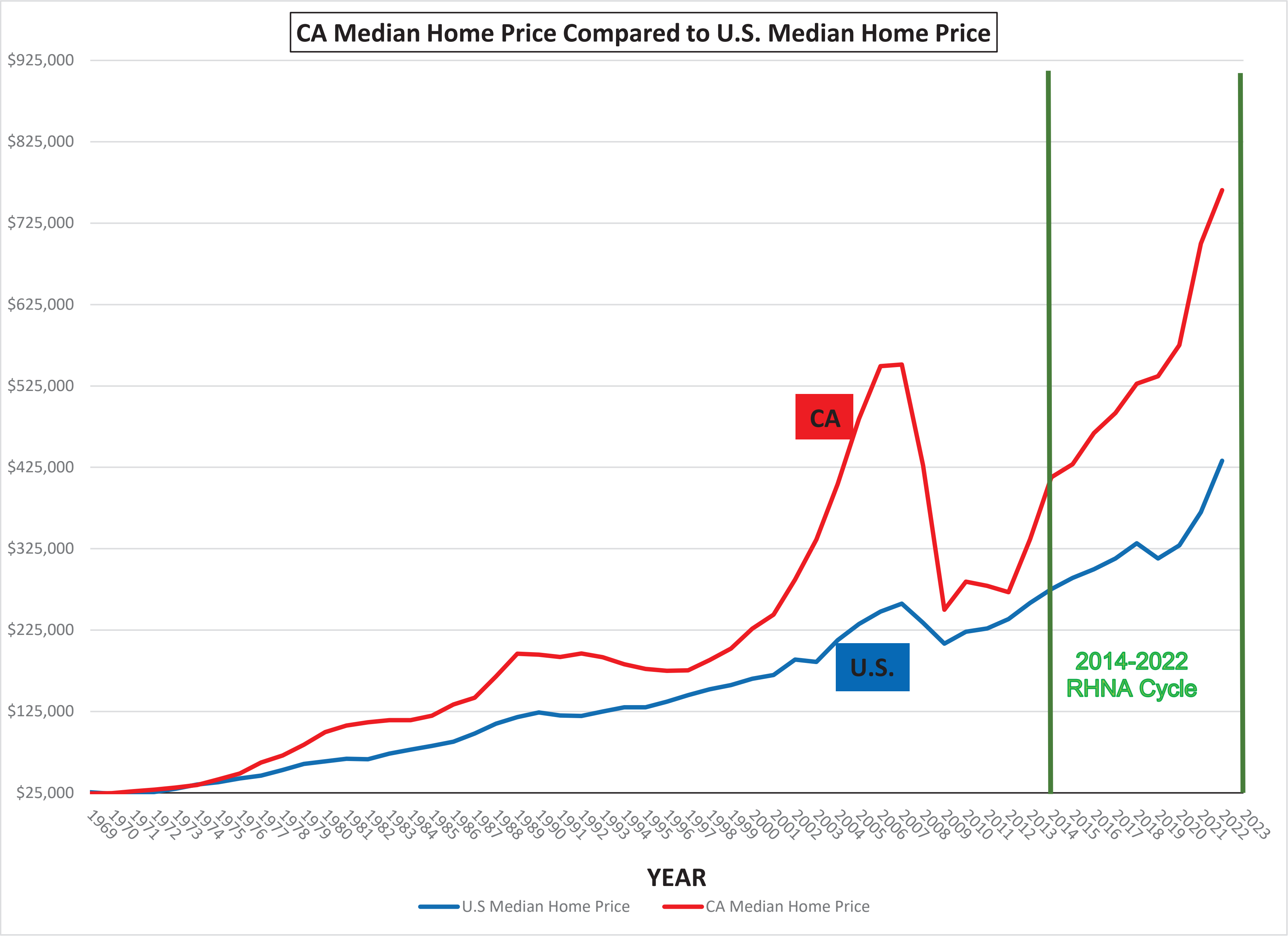
Exhibits

Bates pdf page no:

Exhibit A


CA Median Home Price Compared to U.S. Median Home Price
Median Price
$925,000
$825,000
$725,000
$625,000
$525,000
$425,000
$325,000
$225,000
$125,000
$25,000
CA
U.S.
2014-2022
RHNA Cycle
1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023
YEAR
U.S Median Home Price
CA Median Home Price

Year	U.S Median Home Price	CA Median Home Price	CA Median as a % of US Median	U.S. % Increase over prior year	CA % Increase over prior year	CA exceeds US by %:
1969	$25,700	$24,230	94.3%			
1970	$23,900	$24,640	103.1%	-7.00%	1.69%	8.70%
1971	$24,300	$26,880	110.6%	1.67%	9.09%	7.42%
1972	$26,200	$28,810	110.0%	7.82%	7.18%	-0.64%
1973	$30,200	$31,460	104.2%	15.27%	9.20%	-6.07%
1974	$35,200	$34,610	98.3%	16.56%	10.01%	-6.54%
1975	$38,100	$41,600	109.2%	8.24%	20.20%	11.96%
1976	$42,800	$48,640	113.6%	12.34%	16.92%	4.59%
1977	$46,300	$62,290	134.5%	8.18%	28.06%	19.89%
1978	$53,000	$70,890	133.8%	14.47%	13.81%	-0.66%
1979	$60,600	$84,150	138.9%	14.34%	18.71%	4.37%
1980	$63,700	$99,550	156.3%	5.12%	18.30%	13.19%
1981	$66,800	$107,710	161.2%	4.87%	8.20%	3.33%
1982	$66,400	$111,800	168.4%	-0.60%	3.80%	4.40%
1983	$73,300	$114,370	156.0%	10.39%	2.30%	-8.09%
1984	$78,200	$114,260	146.1%	6.68%	-0.10%	-6.78%
1985	$82,800	$119,860	144.8%	5.88%	4.90%	-0.98%
1986	$88,000	$133,640	151.9%	6.28%	11.50%	5.22%
1987	$97,900	$142,060	145.1%	11.25%	6.30%	-4.95%
1988	$110,000	$168,200	152.9%	12.36%	18.40%	6.04%
1989	$118,000	$196,120	166.2%	7.27%	16.60%	9.33%
1990	$123,900	$194,856	157.3%	5.00%	-0.64%	-5.64%
1991	$120,000	$192,054	160.0%	-3.15%	-1.44%	1.71%
1992	$119,500	$196,410	164.4%	-0.42%	2.27%	2.68%
1993	$125,000	$191,690	153.4%	4.60%	-2.40%	-7.01%
1994	$130,000	$183,046	140.8%	4.00%	-4.51%	-8.51%
1995	$130,000	$177,200	136.3%	0.00%	-3.19%	-3.19%
1996	$137,000	$174,859	127.6%	5.38%	-1.32%	-6.71%
1997	$145,000	$175,625	121.1%	5.84%	0.44%	-5.40%
1998	$152,200	$188,094	123.6%	4.97%	7.10%	2.13%
1999	$157,400	$202,201	128.5%	3.42%	7.50%	4.08%
2000	$165,300	$226,870	137.2%	5.02%	12.20%	7.18%
2001	$169,800	$244,112	143.8%	2.72%	7.60%	4.88%
2002	$188,700	$287,076	152.1%	11.13%	17.60%	6.47%
2003	$186,000	$336,212	180.8%	-1.43%	17.12%	18.55%
2004	$212,700	$404,460	190.2%	14.35%	20.30%	5.94%
2005	$232,500	$484,580	208.4%	9.31%	19.81%	10.50%
2006	$247,700	$549,460	221.8%	6.54%	13.39%	6.85%
2007	$257,400	$551,220	214.1%	3.92%	0.32%	-3.60%
2008	$233,900	$427,200	182.6%	-9.13%	-22.50%	-13.37%
2009	$208,400	$249,960	119.9%	-10.90%	-41.49%	-30.59%
2010	$222,900	$284,600	127.7%	6.96%	13.86%	6.90%
2011	$226,900	$279,220	123.1%	1.79%	-1.89%	-3.68%
2012	$238,400	$271,490	113.9%	5.07%	-2.77%	-7.84%
2013	$258,400	$336,650	130.3%	8.39%	24.00%	15.61%
2014	$275,200	$412,820	150.0%	6.50%	22.63%	16.12%
2015	$289,200	$428,980	148.3%	5.09%	3.91%	-1.17%
2016	$299,800	$467,160	155.8%	3.67%	8.90%	5.23%
2017	$313,100	$491,840	157.1%	4.44%	5.28%	0.85%
2018	$331,800	$527,780	159.1%	5.97%	7.31%	1.33%
2019	$313,000	$536,830	171.5%	-5.67%	1.71%	7.38%
2020	$329,000	$575,160	174.8%	5.11%	7.14%	2.03%
2021	$369,800	$699,920	189.3%	12.40%	21.69%	9.29%
2022	$433,100	$765,580	176.8%	17.12%	9.38%	-7.74%
2023						

Median price of detached single family homes. US data from MSPUS series, FRED St. Louis Fed website. For Jan. of each year.
CA. data from Cal. Assn. of Realtors website.
Data compiled by Peter MacDonald and graphed by Dee Vernon. August 2022

Peter MacDonald; pmacdonald@macdonaldlaw.net; 925.285.3947

Exhibit B

Summary of Inclusionary Rent Control Costs at Different Percentages (5%,10%, 15%, 20%, 25%)

Based on actual rents and inclusionary rents for 345 unit apartment project in Pleasanton

	Lost Project Value at 5% Cap Rate	Annual Rent Increase per Market Rate Unit	Monthly Rent Increase per Market Rate Unit	Percent Increase in Rent per Market Rate Unit	Equivalent In Lieu Fee (Lost value / 345 units)
Five percent (5%) Inclusionary:	$4,790,880	$733	$61	2.16%	$13,887
Ten percent (10%) Inclusionary:	$9,344,160	$1,507	$126	4.55%	$27,085
Fifteen percent (15%) Inclusionary:	$13,574,160	$2,309	$192	7.15%	$39,345
Twenty percent (20%) Inclusionary:	$18,359,520	$3,326	$277	10.64%	$53,216
Twenty Five percent (25%) Inclus.:	$23,175,360	$4,474	$373	14.85%	$67,175

Exhibit B-1

Real Cost of 5% Inclusionary Housing Requirement

Exhibit B-2

Example: Existing 345 Unit Apartment in Pleasanton

I. Amount of Rent Subsidy Required for Each Unit Type:

A. Unit Size	B. Max Very Low Income Rent -50% AMI	C. Max Low Income Rent 80% AMI	D. Max Moderate Income Rent 110% AMI	E. Less: Utility Allowance	F. Net Rent Allowed per BMR Unit	G. Current Market Rent Jan. 2021	H. Monthly BMR Rent Subsidy G. - F.	I. Annual Loss in Net Operating Income (NOI) H. X 12	J. Lost NOI Capitalized at 5% I. / 0.05
1 br unit	$1,305			$140	$1,165	$2,535	**$1,370**	$16,440	$328,800
2 br unit		$2,350		$172	$2,178	$3,145	**$967**	$11,604	$232,080
3 br unit			$3,278	$208	$3,070	$4,060	**$990**	$11,880	$237,600
Average Monthly Rent for Market Rate Remaining Units (weighted to reflect unit numbers)						$2,883			

1. Rent levels (A, B, & C) from HCD Guidelines, shown in 2020 Dublin BMR (Below Market Rate) Update (Attachment B)
2. "AMI" means "Area Median Income". "BMR" means "below market rate" (rent restricted) unit.
3. Utility allowance from HUD guideline shown (Attachment C)
4. Market rate rents from Apartment Manager.
5. The actual project on which the model is based "purchased" an exemption from BMR requirements for $4,500,000.

II. Cumulative Costs for Entire Project:

K. Unit Size	L. No of Units	M. No. of BMR Units	N. No of Market Rate Units L. - M.	O. Annual Loss of Net Operating Income (NOI) Per BMR Unit (From I. above)	P. Annual Loss in NOI Per Unit Type M. x O.	Q. Lost NOI Capitalized at 5% P. / 0.05
1 br unit	181	6	175	$16,440	$98,640	$1,972,800
2 br unit	142	6	136	$11,604	$69,624	$1,392,480
3 br unit	22	6	16	$11,880	$71,280	$1,425,600
Totals	345	18	327		**$239,544**	**$4,790,880**

III. Increase in Rents to the Market Rate Units from 5% Inclusionary:

1. Lost Property Value from 5% Inclusionary Requirement (from Q above)	**$4,790,880**
2. Lost Annual Net Operating Income (NOI) from inclusionary Costs (From P. above)	**$239,544**
3. Number of (Unsubsidized) Market Rate Units. (From N. above)	327
4. Increased Annual Rent per Market Rate Unit to Cover Inclusionary Cost: (#2. / #3.)	$733
5. Increased Monthly Rent per Market Rate Unit to Cover Inclusionary Subsidy (#4. / 12)	**$61**
6. Average Monthly Rent for Market Rate Units (From G above)	$2,883
7. % Increase in Rent Level from 5% Inclusionary Requirement [#5. / (#6. - #5)]	**2.16%**

Peter MacDonald
pmacdonald@macdonaldlaw.net
925..285.3947
January 2021, update July 2022

-Inclusionary requirements drive capital away from housing production until citywide rent levels rise enough to cover the inclusionary costs.

As a result, market rate consumers pay $13+ more in housing costs for every $1 of housing subsidy created. (See Economic Analysis of an Inclusionary Zoning Ordinance, at Exhibit D)

-State Dept. of Housing and Community Development (HCD) pressure on cities to solve the housing affordability problem through inclusionary requirements since 2012 is probably a major factor in why the price level of housing in California increased dramatically faster than the US as a whole in recent years.

(See Attachment A. A Fifty Year Comparison of California v. U.S. Median House Prices.)

Real Cost of 10% Inclusionary Housing Requirement

Exhibit B-3

Example: Existing 345 Unit Apartment in Pleasanton

I. Amount of Rent Subsidy Required for Each Unit Type:

A. Unit Size	B. Max Very Low Income Rent -50% AMI	C. Max Low Income Rent 80% AMI	D. Max Moderate Income Rent 110% AMI	E. Less: Utility Allowance	F. Net Rent Allowed per BMR Unit	G. Current Market Rent Jan. 2021	H. Monthly BMR Rent Subsidy G. - F.	I. Annual Loss in Net Operating Income (NOI) H. X 12	J. Lost NOI Capitalized at 5% I. / 0.05
1 br unit	$1,305			$140	$1,165	$2,535	**$1,370**	$16,440	$328,800
2 br unit		$2,350		$172	$2,178	$3,145	**$967**	$11,604	$232,080
3 br unit			$3,278	$208	$3,070	$4,060	**$990**	$11,880	$237,600
Average Monthly Rent for Market Rate Units (weighted to reflect unit numbers)						$2,883			

1. Rent levels (A, B, & C) from HCD Guidelines, shown in 2020 Dublin BMR (Below Market Rate) Update (Attachment B)
2. "AMI" means "Area Median Income". "BMR" means "below market rate" (rent restricted) unit.
3. Utility allowance from HUD guideline shown (Attachment C)
4. Market rate rents from Apartment Manager.
5. The actual project on which the model is based "purchased" an exemption from BMR requirements for $4,500,000.

II. Cumulative Costs for Entire Project:

K. Unit Size	L. No of Units	M. No. of BMR Units	N. No of Market Rate Units L. - M.	O. Annual Loss of Net Operating Income (NOI) Per BMR Unit (From I. above)	P. Annual Loss in NOI Per Unit Type M. x O.	Q. Lost NOI Capitalized at 5% P. / 0.05
1 br unit	181	12	169	$16,440	$197,280	$3,945,600
2 br unit	142	12	130	$11,604	$139,248	$2,784,960
3 br unit	22	11	11	$11,880	$130,680	$2,613,600
Totals	345	35	310		**$467,208**	**$9,344,160**

III. Increase in Rents to the Market Rate Units from 10% Inclusionary:

1. Lost Property Value from 10% Inclusionary Requirement (from Q above)	**$9,344,160**
2. Lost Annual Net Operating Income (NOI) from inclusionary Costs (From P. above)	**$467,208**
3. Number of (Unsubsidized) Market Rate Units. (From N. above)	310
4. Increased Annual Rent per Market Rate Unit to Cover Inclusionary Cost: (#2. / #3.)	$1,507
5. Increased Monthly Rent per Market Rate Unit to Cover Inclusionary Subsidy (#4. / 12)	**$126**
6. Average Monthly Rent for Market Rate Units (From G above)	$2,883
7. % Increase in Rent Level from 10% Inclusionary Requirement [#5. / (#6. - #5)]	**4.55%**

Peter MacDonald
pmacdonald@macdonaldlaw.net
925.285.3947
January 2021
Update to 10% July 2022

-Inclusionary requirements drive capital away from housing production until citywide rent levels rise enough to cover the inclusionary costs.

As a result, market rate consumers pay $13+ more in housing costs for every $1 of housing subsidy created. (See Economic Analysis of an Inclusionary Zoning Ordinance, at Exhibit D)

-State Dept. of Housing and Community Development (HCD) pressure on cities to solve the housing affordability problem through inclusionary requirements since 2012 is probably a major factor in why the price level of housing in California increased dramatically faster than the US as a whole in recent years.

(See Attachment A. A Fifty Year Comparison of California v. U.S. Median House Prices.)

Real Cost of 15% Inclusionary Housing Requirement

Exhibit B-4

Example: Existing 345 Unit Apartment in Pleasanton

I. Amount of Rent Subsidy Required for Each Unit Type:

A. Unit Size	B. Max Very Low Income Rent -50% AMI	C. Max Low Income Rent 80% AMI	D. Max Moderate Income Rent 110% AMI	E. Less: Utility Allowance	F. Net Rent Allowed per BMR Unit	G. Current Market Rent Jan. 2021	H. Monthly BMR Rent Subsidy G. - F.	I. Annual Loss in Net Operating Income (NOI) H. X 12	J. Lost NOI Capitalized at 5% I. / 0.05
1 br unit	$1,305			$140	$1,165	$2,535	**$1,370**	$16,440	$328,800
2 br unit		$2,350		$172	$2,178	$3,145	**$967**	$11,604	$232,080
3 br unit			$3,278	$208	$3,070	$4,060	**$990**	$11,880	$237,600
Average Monthly Rent for Market Rate Remaining Units (weighted to reflect unit numbers)						$2,883			

1. Rent levels (A, B, & C) from HCD Guidelines, shown in 2020 Dublin BMR (Below Market Rate) Update (Attachment B)
2. "AMI" means "Area Median Income". "BMR" means "below market rate" (rent restricted) unit.
3. Utility allowance from HUD guideline shown (Attachment C)
4. Market rate rents from Apartment Manager.
5. The actual project on which the model is based "purchased" an exemption from BMR requirements for $4,500,000.

II. Cumulative Costs for Entire Project:

K. Unit Size	L. No of Units	M. No. of BMR Units	N. No of Market Rate Units L. - M.	O. Annual Loss of Net Operating Income (NOI) Per BMR Unit (From I. above)	P. Annual Loss in NOI Per Unit Type M. x O.	Q. Lost NOI Capitalized at 5% P. / 0.05
1 br unit	181	17	164	$16,440	$279,480	$5,589,600
2 br unit	142	17	125	$11,604	$197,268	$3,945,360
3 br unit	22	17	5	$11,880	$201,960	$4,039,200
Totals	345	51	294		**$678,708**	**$13,574,160**

III. Increase in Rents to the Market Rate Units from 15% Inclusionary:

1. Lost Property Value from 15% Inclusionary Requirement (from Q above)	**$13,574,160**
2. Lost Annual Net Operating Income (NOI) from inclusionary Costs (From P. above)	**$678,708**
3. Number of (Unsubsidized) Market Rate Units. (From N. above)	294
4. Increased Annual Rent per Market Rate Unit to Cover Inclusionary Cost: (#2. / #3.)	$2,309
5. Increased Monthly Rent per Market Rate Unit to Cover Inclusionary Subsidy (#4. / 12)	**$192**
6. Average Monthly Rent for Market Rate Units (From G above)	$2,883
7. % Increase in Rent Level from 15% Inclusionary Requirement [#5. / (#6. - #5)]	**7.15%**

Peter MacDonald
pmacdonald@macdonaldlaw.net
925.285.3947
January 2021, update July 2022

-Inclusionary requirements drive capital away from housing production until citywide rent levels rise enough to cover the inclusionary costs.

As a result, market rate consumers pay $13+ more in housing costs for every $1 of housing subsidy created. (See Economic Analysis of an Inclusionary Zoning Ordinance, at Exhibit D)

-State Dept. of Housing and Community Development (HCD) pressure on cities to solve the housing affordability problem through inclusionary requirements since 2012 is probably a major factor in why the price level of housing in California increased dramatically faster than the US as a whole in recent years.

(See Attachment A. A Fifty Year Comparison of California v. U.S. Median House Prices.)

Real Cost of 20% Inclusionary Housing Requirement

Exhibit B-5

Example: Existing 345 Unit Apartment in Pleasanton

I. Amount of Rent Subsidy Required for Each Unit Type:

A. Unit Size	B. Max Very Low Income Rent -50% AMI	C. Max Low Income Rent 80% AMI	D. Max Moderate Income Rent 110% AMI	E. Less: Utility Allowance	F. Net Rent Allowed per BMR Unit	G. Current Market Rent Jan. 2021	H. Monthly BMR Rent Subsidy G. - F.	I. Annual Loss in Net Operating Income (NOI) H. X 12	J. Lost NOI Capitalized at 5% I. / 0.05
1 br unit	$1,305			$140	$1,165	$2,535	**$1,370**	$16,440	$328,800
2 br unit		$2,350		$172	$2,178	$3,145	**$967**	$11,604	$232,080
3 br unit			$3,278	$208	$3,070	$4,060	**$990**	$11,880	$237,600
Average Monthly Rent for Market Rate Remaining Units (weighted to reflect unit numbers)						$2,883			

1. Rent levels (A, B, & C) from HCD Guidelines, shown in 2020 Dublin BMR (Below Market Rate) Update (Attachment B)
2. "AMI" means "Area Median Income". "BMR" means "below market rate" (rent restricted) unit.
3. Utility allowance from HUD guideline shown (Attachment C)
4. Market rate rents from Apartment Manager.
5. The actual project on which the model is based "purchased" an exemption from BMR requirements for $4,500,000.

II. Cumulative Costs for Entire Project:

K. Unit Size	L. No of Units	M. No. of BMR Units	N. No of Market Rate Units L. - M.	O. Annual Loss of Net Operating Income (NOI) Per BMR Unit (From I. above)	P. Annual Loss in NOI Per Unit Type M. x O.	Q. Lost NOI Capitalized at 5% P. / 0.05
1 br unit	181	23	158	$16,440	$378,120	$7,562,400
2 br unit	142	24	118	$11,604	$278,496	$5,569,920
3 br unit	22	22	0	$11,880	$261,360	$5,227,200
Totals	345	69	276		**$917,976**	**$18,359,520**

III. Increase in Rents to the Market Rate Units from 20% Inclusionary:

1. Lost Property Value from 20% Inclusionary Requirement (from Q above)	**$18,359,520**
2. Lost Annual Net Operating Income (NOI) from inclusionary Costs (From P. above)	**$917,976**
3. Number of (Unsubsidized) Market Rate Units. (From N. above)	276
4. Increased Annual Rent per Market Rate Unit to Cover Inclusionary Cost: (#2. / #3.)	$3,326
5. Increased Monthly Rent per Market Rate Unit to Cover Inclusionary Subsidy (#4. / 12)	**$277**
6. Average Monthly Rent for Market Rate Units (From G above)	$2,883
7. % Increase in Rent Level from 20% Inclusionary Requirement [#5. / (#6. - #5)]	**10.64%**

Peter MacDonald
pmacdonald@macdonaldlaw.net
925.285.3947
January 2021, update July 2022

-Inclusionary requirements drive capital away from housing production until citywide rent levels rise enough to cover the inclusionary costs.

As a result, market rate consumers pay $13+ more in housing costs for every $1 of housing subsidy created.

(See Economic Analysis of an Inclusionary Zoning Ordinance, at Exhibit D)

-State Dept. of Housing and Community Development (HCD) pressure on cities to solve the housing affordability problem through inclusionary requirements since 2012 is probably a major factor in why the price level of housing in California increased dramatically faster than the US as a whole in recent years.

(See Exhibit A. A Fifty Year Comparison of California v. U.S. Median House Prices.)

Real Cost of 25% Inclusionary Housing Requirement

Exhibit B-6

Example: Existing 345 Unit Apartment in Pleasanton

I. Amount of Rent Subsidy Required for Each Unit Type:

A. Unit Size	B. Max Very Low Income Rent -50% AMI	C. Max Low Income Rent 80% AMI	D. Max Moderate Income Rent 110% AMI	E. Less: Utility Allowance	F. Net Rent Allowed per BMR Unit	G. Current Market Rent Jan. 2021	H. Monthly BMR Rent Subsidy G. - F.	I. Annual Loss in Net Operating Income (NOI) H. X 12	J. Lost NOI Capitalized at 5% I. / 0.05
1 br unit	$1,305			$140	$1,165	$2,535	**$1,370**	$16,440	$328,800
2 br unit		$2,350		$172	$2,178	$3,145	**$967**	$11,604	$232,080
3 br unit			$3,278	$208	$3,070	$4,060	**$990**	$11,880	$237,600
Average Monthly Rent for Market Rate Remaining Units (weighted to reflect unit numbers)						$2,883			

1. Rent levels (A, B, & C) from HCD Guidelines, shown in 2020 Dublin BMR (Below Market Rate) Update (Attachment B)
2. "AMI" means "Area Median Income". "BMR" means "below market rate" (rent restricted) unit.
3. Utility allowance from HUD guideline shown (Attachment C)
4. Market rate rents from Apartment Manager.
5. The actual project on which the model is based "purchased" an exemption from BMR requirements for $4,500,000.
6. Because the no. of 3 br units is insufficient to provide 1/3 of rent controlled units at 25% inclusionary, balance are allocated equally between 1 & 2 br units.

II. Cumulative Costs for Entire Project:

K. Unit Size	L. No of Units	M. No. of BMR Units	N. No of Market Rate Units L. - M.	O. Annual Loss of Net Operating Income (NOI) Per BMR Unit (From I. above)	P. Annual Loss in NOI Per Unit Type M. x O.	Q. Lost NOI Capitalized at 5% P. / 0.05
1 br unit	181	32	149	$16,440	$526,080	$10,521,600
2 br unit	142	32	110	$11,604	$371,328	$7,426,560
3 br unit	22	22	0	$11,880	$261,360	$5,227,200
Totals	345	86	259		**$1,158,768**	**$23,175,360**

III. Increase in Rents to the Market Rate Units from 25% Inclusionary:

1. Lost Property Value from 25% Inclusionary Requirement (from Q above)	**$23,175,360**
2. Lost Annual Net Operating Income (NOI) from inclusionary Costs (From P. above)	**$1,158,768**
3. Number of (Unsubsidized) Market Rate Units. (From N. above)	259
4. Increased Annual Rent per Market Rate Unit to Cover Inclusionary Cost: (#2. / #3.)	$4,474
5. Increased Monthly Rent per Market Rate Unit to Cover Inclusionary Subsidy (#4. / 12)	**$373**
6. Average Monthly Rent for Market Rate Units (From G above)	$2,883
7. % Increase in Rent Level from 25% Inclusionary Requirement [#5. / (#6. - #5)]	**14.85%**

Peter MacDonald
pmacdonald@macdonaldlaw.net
925.285.3947
January 2021, update July 2022

-Inclusionary requirements drive capital away from housing production until citywide rent levels rise enough to cover the inclusionary costs.

As a result, market rate consumers pay $13+ more in housing costs for every $1 of housing subsidy created. (See Economic Analysis of an Inclusionary Zoning Ordinance, at Exhibit D)

-State Dept. of Housing and Community Development (HCD) pressure on cities to solve the housing affordability problem through inclusionary requirements since 2012 is probably a major factor in why the price level of housing in California increased dramatically faster than the US as a whole in recent years. **(See Attachment A. A Fifty Year Comparison of California v. U.S. Median House Prices.)**

Attachment B

Exhibit B-8

2020 Income Limits and Maximum Below Market Rate (BMR) Rent

Update Effective April 30, 2020

INCOME LIMITS

Below are the maximum household income limits for the City of Dublin and Alameda County, effective April 30, 2020. Income limits are shown by income category and household size. The Income limits are established annually by the State of California Department of Housing and Community Development (HCD). Information regarding HCD's methodology is available at: www.hcd.ca.gov. The income limits are used to determine eligibility for the City of Dublin's Below Market Rate (BMR) rental housing and ownership program.

2020 Income Limits

Income Category	% of Area Median Income	Household Size							
		1	2	3	4	5	6	7	8
Extremely Low	**30%**	$27,450	$31,350	$35,250	$39,150	$42,300	$45,450	$48,550	$51,700
Very Low	**50%**	$45,700	$52,200	$58,750	$65,250	$70,500	$75,700	$80,950	$86,150
Low	**80%**	$73,100	$83,550	$94,000	$104,400	$112,800	$121,150	$129,500	$137,850
Median*	***100%***	$83,450	$95,350	$107,300	$119,200	$128,750	$138,250	$147,800	$157,350
Moderate	**120%**	$100,150	$114,450	$128,750	$143,050	$154,500	$165,950	$177,400	$188,850

Updated April 30, 2020 CA State Department of Housing and Community Development Official Income Limits

**Median Income shown for reference only, this is not an official income limit.*

MAXIMUM MONTHLY RENTS

Using the 2020 income limits, below are the **maximum** allowable monthly rents for BMR rental homes in Dublin. Lower rents may be charged and vary from development to development since **increases for existing tenants in these income categories in restricted affordable projects may be limited by other Agreements**.

2020 Maximum Allowable Rents by Income Category

Number of Bedrooms	Number of Persons in Household	Very Low (50% AMI)	Low (80% AMI)	Moderate (using 110% Median)
Studio	1-2	$ 1,143	$ 1,828	$ 2,295
1	1-2	$ 1,305	$ 2,089	$ 2,622
2	2-4	$ 1,469	$ 2,350	$ 2,951
3	3-6	$ 1,631	$ 2,610	$ 3,278
4	4-8	$ 1,763	$ 2,820	$ 3,541

Utility Allowance Schedule

See Public Reporting and Instructions on back.

U.S Department of Housing and Urban Development

Office of Public and Indian Housing

OMB Approval No. 2577-0169
exp. 7/31/2022

Exhibit B-9

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA	Unit Type	Date (mm/dd/yyyy)
Housing Authority of the County of Alameda	Multi-Unit Buildings and Attached Homes	7/1/2020

Utility or Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas	15	20	22	26	30	31
	Bottled Gas						
	Electric	21	21	28	39	47	73
	Electric – Heat Pump						
	Fuel Oil						
	Other						
Cooking	Natural Gas	3	4	4	4	4	4
	Bottled Gas						
	Electric	4	5	7	8	8	10
	Other						
Other Electric		30	37	51	63	72	79
Air Conditioning							
Water Heating	Natural Gas	10	14	17	24	29	33
	Bottled Gas						
	Electric	28	28	54	72	76	75
	Fuel Oil						
Water		33	47	60	73	93	107
Sewer		24	24	24	24	24	24
Trash Collection		33	33	33	49	49	87
Other – specify							
Range/Microwave		9	9	9	9	9	9
Refrigerator		9	9	9	9	9	9

Actual Family Allowances – May be used by the family to compute allowance while searching for a unit.

Totals: : 140 : 172 : 208

Head of Household Name

Unit Address

Number of Bedrooms

Utility/Service/Appliance	Allowance
Other Electric	
Air Conditioning	
Water Heating	
Water	
Sewer	
Trash Collection	
Other	
Range/Microwave	
Refrigerator	
Total	

Exhibit C

Housing Subsidy Required to Meet Pleasanton 2023-2031 RHNA Allocation

A. Category	B. Pleasanton RHNA Allocation	C. Monthly BMR Rent Subsidy Required*	D. Annual Loss in Net Operating Income (subsidy) C. X 12	F. Annual Subsidy to Meet RHNA B. X D.	G. Annual Subsidy Capitalized at 5% F. / 0.05
Very Low	1,750	$1,370	$16,440	$28,770,000	$575,400,000
Low	1,008	$967	$11,604	$11,696,832	$233,936,640
Moderate	894	$990	$11,880	$10,620,720	$212,414,400
Above-Moderate	2,313				
Total	5,965			**$51,087,552**	**$1,021,751,040**

*BMR Rent Subsidy from Exhibit B Real Cost of 15% Inclusionary Housing Requirements, based on actual Pleasanton project.

Prepared by: Peter MacDonald
pmacdonald@macdonaldlaw.net
925.285.3947

Exhibit D

An Economic Impact Analysis of an Inclusionary Zoning Ordinance

By Peter MacDonald

October 2000

Table of Contents

Design, layout, graphics and production by Donna Topp,
Law Office of Peter MacDonald

Section 1. The Problems with Inclusionary Zoning

Subsidized Housing is Not Affordable Housing

This economic impact analysis began in response to a specific inclusionary housing ordinance in Pleasanton, California. The study results have shown the proposed Pleasanton approach to be so destructive to housing affordability, that it could fairly be described as an anti-affordable housing ordinance. The Pleasanton ordinance, as originally proposed, would require each new housing project to provide 15 per cent of its units as affordable (subsidized) housing in perpetuity for persons with incomes ranging from 50% to 80% of the area median income.

The City staff and policymakers must be commended for their desire to address housing affordability. But inclusionary zoning is the wrong solution to the very real problem of housing affordability.

"Inclusionary zoning makes the perpetrators of housing scarcity feel better, but it actually increases total housing costs."

Local government restrictions upon housing supply have given the Bay Area the highest housing costs in the nation. "Inclusionary zoning" is the term used by those who want to tax the housing consumer to "solve" this self-inflicted lack of affordable housing. With inclusionary zoning, the developer is required to rent or sell new housing units at below their cost of production.

Inclusionary zoning makes the perpetrators of housing scarcity feel better, but it actually increases total housing costs. Study data included in Appendix A, based upon reasonable conservative assumptions, projects that the proposed Pleasanton inclusionary zoning ordinance would cause new housing costs to increase as follows:

- $40,587 - Increased cost of market rate single family dwellings.
- $104 per month - Increased rent per market rate multifamily rental dwelling.

Inclusionary zoning exactions raise the cost of new housing, and the cost of the used housing which competes with that new housing. The resulting increase in new and used housing costs dwarfs the size of any subsidies collected from new housing. An eight year projection of the impacts of the proposed Pleasanton inclusionary zoning ordinance shows the following result:

- $17,713,832 - Eight year total housing subsidy from Inclusionary Ordinance.
- $243, 243,562 - Eight year total increase in private housing costs.
- $13.73 - Dollar Increase in Private Housing Costs per Dollar of Housing Subsidy.

Although the $13.73 dollars are paid by private parties, that cost is really a form of government waste. This equates to a public project with a 92.72% administrative cost. (I.e. 1 - [$1.00/$13.73])

The Economics of Scarcity

To a socialist, the solution is to have the capitalist apartment owner just cut back his or her profits. But that result simply drives capital away from rental housing construction, because capital will earn higher returns elsewhere. Specifically, the burden of in perpetuity inclusionary rentals lowers the return (projected profit) on potential apartment projects, making them infeasible. Eventually the resulting lack of new supply drives rents up until market rent levels are sufficiently high to "carry" the inclusionary units.

Inclusionary zoning is based upon the same economic strategy as rent control. But the victims are the other tenants, rather than the landlords, because the government cannot force investors to go into the rental housing business, but it can force landlords to stay in the rental housing business. The more government undertakes to manage the scarcity it creates, the more severe the scarcity becomes.

"Inclusionary zoning is based upon the same economic strategy as rent control."

Legal Problems

The State Department of Housing and Community Development has opposed inclusionary zoning in a letter addressed to the City of Pleasanton:

> *"We do not support the City's adoption of inclusionary requirements and are very concerned that existing in-lieu fee and proposed land dedication requirements will add to the cost of housing for all levels. These additional costs could constrain the development of the market rate units upon which the inclusionary units depend".*

Adoption of the proposed inclusionary ordinance would be an act of lawlessness which would render Pleasanton's Housing Element and its implementation legally inadequate.

There is no nexus (i.e. legal connection) between the shortage of affordable housing and the act of creating or buying new housing. The housing consumer is the victim, not the perpetrator of the housing shortage.

Arbitrary Land Use Process

One insidious aspect of the draft inclusionary zoning ordinance is that it throws up a shroud of regulatory uncertainty over every proposed residential project. Under the proposed ordinance, the type of required inclusionary units and their level of affordability is left to be determined on a political basis after the project proposal is received by the City. There is no safe harbor (i.e. no plan) to which a residential project can be designed. There is always an excuse for the City to require a redesign. That means the inclusionary exactions will vary erratically from project to project depending on neighborhood reaction, planner whims, political clout, and degree of developer desperation. A simple and fair approach to inclusionary housing is to have a set fee which the landowner has the first option to pay, together with incentives which make landowners want the advantages offered for providing inclusionary units.

Alternatives to Inclusionary Zoning

There are many incentive based approaches which could improve housing affordability. For example, a strategy to soften voter resistance to housing supply might be to raise the regional traffic fee high enough to cover the real cost of traffic congestion from new growth. Within less than one City Council term, it would be possible to substantially increase the supply of small homes, condominiums, and apartments in Pleasanton. Quality of life is a function of community setting far more than home size. Pleasanton has a community setting which can absorb a fair share of regional housing needs. But we will achieve that goal only by enabling the housing market rather than further burdening the housing market. (See Appendix B for additional ideas.)

Conclusion

True solutions come from better understanding. The real housing affordability problem is the artificially high price of market rate housing, which would be exacerbated by inclusionary zoning. Our California children can have affordable housing, like the rest of this country, but only when we rediscover and unleash the power of a free housing market. We must work together to develop safe harbor incentives and market based approaches to achieve improved housing affordability.

> **"We can have affordable housing, like the rest of this country, but only when we rediscover and unleash the power of a free housing market."**

Section 2. How Inclusionary Zoning Costs Increase the Cost of Housing

Inclusionary Zoning Is Funded by Private Housing Consumers, Not Developer's Profits

At the joint Planning Commission/Housing Commission public hearing on the proposed inclusionary zoning ordinance, several Commissioners were in denial that the increased costs imposed by inclusionary zoning would affect the cost of market rate housing. After all, their reasoning goes, developers and home sellers will charge "whatever the market will bear".

Pleasanton's exclusionary housing policies have already had a devastating effect on the housing prices this market will bear: Four bedroom tract houses in Pleasanton Valley are now selling for $600,000. That means the next generation of home buyers, including many of our children, will qualify to live in the kind of home in which they grew up only when their family income reaches about $175,000 per year, and when they can afford a $5,000 per month house payment. Now the proposed inclusionary zoning ordinance would add yet another $40,000 to the cost of that Pleasanton Valley tract home. Here is how it happens:

Figure 1. Housing Market

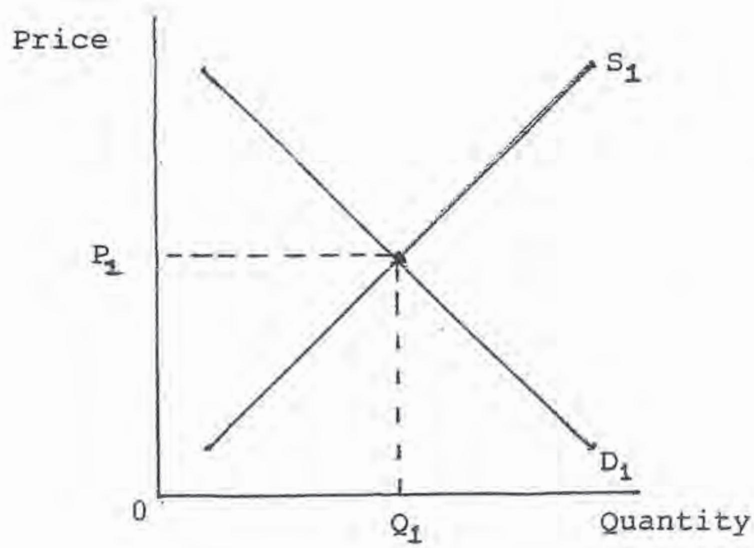
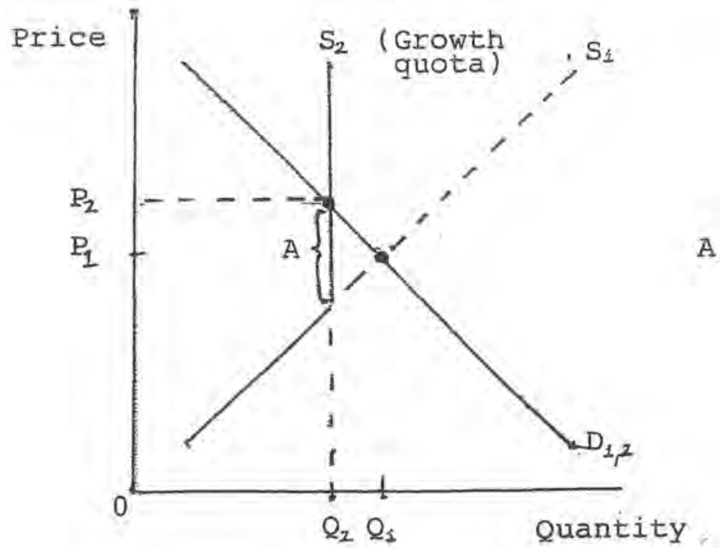


Figure 1. Shows a conventional supply / demand graph for the new home market (for a community like Pleasanton) with supply (S_1) and demand (D_1) in equilibrium at a price of P1 and quantity of Q1.

Figure 2
Growth Control



A = Scarcity premium
Residual to landowner

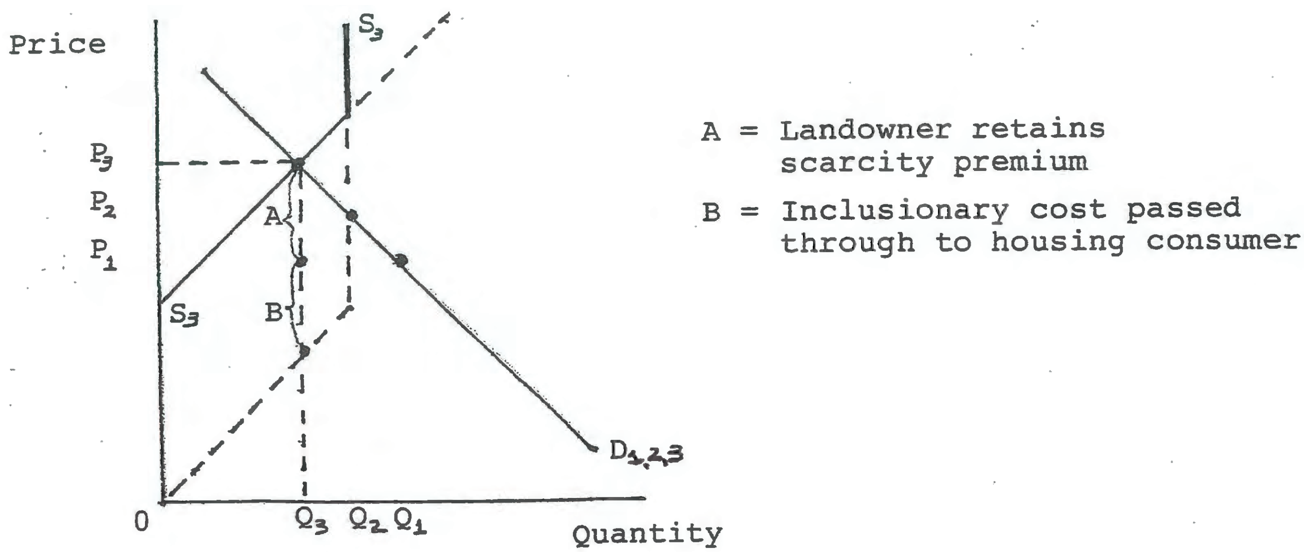
- Figure 2 introduces growth control into the housing market. The growth control quota (shown at Q2) effectively alters the supply curve causing it to rise vertically once the growth control quota is reached. With growth control, the equilibrium price increases to P2 and the quantity supplied decreases to Q2.

- At Q2:P2, the difference between the free market supply price and growth controlled equilibrium price is shown on Figure 2 as A. "A" constitutes a scarcity premium which goes to the landowner.

- In the absence of further government intervention, any residual above the cost of producing a house becomes a windfall profit (rent) to the landowner. See Price Theory, by Milton Friedman, University of Chicago, Aldrine Publishing Company 1962, p.142 *"The returns to specialized factors are now "rent", at least in part, and in consequence, do not determine price but are determined by it."* The windfall profit or rent will only go to the developer if the developer has locked onto an option price prior to the rise in housing prices to P2.

- Now comes the City saying *"We created this scarcity premium, so we will now expropriate the windfall profit and apply it to the worthy cause of inclusionary zoning"*. Figure 3 illustrates what happens next.

Figure 3
Growth Control and Inclusionary Zoning



"The funding source for inclusionary zoning costs is artificial housing inflation in market rate housing."

- In Figure 3, note that the developer is charging "whatever the market will bear" and yet the cost of the inclusionary mandate has been passed through to the housing consumer. The funding source for inclusionary zoning costs is artificial housing inflation in market rate housing.

- In effect, the landowner and City have a shared monopoly. The landowner can charge a "rent" on location and space while the City can charge a "rent" on its zoning permit.

- The landowner and the City each holds out for its expected rent such that the supply curve rises and the new higher equilibrium price is reached at P3:Q3. You can think of this as a test of wills between the City and the landowner (representing the supply side) and the developer (representing the demand for housing). The City exaction is relatively fixed so the landowner's elasticity of supply of land is pitted against the developer/home buyer's elasticity of demand for new homes. When building permits and project approvals become difficult and scarce, the landowner gets his or her "rent", the City gets its "rent" and the housing consumer pays for both rents (A + B in Figure 3).

- Anything the City does to restrict the supply of building permits tends to increase the scarcity premium to the landowner. Land scarcity is self reinforcing in that land bankers will tend to hold land away from the housing market (i.e. restrict supply) when its scarcity value is increasing at a higher rate than its carry cost.

- Because housing is a basic need, like water, the demand is highly inelastic when housing becomes scarce. Thus, entities with monopoly power, like cities, can drive the price of housing to levels far above the commodity cost of producing a house. Since California local governments were granted substantial control over housing supply in the early 1970's, California planning practices have driven the median price of a California home to a level which is nearly twice the median price of a US home. In 1970 California median home prices were approximately equal to the national median.

Increased Demand
Increased demand further increases housing prices. The demand curve is shown as constant in Figures 1,2 and 3 to focus on the supply. That assumption is unrealistically conservative because a record of home price appreciation will typically trigger a rise in the demand curve. A record of housing price appreciation encourages increased investment in housing, bidding up the price of the existing housing stock, because homeowners and investors desire to participate in the windfall gains from rising prices. Moreover with each one dollar increase in housing prices, existing homeowners see an approximately one dollar increase in their home equity, thus increasing effective demand (i.e. home purchasing power).

Decreased Demand
During a severe recession, such as the early nineteen-nineties, housing prices can fall below the cost of producing new housing. But, as soon as the real growth rate turns positive, housing costs will reflect the cost of the inclusionary zoning exaction. With a positive growth rate, the surplus of home buyers will bid up the cost of existing housing until the price level is sufficient to cover the cost of producing new homes for the surplus buyers, including the inclusionary zoning costs. In the absence of inclusionary housing exactions, housing production will pick up again at a lower price level, and will generate the supply which keeps housing prices from rising to higher levels.

"Inclusionary zoning as a strategy is dependent upon maintaining housing scarcity whereas affordable housing is dependent on maintaining housing surpluses."

Cumulative Effects
To borrow a term from the environmental bureaucracy, the "cumulative effects" of Pleasanton's inclusionary zoning are felt beyond Pleasanton's housing market, and vice versa. Livermore's inclusionary zoning ordinance increases Livermore housing prices and chokes off an escape route for those from Pleasanton who would rather not pay $40,000 more for their housing, and vice versa. For communities which do not undertake comparable inclusionary exactions, there will typically be a blended result with some increased price (based upon higher priced competition in the region) and some increased supply (in response to higher profit potential from the lower cost of production).

Overall, the cumulative effect of supply restrictions by Bay Area Cities has caused a massive decrease in housing affordability. Widespread municipal adoption of inclusionary zoning is a strategy incompatible with improved housing affordability. Inclusionary zoning as a strategy is dependent upon maintaining housing scarcity whereas affordable housing is dependent on maintaining housing surpluses.

Section 3. Inclusionary Zoning is Exclusionary Zoning

Who Really Benefits from Scarcity?

Every California city is required to provide for its fair share of the regional housing need. Many California cities seek to avoid providing their fair share of the regional housing need by means of exclusionary zoning. Exclusionary zoning policies seek to restrict new housing supply below the market demand and, in addition, frequently limit the type of housing, preferring large expensive homes on large lots to small homes and apartments. Theoretically, exclusionary zoning is illegal.

In connecting inclusionary zoning to its exclusionary purpose, it is useful to recall that for each one dollar ($1) of housing subsidy generated by the Pleasanton inclusionary ordinance, private housing consumers are being forced to pay an additional thirteen dollars ($13) in market rate housing costs. Standing alone, this formula fails to provide a "rational basis in support of a legitimate governmental interest" which any legislative enactment is required to meet. No rational city council member would support a government program with a cost/benefit ratio of 13/1.

But, we have not yet shown the whole benefit picture. For every dollar in increased housing cost paid by a housing consumer coming into the Pleasanton housing market, an existing homeowner or apartment owner will reap a dollar of increased rent or sales price. These are the primary beneficiaries of inclusionary/exclusionary zoning. Moreover, the homeowner group lives and votes in Pleasanton, while the people who will pay the higher housing costs from the inclusionary/exclusionary zoning do not yet live and vote in Pleasanton. So, the simplistic answer to the question of who benefits from housing scarcity is the existing homeowner.

> **"For each one dollar ($1) of housing subsidy generated by the Pleasanton inclusionary ordinance, private housing consumers are being forced to pay an additional thirteen dollars ($13) in market rate housing costs."**

It is not that many of the supporters of exclusionary zoning do not believe in the free market. They merely carry their free market philosophy into the voting booth with them. In their view, Pleasanton is a municipal corporation and they are shareholders of Pleasanton, Inc. They bought their share in Pleasanton, Inc. at one price, and now they want their City Council to maximize their shareholder value, primarily by maximizing their home value. The City Council has done a magnificent job of raising values in Pleasanton Valley to $600,000 per share. The inclusionary zoning ordinance should produce an additional $40,000 rise in the value of a share in Pleasanton Inc.

It must be noted that the use of government monopoly power over land use to force up home prices to increase private homeowner equity is not a "legitimate governmental interest". In other words, if you take the exclusionary benefits out of inclusionary zoning, we are back to the cost/benefit ratio of 13/1. The cost/benefit ratio from inclusionary zoning is so small and so negative that it cannot be justified legally, economically, or morally.

But even for those who could care less about affordable housing or future residents, and would willingly accept the benefits of exclusionary zoning, the benefits turn out to be surprisingly skimpy, as described in Section 4. The real answer to the question, "Who benefits from scarcity?" turns out to be "No one."

Section 4. Exclusionary Zoning Is Excluding Our Children from California

The Real Economics of Growth Control

The higher real cost of housing in California is alarming evidence that my generation is failing to produce a better world for our children. Both exclusionary and inclusionary zoning are designed to create housing scarcity. The California strategy of controlling growth through artificial housing scarcity targets the wrong victims. Two thirds of the growth of California during the 1990's has been from our own children.

If my brother's child purchases a home in Denver for less than ½ of the price for which my child can purchase the equivalent home in the Bay Area, who is better off? If the Denver resident's house payment is more than a thousand dollars a month less than the Bay Area resident's house payment, then the Denver resident can apply that difference in purchasing power to an enhanced standard of living. Enhanced purchasing power can mean better schools, more family time, and a bigger house for the Denver resident.

Calculation of lost purchasing power from inflated housing prices:

	Median House Price[1]	Monthly House Payment[2]
San Jose, CA PMSA	$410,000	$2,406.77
Denver, CO PMSA	$172,000	$1,009.68
Wasted Purchasing Power: (Per month)		**$1,397.09**

This calculation of wasted purchasing power represents a reasonable approximation of the price of California's growth control.[3]

In effect, artificial housing inflation operates as a tax upon economic ignorance. The Bay Area, in particular, has combined the most productive private sector in the nation with the most restrictive government housing policies in the nation to produce a very mediocre standard of living relative to our productivity.

"The California strategy of controlling growth through artificial housing scarcity targets the wrong victims."

Paper Wealth

But what about all of us existing California homeowners with our appreciated home equity? It's paper wealth. The owners of existing houses do see their home equity increase dollar for dollar with the inflated home price. But what can a homeowner do with this paper wealth?

First, the paper wealth of overpriced housing is almost worthless unless the owners move out of state. And this only works until other states start restricting their housing supply like California.

Second, increased home equity can be turned into cash by refinancing the home. But then, of course, that higher debt must be paid back.

Third, some increased home equity can be liberated by moving to a smaller, cheaper home; i.e. by lowering your living standard.

Fourth, if the house is sold at the current inflated price, the proceeds of sale buy only an equivalent house, so the homeowners are no richer.

Fifth, the homeowners can roll their increased home equity forward as a higher down payment on a larger, more expensive house. But, in so doing, the homeowners are forced to buy housing at the new inflated housing price level. Thus, the homeowners become victim of the very artificial inflation which increased their home equity in the first place.

The Anti-growth Ponzi Scheme

In order for the homeowner to come out ahead, financially, on the move up house, a new increased level of housing scarcity must be attained. Only by creating greater housing scarcity can there be more housing inflation, which is necessary to generate more home equity. What we have going in California is a Ponzi scheme in which the addictive fix of increased home equity requires ever greater inflation in real housing costs.

With this Ponzi scheme, any increase in California real income gets sucked into higher housing costs. But even with greater scarcity, home price increases cannot exceed the growth in family income for extended periods because at some point prospective purchasers no longer qualify for home loans. This Ponzi scheme finally reaches its limit when housing prices climb to the point that a preponderance of young families are priced out of the California housing market and are forced to leave the state.

"Two thirds of the growth of California during the 1990's has been from our own children."

Who really pays?

As it turns out, the existing homeowner is forced to pay real dollars for that paper wealth. Through the magic of economics, the higher cost of California housing is fed back to the existing homeowner in the cost of virtually every private product and public service in California. This happens primarily through operation of the labor market.

For example, California ranks 37th among the states in total K-12 education spending per student. But because of its artificially inflated housing prices, California ranks 9th among the states in teacher salaries and 50th among the states in student/teacher ratio.[4] When teachers apply that 9th highest teacher salary to purchase of overpriced California housing, the new teacher's living standard also ranks near 50th. Our kids get bigger class sizes and our new teachers get near subsistence living standards. Moreover, many California schools are having trouble finding new teachers and have been forced to reduce their quality standards for new teachers. This is just one example of how the economy passes the cost of housing scarcity on to all consumers, no matter when they bought their home.

The Intended Victims Do Not Pay

The intended victims of housing scarcity are in-migrants to California from elsewhere. However, in-migrants typically avoid the housing scarcity because of labor market competition for their services. Specifically, in order to attract the engineers or technicians from Denver or elsewhere, the Bay Area firm has to offer its prospective employee a salary high enough to compensate for the overpriced Bay Area housing market. Otherwise, she won't take the job. Not surprisingly, recruitment of skilled employees has become a major problem for Bay Area employers.

Another group of people who are not victim to our high housing prices are distant purchasers of products made in the Bay Area. The purchaser of a computer in Denver or Taiwan will not pay one red cent above the world market price for a computer, just because the people who made that computer live in the overpriced housing of the Bay Area. If Bay Area residents choose to squander the highest incomes in the nation on artificially high housing prices, that is a local political choice. The market does not permit us to foist that cost off on distant consumers.

> **"The anti-growth advocates are proposing a California in which our children must choose between living in poverty or leaving the state."**

The Primary Victims: Our Children

The primary victims of artificial housing inflation are our own children. When our sons and daughters want to buy a house in the Bay Area (or equivalent communities) the real price may be double or triple what we paid. And our children will not have inflated home equity to roll forward as a down payment.

Our children will face far higher real costs of housing than we faced, and therefore will face lower standards of living than we faced. The anti-growth advocates are proposing a California in which our children must choose between living in poverty or leaving the state. How ironic, and how just, that people who set out to enrich themselves at the expense of others, succeed primarily in impoverishing their own children.

> **"How ironic, and how just, that people who set out to enrich themselves at the expense of others, succeed primarily in impoverishing their own children."**

Footnotes:

1. From NAHB (National Assoc of Homebuilders) Web page, Website Facts and Figures. Housing Opportunity Index: First Quarter of 2000.
2. Both examples assume 20% down payment, 30 year loan at 8.0% interest with property taxes and insurance not included. I.e. $82,000 down payment for San Jose median and $34,400 down payment for Denver median.
3. This is true to the extent that other economic factors (primarily the cost of building materials) are comparable between the metropolitan regions. Differences in many factor costs, such as wage level for construction workers, can be caused by differences in housing costs as well as being a cause of such differences.
4. *EdFact Report*, EdSource, Inc. Palo Alto, CA, September 1998. Data are for the 1996-97 school year, which is after implementation of California's "class size reduction" program.

APPENDIX A

ECONOMIC IMPACT

ANALYSIS DATA SERIES

Study Assumptions

1. Table 3: Row A, Column 1

The model for analysis of Pleasanton's draft Inclusionary Zoning Ordinances is set out in Table 3. The simplified model assumptions are compared with data in the 1999 Growth Management Report ("GMR") at Table III - 2, as follows:

	GMR	Model
Total Dwelling Units	23,184	23,000
Single Family Units	15,167	15,000
Multifamily Units	8,017	8,000

2. Table 3: Row D

The Pleasanton General Plan sets a growth goal of 350 dwelling units per year and the model assumes growth of 300 dwelling units per year.

3. Table 3: Rows E and F

The model assumes 220 single family dwelling and 80 multifamily dwellings per year (Single family 73.3%; multifamily 26.7%).

4. Table 3: Rows H and I

The model assumes 15% of all new single family units and 15% of all new multifamily units are "inclusionary" subsidized units.

5. Table 4: Row E "Impact Per Subsidized Unit Per Year".

This statistic is based upon Table 1, No. 3, which calculated the subsidy per affordable unit at \$140,000. Monthly payment for 30 year equal amortization loan of \$140,000 at 8% interest is \$1,027.28 per month, which equals to an annual subsidy of \$12,327 - as shown in Row E.

6. Table 4: Row G "Cost Per Year Per Market Unit of Subsidy".

Table 1, No. 6 shows \$40,587 cost per market rate unit of inclusionary mandate. Table 4 Row G is the annual cost to a homeowner on a \$40,000 30 year loan at 8% interest (\$3,522).

7. Table 4: Row H "No. of Market Rate Units Impacted by Subsidy".

This is a key assumption of the analysis. The formula assumes that, in addition to all new single family units being impacted by the subsidy cost, that 10 percent of existing houses are sold each year, and their sales prices reflect and incorporate the higher home prices for new units resulting from the inclusionary mandate. E.g. Formula for H3: (Stated verbally)

H3 equals: *"Previously impacted single family homes plus new market rate single family homes plus 10% of previously unimpacted existing single family homes".*

H3 = H2 + B3 + .10 [A3 - H2 - D3]

H3 = 3221 + 187 + .10 [15,440 - 3221- 99] or 4620 units

Over the eight year period, the number of price impacted homes gradually rises to 60.59% of the total.

8. Table 5: Row E "Impact per Subsidized Unit per Year".
This figure is based upon annualized value of the $592 per month per unit rent subsidy from Table 2.

9. Table 5: Row G "Annual Increase in Rents per Market Rate Unit"
Annualized value of a $104 per month per unit subsidy cost.

10. Table 5: Row H "No. of Market Rate Units Impacted by Rent Subsidy"
This is a key assumption of this analysis. The model assumes that the higher cost of market rate rentals (resulting from inclusionary mandates) migrates into existing market rate rental units at 25% per year. Thus, after four years, all existing and new market rate rents have incorporated the cost of the inclusionary mandates.

11. Entire Study
As a simplification, the model assumes all multifamily units are rented and all single family units are owner occupied. In actuality, some multifamily units are owner occupied and some single family units are rented, and those differences approximately balance. The 1999 Growth Management Report estimates the overall percentage of owner occupied units at 73 percent and rental units at 27 percent. GMP p.III - 4.

Table 1

Real Cost of 15% Inclusionary Mandate on Single Family Housing Costs

1. Assume

17	market rate units
3	subsidized units
20	total units (15% inclusionary)

2. Market Rate units

Assume average 6000 sq. ft. lot with 2500 sq. ft. units
Market price $700,000+

3. Subsidized units

Assume average 3000 sq. ft. lot with 1200 sq. ft. unit

$320,000	market price
$180,000	restricted (subsidized) price
$140,000	subsidy per affordable unit

4. Cost of direct subsidy:

$420,000	Direct cost (i.e. 3 units x $140,000)
$ 24,705	Direct cost per market unit (i.e. $420,000 / 17 market rate units)

5. Additional cost impact from loss of market unit density

E.g. applicable if density of market rate units is reduced below midpoint of general plan density range*

$180,000	Net value of market rate paper lot -assume 1.5 market rate paper lots replaced by 3 subsidized lots.
$270,000	-additional cost from loss of density (i.e. 1.5 lots x $180,000)
$ 15,882	cost per market rate unit of density loss (i.e. $270,000 / 17 market value)

6. Impact of 15% subsidized units on supply cost of market rate units

$ 24,705	Direct cost of subsidy
$ 15,882	Impact of reduced density(when applicable)
$ 40,587	**Cost per market rate unit of inclusionary mandate**

*Even if project is at midpoint of general plan density range or above, there would still be an impact from smaller lot sizes of market rate units on the sales value of those units.

Table 2

Real Cost of 15% Inclusionary Mandate on Multifamily Rental Costs

Consider who pays for an "in perpetuity" set aside of inclusionary rental units. Say, the Pleasanton market permits construction of new rental units at rents of $1690 per month. Now assume 15% of the units in that project are set aside as affordable units in perpetuity. The only source to cover the cost of the inclusionary units is the market rate tenant. If the inclusionary units are reserved for a range of low income tenants (families at 50%, 65% and 80% of the median income) the affect on the market rate units in a 20 unit apartment complex would be as follows:

	% of Units	No. of Units	Rent per Month	Subsidy per Unit per Month
Very Low Income Unit (50% of median)	5%	1	$845	$845
Low Income Unit (65% of median)	5%	1	$1,098	$592
Low Income Unit (80% of median)	5%	1	$1,351	$339
Market Rate Unit (100% of median)	85%	17	$1,690	0
Total Subsidy				$1,776

- **Subsidy per market rate unit**: $1,776 subsidy/17units = **$104 per month per unit.**
- Market rate rent plus cost of subsidy: $1,690 + $104 = $1,794 per month.
- **Percent Increase in market rate rents resulting from subsidy** ($104/$1,698) = **6.15%.**

This model may substantially understate the real impact of inclusionary zoning on market rents in that the model attributes:

- No additional cost to administration of subsidized units, including City control over selection of rental occupants.
- No cost to displacement of market units by subsidized units (and/or the smaller unit sizes and land area which result).
- No cost is assigned to the risk that subsidized rents will fall even further below market rents (thereby increasing the subsidies).
- No cost to the increased uncertainty resulting from the "flexible" inclusionary requirement upon the City discretionary approval process.

realcos3

Table 3: Housing Unit Counts and Related Assumptions for Analysis of Pleasanton Inclusionary Zoning Ordinance

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	End of Yr 8 Totals
A	Number of Housing Units	23,000	23,300	23,600	23,900	24,200	24,500	24,800	25,100	**25,400**
B	No. of Single Family Detached Units	15,000	15,220	15,440	15,660	15,880	16,100	16,320	16,540	**16,760**
C	No. of Attached Multifamily Units	8,000	8,080	8,160	8,240	8,320	8,400	8,480	8,560	**8,640**
D	No. of New Housing Units	300	300	300	300	300	300	300	300	**2,400**
E	No. of New Single Family Units	220	220	220	220	220	220	220	220	**1,760**
F	No. of New Multifamily Units	80	80	80	80	80	80	80	80	**640**
G	No. of New Subsidized Single Family Units	33	33	33	33	33	33	33	33	**264**
H	Cumulative Total: Subsidized Single Family Units	33	66	99	132	165	198	231	264	
I	No. of New Subsidized Multifamily Units	12	12	12	12	12	12	12	12	**96**
J	Cumulative Total: Subsidized Multifamily Units	12	24	36	48	60	72	84	96	
K	Cumulative Total: All Subsidized Units (H+J)	45	90	135	180	225	270	315	360	

Table 4: Private Housing Cost per Dollar of Subsidy from Inclusionary Zoning Ordinance, Single family Units

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Totals
A	No. of Single Family Housing Units	15,000	15,220	15,440	15,660	15,880	16,100	16,320	16,540	
B	No. of New Single Family Market Rate Units	187	187	187	187	187	187	187	187	1,496
C	No. of New Subsidized Single family Units	33	33	33	33	33	33	33	33	264
D	Cumulative Total: Subsidized Single Family Units	33	66	99	132	165	198	231	264	
E	Impact per Subsidized Unit per Year	$12,327	$12,327	$12,327	$12,327	$12,327	$12,327	$12,327	$12,327	
F	Annual Total of Single Family Subsidy (D*E)	$406,803	$813,606	$1,220,409	$1,627,212	$2,034,014	$2,440,817	$2,847,620	$3,254,423	$14,644,904
G	Cost Per Year Per Market Unit of Subsidy	$3,522	$3,522	$3,522	$3,522	$3,522	$3,522	$3,522	$3,522	
H	No. of Market Rate Units Impacted by Subsidy	1,687	3,221	4,620	5,898	7,066	8,137	9,119	10,022	
I	Annual Increase in Private Single Family Housing Costs from Subsidies (G*H)	$5,941,816	$11,343,692	$16,271,243	$20,771,903	$24,888,361	$28,659,037	$32,118,508	$35,297,896	$175,292,458
J	Dollar Increase in Market Housing Costs per Dollar of Housing Subsidy (I/F)	$14.61	$13.94	$13.33	$12.77	$12.24	$11.74	$11.28	$10.85	$11.97

Table 5: Private Housing Cost per Dollar of Subsidy from Inclusionary Zoning Ordinance, Multifamily Units

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Totals
A	No. of Attached (Multifamily) Units	8,000	8,080	8,160	8,240	8,320	8,400	8,480	8,560	
B	No. of New Market Rate Multifamily Units	68	68	68	68	68	68	68	68	544
C	No. of New Subsidized Multifamily Units	12	12	12	12	12	12	12	12	96
D	Cumulative Total: Subsidized Multifamily Units	12	24	36	48	60	72	84	96	
E	Impact per Subsidized Unit per Year	7,104	7,104	7,104	7,104	7,104	7,104	7,104	7,104	
F	Annual Total of Rent Subsidy (D*E)	$85,248	$170,496	$255,744	$340,992	$426,240	$511,488	$596,736	$681,984	$3,068,928
G	Annual Increase in Rents per Market Rate Unit	$1,248	$1,248	$1,248	$1,248	$1,248	$1,248	$1,248	$1,248	
H	No. of Market Rate Units Impacted by Rent Subsidy	2,068	4,136	6,204	8,272	8,340	8,408	8,476	8,544	
I	Annual Increase in Market Rents (G*H)	$2,580,864	$5,161,728	$7,742,592	$10,323,456	$10,408,320	$10,493,184	$10,578,048	$10,662,912	$67,951,104
J	Dollar Increase in Market Rent per Dollar of Rent Subsidy (Row I divided by Row F)	$30.27	$30.27	$30.27	$30.27	$24.42	$20.52	$17.73	$15.64	$22.14

Table 6: Increase in Private Housing Costs per Dollar of Subsidy From Pleasanton Inclusionary Zoning Ordinance over Eight Years

		Totals
A	Eight Year Total of Single Family Subsidy From Table 2, Row F	$14,644,904.00
B	Eight Year Total of Multifamily Subsidy From Table 3, Row F	$3,068,928.00
C	Eight Year Total Subsidy (A + B)	$17,713,832.00
D	Eight Year Increase in Private Single Family Housing Costs from Subsidies From Table 2, Row I	$175,292,458.00
E	Eight Year Increase in Multifamily Market Rents from Subsidies From Table 3, Row I	$67,951,104.00
F	Eight Year Increase in Private Housing Cost (D + E)	$243,243,562.00
G	Dollar Increase in Private Housing Costs per Dollar of Housing Subsidy (F / C)	$13.73

Appendix B

Examples: Possible Incentive based Affordable Housing Policies

1. No affordable housing fee shall be required for any housing unit less than 1500 square foot in size.

2. The affordable housing fee shall be $_______ per square foot for each square foot unit size that exceeds 1500 square feet. (E.g. A 2000 square foot home would pay 500 x $) (X = $_____ and a 3000 square foot home would pay 1500 x $) (X = $________).

3. Landowner shall always have the option of simply paying the in lieu fee for affordable housing. [*Otherwise, it's not an incentive plan, and the real cost may be substantially different from project to project.*]

4. For each affordable unit supplied, landowner shall be allocated one additional market unit above the midpoint of the general plan density range.

5. Affordable units may be supplied onsite or offsite, so long as located within Pleasanton.

About the Author: Peter MacDonald

Peter MacDonald has a B.A. in Economics from University of Montana 1969, a M.S. in Urban Planning from University of Arizona 1972 and a Jurisdoctorate from the University of Arizona 1975. He has been a member of California Bar Association since 1976. He served as City Attorney for the City of Pleasanton from 1982 through 1988. Since 1988 he has practiced law in Pleasanton specializing in planning law. He has been active in community affairs having served as president of the Bay Area City Attorneys Association, the Pleasanton Chamber of Commerce, the Eastern Alameda County Bar Association, and the Rotary Club of Pleasanton. He is presently the Chair of the Board of Directors of Valley Community Bank in Pleasanton.

He is currently practicing Law at 400 Main Street, Suite 210 in Pleasanton CA 94566 and can be reached at (925) 462-0191, or faxed at (925) 462-0404, or email at pmacdonald@macdonaldlaw.net

Exhibit E

LAW OFFICE
PETER MACDONALD
400 MAIN STREET, SUITE 210
PLEASANTON, CALIFORNIA 94566-7371

(925) 462-0191
FAX (925) 462-0404
pmacdonald@macdonaldlaw.net

February 22, 2021

Megan Kirkeby, Deputy Director
Department of Housing and Community Development
Division of Housing Policy Development
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

Subject: **The City of Pleasanton "RHNA Moratorium"**

Dear Ms. Kirkeby,

I write to ask for an HCD Opinion or enforcement action regarding a de facto moratorium on processing housing applications in the City of Pleasanton. I am writing for myself, and do not represent any client or organization in making this complaint.

The City of Pleasanton is a recognized leader with a track record in the field of exclusionary zoning (e.g. Urban Habitat Program v. City of Pleasanton, 164 Cal.App.4th 1561 (2008)). Now, Pleasanton has developed a new and innovative tool to suppress housing supply below market demand which could be aptly named the "RHNA Moratorium". Here is how it works:

After adoption of its Housing Element for the 2014-2022 RHNA period, and completing the planned rezonings, several large apartment projects were commenced. As those projects reached completion in about 2015, a number of the units which were presumed to be "affordable" by virtue of the planned density of 30 units to the acre (under Govt. Code Sec. 65583.2 (c) (3) (B) (iv)) came on the market. Market rents for 30 units to the acre apartments in Pleasanton exceed the 120% of area median income (AMI) category under RHNA, and thus are treated as "above market units" under RHNA after completion.

Under your 2014-2022 RHNA allocation for Pleasanton, 73.3% of the units are required to be in the price controlled categories (Very Low, Low, & Moderate). That leaves only 26.7% of the RHNA allocation as market rate housing -553 units. (**Exhibit A.** Housing Element Progress Report excerpt from 2019). Thus, in Pleasanton's view, it had "filled" its quota of above market units by the end of 2015, with 819 units, and is entitled to suppress further market rate housing supply until 2022 and after.

Having "satisfied" its RHNA allocation for market rate units, the City set about land banking any substantial market rate projects for the next RHNA cycle. In May 2015, the City Council set aside, and stopped processing, the East Pleasanton Specific Plan, -a 400+ acre open space area planned for about 1300 housing units- which had just gone through a two year planning process.

The Apply to Apply Scheme:

The City Staff then proposed an "Apply to Apply" process. A May 11, 2016 Staff Report described the Apply to Apply scheme to the Planning Commission:

Any proposed housing project requiring a legislative change such as a rezoning will be held back for an annual decision as to whether to process that housing application considered together with any other proposed housing applications (legislative changes) each April, unless the Staff decides otherwise.

The Staff Report then states: "*As the State Department of Housing and Community Development (HCD) has certified the City's Housing Element as adequate, the City has met State law requirements to 'designate and zone sufficient vacant land for residential use' ". As such, the proposed policy does not violate these State laws, as the policy does not reduce land currently designated for residential uses."*
(**Exhibit B**. May 11, 2016 Pleasanton Staff Report)

A combination of the local Chamber of Commerce, local builders, and the BIA protested the obvious exclusionary intent of that policy, and it was supposedly dropped.

The City Workplan Scheme:

Then in 2019, the Staff included several proposed housing re-zonings in its proposed Two Year Workplan. The claim is that scarce Staff resources have to be conserved. But, whether to build a fire station, or a park, or update the City's utility plan, are fundamentally different decisions than whether to process a proposed private housing project on private land. Most obviously, the City charges all costs of processing housing projects to the applicant. Under that 2019 procedure, a viable senior housing project (Merritt-DeSilva project) was put on the shelf in 2019, for no action for the next two years. I protested this exclusionary scheme to the Mayor, who indicated he would try to change that practice (**Exhibit C**. 2019 Email exchange with Mayor Thorne).

But here we are in 2021, and the Draft 2021 Two Year Workplan again includes proposed housing projects on the list, again competing with fire stations, etc. as to whether the City will even lift a finger to process those applications. The senior housing project whose delay I protested two years earlier is put on that Draft Workplan with a "C" recommendation, which means Staff will not lift a finger to process that application for yet another two years. Planning Commission just adopted that Staff Recommendation, and the Workplan is scheduled to reach the City Council in March 2021 for final action. (**Exhibit D**. Draft 2021 Two Year Workplan).

The Merritt property is shown as Residential on the General Plan, and has been pre-zoned PUD-LDR (**Exhibit E**. General Plan Map and Zoning Map excerpts). The Merritt property is not annexed, but is surrounded on three sides by built out City neighborhoods. The property crosses Foothill Road, an arterial street, making that the only section of Foothill Road right of way not within City limits on about a five mile stretch. It is an in-fill project. The Merritt project would advance several Housing Element policies, including the required inclusionary zoning units, providing senior housing, and completing needed in-fill infrastructure.

In Pleasanton, once zoned PUD, a property still has to obtain a PUD Development Plan, which is approval of the detailed site and building plans. The City considers approval of the PUD Development Plan a "legislative action". Similarly, the City considers an annexation as "legislative", and that the City has unfettered discretion whether to ever process such an application.

To be absolutely clear about what a "C" grade on the Workplan meant, Assistant City Manager Dolan wrote the Merritt project proponent on September 3, 2019 stating:

". . . it would not be timely for you to submit an application for the Merritt Project unless and until staff has sufficient capacity to process it. . . . Should such an application be submitted . . . it will not be processed." (**Exhibit F**. 9-3-2019 City letter to Merritt Owner)

<u>My Questions</u>

Can a city simply refuse to process a proposed housing application which is consistent with the General Plan map and already zoned for its intended density?

If a proposed housing project does require a rezoning, general plan change, or annexation, is a city free to refuse to even process the application?

Perhaps an Opinion of general applicability would be useful to prevent other RHNA moratoriums and similar exclusionary zoning tactics in the future.

Very Truly Yours,

Peter MacDonald

Peter MacDonald

Cc: Governor Newsom
Senator Glaser
Representative Bauer-Kahan
Pleasanton City Council
Pleasanton Chamber of Commerce
Urban Habitat
Bill Fulton

Exhibit A (to Exhibit E)

Jurisdiction	Pleasanton	
Reporting Year	2019	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.

Please contact HCD if your data is different than the material supplied here

Table B
Regional Housing Needs Allocation Progress
Permitted Units Issued by Affordability

		1	2									3	4
Income Level		**RHNA Allocation by Income Level**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**Total Units to Date (all years)**	**Total Remaining RHNA by Income Level**
Very Low	Deed Restricted	716	54	128		25	23					230	486
	Non-Deed Restricted												
Low	Deed Restricted	391	16	21	6	28	6					78	313
	Non-Deed Restricted				1								
Moderate	Deed Restricted	407										36	371
	Non-Deed Restricted		2	10	6	7	11						
Above Moderate		553	819	228	102	38	87					1274	
Total RHNA		**2067**											
Total Units			**891**	**387**	**115**	**98**	**127**					**1618**	**1170**

Note: units serving extremely low-income households are included in the very low-income permitted units totals
Cells in grey contain auto-calculation formulas

Exhibit B to Exhibit E

THE CITY OF PLEASANTON

Date: May 11, 2016

To: Planning Commission

From: Gerry Beaudin, Director of Community Development
Adam Weinstein, Planning Manager
Larissa Seto, Assistant City Attorney
Shweta Bonn, Senior Planner

Subject: P16-0828, Policy for Legislative Changes

Policy for Legislative Changes (P16-0828), Item 6b on the April 27, 2016 agenda, was continued at the request of several members of the public who also provided written comments.[1] The purpose of this memo is to: (1) revise the recommendation identified in the staff report; and (2) provide a response to those comments received in advance of the April 27, 2016 Planning Commission meeting.

Staff Recommendation

The April 27, 2016 report recommends that the Planning Commission adopt a resolution recommending *approval* of the subject policy, and forward the proposal to City Council for consideration. In order to allow for more opportunity for community input on the policy, staff is currently recommending that the Planning Commission provide a favorable recommendation to the City Council to *consider* the subject policy (not necessarily recommend approval of it). Revised text is indicated below. Staff would make the appropriate changes to the resolution subsequent to the May 11, 2016 Planning Commission hearing.

> STAFF RECOMMENDATION
>
> Staff recommends that the Planning Commission take the following actions:
>
> 1. Find that the proposed policy is statutorily exempt from CEQA;
>
> 2. Adopt a resolution recommending ~~approval~~ consideration of the subject policy (Exhibit A), and forward the proposal to the City Council ~~for consideration~~.

---

[1] These include: Alicia Guerra of Buchalter Nemer; Scott Raty of the Pleasanton Chamber of Commerce; Jeff Schroeder of Ponderosa Homes; and Lisa Vorderbrueggen of the Building Industry Association of the Bay Area. These correspondences are attached to this memo. If additional comments are received before your May 11th meeting, those will be forwarded to you, made available to the public and staff will provide further responses either with supplemental written information or verbal updates at the meeting.

Response to Comments

Prior Outreach

Staff conducted focused outreach on the proposed policy prior to publishing the staff report, including to applicants that frequently submit development applications for residential projects, and to the Chamber of Commerce. Staff also notes that, as currently proposed, it is anticipated that at least three public hearings would be held on the policy, giving interested community members multiple opportunities to comment.

Development is a Risk by Applicant

While development is a risk assumed by the applicant, the proposed policy is intended to provide an opportunity to comprehensively review requests for legislative changes before significant time and resources on behalf of the applicant and the City are spent on a request. Also, under the current process, projects are before Planning Commission and City Council for final decision without the Planning Commission or City Council having the benefit of knowing other pending requests. The Preliminary Review process is not an adequate substitute for this proposed policy because it does not involve formal input from the Planning Commission and City Council. Furthermore, this policy would not unreasonably delay projects because applications requiring legislative changes, by their very nature, demand more holistic consideration by the City to ensure that they are in conformance with the broader goals and objectives in the General Plan and the City's overarching planning objectives.

Lack of Planning for Housing

The General Plan and Housing Element already plan and allow for residential development, and the policy is intended to address proposals where legislative changes are requested to the land use designation to accommodate residential development. The current General Plan identifies 9,106 acres as *Residential* (with varying densities), and 778 acres as *Mixed-use*.[2]

Concern About Application to only Residential Projects

With frequent updates of the General Plan's Housing Element, there have been more current decisions about legislative policy regarding residential uses. For example, the General Plan was adopted in July of 2009 whereas the Housing Element was fully reconsidered in February of 2012 and in January of 2015. The goal of the proposed policy is to better honor those comprehensive and holistic reviews of the Housing Element, and related General Plan land use designation changes and re-zoning that have taken place most recently in 2012 and 2015. In addition, it should be noted that the currently-adopted General Plan, including the Housing Element, includes sufficient land zoned for residential uses to meet the City's Regional Housing Need Allocation (RHNA) obligations. These RHNA obligations are designed to ensure that local governments zone sufficient land to meet their need for affordable housing. The proposed policy would not compromise this existing inventory of residentially-zoned land.

[2] A current estimation by the Geographic Information System (GIS) division is 8,868 acres of *Residential* and 799 acres of *Mixed-use*.

Staff Could Recommend Some Projects Move Forward

Applications that are supported by staff to move forward would be governed by the broader goals and objectives in the General Plan, other relevant planning/policy documents, and good planning principles. These criteria are the same ones that staff apply in their review of all development applications that come before the City.

Policy may be Contrary to Procedures in the Pleasanton Municipal Code

The proposed policy would complement the Municipal Code, and does not purport to modify Municipal Code requirements. After the proposed joint Council and Commission meeting held on an annual basis in April, projects that proceed would still need to comply with existing Municipal Code procedures and requirements.

Growth Control Policy and Finding for Public Health, Safety, or Welfare

The proposed policy does not establish any numeric limit on annual housing units. Furthermore, the Municipal Code's Growth Management Program (Chapter 17.36) provides for flexibility to meet residential housing needs in Section 17.36.060.A

> "…except when necessary to increase the annual housing allocations in order to grant approvals to projects so that the city is able to meet its total regional housing needs goals, the maximum limitations established in this section shall not be modified except by an ordinance adopted by the city council in implementing this chapter."

With this flexibility to meet regional housing need goals, the City's Growth Management Program is valid under the cited California Evidence Code §669.5, as it provides (in relevant part):

> (a) Any ordinance enacted by the governing body of a city, county, or city and county which (1) directly limits, by number, the building permits that may be issued for residential construction or the buildable lots which may be developed for residential purposes, or (2) changes the standards of residential development on vacant land so that the governing body's zoning is rendered in violation of Section 65913.1 of the Government Code is presumed to have an impact on the supply of residential units available in an area which includes territory outside the jurisdiction of the city, county, or city and county.

The referenced California Government Code §65913.1(a) provides (in relevant part):

> In exercising its authority to zone for land uses and in revising its housing element pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3, a city …shall designate and zone sufficient vacant land for residential use with appropriate standards, in relation to zoning for nonresidential use, and in relation to growth projections of the general plan to meet housing needs for all income categories as identified in the housing element of the general plan….

As the State Department of Housing and Community Development (HCD) has certified the City's Housing Element as adequate, the City has met State law requirements to "designate and zone sufficient vacant land for residential use". As such, the proposed policy does not violate these State laws, as the policy does not reduce land currently designated for residential uses. Similarly, no further public health, safety and welfare findings are needed for adopting the proposed Policy for Legislative Changes.

Threshold for Applicability (e.g. deemed complete v. pre-applications)

Staff believes that projects currently not deemed complete would benefit from the Residential Policy Check process, and that applications submitted for Preliminary Review are implicitly acknowledged by the applicant as preliminary, and thus may require additional input and adjustment.

Enclosure: Written Comments

Exhibit C to Exhibit E

Peter MacDonald

Subject: FW: DeSilva project

From: Jerry Thorne [mailto:jthorne@cityofpleasantonca.gov]
Sent: Saturday, March 30, 2019 12:16 PM
To: Peter MacDonald <pmacdonald@macdonaldlaw.net>
Subject: Re: DeSilva project

Thanks Peter. Some of those bills would destroy our community including our downtown near the ACE station and Rapid bus routes. We are working with the 4 other tri valley cities to try and make these bills more reasonable. Those changes might include exempting historic downtowns, exempting bus routes in suburban cities since they change frequently and providing for penalties for Silicon Valley and San Francisco for excessive jobs/housing ratios and their refusal to help solve the housing crisis they have created in the Bay Area. Our objective is to collaborate with our legislators to find a way to get more affordable housing without huge negative impacts on our cities.

The discussions with staff on what should be included in the two year plans have already started along with some other issues I have with the current plan.

In addition to finding a way to provide affordable housing , some of my top priorities are the East Side Plan, the Downtown Specific plan and moving the cemetery improvements along at a faster pace.

Again, I like the DeSilva project very much, but they really need to do a lot of additional work with the public. There is a lot of misinformation out there that was stated in the emails and calls I received. I am concerned that if this work is not done we could be headed for another referendum. The input in no way reflects what I was told before the plan was considered.
Jerry

From: Peter MacDonald <pmacdonald@macdonaldlaw.net>
Sent: Saturday, March 30, 2019 11:32 AM
To: Jerry Thorne; Jerry Thorne
Subject: Fwd: DeSilva project

Good morning Jerry,

That is encouraging. Thank you. I agree with your sentence:

> **I am not sure that I agree that housing projects should be a matter for our 2 year work plan and would support not putting them on it.**

Turning your priority setting into a zoning hearing mixed two different functions of the City, with toxic results.

How do you plan to bring that change about?

More importantly, please understand that slovenly local governments taking two years to process infill annexations like this is a big part of why our children cannot live (as well as we did) in California. No wonder there are 200 bills pending to control local control. I'll hold off proposing a 201st bill for the moment.

Take care, Pete

Peter MacDonald

Sent from my IPad

Begin forwarded message:

> **From:** Jerry Thorne <jtthorne2002@yahoo.com>
> **Date:** March 29, 2019 at 3:25:41 PM PDT
> **To:** Peter MacDonald <pmacdonald@macdonaldlaw.net>
> **Subject: Re: DeSilva project**
>
> Hi Peter,
> I am not sure that I agree that housing projects should be a matter for our 2 year work plan and would support not putting them on it. Applications should be submitted and prioritized by staff. It should not be a political process.
> In this particular case I was led to believe that the developer had the support of the neighborhood which was the result of a meeting I had with them before the matter was considered. That was clearly not the case and I really feel that I was lied to in the meeting.
> I do like the project and will support it. However, the developer has a lot more work to do which I am not confident can be accomplished in time to complete the project in the second year of this planning period.
> I will have to say Peter that I am very disappointed in you for deciding to take this issue to a State agency with all of the problems we are currently having with the 200 housing bills currently in the legislature.
> Jerry
>
> On Friday, March 29, 2019, 2:15:14 PM PDT, Peter MacDonald <pmacdonald@macdonaldlaw.net> wrote:
>
> Good afternoon Jerry,

I know you are deliberate and enlightened in most of your decisions, and I usually agree with your thinking. So, I hope one disagreement does not bother you too much.

That said, I disagree with your decision to make the DeSilva project a Priority C project.

My primary problem is with the very concept of making processing of housing proposals a subject of priority lists, and City Council “discretionary” decisions. This is the “apply to apply” concept that the City Council rejected several years ago. The subjugation of housing market forces by local government controls has brought drastically lower living standards to a whole generation of Californians.

I will be expressing my concerns regarding this City policy to the State Housing and Community Development Dept., because it is apparent that local government, and this City in particular, cannot control its exclusionary impulses, without firmer direction from the State, no matter how innocuous the proposed housing projects are.

I am not working for anyone or any client, but just expressing my sincere beliefs as someone who wants our society to work.

Take care, Pete

Peter MacDonald
Law Office of Peter MacDonald
400 Main Street, Suite 210
Pleasanton, CA 94566
Phone: 925.462.0191

Exhibit D to Ex. E

City of Pleasanton 2021-22 Council Work Plan - DRAFT

Goals	Project Description	City Dpmnt.	CIP?	CIP Estimate	Staff Pri	Project Status	Status
Bernal Property **Develop Bernal Community Park**							
Design Phase I of Bernal Community Farm	Design the first phase of the Bernal Park Community Farm Master Plan.	CMO/ENG	Yes	Up to $2.4M	**B**	**Planned / Budgeted**	Staff and UCCE Master Gardeners are developing the MOU related to Master Gardener Program uses at the Bernal Community Farm Site. The Master Gardeners require an established MOU in order to fundraise for their development and operations of the site. Design portion of project has been put on hold.

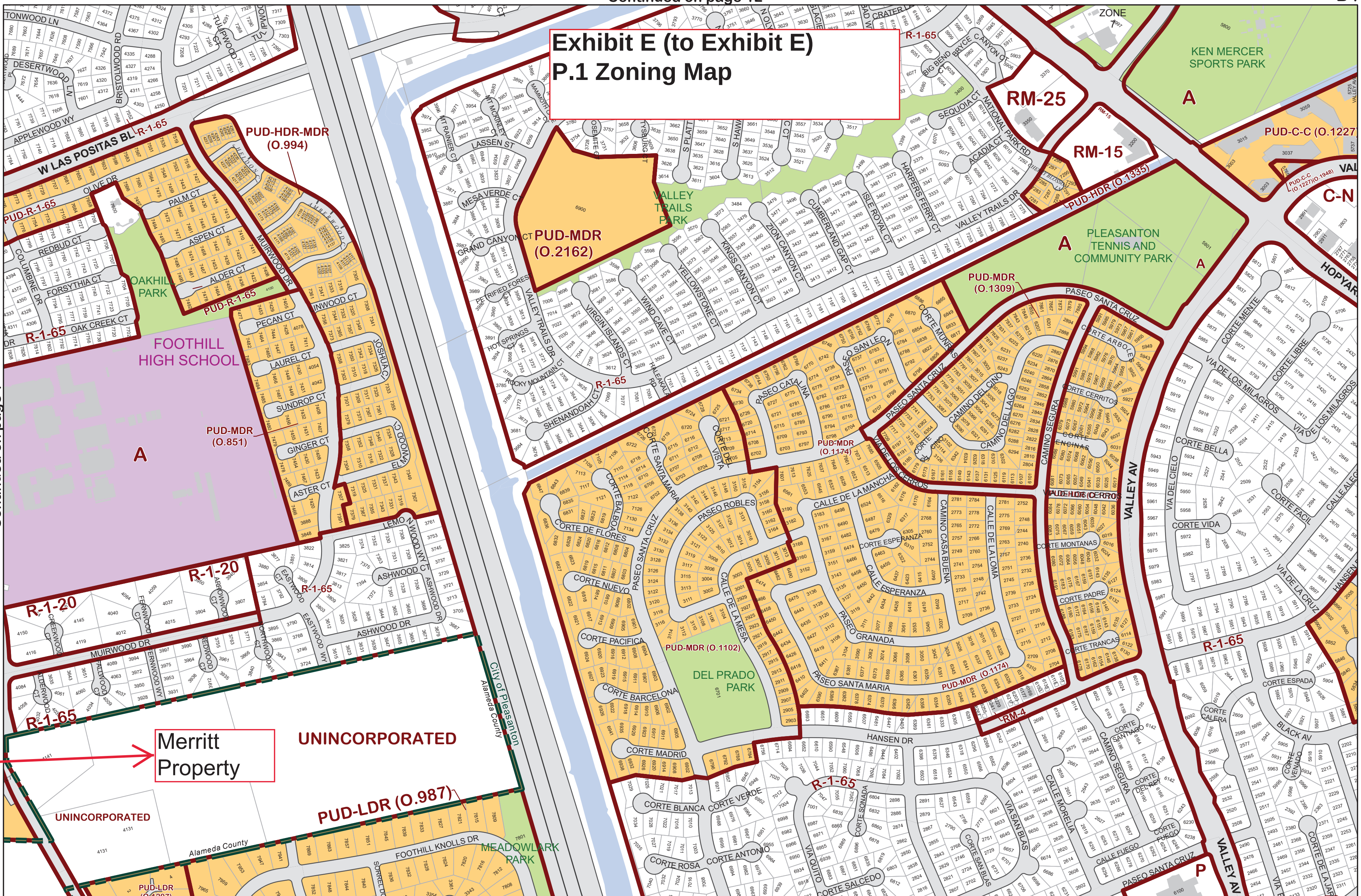
Merritt at p. 2

City of Pleasanton 2021-22 Council Work Plan - DRAFT

General Plan Implement General Plan and pursue long-term advanced planning activities							
Lester Property	Consider a residential subdivision, with other on- and off-site amenities, on the Lester Property consistent with Measure PP restrictions. The project would incorporate the dedication of land to the EBRPD and a new staging area for improved public access to the Pleasanton Ridge.	CDD	No		**A**	**Underway**	Planning Commission Workshop held March 26, 2019, and revisions have been made to the plans to reduce the number of lots from 33 to 31, and relocate the Staging Area closer to Dublin Canyon Road. Environmental Impact Report preparation has been initiated, including release of Notice of Preparation in August 20, 2019 and Scoping Meeting held on September 11, 2019. The Draft EIR is expected to be released in 2021.
Merritt Property	Consider a residential subdivision on a property located on Foothill Road (between Foothill Road and I-680, south of Foothill High School), with age-restricted housing and other on- and off-site amenities. This property is currently within the City's sphere of influence and inside the City's urban growth boundary. However, the property is currently located in unincorporated Alameda County.	CDD	No		**C**	**Planned / Budgeted**	No application has yet been submitted, but applicant has expressed interest in doing so in 2020, if staff capacity is available.
East Pleasanton Specific Plan	Restart the East Pleasanton Specific Plan process, which would be the foundation for future development of the area.	CDD	No		**A**	**Underway**	City Council hearings on planning framework, including key planning considerations, project approach, and scope of work held November 19, 2019 and February 18, 2020. Staff issued Request for Proposals for Consultant Services in October 2019. COVID-19 has delayed start of work on the project. Timing to initiate work is to be determined, pending City Council direction on the 2019-20 Work Plan.
Monitor and coordinate the City's response to various CASA proposals through the State legislative cycle	Initiate an information and education effort with the community regarding changes to housing law and local control.	CDD	No		**A**	**Underway**	Since the shelving of SB50, the large roster of housing-related bills was substantially reduced in the 2020 Legislative calendar, due to COVID-19. However, several bills remain under consideration; staff and TPA have developed draft legislative positions on key housing bills for City Council recommendation before the end of the 2020 Legislative Session, including "oppose" positions on any bill that would override local zoning control. A Council update was provided on August 4, and letters sent based on those positions. Several bills did not make it through this year's legislative agenda, but others have been signed into law by the Governor, including AB2345 (Changes to Density Bonus Law) and AB725 (Housing Element/Zoning for Above-Market rate housing). Staff will continue to monitor implementation of those bills.
Develop a Stoneridge Mall Framework	Based on redevelopment interest in the Stoneridge Mall area, develop a planning framework that outlines the community's expectations, allowed uses, and public amenities.	CDD	No		**B**	**Underway**	Simon Properties submitted a proposal for a 486-unit residential project at Stoneridge Mall, on one of the sites identified for high-density housing in the Housing Element, in October 2019. Based on staff comments, Simon tentatively proposed a revised project concept that would integrate the previously-approved commercial expansion on the adjacent Sears site, with the housing project. The Planning Commission reviewed and were supportive of this proposal at a February 2020 Workshop. Applicant's work on formal resubmittal and start of CEQA process has been delayed due to COVID-19, but is tentatively expected to resume in late Fall 2020. Discussion of housing / mixed-use development within the balance of Mall property is likely to be folded into the Housing Element process that will start in early 2021.

Continued on page 12

Continued on page 7



Continued on page 22

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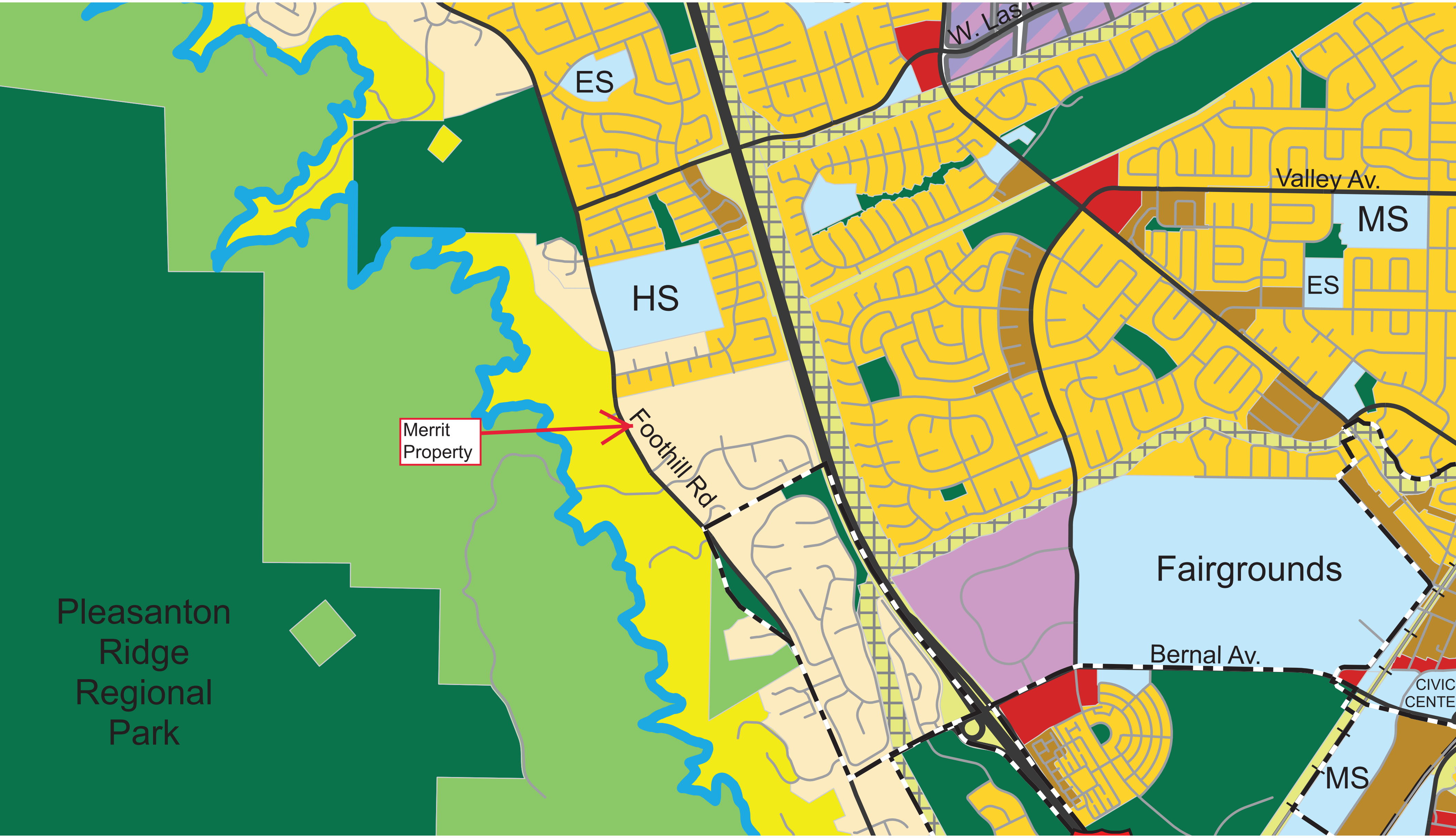
Exhibit E (to Exhibit E)
P.2. General Plan Map



Tan is Residential - Low Density. Less than 2 units per acre

Exhibit F to Ex. E

THE CITY OF

PLEASANTON

Jim Summers
Foothill Boulevard Holding Company, LLC
11555 Dublin Boulevard
Dublin, CA 94568

September 3, 2019

Dear Jim:

As you are aware, in January, 2019, the City Council adopted its 2019-2020 Priorities and Work Plan. This document establishes the City's goals and priorities, and guides allocation of City funding and staff resources over the two year period. In addition to various City-sponsored initiatives and projects, this year's Work Plan process allowed the City Council to consider what priority should be given to processing several private development applications, including your proposed project on the Merritt property.

Ultimately, a majority of the City Council voted to assign the processing of the Merritt project a "C" priority, meaning that it would be worked on "as time allows." Higher priority was given to several other projects that would see completion or major milestones accomplished in 2019/2020, including completion of the Downtown Specific Plan and Johnson Drive Economic Development Zone, re-initiation of work on the East Pleasanton Specific Plan, and processing of the Lester project application. Each of these involves a significant time commitment from Community Development Department staff.

Since the approval of the Work Plan, and in recent weeks, staff has received several email and phone inquiries from consultants, the nature of which leads us to believe that an application package for the Merritt Project may be being developed for submittal to the City.

We understand that there may be other reasons for these inquiries, and that you do not, in fact, intend to submit an application in the near future. Nonetheless, I wanted to remind you of the City Council's direction and reiterate that it would not be timely for you to submit an application for the Merritt Project unless and until staff has sufficient capacity to process it. Based on current workload, this would likely not be before mid-2020. Should such an application be submitted in the near term, and without prior indication from staff that it would be appropriate to do so, it will not be processed.

I appreciate your understanding in this matter and would be happy to discuss any questions you might have. I would also encourage you to check back in with me over the coming months, and particularly as wc approach the end of 2019, to determine the potential timing of an application.

Sincerely,

Brian Dolan
Acting Director, Community Development Department
Assistant City Manager

cc.
Nelson Fialho, City Manager
Ellen Clark, Planning Manager
Patrick Costanza, PJC Real Estate Advisors, LLC.

Exhibit F

Jurisdiction	**Pleasanton**	
Reporting Year	**2021**	**(Jan. 1 - Dec. 31)**
Planning Period	**5th Cycle**	**01/31/2015 - 01/31/2023**

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
Please contact HCD if your data is different than the material supplied here

Table B
Regional Housing Needs Allocation Progress
Permitted Units Issued by Affordability

		1	2									3	4
Income Level		**RHNA Allocation by Income Level**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**Total Units to Date (all years)**	**Total Remaining RHNA by Income Level**
Very Low	Deed Restricted	716	54	128	-	25	23	-	-	-	-	230	486
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-		
Low	Deed Restricted	391	16	21	6	28	6	-	-	-	-	78	313
	Non-Deed Restricted		-	-	1	-	-	-	-	-	-		
Moderate	Deed Restricted	407	-	-	-	-	-	-	-	-	-	62	345
	Non-Deed Restricted		2	10	6	7	11	9	17	-	-		
Above Moderate		553	819	228	102	38	87	36	24	-	-	1,334	-
Total RHNA		2,067											
Total Units			891	387	115	98	127	45	41	-	-	1,704	1,144

Note: units serving extremely low-income households are included in the very low-income permitted units totals and must be reported as very low-income units.

Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will include units that were permitted since the start of the planning period.

Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at apr@hcd.ca.gov.

Exhibit G

Table C-10: Development Fees[1]

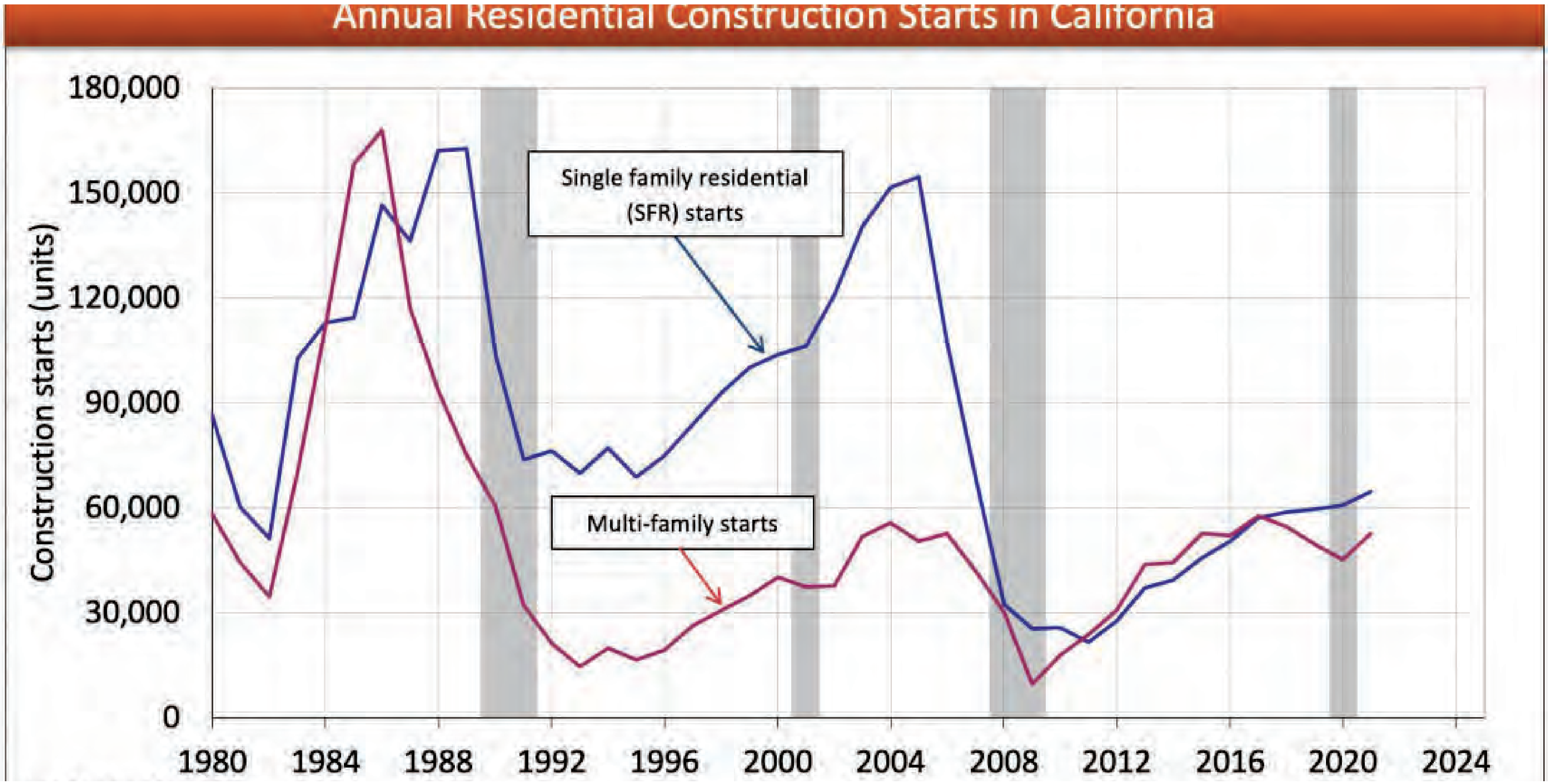
Development Fee	Single-Family	Multi-Family	Affordable Housing	Facilities fees for 900sf apt.:
Affordable Housing	$46,076 [2]	$45,083 [3]	$0	
Capital Facilities	$17,430 [4]	$12,419	Single-Family or Multi-Family fee applies	$12,419
Transportation	$9,908 [5]	$6,092	$469.63	$ 6,092
Tri-Valley Transportation*	$4,901.69	$3,376.47	$0	$ 3,376
Sewer Connection – City [6]	$500	$375 (condominium) $330 (apartment or mobile home)	Single-Family or Multi-Family fee applies	$ 330
Sewer Connection – DSRSD* [6]	$13,659	$10,244 (condominium) $9,016 (apartment or mobile home)	Single-Family or Multi-Family fee applies	$ 9,016
Water Connection (City and Zone 7*)	Based on size of water meter(s)			
Impervious Surface Drainage*	(43,500 ÷ 30) x $1 = $1.00 per square foot of impervious surface			$ 1,450
Pleasanton Unified School District* [7]	$4.08 per s.f.	$4.08 per s.f.	$4.08 per s.f.	$ 3,672
			Total:	$ 36,355

[1] All fees are per dwelling unit unless otherwise noted.
[2] Applies to single-family units over 1,500 square feet.
[3] Applies to apartments, condo, or single-family units 1,500 square feet or less.
[4] Applies to detached single-family units.
[5] Applies to single-family and townhouse units.
[6] These fees estimated based on typical wastewater characteristic factors and unit connection fees.
[7] Residential is subject to the same Pleasanton Unified School District Fee, except that qualified senior housing is subject to a lower rate of $0.66 per square foot.
* Outside agency fee.

Source: City of Pleasanton Community Development Department, Development Fees Handout, March 20, 2021; Pleasanton Unified School District (fees applicable as of August 10, 2020)

From p. C-33 Draft Housing Element.
Annotations by Peter MacDonald

Exhibit H



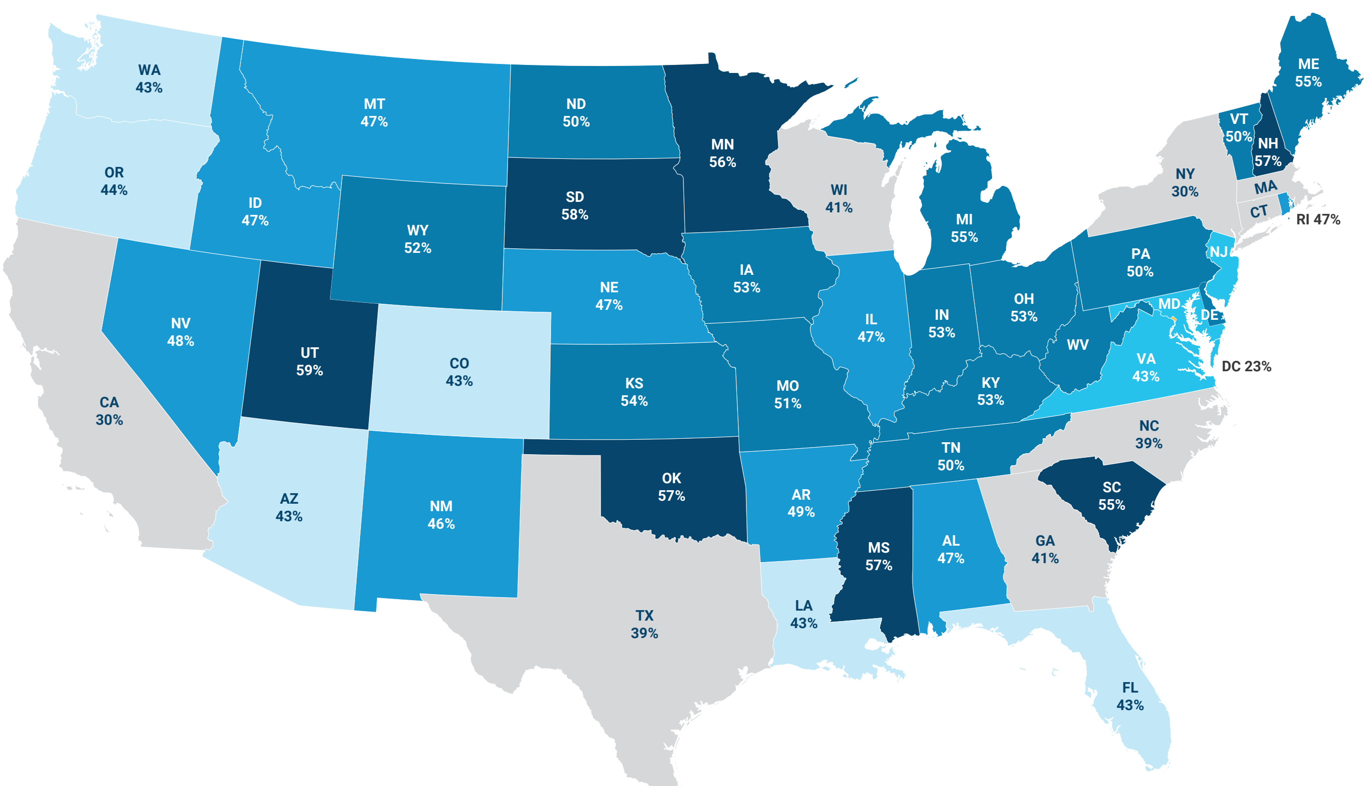
From First Tuesday Journal
May 2022

Exhibit I

HOMEOWNERSHIP: GEOGRAPHIC PRESENCE

The number of millennial homeowners hit 43% in 2019, but their growing share of the market varies substantially by geography. At the regional level, this generation's homeownership is highest in more affordable states where home prices are below the national average. However, in states like California and New York that have high-cost metro areas, millennials have the lowest homeownership rate at 30%.

Millennial Homeownership Rate by State



Source: 2019 U.S. Census-Current Population Survey (CPS)