

**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: June 2, 2009

AGENDA TITLE: Items relating to Inclusionary Zoning:

1. Consideration of a motion to amend the Affordable Housing goals and policies; and
2. Consideration of a motion directing staff to draft an ordinance increasing the cash-in-lieu amounts and applying Inclusionary Zoning affordable housing requirements to multi-family residential projects.

PRESENTER/S: Jane S. Brautigam, City Manager

Stephanie A. Grainger, Deputy City Manager

Paul J. Fetherston, Deputy City Manager

Karen Rahn, Interim Director, Housing and Human Services

Robert Ray, Housing Division Manager

Michelle Allen, Housing Planner

I. EXECUTIVE SUMMARY

The Affordable Housing Program Review consists of three phases:

Phase I - Goals and Strategies Review

Phase II - Regulatory Review

Phase III - New Initiatives

The Affordable Housing Program review is currently in Phase II, Regulatory Review, which focuses on Inclusionary Zoning. This memo includes information relevant to: Determining the cash-in-lieu (CIL) amount of an affordable housing unit; initial proposals for the application of cash-in-lieu; recommendations for applying Inclusionary Zoning to redevelopment projects; possible modifications to include middle income households in the (10%) goal; related modifications to the income, ownership and acquisition priorities associated with the 10% goal; and the Housing Excise Tax and possibilities for funding affordable housing,

Staff recommends the following approach for adjusting cash-in-lieu:

1. Determine a target amount to be reached for increases to cash-in-lieu;
2. Phase-in the increase annually by a set percentage; and
3. Once the target is reached, adjust the cash-in-lieu annually based on an annual affordability gap analysis.

Two target amounts are proposed as options for consideration: The current affordability gap or 75% of the affordability gap. Phase-in options include annual increases of 15, 20, or 25% over current cash-in-lieu amounts. To address the size issue (a project with fewer larger units has a smaller Inclusionary Zoning requirement than a project with more smaller units), staff recommends a combined approach that calculates the requirement by unit but determines cash-in-lieu based on average square footage. Projects with higher

average square footage would pay more cash-in-lieu than those with a lower average square footage. Additional analysis is needed to refine this approach. In addition, staff recommends applying Inclusionary Zoning immediately to any redevelopment projects (demolition and rebuild) with five or more units.

Included in this memo is a summary of the Social Policy Review which includes a review of the current goal to have 10% of the city's housing permanently affordable to very low, low and moderate income households and an option for adding a goal to serve middle income households.

In response to Council's request at the March study session, information is provided concerning Inclusionary Zoning variances. Information is also provided about the First Home Grant program and H2O down payment assistance program.

Staff anticipates presenting options for Inclusionary Zoning modifications to Planning Board on July 16, 2009 and returning to City Council in September with final recommendations.

II. STAFF RECOMMENDATION

Staff requests council consideration of the social policy recommendations and take action in the form of the following motion:

Motion to accept the staff recommendation to:

Amend the affordable housing goals and policies to:

- 1. Retain the goal to have 10% of the total housing stock as permanently affordable to very low, low, and moderate income households.***
- 2. Retain the 10% goal to result in:
35 % serve households with incomes below 30% Area Median Income (AMI);
40 % serve households with incomes between 30 – 60% AMI;
25% to serve households with incomes between 60 – 80% AMI;***
- 3. Retain the objective for the 10% goal to result in:
27% of permanently affordable units for homeownership;
73% of permanently affordable units as rentals.***
- 4. Retain the objective for the 10% goal to have:
50% of new permanently affordable units come from new construction;
50% of new permanently affordable units from the acquisition of existing housing.***
- 5. Add a numeric goal to add 450 permanently affordable housing units for middle income households through the affordable housing program to serve households between 80 – 120% AMI for annexations and 80-100% AMI for the remaining units***

Motion to direct staff to develop ordinance language to:

- 1. Increase cash-in-lieu amounts 15%, compounded annually until 75% of the affordability gap in any given year is reached, thereafter to annually adjust the cash-in-lieu to be equal to 75% of the affordability gap each year.***
- 2. Apply Inclusionary Zoning affordable housing requirements with no grace period to multi-family residential projects with five or more units that are demolished and redeveloped.***

III. COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** The availability of affordable housing enhances Boulder's economic vitality by assisting business' recruitment and retention of employees. The development of affordable housing also contributes to state and local sales tax revenues. Offering affordable housing choices to families with modest incomes also provides a stepping stone for gaining economic self-sufficiency in lower paid job sectors by providing a firm foundation for the working poor.
- **Environmental:** Housing and human services contributes to the health, viability, livability and diversity of the broad community. Providing affordable housing makes it possible for employees to live in the community in which they work, which helps to reduce commuting, traffic congestion and sprawl.
- **Social:** Affordable housing provides an opportunity to positively affect the lives of low and moderate-income residents and to enhance the social fabric of the city. Housing for people with special needs addresses a core challenge for vulnerable members of the community.

IV. OTHER IMPACTS

- **Fiscal:** The cost of consultants for Phase I and II was \$57,3800, budgeted for in the 2008 and 2009 HHS budget. Additional costs for facilitation of public process are estimated at \$1,500 and are budgeted within the 2009 budget.
- **Staff time:** HHS provides project management for the social policy review and regulatory review. This work is included in the 2008 and 2009 Housing Division work plans.

V. PUBLIC FEEDBACK

A memo was received on May 5, 2009 from the Housing Opportunity Committee, Clove Berger, Chair, of the Boulder Area Realtor® Association. It is included with this memo as *Attachment A*.

VI. BACKGROUND

At its June 5, 2008 study session, City Council agreed with the overall goals and strategies of the affordable housing program: to preserve Boulder's socio-economic diversity by offering a range of housing options. Council requested that Phase II, regulatory policies focus on cash-in-lieu amounts and on-site requirements of Inclusionary Zoning. Council also expressed a desire to explore a wide range of affordable housing program elements (e.g., market solutions to better provide housing for middle income households and new funding sources) most of which will be addressed in Phase III when the regulatory review is substantially completed.

The Social Policy recommendations were included in the December 2, 2008 meeting materials. At that time the agenda item was postponed at council's request.

At the March 31, 2009 Study Session council was in general agreement that the program should continue to be flexible and balance the provision of affordable units within development projects with maximizing the number of affordable housing units obtained. Council agreed that the current one-size-fits-all program may not work given the variation in costs and value in the community. Staff presented options on the following four issues for modifications to the Inclusionary Zoning program and requested council feedback:

1. How the cash-in-lieu amount is determined;
 - a. Phasing in cash-in-lieu increases over time;
 - b. Mitigating cash-in-lieu impacts on small projects;
2. The on-site requirement and how it is administered;
3. Serving middle income households through Inclusionary Zoning;
4. Modifications to the land dedication option.

Council generally endorsed moving forward as soon as possible with some change to the cash-in-lieu amounts and requested that staff and the city attorney provide feedback on basing inclusionary zoning requirements on location, size or value of the units in a project. Some council members also supported phasing in any increases in cash-in-lieu amounts and exploring mitigation for smaller projects. Council generally favored the 50% on-site requirement and supported continuing to allow the option to build fewer units on-site when, in the city's determination, on-site units are not desirable. Council requested that staff analyze whether off-site units could be provided in the same geographic area as the site where they would have been provided on-site and requested additional information regarding serving middle income households through Inclusionary Zoning to help them make policy decisions concerning this demographic. Council was in general agreement that staff could proceed with the recommended modifications to the land dedication option.

Council requested that staff return to them as soon as possible, recognizing that all issues and questions may not be addressed in the relatively short amount of time.

VII. WHO PAYS FOR AFFORDABLE HOUSING?

The underlying concept for funding affordable housing in Boulder is that both existing residents and new growth and both residential and non-residential, should contribute to affordable housing solutions for the community.

In 2000, the Affordable Housing Task Force identified three mechanisms for funding the affordable housing goal: 1) Inclusionary Zoning; 2) A tax for affordable housing; 3) A commercial linkage. In November, 2000 a tax for affordable housing, failed at the ballot. The tax was a key program funding mechanism. The tax failed by a vote of 52% to 48%. The measure would have added an additional \$3,000,000 in affordable housing funds annually. Residents currently contribute to affordable housing through a property tax of 8/10ths of a mil.

The development community has been involved in affordable housing since 1985 when the city established the Moderate Income Housing Program (MIHP). This program generally required that 15% of the total units in a project be sold to moderate income households. In 1991 the city discontinued the mandatory MIHP and replaced it with the Community Housing Assistance Program (CHAP), a voluntary program that provides subsidy funds to developers of permanently affordable housing as well as to non-profits to acquire existing housing. CHAP is funded via an 8/10ths of a mil from the property tax and a housing excise tax (HET).

In 1995, the city revised its Residential Growth Management System (RGMS). Projects that included at least 20% permanently affordable and 35% restricted units were able to receive the required RGMS residential development approvals, known as allocations, faster than those projects that contained market rate units exclusively. In 1997 the city established its first cash-in-lieu option for developers of projects that were in progress at the time the new RGMS was adopted. Approximately \$1.3M was generated from this option.

In 2000 the city simultaneously amended the RGMS to remove the affordable housing components and adopted the present Inclusionary Zoning program requiring that 20% of all new residential development be permanently affordable for low and moderate income households. The program provides options for meeting the Inclusionary Zoning requirement, including paying a cash-in-lieu amount for a portion of the required permanently affordable units.

The current Housing Excise Tax (HET) is levied on all new development on a per square foot basis. The 2009 rates are \$0.23 per square foot for residential and \$0.49 per square foot for non-residential development. Combined, the HET has generated between \$100,000 and \$400,000 per year, over the last ten years, in funds to acquire, construct or rehabilitate permanently affordable housing for households within 15% - 60% AMI, defined as the "working poor" in the ordinance. The city has well-established programs and funding sources that secure permanently affordable housing from new residential construction and existing market rate housing. However, the funds generated by the current HET are not adequate to meet the demand for affordable housing generated by new non-residential development.

The 2009 Development Excise Tax Study by TischlerBise recommends that the city eliminate the HET on residential development and increase the HET for non-residential development. TischlerBise recommends that the Housing Excise Tax be set at rates that more accurately mitigate the demand for affordable housing generated by the various types of non-residential development. This recommendation recognizes that funding for affordable housing solutions should be shared by existing residents and new growth, both residential and non-residential as the entire city benefits from the retention of economic diversity in the city.

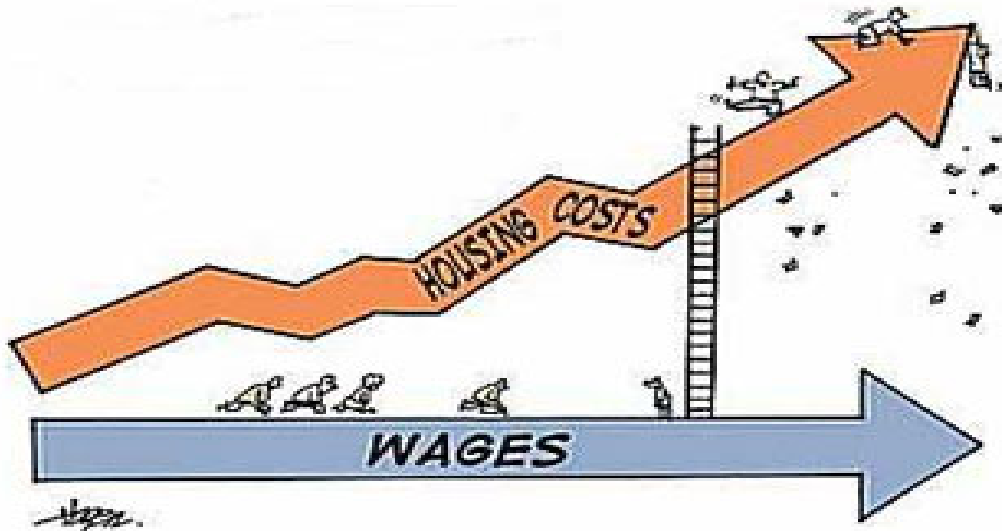
Since this is a tax, it would require a vote by the electorate. Placing a housing excise tax on the 2009 or future year ballot would complement the proposed revisions to the Inclusionary Zoning ordinance. Both Inclusionary Zoning and the Housing Excise Tax

are intended to address the growth related demand for affordable housing in the community; one through a requirement for a percentage of new residential units to be permanently affordable, and one through a tax on non-residential development.

VIII. CASH-IN-LIEU

While half of the Inclusionary Zoning requirement should be provided on-site, the other half may be provided by way of paying cash in lieu of a unit. Cash-in-lieu amounts are often based on the affordability gap which generally represents the cost to obtain a similar housing unit to the one that would have been provided on-site. The affordability gap is the difference between what an affordable buyer (based on income) can buy and market prices.

Initial cash-in-lieu amounts were set in 2000 and were intentionally set lower than the then existing affordability gap. Although adjusted annually based on the median price of market rate homes, the cash-in-lieu amounts have not kept pace with the growing affordability gap. Due to relatively flat buying power and rising housing costs, the affordability gap has risen quickly over the last nine years.



The following table indicates cash-in-lieu initial amounts and the resulting increase based on the average increase in housing each year.

Cash-in-lieu Adjustments 2000-2009

	Cash-in-Lieu	Cash-in-Lieu	Single Family Detached Housing	Multi-Family Attached Housing
	Per Affordable Detached Home	Per Affordable Attached Home	% Change	% Change
1999	n/a	n/a	n/a	n/a
2000	\$66,000	\$60,000	22.4%	20.2%
2001	\$80,816	\$72,126	11.1%	16.8%
2002	\$89,773	\$84,211	1.3%	4.5%
2003	\$90,918	\$88,000	1.2%	1.4%
2004	\$92,040	\$89,263	10.0%	8.0%
2005	\$101,234	\$96,421	12.0%	5.5%
2006	\$113,367	\$101,747	6.5%	1.4%
2007	\$120,719	\$103,158	2.0%	2.9%
2008	\$123,134	\$106,149	-2.6%	3.8%
2009	\$119,922	\$110,178	n/a	n/a
		Average change	7.1%	7.2%

The average annual percent change in cash-in-lieu for the nine years of the program was 7.1% for single family homes and 7.2% for multi-family homes. The affordability gap has increased, on average, 5.4% and 11.5% respectively. Current increases in cash-in-lieu will not keep pace with the growing affordability gap. In part, the discrepancy occurs because the initial cash-in-lieu amount was intentionally set low, at \$66,000 for single-family homes and \$60,000 for multi-family homes. The actual gap for single family homes in 2000 was \$153,000 for single family homes and \$93,000 for multi-family. The low initial cash-in-lieu amounts, combined with a low annual percent change has resulted in a large discrepancy between current cash-in-lieu amounts and the affordability gap.

To determine possible adjustments to the cash-in-lieu amounts staff began by determining the current 2009 affordability gap as a benchmark. At the March 31st study session two methodologies were presented for determining the gap, cost to purchase and cost to construct. Both resulted in similar affordability gaps equal to approximately double the currently applied cash-in-lieu amounts. Since cash-in-lieu to construct tends to be more volatile the cost to purchase methodology is recommended. See **Attachment B** for details on the affordability gap analysis.

The following table shows the current cash-in-lieu amounts as compared with the 2009 affordability gap for attached and detached housing.

2009 Cash-in-lieu Compared to the 2009 Affordability Gap

	Single Family Home	Multi family home
2009 Cash-in-lieu	119,922	110,178
2009 Affordability Gap	231,400	226,765

At the March 31st study session Economic and Planning Systems (EPS) who have been hired as economic consultants for the Affordable Housing Review, presented preliminary analysis indicating that, assuming a 12% return on development, both land values and market prices would need to adjust to support any increases in cash-in-lieu. In addition, the large discrepancy between the current cash-in-lieu and the 2009 affordability gap, combined with current difficulties in obtaining financing for development projects, would suggest a phased-in approach to any cash-in-lieu increases. At the study session council asked EPS to provided answers to two specific questions:

1. Q. If no affordable units were required on-site, would it be feasible to raise cash-in-lieu?
A. No, not up to the proposed cash-in-lieu amounts.
2. Q. Would it be feasible to lower the 20% overall requirement but raise cash-in-lieu?
A. Yes. A 15% requirement and cash-in-lieu amounts based on the current affordability gap provides an approximate 12% developer return for all scenarios.

The answer to question number two above indicates that, at this time, to insure developer return on investment cash-in-lieu could be raised to the gap amount only if the overall affordable housing requirement were reduced to 15%.

Possible offsets such as density bonuses were discussed. EPS indicated that a density bonus is of limited use in Boulder due to the height restriction. EPS also indicated in the current market the ability to adjust for higher cash-in-lieu amounts will be a timing issue and suggested that council might want staff to explore other incentives to assist the development community with any adjustments to the program that may result in additional impacts. (See *Attachment C* for more information on offsets.)

Staff suggests the following phased-in approach for adjusting cash-in-lieu:

1. Determine a target amount to be reached for phasing in the cash-in-lieu such as the affordability gap.
2. Raise the current cash-in-lieu amount annually by a set percentage.
3. Once the target is reached, adjust the cash-in-lieu annually based on an annual affordability gap analysis.

Two target amounts are proposed for consideration:

1. The projected affordability gap ; or
2. 75% of the projected affordability gap

Some communities use the affordability gap to set cash-in-lieu amounts and others adjust the gap downward. The approach to be adopted depends on a number of issues including, politics, economics, financial viability for development projects and the structure of individual affordable programs. Often the full gap amount is used for cash-in-lieu when the program is structured so that most affordable units are required to be built on-site. In these communities the cash-in-lieu may be set at a high level intentionally with the understanding that it will rarely be used. Boulder's program calls for a split, with half of

the units required on-site and an option of providing the other half off-site. While the affordability gap or some percent of the gap is often used as a benchmark to set cash-in-lieu amounts, it is not expected to be an exact indicator of the number of housing units that could be obtained with the funds. There is also a need to recover costs to administer the Inclusionary Zoning program. The Housing Division utilizes approximately 10% of revenues for Inclusionary Zoning administration.

The average percent change in the affordability gap over the last nine years of Inclusionary Zoning was 5.4 % for detached (single family) homes and 11.5% for attached (multi-family) homes. The greater increase in the gap for multi-family attached housing is unlikely to continue and could be an anomaly. For illustration purposes the target gap shown in the table below is based on a conservative annual increase in cash-in-lieu of 5.4% for both types of housing. These provide an approximate number of years before the gap or 75% of the gap would be closed. In application, the actual annually determined affordability gap would be used once the phase-in period is complete. (See *Attachment D* for details on the change in the affordability gap since 2000.)

2009 Affordability Gap and 75% of the Affordability Gap

	Single Family Home	Multi family home
Affordability Gap	231,400	226,765
75% of the Affordability Gap	173,550	170,074

The chart below shows the target gaps. Once the cash-in-lieu hits the target gap it would no longer be adjusted based on a percentage, but rather adjusted annually based on a gap analysis for that year.

Target Affordability Gaps

	Detached Housing (Single Family Homes) 5.4% compounded		Attached Housing (Multi-family Homes) 5.4% compounded	
	Affordability Gap	75% of the Affordability Gap	Affordability Gap	75% of the Affordability Gap
2009 Gap	231,400	173,550	226,765	170,074
2010	243,896	182,922	239,010	179,258
2011	257,066	192,799	251,917	188,938
2012	270,948	203,211	265,520	199,140
2013	285,579	214,184	279,858	209,894
2014	301,000	225,750	294,971	221,228
2015	317,254	237,940	310,899	233,174
2016	334,386	250,789	327,688	245,766
2017	352,442	264,332	345,383	259,037
2018	371,474	278,606	364,034	273,025

The following two charts show the approximate amount of time it would take to reach the gap or 75% of the gap amount if current cash-in-lieu amounts were raised 15, 20, or 25% per year.

Cash-in-lieu Phased-in for Multi-Family Homes

Attached Housing Year	100% Affordability Gap			75% of the Affordability Gap		
	15%	20%	25%	15%	20%	25%
2009 CIL	110,178	110,178	110,178	\$110,178	110,178	110,178
2010	126,705	132,214	137,723	\$126,705	132,214	137,723
2011	145,710	158,656	172,153	\$145,710	158,656	172,153
2012	167,567	190,388	215,191	\$167,567	190,388	204,803*
2013	192,702	228,465	265,520*	\$192,702	221,187*	
2014	221,607	274,158		\$209,894*		
2016	254,848	294,971*				
2017	293,076*					

*Equates to the estimated affordability gap projected for that year.

Cash-in-lieu Phased-in for Single Family Homes

Detached Housing Year	100% Affordability Gap			75% of the Affordability Gap		
	15%	20%	25%	15%	20%	25%
2009 CIL	119,922	119,922	119,922	\$119,922	119,922	119,922
2010	137,910	143,906	149,903	\$137,910	143,906	149,903
2011	158,597	172,688	187,378	\$158,597	172,688	182,922*
2012	182,386	207,225	234,223	\$182,386	192,799*	
2013	209,744	248,670	270,948*	\$203,211*		
2014	241,206	285,579*				
2015	277,387					
2016	317,254*					

*Equates to the estimated affordability gap projected for that year.

In summary, the two variables to be determined are:

1. Should the cash-in-lieu target be based on the affordability gap or 75% of the affordability gap?
2. Should the amount be phased in annually at a 15, 20, or 25% compounded increase of current cash-in-lieu amounts?

These variables can be the same for multi-family and single family homes or can be determined independently.

Staff recommends that the variables be the same for both housing types and that cash-in-lieu increases be phased in at 15% compounded increase in cash-in-lieu per year until 75% of the affordability gap is reached. The proposed 15% annual increase equates to approximately double the current annual adjustment of 7%. Staff estimates that it would take four years for the cash-in-lieu for single family detached housing and five years for multi-family attached housing for the cash-in-lieu amounts to equal the discounted gap amounts.

Applying Cash-in-lieu

What issues are we are trying to address?

1. The affordability gap varies by location.
2. Variability of off-site options.
3. Projects have a variety of market prices.
4. Policies can influence housing unit size.
5. Inclusionary Zoning should be applied to larger redevelopment projects.

1. Differences in the affordability gap based on location

One approach for applying cash-in-lieu is to have different amounts based on geographic variations in the affordability gap. The most obvious geographic breakdown is the downtown area and the rest of the city. This approach requires that the basis for the differing cash-in-lieu amounts be specific to the area such as higher land values or zoning requirements that result in higher costs. The other requirement is that any cash-in-lieu monies collected in a specific area be spent in that area.

While the first requirement could be met for the downtown area, the requirement to spend the money in the downtown would pose significant difficulties. Though it may be possible to spend monies collected in downtown in that area, it would eliminate many of the efficiencies realized from funding the non-profits and require significant program modifications for a relatively few number of affordable units. In addition, the city would have only local funds to invest. All other funds require that our community partners provide matching funds, therefore increasing our buying power. The city is fortunate in that we have capable community partners who are expert at maintaining and leasing residential rental properties. The Telluride decision makes it illegal for the city to directly control rents. See *Attachment E* for more information on the Telluride decision.

Non-profits annually propose varying projects to be funded throughout the city. This is referred to as the annual fund round. See *Attachment F* for details about the fund round. Their choices of locations for acquisition of new units are primarily based on efficient use of funds, opportunities for acquisition, maintenance and management efficiencies and capacity in any given year to take on additional projects. As it stands it is challenging for the local non-profits to find appropriate projects when they have the entire city to look at. While requiring a different amount of cash-in-lieu in the downtown may result in additional funds, the resulting inefficiencies, cost, and difficulty of instituting a new program for a relatively small number of units may not be a desirable trade-off. See *Attachment G* for more background and analysis on varying Inclusionary Zoning by location.

Rather than modifying Inclusionary Zoning, staff recommends that the residential density bonus in the downtown area could be used to bridge the affordability gap discrepancy between downtown and other areas of the city. Per council request, the Planning Department, in cooperation with Division of Housing staff, will be analyzing the downtown density bonus and height variance to include a provision of additional community benefit, which may include additional affordable housing. These tools can be

used effectively to lessen the imbalances for provision of affordable housing in the downtown area. For example, a developer in the downtown area that would like to avail themselves of the additional density offered by the bonus could be required to provide a higher percentage of the resulting additional housing as affordable. Work on this project is scheduled to begin in July, 2009 and will incorporate any Inclusionary Zoning regulatory changes that result from the current Affordable Housing Program review.

2. Off-Site Options

At the March 31st study session several council members suggested that when units are provided off-site they be provided within a certain geographic distance from the original project. Some suggestions were that the units be provided within the same school catchment area or within the same zone district. In general, council finds that the off-site option has resulted in acceptable results. In particular, the provision of family friendly homes, either single family or multi-family but of a type and in a location amenable to families, in lieu of less family friendly condominiums was seen as beneficial.

Developers of for-sale projects, regardless of project size, may, under current program guidelines, provide up to half of the required permanently affordable units in the form of an off-site option. These housing units can be located anywhere in the city subject to staff approval. Since private sector rent controlled units are illegal in Colorado, private sector developers of rental projects may provide for the entire inclusionary zoning requirement off-site. Any developer may propose to either purchase or build half of the required units off-site. The housing units must be of comparable size and quality to those that would have been provided. In general the number of units must be equivalent but can be adjusted down if the off-site units provide additional benefits such as more square feet, or they are more desirable, such as single family homes in-lieu of condominiums.

Current barriers to exercising this option are it involves additional time and risk for the developer since they must find units acceptable to the city, possibly need to remodel to meet the livability standards, and insure that the restrictive covenants are in place before they submit for a building permit. Providing affordable units off-site involves an investment of money for the developer early on in the development phase, additional time and administrative costs and some additional risk.

Limiting options to smaller areas would most likely make it that much less desirable and difficult for a developer to exercise this option. An analysis of the school catchment areas shows that the catchment areas for elementary, middle, and high schools are all different, and all encompass fairly small areas. In addition several schools do not have attendance areas at all. Limiting options to specific zones can likewise encompass fairly small areas. In both cases, this would restrict the number of possible off-site units available for purchase at any given time.

To date one developer has chosen the off-site option to meet their Inclusionary Zoning requirement. Modifications to the program to reduce barriers and lower risk would most likely be needed to encourage the provision of units off-site and achieve the desired results.

3. Market Value

Inclusionary Zoning and all of the affordable programs are designed to provide affordable housing to the community. The program requires that 20% of any residential development regardless of market value of the housing units contribute to the affordable housing program. Thus Inclusionary Zoning is not related to the market value of any individual project.

4. Housing Unit Size

Inclusionary Zoning is currently applied by unit. Twenty percent of all units in a project are required to be made available as permanently affordable regardless of size. For example a project with six large units of 4,000 square feet each would be required to provide 1.2 affordable units. While the same project of 24,000 square feet might have twenty 1,200 square foot units and would be required to provide four affordable units. There is concern that this may encourage the development of fewer larger units, particularly in the downtown area.

Results of a study of housing unit sizes in the downtown zones was undertaken as part of the downtown density bonus work for the Dec. 2, 2008 council memo. The average size of the 109 market rate units built downtown after implementation of Inclusionary Zoning in 2000 is approximately 1,660 square feet, and the average size of the 124 units that are currently under construction or review is approximately 1,600 square feet. The data does not indicate that Inclusionary Zoning has produced overly large units.

In the downtown area (DT zones) larger units are less desirable as the primary goal is workforce housing, not specific to families since the location and type of housing typically found in downtown is not considered “family friendly.” Family friendly homes are defined as single-family homes, town homes, or homes in multi-family buildings that are not stacked with at least three bedrooms between 1,000 and 2,500 finished square feet depending on family size, and with a yard or common area that offers a safe play area for children. As is often the case, there are conflicting goals around sizes of the affordable units. In general, smaller units should be encouraged in less family friendly locations while larger units should be encouraged in family friendly locations.

Council has also expressed a desire to find ways to serve families. This requires larger affordable family friendly housing. Because Inclusionary Zoning housing is a portion of what is being built in the market, and the majority of for sale permanently affordable homes are smaller stacked flats or condos, few housing units acquired through the program meet the needs and desires of families. Consequently, in some areas of the city larger family friendly housing units may be more desirable and without specific policies will not be obtained in sufficient numbers under current inclusionary policies.

A combination of a unit calculation with square foot consideration could be used to address the size issue. The Inclusionary Zoning program has in place a variation of this approach that could be modified to discourage larger units. When calculating cash-in-lieu for a given project, the amount is the lesser of the per unit amount, or a per square foot amount which is used when the market rate units average less than 1,200 square feet. This calculation favors projects with smaller units. Additional analysis is needed to develop this approach.

5. Applying Inclusionary Zoning to Larger Redevelopment Projects

Residential demolitions remove housing that is relatively more affordable from the city's housing stock replacing it with more expensive homes. In 2000 when Inclusionary Zoning was initially adopted, an administrative decision was made to treat dwelling units that were built in place of demolished units the same as they are treated in the Residential Growth Management System (RGMS). That is the Inclusionary Zoning requirement for redeveloped units is waived if a building permit is issued within one year of the demolition permit. This has resulted in a very small number of redeveloped units subject to Inclusionary Zoning requirements. Since 2000 there have been a total of 365 demolished units. Thirty-four of those units were multifamily units and 331 were single family units. In cases where a certain number of residential units are demolished but a greater number of units redeveloped, Inclusionary Zoning has only been applied immediately to the net increase in the number of units.

Demolition and redevelopment are defined as all redeveloped units that require a demolition permit, demolition RGMS allocation and meet the definition of "redevelopment" in the BRC.

With a limited vacant land supply, the community is likely to experience more redevelopment of existing units over time. Typically, smaller, relatively more affordable units are torn down in order to build much more expensive units. And since in most cases the redevelopment occurs within a year of issuance of the demolition permit this represents a loss of relative market affordability to the community without the offset of any permanently affordable housing.

Inclusionary Zoning could be applied immediately with no grace period to the demolition and redevelopment of investment properties, i.e., multifamily projects with five or more units. For projects with four or fewer units staff recommends maintaining the current practice of only applying Inclusionary Zoning to demolitions in the event that a building permit is not applied for within one year of demolition permit approval.

This approach addresses the most commonly expressed concern regarding the loss of relatively affordable attached housing that is then replaced by much less affordable attached housing. It should be noted that to date very few multifamily buildings have been demolished in order to build new and larger multifamily buildings.

Residential Demolition and Redevelopment Pros/Cons

Option	Pros	Cons
Apply Inclusionary Zoning immediately only to multi-family projects with 5 or more units	<ul style="list-style-type: none"> - Has public support - Addresses the loss of relatively more affordable multifamily housing 	<ul style="list-style-type: none"> - Limited impact given the small number of demolished multi-family projects - Could inhibit the redevelopment of dilapidated multi-family housing

Staff recommends applying Inclusionary Zoning immediately to multi-family residential projects with five or more units that are demolished and redeveloped. For projects with four or fewer units staff recommends maintaining the current practice of only applying Inclusionary Zoning to demolitions in the event that a building permit is not applied for within one year of demolition permit approval. Inclusionary Zoning would continue to be applied immediately to any redevelopment projects that add additional units over what was demolished.

IX. SOCIAL POLICY REVIEW

The Social Policy review was originally prepared for the Dec. 2, 2008 City Council meeting. At council’s request the item was removed from the agenda for later consideration. Most of the original memo is included in the information that follows but much of the data has been updated and additional information concerning middle income households has been added.

1. Overview

In January 1999, City Council accepted The *Comprehensive Housing Strategy* (“Strategy”). Development of the Strategy included extensive dialogue with Boulder residents. The Strategy was intended to mobilize all segments of our community around a continuum of housing choice and need. Since 2000, the city has demonstrated its commitment to the Strategy by continuing to provide funding for the development of affordable housing, and through land use policies that support the entire spectrum of needs for affordable housing.

As of Dec. 31st, 2008, there were 2,855 affordable units in the city or approximately 6.3% of the total housing stock, including 187 shelter beds and 55 group home beds. Approximately 1,650 affordable units are needed to meet the goal to have 10% of the cities housing as permanently affordable. The priorities set in 2000 by the Affordable Housing Task Force include meeting the needs of very low income populations. These needs are primarily met through the provision of shelter and group home beds.

When the 10-year timeframe was discussed, Boulder’s housing inventory was projected to be 45,000 units by 2011, which would result in 4,500 permanently affordable units necessary to meet the 10% goal. The task force recognized that the 10% goal would not fully address the demand for affordable housing, especially in light of job growth

projections for Boulder and the surrounding area. However, implementing the 10% goal in 10 years was recognized as a significant, incremental step toward maintaining economic diversity in the community. The 10% goal included in the inventory all existing types of affordable housing - rentals (owned and operated by various entities), homeownership units, and shelter and group home beds. These diverse housing types meet the needs of a diverse range of incomes and special needs groups. Fulfillment of the goal within ten years required passage of an affordable housing tax ballot measure. The measure would have added an additional \$3,000,000 in affordable housing funds annually. The measure was not approved by voters.

Inclusionary Zoning was implemented in 2000 requiring that all new residential development provide the equivalent of 20% of the total housing units as permanently affordable. Non-profit organizations and faith-based groups contribute to developing and maintaining affordable housing in Boulder by constructing and rehabilitating housing units, and managing units as landlords. The private sector contributes to affordable housing through payment of a housing excise tax that is levied against all new development and through a portion of their property taxes.

There were 1,750 affordable housing units in the city when the 10% goal was accepted. In order to achieve the 10% goal, approximately 2,750 units were needed. Since 2000, the city has increased the number of permanently affordable units available in the community by more than 1,100 units.

The following table indicates the percentage targets for incomes, homeownership versus rental, and new versus existing acquisition adopted in 2000.

2000 Task Force Objectives

Priorities	2000 Goals*
1) Incomes	
Income for households below 30% Area Median Income ¹ (AMI)	390 (14%)
Income for households between 30 – 60% AMI	1,320 (48%)
Income for households between 60 – 80% AMI	1,040 (38%)
2) Rental vs. Homeownership	
Rental	1,652 (61%)
Home Ownership	1,098 (39%)
3) New Construction vs. Existing Inventory	
New Construction	1,240 (45%)
Existing Inventory	1,510 (55%)

*Number/percent of the additional 2,750 units needed to meet the 10% goal

Although this table has been used extensively in the past when discussing the 10% goal, it can be confusing in that it shows the percentages desired for the remaining affordable stock to be acquired after 2000 but not the final percentages that would exist once the 10% goal

was met. To better reflect the goals of the program and the existing inventory. Staff has made the following modifications as to how the 10% goal and the three priorities are reported:

1. Present the data to show the final percentages desired for each priority.
2. Present data to show the number of Middle Income units currently in the inventory.
3. Separate permanent affordable and likely to remain affordable units to accurately reflect progress on the goal. See **Attachment H** for more information on “permanent affordability” versus “likely to remain affordability.”
4. Separate the priority for acquisition via new construction versus existing inventory. This was only applied to the remaining units to be acquired after 2000. As such, there are no historic numbers for the units acquired pre-2000.

Affordable Housing Priorities

Affordable Housing Priorities	Current 2009 housing unit inventory: Likely to Remain Affordable Subtotal: 1,102	Current 2009 housing unit inventory: Permanently Affordable (PA) Subtotal: 1,753	Current 2009 housing unit inventory Total: 2, 855	Final housing unit inventory 10% Goal met 4,500
1) Incomes				
Households below 30% Area Median Income ¹ (AMI) “very low income”	Shelter and group home beds 4 Housing units 216	Shelter and group home beds 238 Housing units 27	485 (17%)	1,575 (35%)
Households between 30 – 60% AMI “low income”	787	921	1,708 (60%)	1,800 (40%)
Households between 60 – 80% AMI “moderate income”	95	567	662 (23%)	1,125 (25%)
Households between 80 – 120% AMI “middle income”	0	118 (not included in total, as there is no current goal)	118 (not included in total, as there is no current goal)	N/A
2) Rental vs. Homeownership				
Rental	1,067	1,055	2,122 (74%)	3,285 (73%)
Home Ownership	35	698	733 (26%)	1,215 (27%)

Staff initiated the social policy review of the affordable housing program in July 2008. The process included small group discussions with targeted stakeholders (civic groups, developers, and service providers) and one public meeting held on August 14, 2008, which was sponsored by the Community Foundation. See **Attachment I** for attendees and comments. A Spanish language public notice was produced and distributed to groups working with the Latino community and translation was provided for the public meeting. Following a presentation on the current goal, priorities and progress towards achieving

the goal, participants were asked “is the 10% goal adequate? And should priorities for incomes to be served and homeownership versus rentals be changed?”

The city also contracted with RRC Associates, Inc., a private consulting firm, to survey current residents in affordable units and mobile home residents. An online survey of employers and employees (with particular emphasis on commuters) was also undertaken. Staff also consulted with the Boulder Economic Council, PLAN Boulder, the Human Relations Commission and the University of Colorado during the process.

2. Goal and policy recommendations

a. Ten percent goal:

Policy Recommendation: retain the goal to 10% of the total housing stock as permanently affordable to very low, low, and moderate income households.

Under current trends, it is estimated that that there will be 3,500 units of affordable housing (including shelter and group home beds) by 2011, an increase of 1,750 units since 2000, but fewer than the original goal of 4,500 units. The Boulder Valley Comprehensive Plan provides that “the city will increase the proportion of permanently affordable housing units to an overall goal of at least ten percent of the total existing housing stock through regulations, financial subsidies and other incentives”

During the review process, the need for affordable housing in the community was not debated. There was some sentiment that the need was far greater than the 10% goal could address. It was also recognized that it is going to be difficult to reach the 10% goal and that any increase in the goal would be even more challenging. There was some confusion about the final make up of the affordable housing stock once the 10% goal was met. New reporting clarifies those final percentages.

b. Income Priorities

Policy Recommendation: Retain the 10% goal to result in:

35 % serve households with incomes below 30% Area Median Income (AMI)

40 % serve households with incomes between 30 – 60% AMI;

25% to serve households with incomes between 60 – 80% AMI;

While there was some public sentiment expressed that the greatest need for affordable housing in the community is at the lower income levels, it was also acknowledged that needs exist across the housing spectrum beyond what is provided by all affordable housing programs combined. Since the needs of any one group are not able to be completely addressed, all of the above income goals serve populations in need.

Attachment J provides more demographic information regarding the need and supply of housing by income group.

Currently the 10% goal is to meet the needs of very low, low and moderate income households and does not include middle income households. Council may want to add a goal for serving middle incomes through the affordable housing program. **Attachment K** provides more information regarding middle income households. Another approach is to not serve middle income households through the affordable housing program but pursue options to assist the market to provide housing for middle income households. Even without a stated goal, the city will continue to acquire a limited number of housing units for middle income households through annexations and land use agreements. Adding these to the goal as part of the income breakdown would reflect current practices. Three options are presented for council consideration:

Policy Options:

Option 1

Do not add an official goal for serving middle income households through the affordable housing program. Focus on assisting the market to provide housing for middle income households.

Option 2

Add a goal of adding 225 permanently affordable housing units for middle income households between 80 – 120% AMI through the affordable housing programs.

Option 3

Add a goal of adding 450 permanently affordable housing units for middle income households through the affordable housing program to serve households between 80 – 120% AMI for annexations and 80-100% AMI for the remaining units.

Options 2 and 3 would establish an official goal for the existing 118 middle income homes already in the affordable program priced across the middle income range and the additional middle income priced homes expected through current policies. The proposed options only apply to housing produced or acquired through affordable housing programs.

In Phase III of the affordable housing review staff will consider strategies to provide affordable housing for middle income households including both affordable program approaches and strategies to assist the market to provide housing for this group:

- a. Review annexation policies.
- b. Explore employer assisted housing and tax incentives.
- c. Consider loan programs: equity sharing (soft seconds), rehabilitation of single family homes, down payment assistance. These would require additional funding sources.
- d. Preserve older multifamily housing stock as relatively affordable.
- e. Accessory dwelling units (ADU's) as market rate housing available to middle income households.
- f. Land use changes to allow increased density (ADU and OAU type units.)

The following table outlines the pros and cons of each option and assumes current funding levels.

Pros and Cons for Options for Goals to Serve Middle Income Households

Option	Pros	Cons
<p>1. Do not add an official goal for serving middle income households through the affordable housing program. Focus on assisting the market to provide housing for middle income households.</p>	<ul style="list-style-type: none"> - Does not reduce the amount of funding and number of housing units available to low and moderate income households 	<ul style="list-style-type: none"> - No goal would be in place to reflect current practices for acquisition of middle income units through annexation policies and other development agreements - Does not result in additional housing units for middle income over those expected through current practices
<p>2. Add a goal of 225 housing units for middle income households between 80 – 120% AMI</p>	<ul style="list-style-type: none"> - Goal reflects current practice - Does not reduce the amount of funding and number of housing units available to low and moderate income households - Goal includes middle income units currently obtained through annexations and other development agreements 	<ul style="list-style-type: none"> - Does not result in additional housing units for middle income over those expected through current practices
<p>3. Add a goal of 450 housing units for middle income households between 80 – 120% AMI. Additional units not acquired through annexations would target 80-100% AMI</p>	<ul style="list-style-type: none"> - Goal increases the number of middle income units above what would be obtained through current practice - Does not reduce the amount of funding and number of housing units available to low and moderate income households - Goal includes middle income units currently expected through annexations and other development agreements - Directs staff to expand current programs and/or add new programs to acquire or fund additional middle income units 	<ul style="list-style-type: none"> - A higher goal will take longer to achieve - Would require new funding sources to meet goal objectives

Staff recommends option three which accounts for the middle income homes which have been and will be acquired through annexations and land use agreements and increases that number by approximately 225 units.

c. Homeownership vs. Rental

***Policy Recommendation: Retain the objective for the 10% goal to result in:
 27% of permanently affordable units for homeownership;
 73% of permanently affordable units as rentals***

There were approximately 1,750 affordable units in the city when this objective was accepted. The majority of these (92%) were rental units. Since 2000, 45% of the new permanently affordable units added to the city's affordable housing inventory have been homeownership units. Currently 26% of affordable housing units are homeownership units and 74% are rental and shelter units.

There was public sentiment expressed that the city should re-examine this priority. The Leeds School of Business's *Affordable Housing Report* and Boulder Area Board of Realtors Board of Directors reason that homeownership subsidies are higher than subsidies required for renter households and question whether the amount of subsidy necessary for homeownership is worth the community benefit. The Leeds analysis of homeownership subsidies did not include units created without the direct investment of subsidy funds, i.e. Inclusionary Zoning units, and the question should be considered in this context. There is also a perception that there is little demand for homeownership units. The Division of Housing's marketing data show:

1. Since 2004, the average days to contract for re-sales in the city's program has ranged from 22 to 53. In comparison to sales of market-rate attached homes, on average, permanently affordable homes sell twice as fast.
2. Ninety-nine percent of newly constructed units sell prior to completion.
3. Resales in two developments account for most of the homes that have not sold within 60 days.

Another indication of demand for the city's programs is that on average, over the past six years, almost twice (1.81) as many households applied to the city's program as purchased homes through the city's program.

d. New Construction vs. Acquisition of Existing Units

***Policy Recommendation: Retain the objective for the 10% goal to result in:
50% of new permanently affordable units come from new construction
50 % of new permanently affordable units from the acquisition of existing
housing***

This guideline was established by the task force and City Council in 2000 as a performance measure for affordable units acquired after 2000.

There was little public sentiment expressed regarding the split of new construction vs. acquisition at the meetings. New affordable homeownership units are primarily acquired through development projects subject to Inclusionary Zoning requirements. The rate and amount of which is dependent on the rate and amount of residential construction in city. Acquisition of existing units is primarily facilitated by city funding to local non-profits who primarily focus on the provision of rental housing.

3. Surveys

There was public sentiment expressed that the city pays too little attention to the impact on the people we serve. How are these programs working for them? It was suggested that

we ask questions of the people in the affordable housing programs to understand the impact on their lives around transportation, social and housing issues.

As part of the social policy review, RRC Associates, Inc. was contracted to conduct survey-based studies of local residents. The surveys were fielded in September, 2008 to the following segments of the community:

- Owners of deed restricted housing purchased in Boulder
- Renters in Boulder Housing Partners rental housing
- Mobile home residents
- Employers and employees in Boulder (including both in-commuters and local residents)

500 permanently affordable homeowners were sent surveys with a 41% response rate; 500 affordable renter households were surveyed with a 23% response rate; 280 mobile home residents were surveyed with a 27% response rate; and 250 employers were surveyed with an 18% response rate. A summary of survey results may be found on-line at: www.boulderaffordablehomes.com, click on CHAT's: A Review of Boulder's Affordable Housing Programs.

X. ADDITIONAL INFORMATION

First Home Grants

Council requested that staff develop strategies for housing low and moderate income families in Boulder. In response staff will institute a pilot program for the First Home grant that will limit uses of the grant to larger households with two or more dependants less than 18 years of age. See *Attachment L* for more information.

Inclusionary Zoning Variances

At the March 31, 2009 study session council was particularly interested in the variance that would allow a reduction in the size of the affordable units off-set by a cash-in-lieu payment. There are several variances to the general inclusionary requirements for which a developer or property owner may apply and which may or may not be granted at the discretion of the city manager. See *Attachment M* for more information on Inclusionary Zoning variances.

XI. NEXT STEPS

Amendment Processes

Adoption of modifications to the Inclusionary Zoning ordinance and administrative regulations follow these steps:

Ordinance Modifications:

1. Staff develops draft ordinance language
2. City Attorney review
3. Recommendation on proposed ordinance language by Planning Board

4. First reading by City Council
5. Second reading by City Council

Administrative Regulation Modifications:

1. Staff develops draft regulation language
2. City Attorney review
3. Published in the Daily Camera
4. City Manager signs and adopts

In the past, though not required, substantive changes to the Inclusionary Zoning administrative regulations were reviewed by the Planning Board prior to city manager adoption. Staff intends to bring all changes to the Inclusionary Zoning administrative regulations that result from this process to Planning Board for final review prior to city manager adoption.

Staff expects to take the complete package of Inclusionary Zoning program modifications to Planning Board on July 16, 2009 and expects to return to City Council in September 2009 for approval of final recommendations. Final code language will then be brought to the Planning Board for a recommendation prior to a first reading with council.

The following is a list of possible work items for the next phase, Phase III, of the affordable housing review:

1. Explore new funding sources
2. Serving middle income households:
 - a. Review annexation policies
 - b. Employer assisted housing, tax incentives and other strategies
 - c. Consider loan programs: equity sharing (soft seconds), rehabilitation of single family homes, down payment assistance
 - d. Preserve older multifamily housing stock as relatively affordable
 - e. Accessory dwelling units (ADU's) as market rate housing available to middle income households
3. Congregate care and assisted living: increase affordable options for seniors
4. Annexations: establish affordable housing policies for substantially undeveloped properties
5. Rental policies: funding, pricing, acquisition
6. Mobile Home Park strategies and policy assessment
7. Require affordable housing benefits from rental conversions to condominiums

Staff will present staffing, budgeting, and approximate time frames for completing each Phase III item and will ask council direction on priorities when phase II is substantially complete in the fall of 2009. Changes to the administrative regulations will commence as soon as possible after adoption of any ordinance changes and may be proposed concurrently if feasible.

As outlined in the March 31 study session staff will provide council with quarterly Housing Division weekly information packet update. These updates will provide details

on Inclusionary Zoning projects, sales of affordable units, and funding issues. The first update will be provided to council in June.

Proposed Public Process

Staff will conduct a public process to communicate proposed affordable housing program modifications based on council direction from this meeting to the community prior to the July meeting with Planning Board. Details will be provided to council through a weekly information packet update.

Approved By:

Jane S. Brautigam,
City Manager

- Attachment A – Correspondence
- Attachment B – 2009 Affordability Gap Analysis
- Attachment C – Inclusionary Zoning offsets
- Attachment D – Changes to the Affordability Gap 2000-2009
- Attachment E – Rent Control and the Telluride Decision
- Attachment F – The Housing Funding Process
- Attachment G – Issues with Varying Inclusionary Zoning by Location
- Attachment H – Permanent and Likely to Remain Affordable
- Attachment I – August 14, 2008 public meeting attendees and comments
- Attachment J – Boulder Demographics
- Attachment K – Middle Income Household Information
- Attachment L – First Home Grants and the H2O program
- Attachment M – Inclusionary Zoning Variances

ATTACHMENT A

Correspondence

From: Ken Hotard [mailto:khotard@barastaff.com]
Sent: Tuesday, May 05, 2009 10:37 AM
To: Council; boulderplanningboard
Subject: Affordable Housing Regulatory Tools

MEMORANDUM

TO: Mayor, City Council and Planning Board Members
FR: Housing Opportunity Committee, Clove Berger, Chair
Boulder Area Realtor® Association
RE: Affordable Housing Regulatory Tools
DATE: May 5, 2009

The purpose of this memorandum is to inform you of our recommendations regarding Affordable Housing Regulatory Tools currently under review and consideration for action. Our comments focus on four topics: on site units, downpayment assistance, cash-in-lieu, and middle income housing assistance.

On Site Units-We recommend that you retain flexibility to exempt some or all on site units in any given development. Some developments simply are not best suited for affordable family units, e.g., within neighborhoods substantially populated by students, developments with high HOA fees, areas that lack services or are not convenient to public transportation and nearby schools, among others.

Downpayment Assistance-In the current market it may be wise to consider increasing downpayment assistance as a way to enable buyers to access credit and qualify for affordable housing mortgages with a priority on families with dependents. Current downpayment assistance levels should be considered for increases up to 40 percent of the purchase price.

Cash-In-Lieu-The consultant's financial analysis of the CIL policies shows that substantial increases in the CIL is unworkable and would reduce the likelihood of improving the production of on site units. Importantly, the current CIL brings in needed revenue that supports many vital permanently affordable housing activities.

Middle Income Housing Assistance-While it may be desirable to consider middle income housing assistance at some point in the future, the current economic climate suggests that you should focus limited existing resources on 80 percent AMI and below. Slowed real estate sales and lower sales prices currently available are meeting the needs of today's middle income buyers in Boulder area markets.

Thanks you for your consideration of our comments and recommendations. We look forward to constructive and helpful changes in the City's affordable housing regulatory tools.

2009 Affordability Gap Analysis

One option for meeting the Inclusionary Zoning requirement is to pay cash-in-lieu of required affordable units. Each year, these amounts have been adjusted by the change in the median sale price of detached and attached housing according to county assessor data. The current amounts are \$119,922 for each required single family permanently affordable unit and \$110,178 for each required multifamily permanently affordable unit.

Background

Inclusionary zoning replaced a program where larger projects were essentially required to provide 20% permanently affordable low income units and 35% initially affordable middle income units on site. When Inclusionary Zoning was adopted in 2000, the program was designed with the ability for developers to relatively easily provide one half of the required permanently affordable units off-site, as either existing units or as a cash-in-lieu payment. Flexibility and adaptability were seen as important features of Inclusionary Zoning if it was to be successfully implemented. Further, cash-in-lieu funds could be added to other funding sources to produce more affordable housing benefits than could be realized by using only city housing funds.

The initial cash-in-lieu amounts for Inclusionary Zoning were set by looking at the difference between the affordable price for various unit types and the market rate price. The following table is an excerpt from the 1999 information:

	Single Family	Duplex/ Triplex	Town home	MF Town home	MF Stacked Flats
Market Price	\$301,550	\$222,550	\$189,388	\$174,126	\$132,173
Affordable Price (for 80% AMI)	\$134,721	\$126,702	\$126,702	\$113,976	\$113,976
Gap (Difference)	\$166,829	\$ 95,848	\$ 62,686	\$ 60,450	\$ 18,197

Council decided that the gap amounts for the single family and duplex/triplex units were infeasible, and the amount for the stacked flats did not reflect the financial reality of the funds needed to purchase an existing building and create permanently affordable rental housing. Thus, the initial cash-in-lieu amounts were intentionally set using the city subsidy amounts in effect at the time as a guide. The result was a \$66,000 cash-in-lieu amount for each required single family affordable unit, and \$60,000 for each required multifamily affordable unit.

The program objective is to provide a cash-in-lieu option that enables either the production or acquisition of a permanently affordable unit elsewhere in the community that is roughly equivalent to the housing that would have been produced on-site.

For the past few years, as a result of the increasing gap between the price of an affordable unit and the cash-in-lieu amount for an affordable unit, the cash-in-lieu option has been a more financially attractive option for developers. At the same time, the cash-in-lieu

amounts collected have not kept pace with the total per unit subsidy needed to buy down the price of a market rate unit.

Cash-in-lieu funds have been used to fund a variety of important community projects, from the Boulder Shelter for the Homeless to the Holiday Neighborhood, and have been used by the city’s non-profit housing providers to secure permanently affordable rental units. The overall result has been a more widespread distribution and integration of permanently affordable units throughout the community than would have been realized if only on-site, permanently affordable units had been provided.

Options for Modifications

1. Affordability Gap

Base the cash-in-lieu amount on the gap between the affordable price and median market price for smaller single family homes and newer multifamily homes.

This option increases the current cash-in-lieu amounts to a level that would ensure at least one off-site permanently affordable unit was obtained for every on-site unit that would otherwise have been provided, particularly in the case of single family units. This option reflects the actual gap between what a moderate income buyer can afford and the type of home that is most likely to be purchased; a single family home less than 2,000 square feet or a newer multifamily attached home. This option significantly raises the amount of cash-in-lieu from current levels.

Option #1 Affordability Gap	Single Family	Multifamily
Median Sale Price (all market SF units ≤ 2,000 sq. ft. & all MF units ≤ 1,500 sq. ft. and built within last ten years)	\$409,000	\$369,665
Affordable Price	\$177,600	\$142,900
Proposed new cash-in-lieu amount (Gap)	\$231,400	\$226,765
Current Cash-in-Lieu Amounts	\$119,922	\$110,178
Change to Current Amounts	+ \$111,478 (+93%)	+ \$116,587 (+106%)

2. Cost to Construct

Base on the gap between the costs to produce a market rate unit and an affordable unit. The cost to construct a unit includes the cost of purchasing land, constructing the unit, and a developer fee (this analysis assumes the city does not act as the developer).

This option assumes that the cash-in-lieu will be used to help build permanently affordable units elsewhere in the community and represents the cost to a developer of providing a permanently affordable unit.

Given the limited land supply and the high cost of vacant land, cash-in-lieu funds tend to be used to purchase existing housing rather than construction of new units. During the development of Inclusionary Zoning, it was recognized that new construction alone could not solve the affordable housing needs of the community, so options for acquiring existing housing are a key component of the overall affordable housing strategy.

Option #2 Cost to Construct	Single Family 2,000 sq ft	Multifamily 1,000 sq ft
Cost to Construct (SF 2,000 sq. ft. stick construction & MF 1,000 sq. ft. steel construction)	\$363,803	\$269,000
Affordable Price	\$177,600	\$142,900
Proposed new cash-in-lieu amt. (Gap)	\$244,313	\$223,543
Current Cash-in-Lieu Amounts	\$119,922	\$110,178
Change to Current Amounts	+ \$124,391 (+104%)	+ \$113,365 (+103%)

Inclusionary Zoning Offsets

Municipalities that have adopted mandatory Inclusionary Zoning (IZ) requirements for their jurisdictions often provide compensation to the market rate housing developers that are contributing a share of their newly developed units to be affordable. These “offsets” are meant to compensate developers for revenue that could be lost due to the requirements of the IZ ordinance. These cost offsets typically include waiving certain regulatory requirements or adding more flexibility to the development approval process.

Currently, developers who choose to provide a greater number of affordable units or serve lower income households may benefit by development application fee subsidies, Development Excise Tax (DET) waivers, and subsidies from city-administered grants.

Current Inclusionary Zoning Options for Developers

The city of Boulder offers options to developers that include:

- Paying a cash amount, providing off-site units, or dedicating vacant land in lieu of contributing affordable on-site units, as a way to meet up-to-half of a project’s requirement.
- Applying for a partial fee subsidy for projects that provide more than the required number of affordable units in a project.
- Marketing space on the city’s Housing Division website and an invitation to attend new homeowner orientations to advertise their available home.

Drawbacks of Offsets

Since the Inclusionary Zoning ordinance was adopted in 2000, the city of Boulder housing program has not offered offsets to developers. According to the Lincoln Institute of Land Policy there are identifiable drawbacks in offering offsets:

- Offsets for individual projects in the form of density bonuses can be likened to spot zoning. In addition, the density in an area is effectively changed from that allowed under the existing zoning with little or no public comment or involvement.
- Offsets can be taken away, especially during recessionary periods.
- Financial incentives are paid directly by taxpayers, either through appropriations at the federal, state, or local level, or by redirecting revenues that would otherwise go into the city’s general fund.
- When a project doesn’t pay its full cost, the city must make up the lost revenue or allow infrastructure or service levels to decline. In either case, the public bears the cost.

Description of Offsets

Following is a list of offsets offered by municipalities throughout the country, which could be explored in greater detail.

Density Bonus. There is a limited ability to utilize this opportunity in Boulder due to the height limit. It is most attractive to developers and most problematic to the residents and business owners, and could have significant but unanticipated impacts on neighborhoods.

First, they undermine existing regulations, undoing land use planning and zoning regulations without the associated processes that usually accompany zoning changes. Second, they may lower the level of service of public facilities and infrastructure in the area due to additional density. Third, they frustrate citizen participation in the planning process with these enacted outside of that process.

Zoning Variance. These could include reductions in requirements for open space, parking, height, setbacks, design standards, landscaping, unit size, and housing type. Currently, these types of variances are not considered as an off-set for inclusionary zoning requirements.

Expedited Permits. A fast-tracking of the development review process tends to require additional government personnel to process the plans, while lengthening delays for projects that do not benefit from the fast track.

Financial Compensation. These could include reduced or waived fees for construction permits, roads, schools, and utilities, loans for or deferred payment of system development charges, secondary financing, tax abatement, and cash subsidies.

Changes to the Affordability Gap 2000-2009

1) Single Family, total enclosed square feet <=2000 sf (including unfinished and garages), permanently affordable excluded, non-arms-length excluded. Regardless of age of unit.

Year sold	Median sale price	Affordable Price	Gap	Amt. change from previous year	Percent change from previous year
2000	\$307,750	\$155,000	\$152,750		
2001	\$328,950	\$171,000	\$157,950	\$5,200	3.4%
2002	\$337,000	\$174,000	\$163,000	\$5,050	3.2%
2003	\$335,000	\$185,000	\$150,000	-\$13,000	-8.0%
2004	\$338,000	\$193,000	\$145,000	-\$5,000	-3.3%
2005	\$370,500	\$188,100	\$182,400	\$37,400	25.8%
2006	\$414,000	\$181,100	\$232,900	\$50,500	27.7%
2007	\$400,000	\$167,400	\$232,600	-\$300	-0.1%
2008	\$406,250	\$168,800	\$237,450	\$4,850	2.1%
2009	\$409,000	\$177,600	\$231,400	-\$6,050	-2.5%
				Avg % change	5.4%

2) Multi-family, total enclosed square feet <=1500 sf (including unfinished and garages), permanently affordable excluded, non-arms-length excluded. Age of unit 10 years or less at time of sale.

Year sold	Median sale price	Affordable Price	Gap	Amt. change from previous year	Percent change from previous year
2000	\$204,900	\$112,000	\$92,900		
2001	\$240,800	\$118,000	\$122,800	\$29,900	32.2%
2002	\$235,000	\$118,000	\$117,000	-\$5,800	-4.7%
2003	\$250,000	\$150,000	\$100,000	-\$17,000	-14.5%
2004	\$266,200	\$156,000	\$110,200	\$10,200	10.2%
2005	\$295,000	\$154,900	\$140,100	\$29,900	27.1%
2006	\$317,400	\$147,400	\$170,000	\$29,900	21.3%
2007	\$305,050	\$131,100	\$173,950	\$3,950	2.3%
2008	\$345,000	\$134,100	\$210,900	\$36,950	21.2%
2009	\$369,665	\$142,900	\$226,765	\$15,865	7.5%
				Avg % change	11.4%

Rent Control & the Telluride Decision

Section 38-12-301, C.R.S., titled "Local Control of Rents Prohibited" states the following:

“The general assembly finds and declares that the imposition of rent control on private residential housing units is a matter of statewide concern; therefore, no county or municipality may enact any ordinance or resolution which would control rents on private residential property. This section is not intended to impair the right of any state agency, county, or municipality to manage and control any property in which it has an interest through a housing authority or similar agency.”

The Town of Telluride enacted an inclusionary zoning ordinance for non residential property developments that allowed property owners to comply with the ordinance by either building new units with fixed rents, by paying fees in lieu of building new units, or by conveying land to the town for affordable housing. In the case that went to the Colorado Supreme Court, a non-residential development was required to create permanently affordable rental housing for 40% of the employees generated by the new development.

The court found that Telluride’s inclusionary zoning ordinance was a form of rent control prohibited by the state legislature, and held that the ordinance was invalid and unenforceable. Despite being a “home rule municipality” with broad powers over local matters, according to the court, Telluride lacked the authority to impose rent controls because the legislature determined that rent control was not merely a local issue, but one that might affect other jurisdictions as well:

“Ordinances like Telluride’s can change the dynamics of supply and demand in...the housing market. A consistent prohibition on rent control encourages investment in the rental market and the maintenance of high quality units. Although economic conditions may vary in housing markets across the state, the legislature has seen fit to enact a uniform ban on rent control as a matter of public policy.”

The city of Boulder, as a result of advice from the City Attorney’s office, can only accept permanently affordable rental units if they are owned by the housing authority or a non-profit with which we have executed a “similar agency” agreement that states that the non-profit is an agency that functions similar to that of the housing authority.

As a result of the Telluride decision and advice from the City Attorney’s office, the city of Boulder has done the following in order to minimize the risk of a legal challenge:

1. Executed an agreement for use with the Housing Authority that generally spells out services the Housing Authority provides for the City.
2. Had the Housing Authority pass a resolution recognizing other non-profits as agencies providing similar services to the Housing Authority.
3. Executed agreements with existing housing non-profits that states that they are a housing agency similar to the Housing Authority.
4. Include language in the covenants for non-profit rental projects conveying an undivided one one-hundredth interest in the Property for the purpose of

establishing the city ownership interest. (in progress)

We have focused the city's efforts to maintaining and creating permanently affordable rental units through non-profit agencies. The Housing Division determined that the city would not pursue options for private sector rent controlled housing since:

1. It is unlikely that a private developer could be considered a "like" or "similar" agency to the Housing Authority.
2. It is also be unlikely that a private developer would be willing to convey the ownership interest portion to the city.
3. The city may not want the liability involved with partial ownership of a private sector rental project.
4. While it is possible that a property owner could "volunteer" to limit rents, if that owner or a subsequent owner decided to stop limiting rents, the city would have no recourse since rent control is illegal.

Private sector rental developers may choose other options to satisfy the affordable housing requirements of Inclusionary Zoning such as, making a cash-in-lieu payment, making the units homeownership units, purchasing existing units and making them deed restricted homeownership units, land dedication, or partnering with a housing non-profit that could own and manage the permanently affordable rental units. Typically, a developer would look to sell the permanently affordable rental units to the non-profit, which would then need a source of funds to complete the transaction.

The Housing Funding Process

The Division of Housing administers an annual competitive funding allocation process to support affordable housing projects in Boulder. This annual process is referred to as the “fund round.” Every summer, Requests for Proposals (RFP’s) are advertised to the local development community, including Boulder Housing Partners, non-profit organizations, and for-profit developers, who are invited to submit grant proposals to fund their acquisitions and new construction projects that will increase the amount of permanently affordable housing in Boulder. Applicants may also request funding for capital improvements and maintenance projects for their existing properties. After purchase or construction, the new units are owned and operated by the non-profit.

By providing local support, the funds allocated by the city to Boulder Housing Partners and other non-profit organizations enhance their ability to secure other funding available to community housing developers. This leveraging allows city dollars to realize far more benefit than what a direct subsidy alone would purchase. The non-profits use the initial investment, typically referred to as equity grants, to obtain additional grants, loans, or tax credits. Sources of subsequent funding often want to see “local dollars” in a project before they will consider putting in money. The city’s return on the fund investment is the preservation of existing affordable inventory and the creation of permanently affordable housing units. For all funding projects, covenants are placed on rental and homeownership housing units which preserve permanent affordability. Annual monitoring by staff assures the units are in compliance with the terms of the covenants and with any federal or state requirements. The city grant funds are matched or leveraged by other local, state, federal and/or private fund sources, which allows for the public dollars to realize a far greater benefit than what a direct subsidy alone would purchase.

As part of the annual housing fund round process, and to ensure a more technical evaluation of proposals, a community review group works with staff to evaluate proposals and make fund recommendations to the City Manager. The Technical Review Group (TRG) members are appointed by the City Manager. Members have backgrounds in affordable housing finance, real estate, real estate law and legal issues, and housing development. The TRG is convened annually in the fall for several meetings

Funding allocated through the annual fund round is targeted for the following populations:

- Households who live or work in Boulder
- Families with children
- Special population groups, including:
 - physically and/or developmentally disabled
 - chronically mentally ill
 - frail elderly
 - homeless individuals and families

Funding decisions are made based on the amount of funds the city of Boulder anticipates will be available for dispersal. Funding sources include:

Affordable Housing Fund (AHF)

- Funded through Inclusionary Zoning cash-in-lieu payments and an annual allocation from the general fund
- Generates between \$500,000 - \$1, 500,000 annually with significant fluctuations depending on development activity
- Targeted to households with annual incomes up to approximately 80% of the Area Median Income (\$65,700 for a three-person household in 2009)

Community Housing Assistance Program (CHAP)

- Funded through property tax and a tax on new development, called the Housing Excise Tax (HET)
- Generates between \$1,000,000 - \$1,500,000 annually
- Policy requires leveraging of \$2 for every dollar of CHAP funds allocated
- Targeted to households with annual incomes between 15% - 60% of the Area Median Income (\$12,045 to \$48,200 for a three person household in 2009)

Community Development Block Grant (CDBG)

- Federal program (U.S. Department of Housing and Urban Development), in existence since 1975
- May be used for a variety of housing and community development activities that benefit low-income people
- Provides between \$800,000 - \$900,000 annually
- Approximately 40% of each year's allocation is spent on housing
- Targeted to households with an annual income up to approximately 70% of the Area Median Income (\$57,600 for a three-person household in 2009)

HOME

- Federal program in place since 1992
- The city is the lead agency for a regional HOME Consortium that includes all of Boulder and Broomfield counties.
- Provides approximately \$600,000 to Boulder annually
- Requires funding to Community Housing Development Organizations (CHDOs) and leveraging of 25 percent of the HOME allocation, which must be satisfied with non-federal funds
- Targeted to households with an annual income up to approximately 70% of the Area Median Income (\$57,600 for a three-person household in 2009)

Housing Fund Allocation Oversight

The City Manager-appointed Technical Review Group (TRG) works with Housing Division staff to evaluate proposals and make fund recommendations to the City Manager. The TRG is comprised of volunteers with experience in affordable housing finance, real estate, real estate law, and housing development. The group convenes each fall over a two-month period of time.

Funding Allocation Selection Process

A standardized grant application which streamlines the housing funding process, is required for consideration of the funding requests.

Six major steps are involved in the review of proposals:

1. Staff previews all proposals to ensure that the application is complete and the basic mandatory evaluation criteria are met. The mandatory criteria are designed to meet local, state and federal compliance requirements, the 10% affordable housing goal, and the Housing Division mission statement. Incomplete applications and proposals that do not meet the criteria are ineligible for further consideration. In addition to the funding process, projects seeking Planning Department approvals are subject to the provisions of the land use review process.

Evaluation Criteria

- Provides permanently affordable housing.
- Project provides maintenance of existing permanently affordable housing inventory as safe, decent, and sanitary housing units.

All of the following must be met:

- Management Capacity: successful completion of past projects on time and on budget.
 - Community Benefit: proposed project primarily benefits low and/or moderate income persons - at or below approximately 80% AMI for owner housing, and/or at or below 50% AMI for rental housing.
 - Cost effectiveness: the applicant is encouraged to describe the cost effectiveness of the proposed activity.
 - Documented need for the project
 - Documented need for city financing, and proof of financial feasibility, evidenced through a financial statement.
 - Can be completed within stated time frame.
 - Leveraging: CHAP funds should be matched on at least a 2:1 basis; HOME funds must be matched on a .25:1 basis.
 - Housing units must conform to the city of Boulder Livability Guidelines.
 - Building Green: proposal demonstrates a reduction in long term operating and maintenance costs and/or include design or materials which enhance energy efficiency of units.
 - Other funding is in place or there are documented efforts to secure other funding
 - No displacement will occur if acquiring existing rental or owner property
2. Applicants make a presentation to Housing Division staff and the Technical Review Group.
 3. Proposals are evaluated based on how well they fulfill community goals and completeness of the information provided in the application package. Housing Division staff use information included in the application, including assumptions in

the project pro forma, to develop preliminary fund recommendations for the TRG's consideration. The TRG's recommendations are forwarded to the city manager for approval.

The following specific community goals were identified by Housing Division staff and the TRG for the 2009 fund allocation process:

- a) Rental units affordable to households below 50% AMI (only nonprofit applicants or for-profit developments with nonprofit partners are eligible to receive assistance for rental projects.)
 - b) Acquisition/Development of homeownership units appropriate for families with incomes between 50%-70% AMI.
 - c) Transitional housing units are for homeless individuals and families who are working toward self sufficiency. Generally, transitional housing is provided from three months up to two years.
 - d) Special needs housing for people with disabilities.
4. The City Manager and Housing Division staff send a WIP to council informing them of the housing fund allocations. Proposals recommended for more than \$450,000 in CHAP funds will be considered by council prior to the release of funds.
 5. Documents (restrictive covenants to secure the permanent affordability of the proposed housing and/or HOME agreements) are executed. The city reserves the right to incorporate reasonable contractual provisions into the final documents.
 6. Federal funding is dispersed to projects, on a reimbursement basis, once the written agreements and or covenants are executed and Housing Division staff determine that the project meets all compliance requirements.

Since 2000 through the end of 2008, the city has collected approximately \$9.05M in cash-in-lieu payments, which are pooled with other affordable housing program funds and distributed during the annual affordable housing funding allocation process. These funds are used to support:

- Construction of new affordable housing
- Rehabilitation of existing affordable housing
- Acquisition of existing housing for affordable programs
- Transitional housing and the homeless shelter
- Special needs housing (e.g. housing for people with AIDS or those with a physical or mental disability.)

Inclusionary zoning has produced 359 on-site homes and five single family homes off-site to date. Funding in the form of cash-in-lieu leveraged by other sources has resulted in an additional 315 homeowner and rental units, 120 mobile home pads, 75 shelter beds and the acquisition of two properties (the Pollard site at 30th and Pearl and a smaller site in Palo Park that combined have potential for another 115-170 affordable units).

The table below summarizes the \$1.9 million dollars allocated in 2009 for city affordable housing needs and \$588 thousand allocated in 2009 to the cities regional consortium partners.

Summary 2009 City Affordable Housing Allocations and Consortium Allocations

		Amount Available				
		\$648,635	\$819,529	\$130,000	\$346,134	\$1,944,298
APPLICANT	Use	HOME	CHAP	AHF	CDBG	Award
Boulder City Advocates for Transitional Housing Capital Improvement Program	Rehabilitation				\$21,000	\$21,000
Boulder Cty Housing Authority	Homeownership Counseling			\$28,000		\$28,000
Boulder Cty Housing Authority, Longs Peak Energy Conserv	Rehabilitation				\$105,000	\$105,000
Boulder Housing Partners Boulder Mobile Manor	Redevelopment		\$400,000			\$400,000
Boulder Housing Partners Bridgeway	Rehabilitation		\$228,000			\$228,000
Boulder Housing Partners Capital Improvement Program	Capital Improvements				\$200,000	\$200,000
First Home	Down Payment Assistance	\$180,000				\$180,000
Habitat for Humanity CHDO	CHDO Operating	\$15,000				\$15,000
Habitat for Humanity Vojta Farm	Development	\$250,000				\$250,000
Imagine!	Redevelopment		\$150,000			\$150,000
Thistle Community Housing Capital Improvement Program	Rehabilitation			\$29,000		\$29,000
Thistle Community Housing New Development	Development	\$200,000	\$40,000			\$240,000
Opportunity Fund	Acquisition	\$3,635	\$1,529	\$73,000	\$20,134	\$98,298
	TOTALS	\$648,635	\$819,529	\$130,000	\$346,134	\$1,944,298
2009 HOME Consortium		\$ 587,582				
Applicant	Project Type	Award				
Boulder County	Acquisition	\$234,000				
City/County of Broomfield	Acquisition	\$67,000				
City/County of Broomfield	Rental Assistance	\$10,000				
Longmont CIP	Rehabilitation	\$251,582				
Longmont Christian Housing	Rental Rehabilitation	\$25,000				
	TOTAL	\$587,582				

Issues with Varying Inclusionary Zoning by Location

The affordability gap is not consistent throughout the city. Most noticeably it is much larger in the downtown area. Economic & Planning Systems (EPS) concludes that downtown cash-in-lieu as a percentage of the affordability gap differs by nearly 30% from attached units outside of downtown. This indicates that the current policy, as applied to downtown, satisfies neither the original goals of the program nor current concerns regarding affordability gap growth.

In order to fully understand how the cash-in-lieu could be set, it is important to understand how the funds are used. Currently, the city does not buy housing units directly for the affordable program. Homeownership housing units are acquired through on-site provision in Inclusionary Zoning. Affordable rental units are acquired indirectly by city funding of local non-profit affordable housing providers. Approximately 10% of funding is used to administer Inclusionary Zoning and other affordable housing programs.

The city is fortunate in that we have capable community partners who are expert at maintaining and leasing residential rental properties. They have the intake, marketing, maintenance and financial staff, programs, software and compliance systems to work directly with the tenants and report to the funding agencies. Regardless, the Telluride decision makes it illegal for the city to directly control rents. See *Attachment D* for more information on the Telluride decision.

One approach for applying cash-in-lieu is to have different amounts based on geographic variations in the affordability gap. The most obvious geographic breakdown is the downtown area and the rest of the city. This approach requires that the basis for the differing cash-in-lieu amounts be specific to the area such as higher land values or zoning requirements that result in higher costs. The other requirement is that any cash-in-lieu monies collected in a specific area be spent in that area.

While staff thinks that the first requirement could be met for the downtown area, the requirement to spend the money in the downtown would pose significant difficulties. Though it may be possible to spend monies collected in downtown in that area, it would eliminate many of the efficiencies realized from funding the non-profits and require significant program modifications for a relatively few number of affordable units. In addition, the city would have only local funds to invest. All other funds require that our community partners provide matching funds, therefore increasing our buying power.

The non-profits annually propose varying projects to be funded throughout the city. This is referred to as the annual fund round. (See *Attachment E* for details about the fund round) Their choices of locations for acquisition of new units are primarily based on efficient use of funds, opportunities for acquisition, maintenance and management efficiencies and their capacity in any given year to take on additional projects. As it stands it is challenging for the local non-profits to find appropriate projects when they have the entire city to look at. Restricting the money to a geographic area could have several negative outcomes including:

1. A Reduction in funding to the non-profits for new projects in other areas.
2. A Reduction in funding to the non-profits for on-going projects.
3. A Reduction in rental housing acquired.
4. Holding funds that cannot be spent in a reasonable time period.
5. Inefficient use of the funds.

The city does not own and operate any affordable housing (with the occasional exception for avoiding loss of affordability through foreclosure); rather we work with community partners whose mission is consistent with the goals of the affordable housing program. The question has been asked, “Why doesn’t the city buy housing units directly for the affordable program?” There are a number of reasons including:

1. The city does not currently have the capacity or in-house ability to evaluate and purchase property in a maximally effective way.
2. The market risk of "speculating" and liability of ownership precludes direct city ownership.
3. The liability of ownership until the property is sold including maintenance, lawn upkeep, snow removal, and insurance precludes direct city ownership.
4. In the past, City Council did not want to engage in direct public intervention in the private market.
5. If the city were to buy housing units directly there would be several inefficiencies:
 - a. City ownership would double the closing costs; both upon purchase and sale.
 - b. City ownership would require additional staffing to purchase properties, market the units, once sold, prepare a disposition of property memo to City Council, prepare closing documents, and attend both the purchase and sale closings.
 - c. The city would have only local funds to invest. All other funds require that our community partners provide matching funds, therefore increasing our buying power.
6. Homebuyers are able to leverage relatively small amounts of the city investment with home loans. The city gets far more units with our limited funding than if we buy property out right.

As part of the analysis of the downtown residential density bonus, an estimate of potential residential build-out in the downtown area was completed. This information was included in the December 2, 2008 Council memo.

The analysis concluded that if all currently underutilized parcels identified in the analysis were to develop at the maximum allowable floor area ratio (FAR), a maximum of approximately 355 new residential units may result. The 20% Inclusionary Zoning requirement would result in approximately 71 affordable units, 36 on-site and 36 paid for by cash-in-lieu. In summary, while requiring a different amount of cash-in-lieu in the downtown may result in additional funds, the resulting inefficiencies, cost, and difficulty of instituting a new program for this number of units may not be a desirable trade-off.

Rather than modifying Inclusionary Zoning, staff suggests that the residential density bonus in the downtown area could be used to bridge the affordability gap discrepancy between downtown and other areas of the city. Per council request the Planning Department, in cooperation with Division of Housing staff, will be analyzing the

downtown density bonus and height variance to include a provision of additional community benefit, which may include additional affordable housing. These tools can be used effectively to lessen the imbalances for provision of affordable housing in the downtown area. For example, a developer in the downtown area that would like to avail themselves of the additional density offered by the bonus could be required to provide a higher percentage of the resulting additional housing as affordable. Work on this project is scheduled to begin in July, 2009 and will incorporate any Inclusionary Zoning regulatory changes that result from the current Affordable Housing Program review.

“Permanently Affordable” and “Likely to Remain Affordable”

In 2000, City Council accepted the recommendations of the Affordable Housing Task Force as a blueprint for the city’s policies and funding allocations towards the development of affordable housing. These recommendations included a 10-year time frame for reaching the Boulder Valley Comprehensive Plan (BVCP) goal to have at least 10% of the total housing stock as permanently affordable. In addition, priorities were set for income targets, proportions of affordable housing units available for rental or homeownership and proportions of affordable housing units acquired through new construction and acquisition.

These priorities were set for the remaining units needed to reach the 10% goal. Most of the 1,750 affordable housing units acquired prior to the year 2000 were not permanently affordable, that is, secured by a covenant with rent limits or resale price restrictions.

Of the 1,750 affordable units in existence in the year 2000, 520 (including 122 shelter or group home beds) were secured by covenant, the remainder, 1,230, consisted of public housing units or units owned by other community agencies deemed likely to remain affordable. While these “likely to remain affordable” units make an important contribution to the city’s housing stock, there is the possibility that they may not remain affordable in the future. They are not secured by a covenant which means that the community agencies that own them could raise the rents or sell them in the future. Occasionally, the number of affordable housing units may decline due to the loss of some of these units.

The term “permanently affordable” is used when the housing unit is secured by a covenant. The term “likely to remain affordable” is used when there is no covenant and there is a possibility that they may not remain affordable in the future.

Since 2000, the city has increased the number of permanently affordable units available in the community by more than 1,200 units. This exceeds the addition of approximately 1,100 units because some formerly “likely to remain affordable” units now have covenant restrictions as a result of receiving funding from the city. The city’s policy is to require a permanent affordability covenant for any funded units. As of 2009, the city has 1,753 permanently affordable units secured by covenant.

City of Boulder CHATS
Thursday, August 14, 2008
The Community Foundation

Present:

Liz Black – League of Women Voters
Lou Della Cava – Boulder Tomorrow
Jane Engel – Boulder Valley Rotary
Detre Godinez – BCU, Bias-Incident Hotline
Josie Heath – The Community Foundation
Ken Hotard – Boulder Area Realtors Association
Scott Rodwin – Blueprint Boulder
Bill Roetker – Sierra Club
Morgan Rogers – The Community Foundation
Pat Shanks – PLAN Boulder County
Jeanette Wilson – League of Women Voters
India Wood – Boulder Valley Rotary
Jeff Yegian – City of Boulder

Opening Comment: Regional approach to affordable housing not the topic of the day, but we should keep it in mind while we focus on the City's program

Process:

- Feedback will be given to Council with recommendations made by staff this fall

Presentation:

Background:

- It's been almost 10 years since the City did a comprehensive review of affordable housing needs and strategies in BC
- 98-99 An affordable housing task force researched strategies and made recommendations to Council
- 2000 Inclusionary Zoning adopted by Council
- 2000 Ballot initiative for affordable housing did not pass in the City
- Many civic groups currently working on affordable housing in Boulder
- About 15% of pop spending more than 30% of their gross income on housing costs – does not include transportation
- Gap between what people can afford and the cost of housing has grown between 2000 and 2007 – price of homes has gone up 3.7 times faster than median income
- Housing Bridge ranges from homeless shelters to homeownership
- 81% of AMI is max income allowed to participate in the City's affordable housing units
- Priority was to serve lower and moderate income people – 45% intended to be new construction; 55% intended to come from existing housing stock

Current goal: To make 10% of houses in Boulder permanently affordable either through rent control or through limiting the resale cost by 2010. That means 2700 additional units.

How did the city choose 10%?

- They wanted something achievable and ambitious –
- Seemingly somewhat arbitrary.

Comments:

People don't have a problem finding housing in the County – they choose where they are going to live, based on job or something else. Why didn't the City look outside the City boundaries to add to the affordable housing supply some time ago? If we're going to have the best program we can, we might need to rethink the problem as we define it – and think beyond the current resources we're looking at.

Who are we trying to benefit? How are we defining our goals? Seems like we need more focus. Should we look regionally? Going outside the City to the County?

Jobs shed and the housing shed – it may bleed over into other counties (Broomfield, etc.)

Use a different definition of area and a better definition of the problem we're trying to solve by having affordable housing – is it commuting distances? Having a certain group of workers in Boulder? Artistic and educational goals? We need to clearly lay these out.

Affordable housing for teachers, police officers, etc. is important to have so they can touch the people they are serving – makes them better at serving their communities. It is important to provide for the more general service worker because it's better for the environment – public transportation outside of the City is not as good – and lower income folks have less money to spend on transportation. They may be able to afford something outside the City but it will cost more to get into the City for work

It's not just about the numbers; it's about the program and what it does for people. The intention was to provide a 'stepping stone' to help folks get into market rate housing – but that doesn't happen with resale restrictions. Even if their income rises moderately over time, they decrease their ability to get into market rate housing because that's rising so much faster. 13 years ago I had a better ability to buy into market housing when I was an intern than I do now as a principal of my firm. There was a 4 year period when the resale of my unit didn't go up at all.

We must consider seniors/retired folks, too – can't just tie it to the workers of the community.

There are 3 constituencies that need housing assistance: the truly needy, the elderly/retired, and the workforce.

The older units in the permanently affordable program are hard to sell compared to newer units. Brand new units are competing with 15 year old product – competing in same price

range...what's going to sell? That challenges the notion of permanent affordability in an ownership program.

When the program was established, priorities were different – shopping patterns/school choice have changed. This has changed how we choose community. How much can we build within a sustainable community? Within the nonprofit sector, workers can't afford to buy. As communities around the County develop their own sense of community, there are a whole set of factors. We need to look at the level of the Consortium of Cities, Commissioners, etc. We shouldn't have folks living here who don't work here (through the program) because that doesn't build community. Boulder County is one of the fastest growing communities for older people – a lot are moving in from other areas to live near their families – not because they're retiring here.

This should be regional discussion – and the County is looking at affordable housing, too. It's hard to define the problem. The City has done a good job at trying to look at the problem. Extrapolating the present into the future is not the best way to look at the issue – the price of gasoline/use of car has totally changed in the last few years. We need to look at this with a changing future not just using current housing/transportation trends.

Other populations that are not being well served are the 'higher end' folks - \$250-400K/ 'entry-level' market housing. What we have available is moving toward extremes – we're moving middle of market to either end. 'Initially Affordable Housing' program came through many years ago, but people were abusing it. Could we change the way that program was built? We should look for an adaptation of the current program.

'Moderate income housing program' was done before – through the late 80s, much of the affordable housing provided went into the market place. We came up with CHAT program – but then the housing market started to rock. We later came back to Inclusionary Zoning (that was limited before through CHAT program).

What if affordable housing program increased 'cash in lieu' above a certain threshold (say 3000 square feet)? That would incentivize people to build smaller houses, and keep them more affordable.

We should consider an incentive approach and reconsider Inclusionary Zoning. Perhaps some portion of permanently affordable and a percentage of affordable market rate homes. This would bring a better mix of incomes. It may slow down progress toward the goal, but you begin to target more of the workforce.

Consider the energy cost on housing and the cost of maintaining your owned home. There is an initiative on County ballot this fall that says front end cost on home improvements can be amortized to your mortgage? The front end costs are high so how do we incentivize making those changes?

We don't want an 'entitlement' program – want incentives; City is considering LEED rating system so we can benchmark the green element.

How do we incentivize owners of rental units to make it cheaper for renters to live in energy efficient homes?

Do you want to provide affordable housing? Energy efficient affordable housing? Or do you want to make the market work – without unintended consequences? Higher cost housing is subsidizing affordable units and perpetuating the problem. At some point we're going to run out of the ability to produce housing and then we will have to go back to taxing the existing population. The more we tack on more policies, the more complicated it gets and there's a finite life to it. We're never going to solve the whole problem. Inclusionary Zoning will not last.

Rotary is focusing on helping the low-income housing population. Where is the City's current priority?

Current priority is half in HUD very low to low. The real estate market is changing in Boulder. The biggest change is in sales volume but prices are holding. Availability of credit is difficult now, too. If the nation is in a recession for long enough, it will effect us, too.

On the goal of 10%, we ought to reconsider rental vs. ownership mix that we've been pursuing. Can we help significantly more people by focusing on rental? Are subsidized renters better off financially in the long run?

There may be reasons to have an ownership program, but if we're trying to aid them financially, helping with rent might be better.

We should consider investing in transportation at a greater level, not just looking at housing. Helping to expand the Ecopass program or something similar to give workers more options on where they live, but making it more affordable to get them into the City.

The City doesn't own and operate any rental housing. It's owned and operated by nonprofits (BHP, Thistle, and a few others).

When people earn more than the income limits, they have to leave the rental or pay more. For ownership program there's no checking of income after you buy.

Land costs drive housing costs. Do we need more public education and advocacy? Why haven't affordable housing folks stepped up to encourage increased density in some new developments (ie. Transit Village)?

City of Boulder spends a lot of money on alternative transportation already. The regional system is lacking outside of the City. We need better connections between surrounding cities to Boulder.

There's a big gap between where we are now and the acceptance/implementation of alternative transportation. It's hard to change behavior. Single occupancy vehicles will continue to be popular. Technology will overcome the cost of transportation.

There's little attention paid to the impact on the people who we're intending to serve. How are these programs working for them? Have we asked folks? We haven't talked that much about the needy population. What are the social implications? There are complaints with the policies of the current programs (ie. eviction policy of BHP).

If we build very dense housing, do we have the policies in place to build community among those residents? What about sustainability and maintaining the housing we already have that's affordable (ie. bedbugs, Orchard Grove). We need to talk to residents and get their feedback. This especially impacts people from diverse communities. Consider who is making decisions for other people. We have a history of people who don't need the programs designing them. We have to hear from the people in these programs to understand the impact on their lives – transportation, social impacts, etc.

If we focus on identifying the problem, it will help. Right now, the solution is pre-ordained. We need to talk to the people we're trying to help – what are their problems? What are we trying to solve?

We also need to ask people, what happens after you leave the program?

We would need a higher rate of Inclusionary Zoning to truly get to 10% goal of affordable housing.

To what extent should City resources be going to people in the middle income range?

- Typically down payment systems work for that income group to help them get into market rate housing. We're moving into a 'wealthy-poor' community – are we going to reverse that? How much can we socially engineer bringing in a middle class community?
- We have so many factions fighting over this issue: an anti-population growth faction, a pro-sustainability faction, a pro-transportation faction...depending on your priority list, that's how you look at the world. The group that brings recommendations needs to be broad enough to look at all priorities, and accept that some compromises need to be made. The housing staff is responding to the goals imposed upon them by the council at the time. Is it time to ask the general population to provide a tax base to support this worthy cause?
- The private sector took a look at this through the Boulder Tomorrow study. We would like to see some action in response to it, but it's not a council priority. How do we push the council to tweak the program? You might achieve initial goal, but then what?
- From a political context, this issue does not appear to be very high on the council's agenda. We need to confront them with some bold initiatives for changes to this program so they will focus their energy on addressing this program. Otherwise we will peck around the edges and will not accomplish much.
- It's time to do something. Many groups are following the issue. The current city council is interested in doing something.
- Council has just been putting out fires – can we all urge a long-term vision for housing to grab their attention?

Boulder Demographics

Sources for information about Boulder's household income are limited. The U.S. Census, which is completed annually at the beginning of each decade, and the related American Community Survey, which is the U.S. Census Bureau's ongoing statistical survey, are considered the most reliable sources of data. Other sources for data include household projections from the Colorado Department of Local Affairs and data on rental units from the Boulder County Housing Authority and Boulder Housing Partners.

Unless otherwise noted, the following data is from the U.S. Census Bureau, 2007 American Community Survey.

HOUSEHOLDS AND FAMILIES:

In 2007 there were 38,000 households in Boulder. The average household size was 2.2 people.

Families, which are defined as households with related occupants, made up 42 percent of the households in Boulder. This figure includes both married-couple families (34 percent) and other families (8 percent). Non-family households made up 58 percent of all households in Boulder. Most of the non-family households were people living alone, but some were comprised of people living in households in which no one was related to the householder.

INCOME:

These income sources are not mutually exclusive; that is, some households received income from more than one source:

- Median income of households in Boulder - \$52,759
- Percent of households receiving earnings – 86%
- Percent of households that received retirement income other than Social Security – 12%
- Percent of households that received Social Security – 13% (average income from Social Security was \$16,150).

Income and Benefits (2007 dollars)

- 28.1% of households earned between \$10,000 - \$24,999
- 18.3% of households earned between \$25,000 - \$49,999
- 16.9% of households earned between \$50,000 - \$74,999
- 9.5% of households earned between \$75,000 - \$99,000
- 27.2% of households earned more than \$100,000

Families (42% of households)

- 8.7% earned between \$10,000 - \$24,999
- 11.8% earned between \$25,000 - \$49,999
- 20.7% earned between \$50,000 - \$74,999
- 12.6% earned between \$75,000 - \$99,000

- 46.2% earned more than \$100,000

HOUSEHOLDS WITH CHILDREN:

In 2007, 18.3 percent of Boulder families had children under 18 years of age.

HOUSING CHARACTERISTICS:

In 2007, Boulder had a total of 41,000 housing units, 8 percent of which were vacant. Of the total housing units:

- 53 percent was in single-unit structures
- 44 percent was in multi-unit structures, and
- 3 percent was mobile homes.

Sixteen percent of the housing units were built since 1990.

OCCUPIED HOUSING UNIT CHARACTERISTICS:

In 2007, Boulder had 38,000 occupied housing units: 20,000 (53 percent) owner occupied and 18,000 (47 percent) renter occupied. Eight percent of the households did not have telephone service and 7 percent of the households did not have access to a car, truck, or van for private use. Multi Vehicle households were not rare: thirty-six percent had two and another 14 percent had three or more vehicles.

HOUSING COSTS:

In 2007, the median monthly housing costs for mortgaged owners was \$1,835, non-mortgaged owners \$430, and renters \$888. Thirty-eight percent of owners with mortgages, 11 percent of owners without mortgages, and 59 percent of renters in Boulder spent 30% or more of household income on housing.

POVERTY AND PARTICIPATION IN GOVERNMENT PROGRAMS:

In 2007, 21% of all people in Boulder were in poverty. Eleven percent of related children under 18 were below the poverty level, compared with 5 percent of people 65 years old and over. Five percent of all families and 18 percent of families with a female householder and no husband present had incomes below the poverty level.

According to the 2005 Regional Needs Assessment, an estimated 19,426 Boulder households (nearly 46% of all households) are low income. Over 70% of low-income households in Boulder have unmet housing needs (live in overcrowded conditions, pay 30% or more of their income on housing and/or have incomplete kitchens and plumbing.)

**Number of Boulder Low-Income Households with
Unmet Needs by Area Median Income (2005)**

AMI Range				
<30%	30-50%	50-80%	TOTAL	Percent of Total Low Income Households
6,806	3,928	3,026	13,760	70.8%

As the following table indicates, the lack of affordability is a more prevalent problem than overcrowding.

Number of Cost-Burdened and Overcrowded Households (2005)

Overcrowded*		Cost-Burdened (>30% of income spent on housing)		Severely Cost-Burdened (>50% of income spent on housing)	
Number of Households	Percent of Total	Number of Households	Percent of Total	Number of Households	Percent of Total
1,556	3.6%	14,212	37.4%	8,195	19.2%

**Overcrowding is measured per HUD using persons per room, persons per bedroom, unit square footage per person and persons per room cross tabulated by unit square footage per person.*

As noted in the City’s Human Services Master Plan, Boulder is both affluent and poor. In 2007, just over 8% of all households in Boulder had incomes above \$200,000; a total of 4.1% of the State’s households had 2007 incomes above \$200,000. At the other end of the household distribution spectrum, about 12.6% of Boulder households had incomes below \$10,000; 6.5% of households in the State had incomes below \$10,000.

In 1999, 19% of Boulder households were defined as “High Moderate Income”. The AMI range for the high moderate-income household was 80 – 120% (up to \$75,000).

In 2007, households earning 80 – 120% of AMI (up to \$99,000) are defined as middle-income households; 9.5% of all Boulder households are in this category.

Middle Income Household Information

The 2009 Area Median Income (AMI) for a family of three in Boulder is \$80,300. Therefore, half of Boulder households earn more and half earn less than this amount. The middle income group straddles the median, with households earning between 81% and 120% of AMI. This translates into an annual income of \$63,000 to \$94,000, with a total household wage of up to \$48 per hour. Approximately 9,900 of Boulder’s total 40,000 households, or a quarter of the households in Boulder, are included in this income range.

Following are the 2009 Income Limits, with 100% as the Area Median Income. Currently, the city’s Affordable Housing program aims to serve households earning up to 80% of AMI (shaded area in chart).

2009 Income Limits

	AMI %	1 Person	2 Person	3 Person	4 Person
Middle Income	120%	\$75,000	\$85,560	\$96,360	\$107,040
	100%	\$62,500	\$71,300	\$80,300	\$89,200
Low to Moderate Income	80%	\$50,000	\$57,100	\$64,300	\$71,400
	60%	\$37,500	\$42,780	\$48,180	\$53,520
	50%	\$31,200	\$35,650	\$40,100	\$44,550
	30%	\$18,750	\$21,390	\$24,090	\$26,760

Some council members have expressed concern about the city’s declining middle class. The middle class can be characterized as households with pre-tax income of between \$25,000 and \$75,000. American Community Survey results for 2005, 2006 and 2007 for the city of Boulder show a decline in number of households of this income group between the years 2005 to 2007. The following data shows number of middle income households as a percentage of total households:

- 36.4% in 2007
- 36.7% in 2006
- 38.5% in 2005

Previous to those years, the data was gathered for the Primary Metropolitan Statistical Area of Boulder and Longmont and show the percentage of middle class for this larger geographical area as fluctuating:

- 42.0% in 2004
- 43.7% in 2003
- 41.4% in 2002

On a national level, the percentage of middle class households has decreased steadily from 47.6% in 2002 to 44.1% in 2007.

Middle income households tend to have higher paying, professional occupations. The occupations of heads of middle income affordable households at the newly-constructed

Northfield Commons development are categorized as professional/ technical, self-employed, executive/ manager, research, teaching and engineering.

Home affordability requires that no more than 30% of a household's income is allocated to housing costs. For those renting, this includes utility payments; for those buying this includes principal, interest, taxes and insurance.

Rental

A household earning 80% AMI can afford to pay \$1,440 per month in rent, a household earning 100% AMI household can pay \$2,000, and a household earning 120% AMI household can afford to pay \$2,400. The currently inventory of *four* single family rental homes with two or more bedrooms in Boulder ranges in price from \$1900 to \$3500, with an average price of \$2500. Apartments or town homes with two or more bedrooms range in price from \$695 to \$1750, with an average price of \$1300.¹ Therefore, most middle income households could afford to rent an apartment or town home in Boulder, while more than half might be priced out of the market for single family home rentals.

Homeownership

In March 2009, the median sales price for a single family home in Boulder was \$445,000. Based on income and the requirements for home affordability, households earning between 80% and 120% of AMI can afford to pay a mortgage for a home priced between \$170,000 and \$270,000. The financing gap ranges from \$275,000 to \$175,000 making the single family home market out of reach for middle income buyers.

The median sales price for condominiums and town homes is approximately \$260,000. Households in the higher range of the middle income category earning between 100 and 120% of AMI can afford this price point. Households in the lower range of the middle income category earning between 80 and 100% of AMI can afford to pay a mortgage for a home priced between \$170,000 and \$220,000. With a gap of \$90,000 to \$40,000, lower middle income households without access to significant downpayment funds are priced out of this market.

¹ Rentals.com website 5/12/09

March 2009 Rental and Sales Affordability Gap

	HOME TYPE	PRICE	MAXIMUM PRICE FOR 80-120% AMI HOUSEHOLD	AFFORDABILITY GAP
		AVERAGE		
RENT	Single Family Home	\$2,500	\$1,440 - \$2,400	\$1,060 - \$100
(MO)	Apartment/ Town House	\$1,300	\$1,440 - \$2,400	\$0
		MEDIAN		
SALE	Single Family Home	\$445,000	\$170,000 - \$270,000	\$275,000 - \$175,000
	Condominium	\$260,000	\$170,000 - \$270,000	\$90,000 - \$0

Homeownership can be divided into two categories: *entry-level ownership/ first-time home buyers* and *move-up buyers*².

- *Entry-level ownership/ first-time home buyer* households typically earn in the low to middle income range (60 to 120 percent AMI). These households currently rent (or otherwise do not own a home) and are looking to purchase their first home.
- The *move-up buyers* are households earning in the middle to upper income range (about 120 percent AMI or higher) that currently own a home (possibly in a neighboring community) and are looking to purchase a new or different home for a variety of reasons, such as relocation, growing family (e.g., having children) and shrinking family (e.g., empty-nesters).

Both lower income and middle income households have few, if any options in Boulder if they want to purchase a single-family home. Condominiums and some town homes are available to the higher end of the middle income household group. Lower income households have choices for renting in Boulder, or in neighboring communities if they can afford the added expense of a commute.

Although renting is currently an option for middle income households in Boulder, homeownership is the more likely the goal for most households. According to the Pew Research Center’s chart on income and homeownership (Feb 2008), more than three-quarters of “middle class” survey respondents own their homes. The city currently has 118 affordable ownership housing units for middle income households and expects to eventually add approximately 110 more through annexations.

Housing Preferences

Boulder’s housing stock is comprised of approximately 48% multi-family housing and 62% single family homes. The 2008 Leeds School of Business report on Affordable Housing in Boulder details the types of homes in the city:

² RRC Associates, Town of Avon’s 2006 Housing Needs Assessment.

<u>TYPE</u>	<u>TOTAL NUMBER</u>	<u>PERCENT OF INVENTORY</u>
Single family homes	24,000	62.0%
Duplex/ Triplex	975	2.5%
Town homes	2,600	7.0%
Condominiums	8,700	22.0%

About half of all housing in the city is rental and half homeownership. Based on discussions between Housing Division staff and prospective affordable homebuyers, housing type is very important to middle income households. Middle income households, and particularly those with children, are primarily interested in single family homes or town homes with adjacent yards. These households are financially able to rent their preferred home in town or buy in nearby communities, with a commute, and may be less likely to choose a deed-restricted multi-family home with limited appreciation.

Stacked flat condominium units make up the majority of new construction in Boulder, yet they tend to be less appealing to middle income households than town houses and single family homes. A review of statistics on Boulder’s building permits over the past 10 years shows that 812 single family homes and 1391 multi-family units were built. Since 2001, new construction has tended toward multi-family housing, whereas before that time, single family homes considerably out-built multifamily units.³ Boulder’s policy is to “grow up, not out” and this has resulted and will continue to result in a high percentage of multifamily homes and very few new single family homes.

The challenge for Boulder in attracting and retaining middle income households is to create denser housing that offers amenities and conveniences such as convenient access to services and employment and a quality of living that can compete with the benefits of owning a single family home elsewhere, but that requires a stressful and time consuming commute to the employment opportunities in Boulder. We are doing a good job at creating housing that appeals to young professionals, couples and empty nesters but are producing few larger size housing with other amenities such as outdoors “kid” spaces, additional parking, and nearby access to day care desired by larger households.

A 2009 study done by Robert Charles Lesser and Co. real estate advisors, “Market and Demographic shift, Boomers and Gen Y,” shows that housing preferences are changing and moving away from single family homes with labor intensive yards and long commute distances. Their findings are consistent in that about a third of the market prefers denser New Urbanist, transit-oriented, and conservation minded communities. This preference spans multiple generations, including empty-nesters, single people, and families.

Other considerations beside price and housing type can go into the decision on where to live. Two adults working in different communities may try to locate their housing convenient to both jobs. In a scenario of one couple with one spouse working in Boulder and the other spouse working in Denver, their ideal home might be located in a community like Superior, Louisville, or Broomfield along the I-36 corridor.

³ City of Boulder, 2009 Building Permit Data

Middle income housing is often left out of federal and state government funding programs, including tax credit financing, which aim to serve people that earn less than 60% of AMI. Instead, middle income households are often the beneficiaries of middle income “workforce housing” initiatives adopted by local municipalities that aim to ensure the availability of housing for the local community workforce. These initiatives could include a rewrite of existing local codes, the organization of a regional planning effort, the institution of public/private partnerships, and direct benefits to workforce families, including special mortgage products and resources and homeownership education.

The city of Davis, California conducted a study of middle income housing needs, impacts, and options and found results similar to those observed in Boulder:

- The housing market is not providing adequate ownership housing opportunities for middle income households.
- Middle income households cannot afford to purchase even the least expensive market rate housing being developed and cannot qualify for affordable housing units provided for low and moderate income households.
- Serving middle income households would have cumulatively beneficial effect by providing housing opportunities for the local workforce, thereby reducing traffic congestion and air pollution by workers who otherwise would live outside the city and commute longer distances to work.

This study resulted in the addition of a standard middle income housing requirement for developers of residential ownership developments consisting of twenty-six or greater units to provide, to the extent feasible, units offered to middle income households. All required middle income units must be constructed on-site and sold as middle income ownership units.

In summary, most middle income households can afford to rent an apartment or town home in Boulder, while more than half might be priced out of the market for single family home rentals. Households in the higher range of the middle income category can afford to buy a condominium or town home while lower middle income households without access to significant downpayment funds are priced out of this market.

First Home Grants and the H2O Program

First Home Grants

Council requested that staff develop strategies for housing low and moderate income families in Boulder. In response staff will institute a pilot program for the First Home grant that will limit uses of the grant to larger households with two or more dependants less than 18 years of age. As reported to City Council at the March 31st study session, the majority of for sale permanently affordable homes provided through Inclusionary Zoning tend to be smaller stacked flats or condominiums that do not meet the needs and desires of families.

The First Home grant provides down payment assistance that allows for the purchase of “family friendly” homes. Family friendly homes are defined as single family homes, town home, or homes in multi-family buildings that are not stacked, have at least three bedrooms, are more than 1,000 finished square feet, and have a yard or common area that offers a safe place for children to play. The First Home program is only available to first time home buyers (those who have not owned a home within the last three years). Applicants must be working within the city limits. Homes purchased using First Home grants become permanently affordable and are governed by an affordability covenant with the same restrictions on appreciation and resale as Inclusionary Zoning homes. Funds for First Home are earmarked each year through the Housing Opportunity Fund, which utilizes Affordable Housing Funds and other funds made available through federal HOME funding.

Since 1993, the city has administered this program to enable low and moderate income households of all sizes to purchase market rate homes within the city limits. Previously there was no restriction on the type of homes that could be purchased through this program.

In 2004, the grant was increased for households of three or more people to 30% of purchase price, up to \$90,000. This increase was, in part, meant to compensate for the rapidly escalating housing prices. Prior to this change the maximum assistance available to larger households was 20% of purchase price capped at \$56,000. In 2006, \$90,000 was made available to three-person households or larger buying a “family friendly” home, again in response to the increasing gap between affordability and actual housing prices.

The increase in the First Home grant in 2004 proved popular with households that had dependants, resulting in seven low and moderate income households purchasing market rate homes: three single family and four town homes were purchased. Five of these households had dependants, including one family with four children and another with three children. In the years since, there has been a decline in interest in the First Home grant due to the increasing costs of market rate homes. Since 2005, the majority of homes purchased using these grants have been condominiums or smaller town homes.

The table below shows the affordability gap between what a low moderate income household can afford and the median sales price of a three-bedroom home in Boulder today. The \$90,000 grant is not adequate to close the gap for larger households.

2009 Affordability Gap for Low/Moderate Income Homebuyers

Affordability Gap Low Mod households	Single Family	Multifamily
Median Sale Price (all market single family units \leq 2,000 sq. ft. & all multi family units \leq 1,500 sq. ft. built within last ten years)	\$409,000	\$369,665
Affordable Price	\$177,600	\$142,900
Affordability Gap	\$231,400	\$226,765

In response to council’s direction to better serve families through the affordable housing program, Staff has developed a policy to limit First Home grants to households with two or more dependants less than 18 years of age. In addition the grant has been increased to 40% of the purchase price, up to \$150,000. The home must be either a single family home or “family friendly” town home or duplex. The increased grant amount more accurately reflects actual costs to acquire market units. This change to the program increases options for larger households and directs limited funds for the sole use of this underserved group. In addition this will increase the number of larger family friendly homes in the affordable housing portfolio.

The impact on smaller households should be minimal as there are Inclusionary Zoning housing units available to meet their needs, as well as H2O down payment assistance if they chose to purchase a market rate home. Due to the small amount of funds currently available for First Home the impact will be limited to assistance for approximately two to three households per year. If demand is high, additional funds could be allocated to this program.

H2O

In addition to the First Home grant, the city administers the House to Home Ownership (H2O) Down Payment Assistance Program, which is offered in partnership with Funding Partners for Housing Solutions, a Fort Collins based non-profit that provides down payment assistance for affordable housing. H2O is a shared appreciation deferred loan with the appreciated grant due upon sale of the home or at the end of 15 years. The homes purchased with H2O do not become permanently affordable and appreciation is not limited. Fifteen percent (15%) of the purchase price is available as down payment assistance, up to \$50,000. The H2O program is most popular with single and two-person households as the amount does not bridge the affordability gap for larger households needing larger homes.

Inclusionary Zoning Variances

At the March 31, 2009 study session council was particularly interested in the variance that would allow a reduction in the size of the affordable units off-set by a cash-in-lieu payment.

There are several variances to the general inclusionary requirements for which a developer or property owner may apply and which may or may not be granted at the discretion of the city manager. Variances must be approved or denied prior to signing the Determination of Inclusionary Zoning Compliance form. Either the applicant or the city Housing Division may initiate the variance request. In March 2009 staff instituted a formal review process. The process includes a formal application, staff review and recommendation, department head approval, and quarterly reports to City Council.

Current criteria for granting variances vary but generally depend on the applicant providing additional affordable housing benefits. Staff will propose modifications to the variance criteria once council approves Inclusionary Zoning modifications.

Variances allowed in the Inclusionary Zoning Ordinance

On-Site Construction Requirement

Developers of for-sale projects are required to build at least 50% of the required permanently affordable units on-site. Developers may request a variance to provide less than 50% of the required units on-site if doing so would result in additional affordable housing benefits for the city, or if zoning, environmental or legal restrictions make 50% on-site impossible. Details for the on-site variance may be found in section 7.1 of the *Inclusionary Zoning Ordinance Administrative Regulations*.

Total Floor Area Requirement for the Project

A developer or property owner may request to build a lesser amount of total square footage than that required by the Inclusionary Zoning Ordinance if doing so would accomplish additional affordable housing benefits for the city.

Rental Projects

Developers of rental projects may request a variance to satisfy their inclusionary requirement in ways not listed in the ordinance as long as such a proposal would result in additional affordable housing benefits to the city.

Construction Timing

Permanently affordable units are required to be constructed such that they are able to be marketed concurrently with the market-rate units. A developer may request an alternative phasing arrangement if doing so would result in additional affordable housing benefits for the community.

Alternate methods of compliance

Developers may propose an alternate method of compliance for meeting the inclusionary requirement so long as the value of that consideration is equivalent to or greater than the cash-in-lieu contribution required and the city manger finds that the proposed alternative will result in additional affordable housing benefits to the city.

Alternative Distribution

The on-site affordable housing units shall be provided in proportional numbers by type, and size, to the market rate units with-in each project and shall be distributed throughout the project to achieve integration and avoid concentration or segregation of the affordable households. Alternate distribution may be may be approved if doing so would accomplish additional affordable housing benefits for the city or if approved pursuant to a site review resulting in better site design