



DATE: November 19, 2019

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Adopt a Resolution Authorizing the Submittal of Senate Bill 2 Planning Grant to Accelerate Housing Production and to Receive Program Funds

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) authorizing the submittal of an SB 2 Planning Grant application and to authorize receipt of program funds.

SUMMARY

The City is eligible for \$310,000 in planning grant money from the State Department of Housing and Community Development (HCD) provided that the funds are used to accelerate housing production, streamline the approval of housing development at all income levels, and prioritizes infill development. The goals of the grant align with City efforts to remove barriers to housing development at all income levels. Staff recommends that the City apply for and utilize the funds to update the City's Density Bonus Ordinance to allow for density bonuses in excess of the maximum permitted under State Law, subject to specific criteria; and, to adopt Zoning Map and Ordinance Amendments to bring the zoning on various properties in line with their applicable General Plan designations, which would streamline the approval, environmental review process, and development of mixed density housing within the City.

BACKGROUND

In 2017, Governor Brown signed a 15-bill housing package aimed at addressing the state's housing shortage and high housing costs. One of those bills, Senate Bill 2 (SB 2) established a \$75 recording fee on real estate documents to provide a permanent source of funding to increase the affordable housing stock. Revenue from SB 2 will vary from year to year as the funds are dependent on real estate transactions with fluctuating activity. SB 2 revenues shall be allocated to state and locally administered planning and technical assistance grants to help cities and counties prepare, adopt, and implement plans, programs and improvements to streamline housing approvals and accelerate housing production at all income levels. As a medium-sized locality, Hayward would be eligible for up to approximately \$310,000 in housing grant funding.

To apply for the housing grant, a jurisdiction must: have a certified Housing Element; have submitted a recent Annual Progress Report (APR) to HCD; and, shall demonstrate a nexus from the proposed project to acceleration of housing production. The proposed project must

be consistent with State Planning Priorities to promote infill development; to protect environmental resources; to encourage efficient development patterns by using land efficiently; to build adjacent to developed area; and to locate development in an area planned for growth which is served by transportation and other essential utilities and services.

Eligible uses and activities shall demonstrate a nexus to accelerating housing production and may include updates to planning documents, zoning ordinances, and environmental analysis to eliminate the need for project level review and local process improvements to expedite permitting. Applications for the first-round planning grants are due on November 30, 2019 and shall be accompanied by a City Council Resolution authorizing application for and receipt of SB 2 planning grant funds.

On September 5, 2019, City staff presented a summary and analysis of policies and programs to incentivize housing in the City of Hayward to the Council's Homelessness and Housing Task Force. Two of the policies described in that document would be eligible for the SB 2 grant funding in that they show a clear nexus to accelerating housing production at all levels of affordability. Those two programs include 1) establishing a Density Bonus in excess of 35% for affordable housing; and 2) amending the zoning on RS (Single Family Residential) District properties to match an underlying higher density General Plan designation. See further information about each program in the Discussion section below.

In October 2019, pursuant to Administrative Rule 3.6, Grant Management Policy, the Grant Administrative Oversight Committee, which is composed of staff members from Finance, the City Manager's Office, and Community Services Division, reviewed the grant and recommended that the City submit the application.

On October 22, 2019, the Homelessness and Housing Task Force considered the grant proposal and ideas and inquired if the grant could be expanded to include other projects that would incentivize housing production and/or streamline approvals. Staff clarified that while the grant proposal is specifically geared toward the projects described in the Discussion section below, it would be possible to expand the work to include other tasks and/or staff could combine the grant work with City-initiated projects to leverage the grant resources to cover research, outreach and other aspects of the projects.

DISCUSSION

Staff recommends that the SB 2 projects focus on the following projects that would incentivize and streamline the production of affordable and market rate housing:

Density Bonus. Density bonus law allows developers to request development concessions and/or increase density in exchange for on-site affordable units. The percent density increase allowed is relative to the percentage of affordable units and the level of affordability; however, a density bonus may not exceed 35% unless a jurisdiction has specifically adopted an Ordinance allowing for a higher increase.

With the adoption of Assembly Bill 1763¹, the State recently revised Density Bonus Law to allow for higher density bonuses for 100% affordable development projects and for projects within a certain distance of a major transit stop. The City must bring the local ordinance into conformance with the updates to State Law. Staff recommends that the City take the opportunity to explore other ways to provide flexibility for projects that meet local requirements as well as State requirements. For example, other jurisdictions allow density bonuses with no specific limit or geographical area and are decided on a case by case basis in exchange for some community benefit like higher affordable housing allocations (i.e. Anaheim, Glendale and Walnut Creek). San Diego allows up to 50% density bonus plus five exceptions for projects that allocate higher numbers of affordable housing units or deeper levels of affordability. Santa Rosa and Sacramento County allow higher density bonuses within certain geographical areas (i.e. proximity to transit, located within downtown areas) or in exchange for certain development features (i.e. preservation of environmentally sensitive areas and energy conservation features), respectively.

Depending on level of density bonus requested, this could result in a requirement for CEQA clearance for an otherwise exempt project (depending on site acreage and location, project size, underlying General Plan designation). All outreach and work could be accomplished with grant funds and would take approximately nine months to one year to complete.

Consistency between Zoning/General Plan. This program would only apply to properties that have inconsistent Zoning and General Plan designations, which is applicable to approximately 1,558 properties or about 289 acres throughout the City. All of the subject properties are currently zoned RS (Single Family Residential District) which allows up to 8.7 units per acre; however, 819 of the properties have an underlying *Limited Medium Density* General Plan designation which allows up to 12 units per acre; 731 of the properties have a *Medium Density Residential* General Plan designation which allows up to 17.4 units per acre; and eight of the subject properties have a *High Density Residential* General Plan designation which allows up to 34.8 units per acre.

Only 2% of the applicable properties are over one acre in size, so the proposed rezoning would not result in a significant number of large-scale projects. Rather, this program would result in the potential for a significant number of small scale, infill developments with micro-increases in density to fill in that missing middle housing typically comprised of duplexes, triplexes, and small lot development that are typically considered “affordable by design” and have the appearance of single family development from the street. It is important to note that the proposed program would not require that a property owner take any specific and unwanted action with their property. The updated regulations would only be applicable upon redevelopment of the lot.

State law requires that Zoning and General Plan designations be consistent. If the applicable Zoning and General Plan designation are inconsistent, then the General Plan takes precedence. Thus, in the case of these properties, the higher density would be permitted. Further, if an

¹ Assembly Bill 1763 - Density Bonus for 100% Affordable Housing Projects.
https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1763

applicant requests to process a streamlined application subject to Senate Bill 35, staff would only be able to utilize the objective standards set forth in the General Plan, which only consists of minimum and maximum density. Typical objective standards related to setbacks, height, lot coverage, parking, minimum open space or what makes up the building form and site layout would not be permitted in the review because those standards reside in the Zoning Ordinance.

The proposed project covered by the grant would include outreach in applicable neighborhoods and with decisionmakers; a zone change or development of an Overlay District to ensure consistency with General Plan designation; development of objective Small Lot and Infill Design Guidelines to ensure compatibility between the proposed development and surrounding neighborhoods; and environmental clearance for the project. Overall, the proposed program would prioritize development of affordable housing and allow for development on specific properties subject to the adopted General Plan designation without requiring expensive and time-consuming Zone Change process and related environmental review.

ENVIRONMENTAL REVIEW

Submittal of the subject grant application is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), in that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Any municipal code amendments undertaken with the grant funds, if received, will undergo project specific CEQA analysis.

FISCAL IMPACT

Pursuant to the Grant Guidelines, funds shall be used for the costs of preparing and adopting the proposed activities including payment to subcontractors. Work must be completed prior to requesting reimbursement; therefore, the City would be required to pay for all grant related expenses prior to requesting reimbursement. Grant funds may not be utilized for administrative costs related to the grant; however, grant funds may be utilized to cover staff time related to preparation and adoption of the projects. The Planning Division would oversee the grant activities and implementation of the projects. Staff anticipates that the projects would account for about one-quarter of a full-time employee's time for one year. Initial cost estimates by staff indicate that the costs related to hiring a consultant and undertaking the projects outlined above could be achieved within the grant award amount.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work, and play for all. This item supports the following goals and objectives:

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.

Objective 2b: Facilitate the development of diverse housing types that serve the needs of all populations.

Objective 2d: Increase the supply of affordable, safe and resilient housing in Hayward.

Goal 3: Develop a regulatory toolkit for policy makers.

Objective 3a: Update, streamline and modernize zoning & codes.

PUBLIC CONTACT

The City has held meetings with various private and affordable developers, the Rental Housing Association, and housing advocacy groups about how they believe the City can encourage housing development. Developer comments from those meetings are included in Attachment III to this report. On November 21, 2019, the City plans to continue that conversation at an upcoming Developer Convening at the Hayward Library. A comprehensive report on these efforts and meetings will be presented to the City Council in early 2020.

If the City is awarded the grant funds, City staff would continue to conduct outreach with property owners, developers and other interested parties related to the specific projects outlined above.

NEXT STEPS

If adopted, City staff will prepare and submit the SB 2 Planning Grant Application before November 30, 2019. If the grant funds are awarded to the City, Planning staff will start work on the Zoning Map and Ordinance Amendments and related Design Guidelines in Spring 2020.

Prepared by: Leigha Schmidt, Senior Planner

Recommended by: Laura Simpson, Development Services Director

Approved by:



Kelly McAdoo, City Manager