



SUBJECT

Review and Comment on Proposed Workplan to Incentivize Housing Production in the City of Hayward

RECOMMENDATION

That the Planning Commission reviews and comments on the proposed workplan to incentivize housing production in the City of Hayward.

SUMMARY

The increase in Hayward's population, absent a corresponding increase in housing units, has caused rents and prices to rise as supply has failed to meet demand. On February 6, 2018¹, Council directed staff to evaluate barriers to development of housing as a strategy to improve housing affordability.

The purpose of this report is to receive comments from the Planning Commission on the recommended workplan designed to incentivize housing production in the City of Hayward. Staff is scheduled to seek Council approval of the work plan on March 3, 2020. Most of the topics recommended require further analysis and stakeholder work and would return to Council individually for final approval prior to implementation. The objective of the proposed workplan is to incentivize the production of both market rate and affordable housing, implement measures to meet the Regional Housing Need Assessment (RHNA) goals, establish "pro-housing" policies to ensure Hayward remains competitive for state housing funds, and improve housing affordability for Hayward residents.

Staff has evaluated policies from proposed state legislation, other jurisdictions throughout the state and country, regional planning efforts, and feedback from industry professionals. Topics include policies related to zoning and housing approvals; accessory dwelling units; impact fees and fee transparency; funding sources; public land disposition; and streamlining the approval process. Staff held multiple stakeholder meetings to solicit feedback from industry professionals. A summary of the policies that have been evaluated, along with staff analysis and recommendation, is included as Attachment II.

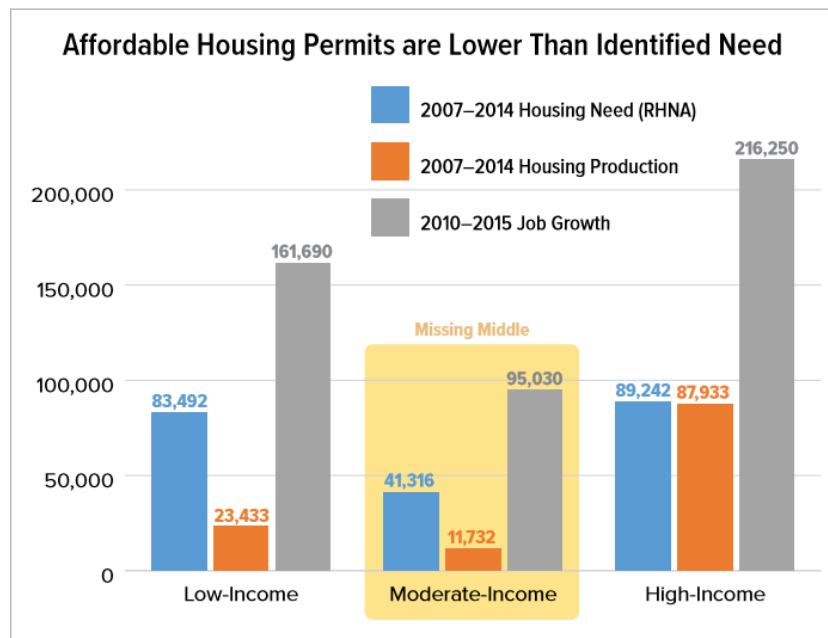
¹ February 6, 2018 City Council Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3335549&GUID=DDD8866E-BAEB-44BF-8EBB-2F716A750170&Options=&Search=>

BACKGROUND

Hayward, like other cities in the Bay Area, is experiencing rising housing prices, severe housing instability for its most vulnerable populations, displacement of existing residents, and increasing homelessness. The increase in Hayward's and the Bay Area's population, absent a corresponding increase in housing units, has caused rents and prices to rise as supply has failed to meet demand. **Figure 1** illustrates the disparity between job growth in the region and housing production which has increased demand for housing throughout the Bay Area².

Figure 1. Regional Housing Production Compared to Job Growth.



Source: Casa Compact¹

As a result, approximately 55% of Hayward renters experience a cost burden as they spend over 30% of their household income on rent. Per the most recent point-in-time count, the number of people who experience homelessness increased by 43% from 2017 to 2019.³ Additionally, renter-occupied units are disproportionately comprised of African-American and Latino households compared to all occupied units, which raises concerns that the risk of potential displacement is greater for certain racial and ethnic populations within the City. While low income renters are the most impacted by rising rents and lack of available rental housing, many Hayward residents are experiencing the impacts of a tight housing market. Homeownership opportunities are out of reach for most Hayward renters. As of October 2019, the median sales price for a detached single-family home is \$730,000⁴ and \$528,500⁵

² Casa Compact

https://mtc.ca.gov/sites/default/files/CASA_Compact.pdf

³2019 EveryOne Counts! Homeless Point-in-Time Count

<http://everyonehome.org/wp-content/uploads/2019/05/FAQ-2019-EveryOne-Counts-County-Numbers-Release.pdf>

⁴ BAYEAST Association of Realtor Market Activity Summary Hayward: Detach Single-Family Home

https://bayeast.org/wp-content/uploads/hayward_detached.pdf

⁵ BAYEAST Association of Realtor Market Activity Summary Hayward: Detach Single-Family Home

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for a condominium or townhome. Purchasing housing at the median sales price requires an income of approximately \$130,000 and \$100,000, respectively for each housing type. Comparatively, the median income for a Hayward renter is \$56,791⁶. Based on the U.S. Census Bureau, 2013-17 American Community Survey 5-year estimates, approximately 21% of Hayward renters have incomes above \$100,000. The high cost of ownership housing prevents renters from becoming homeowners and homeownership can stabilize housing cost and create equity for the homeowner.

On February 6, 2018⁷, City Council convened a work session to review the issue of housing affordability. Council consensus centered on policy options to improve housing stability for renters and identifying ways to incentivizing development of housing. The Residential Rent Stabilization Ordinance was revised on July 25, 2019 to increase renter protections in the City of Hayward; therefore, the focus of this report is limited to activities that increase housing production.

In August 2019, staff held two meetings to review the proposed plan to incentivize housing with stakeholders. Attachment VI identifies the level of support for the proposed policies and comments from stakeholders

On September 5, 2019, the HHTF reviewed the workplan to incentivize housing production and the item was continued to December 11, 2019. The following summarizes the major comments by the HHTF:

- Solicit feedback from market rate developers, in addition to the two stakeholder meetings held in August 2019;
- Provide additional information about the cost of ADUs out of concern that facilitation of ADUs will not provide a solution to housing affordability;
- Consider additional measures to facilitate the development of ADUs such as a day dedicated to processing the applications or pre-approved designs;
- Identification of policies that will provide more homeownership opportunities;
- Identification of income levels served by each proposed policy;
- Include information on income limits associated with income levels;
- Highlight incentives for mixed-income housing.

The information requested by the HHTF was incorporated into Attachment II, which also includes additional information about ADUs not previously provided. Regardless of local concerns with ADU development, recent state law has eliminated most of the City's local regulatory discretion regarding ADUs. Additionally, the summary information proceeding each topic highlights policies that may create homeownership opportunities, identifies which income levels may be served and which policies provide incentives for mixed-income developments. Actual target populations served will be determined on a project level.

⁶ U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates

https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_B25119&prodType=table

⁷ February 6, 2018 City Council Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3335549&GUID=DDD8866E-BAEB-44BF-8EBB-2F716A750170&Options=&Search=>

Imposing further targeting restrictions may create a barrier instead of facilitating development.

Following the September 5, 2019 HHFT meeting, staff used multiple methods to seek additional feedback from stakeholders, including the following:

- **Individual Interviews with Market Rate Developers:** Staff interviewed four market rate developers individually to discuss their thoughts about ways to facilitate development in the City of Hayward. Attachment III provides a summary of themes from these developers.
- **Forum with Small Group Discussions:** A forum was held with local developers, rental property owners, rental property membership organizations, real estate professionals, and real estate professional organizations. Attachment IV provides a list of comments from local developers, rental property owners, and real estate professionals.
- **Convening of Infill Developers:** A convening of infill developers was held to discuss accelerating housing opportunities in Hayward. The convening included developers with experience in mixed-use development, mixed-income development, and higher density multifamily development, and revitalization of under-utilized buildings and blighted urban land; as well as an architect, land use economist, commercial real estate broker, and financiers of housing development. Attachment V summarizes the challenges and potential solutions for Hayward.

In addition to this stakeholder work, staff has reviewed recently adopted state legislation to inform the development of a workplan to incentivize housing production. Since these topics were discussed at the last HHTF meeting, state legislation has passed that will become effective in January 1, 2020. Some of the initial proposals have been revised to reflect changes in state law. Additionally, new laws that encourage development use both incentives and penalties to ensure that local governments adhere to the new laws and produce their “fair share” of housing. For instance, some of the new state legislation limits the City’s discretion related to housing development projects, provides funding for affordable housing development, and establishes monetary penalties. Under these new laws, compliance with Housing Element Law and being identified by the state as a “pro-housing” community is becoming crucial to remaining competitive for state housing funding and avoiding penalties.

On December 5, 2019, the HHTF reviewed the updated workplan that addressed the comments of the HHTF and incorporated changes to state law and unanimously approved recommending it to the City Council for consideration and approval with one change: add to the work plan an item to evaluate providing pre-approved plans for ADUs to facilitate development by reducing time and costs associated with obtaining a building permit. This change was incorporated into the recommended workplan contained in this staff report.

On January 14, 2020, City Council held a work session to discuss the proposed workplan. There was general support for the plan from the Council. Some of the major themes from that discussion include:

- Expressing concerns about ADUs including the impact on neighborhoods/parking, the limitations of local discretion by state law and evaluating the possibility of restricting ADUs;
- Accelerating the timeline for evaluation and potential modification of the affordable housing ordinance;
- Evaluating the possibility of fast-tracking development applications for projects that serve priority populations.
- Exploring the possibility of using affordable housing trust funds to pay impact fees.

Housing Element Compliance and Progress Reports. Housing Element Compliance and meeting the City’s Regional Housing Need Allocation (RHNA) has become the mechanism for the state to determine if a City is facilitating or impeding housing production. State Housing Element law requires that local jurisdictions describe and analyze the housing needs of their community, the barriers or constraints to providing that housing, and actions proposed to address these concerns over an eight-year period. In addition, Housing Element law requires each city and county to accommodate its “fair share” of projected housing need over the Housing Element planning period. Cities and counties must demonstrate that adequate sites are available to accommodate this need, and that the jurisdiction allows for development of a variety of housing types. This housing need requirement is known as the RHNA and apportions to each jurisdiction its portion of the Bay Area’s projected need.

Annually, local jurisdictions report their progress meeting their RHNA goals. Table 1 (below) reflects the progress made toward meeting Hayward’s RHNA goal as of the last report year (2018), estimated progress based on number of units entitled, and progress based on projects seeking approval, for the period between 2015-2023. Table 2 provides the income limits associated with each income category for Alameda County. Note, to be counted toward the RHNA goals, permits to construct the unit must be issued. As a reminder, the City does not actually build housing. City staff simply review and issue building permits for private development proposals that are submitted.

Table 1. 2015 -2023 RHNA Goal Progress in the City of Hayward

Income Category	Unit Goal	Reported 2018		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal
Very low	851	40	5%	147	17%	180	21%	367	43%	484	57%
Low	480	19	4%	209	43%	54	11%	282	59%	198	41%
Moderate	608	0	0%	40	7%	21	3%	61	10%	547	90%
Above Moderate	1981	873	44%	2,617	132%	318	16%	3,808	192%	0	N/A

Table 2. Income limits by Income Category and Household Size for Alameda County as Established by California Department of Housing and Community Development

Income Category	Household Size							
	1	2	3	4	5	6	7	8
Extremely Low 30% AMI*	\$26,050	\$29,750	\$33,450	\$37,150	\$40,150	\$43,100	\$46,100	\$49,050
Very low 50% AMI*	\$43,400	\$49,600	\$55,800	\$61,950	\$66,950	\$71,900	\$76,850	\$81,800
Low 80% AMI*	\$69,000	\$78,850	\$88,700	\$98,550	\$106,450	\$114,350	\$122,250	\$130,100
Median 100% AMI	\$78,200	\$89,350	\$100,550	\$111,700	\$120,650	\$129,550	\$138,500	\$147,450
Moderate 120% AMI	\$93,850	\$107,250	\$120,650	\$134,050	\$144,750	\$155,500	\$166,200	\$176,950

* Percent area median income (AMI) is used to identify income and rent levels; however, the method for calculating income limits involves assessment of multiple data points and is not necessarily a percent of the median income. For more information see <https://hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2019.pdf>

Hayward's progress toward meeting the current RHNA goals identifies the need to incentivize housing for very low-, low, and moderate-income households. Over the last Housing Element cycle, most cities did not meet their RHNA goals. In order to meet the RHNA goals, the City will have to approve a mix of 100% affordable housing properties and large mixed-income properties. Small mix-income properties will not provide enough units to meet the goal. Additionally, the City needs to explore new financing mechanisms that can be used to fund moderate income housing to incentivize housing for the missing middle.

State Funding Prioritizing Housing Element Compliance and Pro-Housing Cities. Another critical piece to incentivizing housing production is maintaining Housing Element compliance and obtaining designation from the state as a "pro-housing" City. The state has indicated that jurisdictions that have adopted a housing element in compliance with state law and that have been designated pro-housing, will be awarded additional points or preference in scoring of program applications for funding, such as local government planning support grants, affordable housing grant programs, homelessness housing assistance and prevention programs, and low barrier navigation centers. A pro-housing city will have policies that facilitate the planning, approval, or construction of housing, including:

- Establishing local housing trust fund
- Reducing parking requirements
- Using by right approval
- Zoning more sites residential or zoning sites at higher densities
- Adoption of accessory dwelling unit ordinances (ADU) that reduce barriers to development
- Reduction of processing time
- Creation of objective development standards
- Reduction of development impact fees

- Establishment of Workforce Housing Opportunity Zone or housing sustainability district

Compliance with the Housing Element Law and meeting state funding priorities have been incorporated into the analysis of policies that will incentivize production of housing in Hayward. The proposed policies will serve the dual purpose of creating more housing for local residents and conforming with state law and priorities to ensure access to state funding opportunities.

DISCUSSION

With the high housing cost burden for Hayward residents and low home ownership rates, housing affordability is a major concern for many Hayward residents. Both rental and ownership opportunities are out of reach for many current residents. The state is actively pursuing solutions that impose new requirements on local government to mitigate obstacles imposed by local government regulations. To respond to concerns about housing affordability in Hayward and proactively find housing solutions that meet the needs of Hayward residents, maintain compliance with state law, position Hayward to receive funding from the state, and respond to feedback by the development community, staff has developed a workplan intended to incentivize housing production. The specific objectives of the proposed plan are to:

- Incentivize the production of both market rate and affordable housing;
- Incentivize inclusion of on-site affordable inclusionary units in market rate developments;
- Implement measures to meet Regional Housing Need Assessment (RHNA) goals included in the Housing Element;
- Establish “pro-housing” policies to ensure Hayward remains competitive for state housing funds; and
- Improve housing affordability.

This workplan identifies topics that staff recommends for further analysis and, in some cases, further work with stakeholders. Approval of the workplan only authorizes staff to conduct further analysis. If the workplan is approved, each topic will be brought to Council individually for a work session and/or approval unless otherwise indicated.

Development of the Proposed Workplan

To develop the proposed workplan, staff reviewed strategies from multiple sources including proposed state legislation, policies from other jurisdictions, and regional planning efforts such as the CASA Compact. Additionally, staff received individual feedback from developers working on projects in the City, held two stakeholder meetings with industry professionals, held a small group discussion forum with local developers, real estate professionals, and rental property owners, and conducted a convening of infill developers to discuss acceleration of infill development in Hayward.

Attachment II provides a description of the policies that have been considered by staff, which includes a summary of each policy, staff analysis, recommendation, and classification of the

policy in the context of a “pro-housing” city. There are six major topics that have been explored, which include:

- **Zoning and housing approvals** including proposed zoning text amendments or amendments to the General Plan that will result in by right approvals of shelters meeting specific criteria, upzoning residential land use categories, and increases in density contingent on provision of on-site affordable housing.
- **ADU approvals** including amendments to the ADU ordinance to conform with state law, to further reduce barriers for property owners, and incentivize the creation of accessory dwelling units which will provide a lower cost housing option for residents and help meet the City’s moderate income RHNA allocation.
- **Impact fees and transparency** including exemptions and reductions of development impact fees for affordable units and ADUs, which will incentivize the production of on-site affordable inclusionary units and low-cost ADUs by mitigating the City controlled development costs.
- **Funding resources** including consideration of funding options to incentivize the production of affordable housing such as ballot measures, impact fees, piloting a new financing model, pursuing state funding, and Affordable Housing Notice of Funding Availability (NOFA). Through a NOFA, the City will be able to set priorities such as ownership housing versus rental housing, targeting specific populations, and targeting underserved income levels.
- **Public land disposition** including prioritization of on-site affordable housing for residential projects developed on City owned land and utilizing existing state legislation to convert underused and tax defaulted properties to permanent affordable housing.
- **Streamlining approval processes** including implementation of streamlined approvals for housing projects meeting objective development criteria and creating a “Package of Incentives” that will identify financing opportunities or cost saving measures that are associated with on-site affordable housing.

Major Themes from Stakeholder Participation

As described in the background, there were numerous opportunities for stakeholders to provide feedback. There were five major themes that were identified from stakeholder feedback including:

- **More flexibility:** The City should create more flexibility in development standards, design guidelines and existing zoning such as blended density or allowing the developer to determine the required parking taking into consideration marketability.

- **Upfront certainty:** Developers would like more upfront certainty. This would entail freezing or deferring fees, honoring existing regulations without “late hits,” avoid additional requirements or design elements that will add cost and delay development timelines, and greater understanding by policymakers that certain requests can impact project feasibility.
- **Expedite approval processes:** Reduce the time it takes to get planning approvals and permits or at a very minimum establish an upfront timeline and work jointly to meet it.
- **Partnership mentality:** The City should be solution-oriented and approach each development as a partnership by providing guidance, technical support to the developer, and defend projects when faced with community opposition.
- **Reasonable ground floor commercial space requirements:** There is insufficient demand for retail and commercial space on every project along the City’s major corridors, which undermines the feasibility of housing projects. Developers thought that the City should be more strategic about retail/commercial space and focus on key and corner locations.

To the greatest extent practicable, the proposed workplan addresses these concerns. Topics and policy objectives are described in Attachment II. However, it is important to note that increased flexibility may result in less upfront certainty. Additionally, a partnership mentality will require both the City and the developer to identify constraints and propose solutions reasonable to both parties. Lastly, while the City is identified as singular, expediting the approval process requires coordination amongst multiple departments and outside agencies and may take time for efficiency measures to be adopted by all departments.

Council Feedback on Proposed Work Plan

On January 14, 2020, City Council held a work session to discuss the proposed workplan. There was general support for the plan from the Council. Some of the major themes from that discussion include concern about ADUs, timeline for evaluating the AHO, fast-tracking application for projects that serve priority populations and use of affordable housing funds to pay impact fees.

Staff will evaluate these items prior to final report on March 3, 2020. However, staff strongly recommends maintaining proposed timeline for evaluating the AHO because frequent modifications of development standards becomes an impediment to development. While there is concern that not many mixed income projects have been proposed, it may be too early to make determination on the effectiveness of the AHO because:

- Most projects that have been approved since adoption of the new ordinance were conceived before the new AHO was adopted and were not designed under current requirements; and
- No affordable housing in-lieu fees have been collected based on the new rate.

It is important to note that:

- The affordable housing in-lieu fee revenue is an important resource to subsidize 100% affordable housing developments and to cover staff costs;
- State law requires that Cities provide alternate means to comply;
- 100% affordable housing projects will advance the City's efforts to meet the RHNA goals more than on-site affordable units even with higher affordable unit requirements; and
- Modifications to the AHO will require an economic feasibility study to ensure that the proposed change will not become an impediment to development.

Staff will continue to evaluate Council's feedback on proposed workplan and will have final plan for approval on March 3, 2020.

Policy Context and Code Compliance

Hayward 2040 General Plan Housing Element. The proposed workplan is intended to incentivize the development of housing at all income levels which will help the City to meet the RHNA goals. Additionally, subject to adoption of the proposed elements of the workplan, the workplan will support the following Housing Element goals.

- H-2 Assist in the development of affordable housing.
- H-3 Provide adequate sites for a variety of housing types.
- H-4 Remove constraints
- H-6 Housing for persons with needs

Table 3 on the following pages summarizes the workplan to incentivize housing production and identifies which goal(s) each component of the work plan supports.

Strategic Initiatives. This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic 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 goal 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 1: Centralize and expand housing services.
 - Objective 2: Facilitate the development of diverse housing types that serve the needs of all populations.
 - Objective 4: Increase the supply of affordable, safe and resilient housing in Hayward.

Proposed Workplan

The proposed workplan includes policies that were either recommended or highly recommended by staff. While it is not anticipated that these measures will completely address developers concerns, staff expects that these measures will make great strides to improve the development approval process. **Table 3** summarizes the workplan based on a phased timeline. These timelines include current administrative responsibilities that are already in progress and policy initiatives that can be accomplished in 1-2 years (short-term), 2-3 years (mid-term), and 3-5 years (long-term). Additionally, **Table 3** identifies how the workplan relates to the state priorities and the Housing Element goals. A list of the applicable Housing Element goals can be found on page the preceding page.

Table 3. Workplan to Incentivize Housing Production:

Short-term Administrative Responsibilities/In Progress				
Topic	Policies	Type	State Priority "pro-housing"	Housing Element Goal
Streamlining	Streamline approval of affordable housing projects meeting specific criteria established in SB 35	Administrative	Reduction of processing time	H-2 H-4
Streamlining	Review approval process to address inefficiencies	Administrative	Reduction of processing time	H-2 H-4
Public Lands	Prioritize on-site affordable housing for residential projects developed on City-owned land	Administrative	Meet RHNA Goals	H-2 H-3
Fees/ Transparency	Improve transparency	Administrative	N/A	H-2 H-4
Streamlining	Hold informational City Council work session to discuss project feasibility, residual land value, and implication of demands beyond established requirements	Work Session		H-2 H-4

Short-Term Policies (1-2 years)				
Topic	Policies	Type	State Priority "pro-housing"	Housing Element Goal
Fees/ Transparency	Deferral of utility impact fees	Administrative	Reduction of impact fees	H-2 H-4
Fees/ Transparency	Exempt, reduce, defer, and provide loans for impact fees on affordable units	Work Session Legislative	Reduction of impact fees	H-2 H-4
Fees/ Transparency	Exempt and reduce impact fees for ADUs as required by state Law	Work Session Legislative	Reduction of impact fees	H-4
Zoning/Housing Approvals	Conform ADU ordinance with state law	Legislative	Use of by right approval	H-4

Funding	Moderate-income affordable housing finance model	Legislative	Meet RHNA Goals	H-2 H-4
Funding	Pursue state housing and planning funding opportunities	Legislative	N/A	H-2 H-4

Mid-Term Policies (2-3 years)

Topic	Policies	Type	State Priority "pro-housing"	Housing Element Goal
Zoning/Housing Approvals	Conform Hayward Density Bonus with state law and explore density bonus greater than 35%	Outreach Work Session Legislative	Meet RHNA Goals	H-2 H-4
Zoning/Housing Approvals	Allow emergency shelter sites in more areas within the City	Outreach Work Session Legislative	Use of by right approval	H-2 H-4 H-6
Public Lands	Program to convert tax defaulted properties to affordable housing	Administrative Legislative	Meet RHNA Goals	H-2 H-3
Streamlining	Package of Incentives	Administrative	Reduction of processing time	H-4
Funding	Allocation of Affordable Housing Trust Funds	Work Session	Local Housing Trust Fund	H-4
ADU Approvals	Evaluate the possibility of providing pre-approved plan sets to facilitate the development of ADUs	Administrative	Reduction of Processing time	H-2 H-6

Long-Term Policies (3-5 years)

Topic	Policies	Type	State Priority "pro-housing"	Housing Element Goal
Zoning/Housing Approvals	Upzone Residential Land Use Categories and Expand Single-Family Residential Land Use Categories to Allow Up to Four Units	Outreach Work Session Legislative	Use of by right approval	H-3 H-4
Zoning/Housing Approvals	Prepare the City's General Plan Housing Element for next cycle.	Outreach Work Session Legislative	Regulatory Compliance	All
Zoning/Housing Approvals	Evaluate City's Affordable Housing Ordinance	Outreach Work Session Legislative	Meet RHNA Goals	H-2

Support for the plan indicates a desire to evaluate the proposed policies further, not to approve them all. Approval of this plan will authorize staff to continue to evaluate the topics listed above. After the topics have been evaluated, staff will return to Council with recommendations within the proposed time frames, as indicated above. Some of the items will require extensive evaluation, community outreach, and determination if the policy measure will work for Hayward.

NEXT STEPS

Staff will seek final approval of the workplan from City Council on March 3, 2020. If approved by the Council, staff will continue working on administrative efforts currently in progress, will evaluate items in the workplan, and will return to Council for work sessions or with legislation in the timeframes listed above. Some of the items will require extensive evaluation, community outreach, and determination if the policy measure will work for Hayward.

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