



DATE: March 3, 2020
TO: Mayor and City Council
FROM: City Manager
SUBJECT: Adopt a Resolution Approving the Workplan to Incentivize Housing Production in the City of Hayward

RECOMMENDATION

That Council adopts a Resolution (Attachment II) approving the 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, 2018, Council directed staff to evaluate barriers to development of housing as a strategy to improve housing affordability.

The purpose of this report is to review feedback from the January 14, 2020¹ Council Work Session and the February 13, 2020² Planning Commission Work Session, integrate feedback into the workplan, and seek approval of the revised workplan. 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. Most of the topics recommended require further analysis and stakeholder input. Staff will return to Council for final approval prior to implementation of any recommended action on the workplan.

Staff has evaluated policies from proposed state legislation, other jurisdictions throughout the state and country, regional planning efforts, and feedback from industry professionals. Topics to incentivize housing production include: policies related to zoning and housing approvals;

¹ January 14, 2020 Staff Report and Attachments

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4288614&GUID=8884B223-5825-443E-AEB7-561FE7CECC64&Options=&Search=>

² February 13, 2020 Planning Commission Report and Attachments

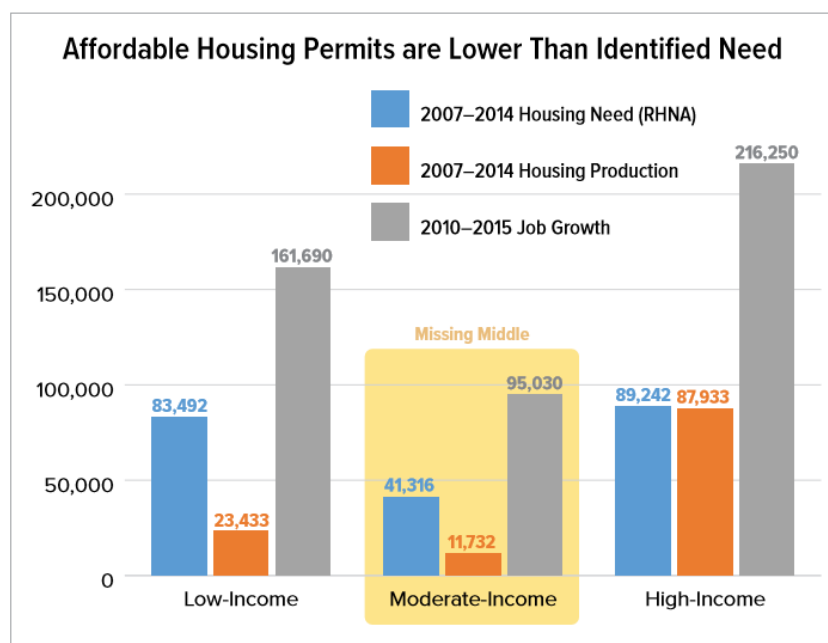
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4326917&GUID=573031CC-FF45-46C1-A379-65EE15337F77&Options=&Search=>

accessory dwelling units; impact fees and fee transparency; funding sources; public land disposition; and streamlining the approval process. Attachment III provides a summary of policies that have been evaluated along with staff analysis and recommendation.

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 Area³.

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 in Alameda County increased by 43% from 2017 to 2019.⁴ 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

³ Casa Compact

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

⁴2019 EveryOne Counts! Homeless Point-in-Time Count

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

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 \$730,000⁵ and \$528,500⁶ 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 \$56,791⁷. 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, thereby stabilizing their housing costs and building equity.

On February 6, 2018, 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 incentivize development of housing. The Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) was revised on July 25, 2019 to increase renter protections in the City of Hayward. After the adoption of the RRSO, staff commenced the development of a workplan to incentivize the development of housing. 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. Attachment III provides a summary of policies that have been evaluated along with staff analysis and recommendation. Additionally, there have been numerous meetings to discuss the proposed workplan, including the following:

- Aug. 2019: Stakeholder meetings to discuss proposed workplan
- Sept. 5, 2019⁸: Homeless Housing Task Force (HHTF) Discussion
- Nov. 2019: Individual Interviews with Market Rate Developers
- Nov. 14, 2019: Forum with Small Group Discussions
- Nov. 21, 2019: Convening of Infill Developers
- Dec. 9, 2019⁹: HHTF Discussion
- Jan. 14, 2020: Council Work Session

⁵ BAYEAST Association of Realtor Market Activity Summary Hayward: Detach Single-Family Home https://bayeast.org/wp-content/uploads/hayward_detached.pdf

⁶ BAYEAST Association of Realtor Market Activity Summary Hayward: Detach Single-Family Home https://bayeast.org/wp-content/uploads/hayward_attached.pdf

⁷ 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

⁸ September 5, 2019 HHTF Report and Attachments <https://hayward.legistar.com/LegislationDetail.aspx?ID=4122276&GUID=1937284B-1B4F-4569-8F51-54F2C89234A8&Options=&Search=>

⁹ December 9, 2019 HHTF Report and Attachments <https://hayward.legistar.com/LegislationDetail.aspx?ID=4270685&GUID=254B655D-3756-4771-8EC1-E3782FFA52D8&Options=&Search=>

- Feb.13, 2020: Planning Commission Work Session

This report focuses on reviewing feedback from Council and the Planning Commission, integrating the feedback into the workplan, and seeking approval of the revised workplan. Information about the development and components of the workplan, analysis of Housing Element compliance and progress reports, implication of state funding priorities and recently adopted legislation, stakeholder feedback, and HHTF feedback can be found in the January 14, 2020 staff report.

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.

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 City Council individually for a work session and/or approval unless otherwise indicated.

The purpose of this discussion is to review and incorporate the feedback from the City Council work session on January 14, 2020 and the Planning Commission work session on February 13, 2020. Detailed analysis of the workplan components are provided in the January 14, 2020 staff report.

Comments from City Council

On January 14, 2020, City Council held a work session to discuss the proposed workplan. There was general support for the plan from the City Council. Comments from the City Council and staff's response are provided below:

- **Accessory Dwelling Units (ADU):** Understanding that the state has limited the City's discretion regarding the development of ADUs, evaluate what authority the City has, or alternate means the City can use to mitigate impacts of increasing density in neighborhoods. Also, evaluate if the City has authority to income restrict ADU units.

Staff will evaluate these comments as part of the update to the ADU ordinance. The comments have been added to the workplan.

- **Priority Populations:** Evaluate if the City can fast track residential development applications for priority populations.

Staff will continue to evaluate whether the City can fast track residential development applications for priority populations. Staff is currently working to implement the new streamlining requirements under SB 330, which is intended to streamline the application process for all residential developments. Additionally, there are two other state laws that will streamline residential development applications for many of the City's priority populations. Under SB 35, projects providing at least 10% affordable units and meeting other requirements are eligible for streamlined approvals under a ministerial process in the City of Hayward, which excludes qualified projects from environmental review under the California Environmental Quality Act (CEQA). Under AB 2162, residential development projects in multifamily housing zones and mixed-use zones, including nonresidential zones permitting multi-family uses, that are 100% affordable providing supportive services for priority target populations (individuals experiencing or at risk of experiencing homelessness, families, youth. . .) with no more than 50 units, must be approved as a "use by right," which means that the only discretionary approval permitted is design review, and the project is exempt from CEQA so long as no subdivision is required. Projects qualifying for streamlining under SB 35 and AB 2162 will likely serve priority populations. Considering the existing streamlining provisions, the City can further incentivize the development of housing for priority populations by leveraging the affordable housing trust funds to subsidize projects that will house priority populations.

- **Use of Affordable Housing In-Lieu Fee:** Determine if the affordable housing trust fund can be used to pay other impact fees.

Monies deposited in the Affordable housing trust fund must be used to increase the supply of housing affordable to moderate-, low-, very low- or extremely low-income households in the City, through new construction, acquisition of affordability covenants, and substantial rehabilitation of existing housing, or provision of other residential facilities, including emergency shelters and transitional housing, if those facilities mitigate the impact of market-rate housing on the need for affordable housing. Monies awarded to affordable housing projects would apply to the development costs, which could include other impact fees. However, in an effort to increase housing production and the number of affordable units produced, staff recommends providing fee exemption, reduction, or deferral where appropriate to increase the number of development incentives available for the creation of affordable units to further increase supply.

- **Evaluation of the Affordable Housing Ordinance (AHO):** Accelerate timeline to evaluate the AHO.

Staff recommends maintaining the current AHO and evaluate the ordinance in year three of the five-year plan. There is real concern that the prospect of change will become an impediment to development. Projects whose applications were deemed complete prior to the AHO amendments in 2017, are having issues with feasibility and two of three have not applied for permits. At least one of the developers is looking to sell the project at a loss.

Additionally, there is insufficient information to evaluate the effectiveness of the AHO. Affordable housing in-lieu fees are still being paid at the lower rate since developers only pay the affordable housing in-lieu fee prior to permit issuance or certificate of occupancy. None of the projects approved after the adoption of the AHO have made it to this stage yet. At this point, there is still no data about the new affordable housing in-lieu fee and how the City utilizes the fee revenue.

However, based on the last Notice of Funding Availability (NOFA) for the construction of affordable housing, what is known is that affordable housing in-lieu fees can leverage more subsidies and create more affordable units than on-site affordable units, which will improve compliance with the RHNA goals. To meet the RHNA goals with on-site affordable units, developers would need to build over 34,000 units. Unfortunately, increasing the percent affordability will decrease feasibility and slow production. In contrast, the 2018 NOFA for the Development of Affordable Housing identified 3 projects for funding that will provide 259 units of affordable housing by leveraging \$28.3 million of local funds to secure over \$131 million investment in housing in the City of Hayward. These 259 units represent approximately 20% of the City's RHNA goal for low- and very low-income households. Issuing regular NOFAs will incentivize affordable housing developers to look for development opportunities in the City of Hayward and establish a pipeline of projects. Additionally, the City can use the fee revenue to incentivize housing serving priority target populations to meet other Housing Element Goals and Council priority programs, such as homeownership programs. Leveraging affordable housing in-lieu fees and strategically incentivizing larger, denser projects for on-site affordable housing will accelerate the production of affordable housing without the need to amend the AHO.

At the point that City staff begins review of a residential development application, feasibility has already been determined based on existing standards. Changing the AHO will have negative impacts on applications in process and the prospect of change may increase the possibility that projects in the conception stage, that the City is unaware of, are abandoned. Development of housing takes over three years. If a General Plan Amendment or environmental clean-up is required, it will take longer. Evaluation of the AHO should be consistent with this timeframe. Waiting to evaluate the AHO until projects conceived under the new standards have been realized and there is sufficient fee revenue to issue and fund projects under a NOFA, will provide more data to better inform the City Council. Waiting to evaluate the AHO will also be responsive to developers concerns about the impacts of changing standards on the project feasibility. The following outlines the work that should proceed the evaluation of the AHO to ensure there is sufficient information:

- **Year 1 of Workplan:** *Identify funding priorities for expenditure of the Affordable Housing In-lieu fees.*
- **Year 2 of Workplan:** *Issue NOFA and/or pursue other Council priorities for funding, evaluate housing development applications, and/or develop programs, seek Council approval of funding awards and/or programs.*
- **Year 3 of Workplan:** *Evaluate the AHO.*

Because Council has indicated a desire to review the AHO sooner versus later, staff has clarified in the workplan that while it is a long-term goal, evaluation of the AHO would commence in year three of the five-year plan.

Comments from the Planning Commission

On February 13, 2020, Planning Commission held a work session to review and comment on the proposed workplan. There was general support for the workplan from the Planning Commission. The Commission identified the following items for additional consideration:

- **Infill guidelines:** Include the development of infill guidelines as part of the analysis of upzoning to clarify how the City will deal with infill development.

Staff will evaluate these comments as part of the upzoning. The comments have been added to the workplan.

- **Upzoning:** Recommendation to link any upzoning to proximity to public transportation.

Staff will evaluate these comments as part of the upzoning. The comments have been added to the workplan.

- **Streamlining:** Identify standards, such as parking, where Council preference is different from the established standards to improve clarity for developers and the Commission. Additionally, the Commissioners supported the need for being strategic about requiring commercial space when not required under current zoning.

Staff has incorporated these comments as part of the informational work session regarding project feasibility, residual land value, and implication of demands beyond established requirements. The comments have been added to the workplan.

- **Streamlining:** Bring larger projects to the Planning Commission for an early work session to identify project concerns earlier in the development process.

Staff is currently working to implement the new streamlining requirements under SB 330, which is intended to streamline the application process for all residential developments. Included in SB 330 is a limit on the number of public meetings. Staff will evaluate if under the new state law, additional work sessions are practicable and allowable.

Proposed Workplan

The proposed workplan incorporates feedback from the Council and the Planning Commission. **Table 2** 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). Changes to the workplan based on Council and Planning Commission’s feedback have been underlined.

Table 1. Workplan to Incentivize Housing Production:

Short-term Administrative Responsibilities/In Progress			
Topic	Policies	Type	State Priority “pro-housing”
Streamlining	Streamline approval of affordable housing projects meeting specific criteria established in SB 35	Administrative	Reduction of processing time
Streamlining	Review approval process to address inefficiencies. <u>Consider requiring Planning Commission work session for larger projects.</u>	Administrative	Reduction of processing time
Public Lands	Prioritize on-site affordable housing for residential projects developed on City-owned land	Administrative	Meet RHNA Goals
Fees/ Transparency	Improve transparency	Administrative	N/A
Streamlining	Hold informational City Council work session to discuss project feasibility, residual land value, and implication of demands beyond established requirements. <u>Identify standards where preference of the Council is not consistent with the standards to improve upfront clarity.</u>	Work Session	

Short-Term Policies (1-2 years)

Topic	Policies	Type	State Priority “pro-housing”
Fees/ Transparency	Deferral of utility impact fees	Administrative	Reduction of impact fees
Fees/ Transparency	Exempt, reduce, defer, and provide loans for impact fees on affordable units	Work Session Legislative	Reduction of impact fees
Fees/ Transparency	Exempt and reduce impact fees for ADUs as required by state Law	Work Session Legislative	Reduction of impact fees
Zoning/Housing Approvals	Conform ADU ordinance with state law, <u>evaluate if there is a way to mitigate impacts on neighborhoods, and evaluate if income restrictions would be allowed.</u>	Legislative	Use of by right approval
Funding	Moderate-income affordable housing finance model	Legislative	Meet RHNA Goals
Funding	Pursue state housing and planning funding opportunities	Legislative	N/A

Mid-Term Policies (2-3 years)

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

Long-Term Policies (3-5 years)

Topic	Policies	Type	State Priority “pro-housing”
Zoning/Housing Approvals	Upzone Residential Land Use Categories and Expand Single-Family Residential Land Use Categories to Allow Up to Four Units. <u>Evaluate recommendation to link any upzoning to access to public transportation. Evaluate development of infill guidelines in conjunction with upzoning.</u>	Outreach Work Session Legislative	Use of by right approval
Zoning/Housing Approvals	Prepare the City’s General Plan Housing Element for next cycle.	Outreach Work Session Legislative	Regulatory Compliance
Zoning/Housing Approvals	Evaluate City’s Affordable Housing Ordinance (<u>within year 3</u>).	Outreach Work Session Legislative	Meet RHNA Goals

Staff recommends that the City Council approve the proposed workplan to incentivize housing production in the City of Hayward. 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 and work on 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.

FISCAL IMPACT

There is no fiscal impact associated with approval of the plan. However, items under the plan may have budgetary implications. Any budgetary implications will be identified once the items are brought back for further analysis. Proposals to reduce or exempt fees will not affect budget allocations. At this time, no additional staff is anticipated to be necessary to implement this workplan. Funding has been requested from the State under SB 2 planning grants to hire a consultant to further evaluate upzoning and density bonus policies, which will help pay for some of these planning efforts.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect & Produce Housing. Specifically, this item relates to the implementation of the following project(s):

- Project 4: Implement Housing Incentives and production workplan in accordance to state housing limits

- Project 5: Evaluate Affordable Housing Ordinance
- Project 6: Expend the Affordable Housing Trust funds
- Project 8: Pursue state housing funding opportunities

PUBLIC CONTACT

There have been multiple opportunities for stakeholders to help inform the workplan to incentivize housing production. These opportunities include:

- Individual Interviews with Market Rate Developers (Attachment IV)
- Small Group Discussion Forums (Attachment V)
- Convening of Infill Developers (Attachment VI)
- Review of Workplan (Attachment VII)

To the greatest extent practicable, the proposed workplan addresses concerns and comments made by stakeholders and are incorporated in the topics and policy objectives that are described in Attachment III.

Development of the workplan focused on feedback from industry professionals. If the workplan is approved, staff will include feedback from community members to evaluate the potential impacts or community concerns related to the proposed policy.

NEXT STEPS

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.

Prepared by: Christina Morales, Housing Division Manager

Recommended by: Jennifer Ott, Deputy City Manager

Approved by:



Kelly McAdoo, City Manager