

<b>STAKEHOLDERS' COMMENTS</b>		
<b>DATE</b>	<b>NAME</b>	<b>COMMENTS / QUESTIONS</b>
09/11/17	Dana Bailey, Community Services Manager, City of Hayward	I read through the report and have no additional feedback. I have questions about their comments regarding lack of enough data to recommend condo development (there are a number of existing condo complexes in Hayward which I would think could provide a benchmark). I also wondered about the use of the FHA assumption that housing expenses represent 35% of gross income particularly in the Bay Area. Most of my questions will probably be addressed at Thursdays meeting.
09/12/17	Leigha Schmidt, Senior Planner, City of Hayward	1. Recommendation on Affordable Unit Percentage: Almost every other jurisdiction requires 15% or some hybrid of fees plus providing units however we are not adjusting our requirements of 7.5% and 10% for attached and detached housing types, respectively.
		<p>a. Why are we setting the percentage so much lower than other jurisdictions? As described in the Recommendations Report and supporting Appendices, the demand for housing in Hayward and throughout the region is so strong that we do not need to keep these numbers down in order to incentivize development particularly in the current market. We should increase to 15% in line with other jurisdictions. See also comment no. 8 below</p> <p>2. Recommendation on Project Size Threshold: The justification for allowing developers to pay fees by right for developments with 15 or more units this threshold is provided on page 2 of Attachment A, Residential Nexus Study, that is it “may not be practical” to provide inclusionary housing for these smaller projects; however, according to Table 4 of the Report, almost all other jurisdictions (with the exception of Dublin and Pleasanton) have significantly lower thresholds down to a single unit in some cases.</p> <p>a. Why is it not practical in Hayward to justify a lower threshold for requiring units?</p> <p>b. Is it possible to require that units be included for small projects within a certain distance to BART/mass transit and/or downtown to ensure that units are included in areas where it would be most beneficial to lower income households?</p>

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		<p>3. Phase in of Fees. On page 10 of the Report, a phase period of 18-24 months is recommended. It isn't clear to me if this phase in is just related to Fees for Small Projects, as recommended on page 9, or if this is a phase in for the program/fee changes as a whole. Please clarify.</p> <p>a. If the recommendation is to have a long phase in for program/fee changes as a whole, then I disagree. At the most, we should allow projects that are already entitled to have fees in place at the time of entitlement and all others should be subject to fees in place at time of entitlement. This is a typical approach for impact fees. If we wait 18-24 months to phase this in, we will miss this strong housing market and countless fees and units.</p> <p>4. Recommendation on In Lieu Fee amount:</p> <p>a. Why do we charge affordable housing impact fees on a per square vs. per unit basis?</p> <p>b. Why is the recommendation for the in lieu amount set at \$15-20 per square foot to get "nearer to but still below" (Recommendations Report, page 8) what other jurisdictions in the East Bay require? Why don't we match those jurisdictions?</p> <p>c. Further, it looks like many other jurisdictions require dynamic fees based on a percentage of the sale price or market value minus the cost of affordable housing development, which might capture market changes without making the local jurisdiction adjust fees every time the market goes up or down (and subsequently lose fees when we lag in adjusting upwards). Why should we not take this approach as well? What is the purpose of having a fixed fee?</p> <p>5. Rental Program Recommendations: I do not think that staff should be in a position of negotiating with a developer for development of on-site affordable units vs. payment of fees. This puts staff in an awkward position and could result in inconsistent application of the standards. I think that we should set fee amounts/percentage requirements to incentive inclusion of the affordable units within projects and set up special findings to allow developers to fee out depending on project site or undesirable location for affordable units (see also comment no. 2b above).</p>

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		<p>6. Global comment. I think that we should look, if permitted in the scope of this study, at all impact fees (permit fees, utility, park, school) associated with development in Hayward vs. other jurisdictions. This is touched on generally in the Summary of Residual Land Value Analysis on page 19 of the Recommendations Report, but that summary only looks at development by housing type within Hayward and doesn't break out the various fees by type. I think that if we looked at a comparison of the impact fees and costs of developing housing in Hayward vs. other jurisdictions, then we would be significantly lower as a whole, not just in the area of affordable housing impact fees. For that reason, I think that we need to consider increasing the percentage requirement/raising the fee if we want to prioritize development of affordable housing here.</p>
		<p>7. Global comment/question. I understand that the affordable housing impact fee for each market rate house is tied to the demand for goods and services generated by new market rate households. However the Gross Household Incomes (between \$117,000 to \$187,000) shown in Appendix A are higher than the median income here in Hayward. Further, there is assumption in the report that households are only paying 30% (for rental) to 35% (for for-sale) of their income for housing which I think that we know is not the case for most households in the Bay Area, many of which are defined as rent burdened (<a href="http://hcd.ca.gov/policy-research/plans-reports/docs/California's-Housing-Future-Full-Public-Draft.pdf">http://hcd.ca.gov/policy-research/plans-reports/docs/California's-Housing-Future-Full-Public-Draft.pdf</a>). I am curious about how this analysis reflects or doesn't reflect the reality of housing issues in the region and whether there are other ways to measure these impacts that might better reflect that reality.</p>
		<p>8. Global comment. I think that we could be much more aggressive with regard to staff's recommendation. I think that the goal here should be to generate affordable housing units, followed by generation of fees, followed by retention of development activity. These recommendations seem to value retention of development activity above development of affordable housing and fees. If we are concerned about making an aggressive recommendation, then we could offer a less aggressive option in line with some of KMA's recommendations for the Council to consider.</p>

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09/12/17	Micah Hinkle, Economic Development Manager, City of Hayward	<p>Below is my general comment on the nexus fee study:</p> <p>I believe the recommendations are too conservative and that we should be more aggressive in setting the affordable housing requirements in both required % and fee options. The reasoning is that housing is and will continue to be a bay area wide need and that Hayward will need to provide affordable housing by design and not by condition. We anticipate additional housing units throughout the City. The study allows full legal justification for raising the percentage and fees, but it will come down to a political position. Our ability to provide workforce housing is a key economic driver and our future developments should set the expectations on development as we are one of the few inner core bay area cities that has the infrastructure to provide for more housing and a desire to build more housing. Housing affordability and availability is a decision factor for businesses.</p>
09/13/17	Sara Buizer, Planning Manager, City of Hayward	<p>Ownership Units Type Recommendations:</p>
		<p>I like the blended approach KMA recommends, but wonder if it will result in projects with fewer units so as to avoid providing the units on site? I am concerned that the recommendation would allow payment of fees for detached projects of any size given how many small lot single family developments we have seen. I think it may be a missed opportunity and as the report also indicates these increased amount can likely be absorbed in the sales prices of the units.</p> <p>As far as the fee level, I definitely think the fee should be on the higher side (\$20/sq. ft.) despite the huge increase from the current requirement so that our fees are more in line with surrounding jurisdictions as well as in line with the on-site compliance cost identified on page 24 of the report which shows the costs at \$15-24 per sq. ft. We want to encourage the units, not courage payment of fees. If the costs are high or at least on par with the provision of the units, Hayward stands a better chance of getting the affordable units. Is there a way to include an inflation factor for whatever fee we recommend?</p>

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		<p>I understand that KMA is not recommending we increase the percentage requirements at this time especially with the recommended fee increases, however, we may want to consider doing this as I am not sure when we will be able to accomplish additional changes. Perhaps a phased approach on increasing percentage requirements may be an option?</p> <p>Rental Unit Type Recommendations:</p> <p>As far as the fee level, I definitely think the fee should be on the higher side (\$15/sq. ft.) despite the huge increase from the current requirement so that our fees are more in line with surrounding jurisdictions. As with the ownership unit types, is there a way to include an inflation factor for whatever fee we recommend?</p> <p>Overall comments/questions:</p> <p>I do not support the phased in approach for these fees or requirements. I do not think that gets the City where we want to be based on feedback we've gotten from City Council nor does it capitalize on the hot market we have right now. The requirements should be applicable to any project that has not received its Planning entitlement, or at the very least any project under Planning review that has not yet been deemed complete.</p> <p>On page 19 of the summary report, there is a table Summary of Residual Land Value Analysis, which identifies a density for the various prototypes analyzed and I am confused by the numbers shown in the Table as they are not representative of the allowable General Plan densities and curious how that impacts the analysis?</p>
09/13/17	Larry Mayers, Mayers Architecture	<p>"It appears that the Nexus Study will be confined to studying the effects of market rate housing on the need for increased affordable housing, presumably to determine if an "inclusionary housing" requirement will be added to new market-rate housing development. There was no mention of studying the effects of commercial—specifically office—development to the need for affordable housing. From our research, that link is much more critical. Not only is it more effective in producing affordable housing, but it addresses the biggest cause of our housing crises—the jobs/housing balance—while simultaneously addressing traffic congestion and related pollution/energy use by reducing Vehicle Miles Traveled."</p>

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09/13/17	Stacey Bristow, Acting Development Services Director	I don't have anything new to add as my team provided thoughtful and valuable feedback. My hope is that these inputs are taken into careful consideration. I look forward to the next update.
10/03/17	Leigha Schmidt, Senior Planner, City of Hayward	I have a few comments on KMA's revised report:
		<p>1. As I am sure you are aware, the Governor did sign AB1505 into law and I strongly recommend that we require all rental developments to provide inclusionary units. I am sure that KMA and you have lots of evidence and information about why we need more rental units at all levels of affordability.</p> <p>2. I recommend that we <u>do not</u> grandfather in developments that are currently in the pipeline, even if they are deemed complete. We should make all projects subject to the requirements and fees that are adopted and in place when they receive entitlements. I think that is reasonable and most reputable developers understand that is the case and the cost of doing business.</p> <p>3. I liked that they added in the lot threshold for requiring affordable units on-site. But I think that we can go further and require that <u>all new residential developments</u> (including rental now, see comment 1) within a certain distance (maybe half-mile or mile) of BART or high frequency transit (defined as 15 minutes or less headways) or within Downtown Hayward boundaries be required to include units and not fee out. This is consistent with City, Regional and State environmental goals to minimize single occupancy vehicle trips to reduce GHG emission, and to minimize the combined costs of housing/transportation. I really think that the Council will appreciate this recommendation which is in line with so many stated environmental and affordability goals. I strongly suggest that you consider adding at least the recommendation for them to consider.</p>

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10/05/17	Lisa A. Vorderbrueggen, Executive Director for Governmental Affairs, Building Industry Association of the Bay Area	Please see letter below
10/10/17	Sara Buizer, Planning Manager, City of Hayward	Overall, we are fairly pleased with the recommendations, but have a few comments:
		<p><i>Recommendation:</i> (Utilize a step-up calculation of fees for projects with two to nine projects ...</p> <p><i>Comments:</i> Interesting approach, but I hope Council is aware that projects with less than 10 units will not pay the full price per square foot fee they establish in this scenario. I anticipate receiving many smaller projects that would also then pay a lesser fee with this recommendation.</p> <p><i>Recommendation:</i> Set the onsite affordable unit percentage requirement at no more than 10%, and make the on-site affordable unit percentage requirements consistent for attached and detached units.</p> <p><i>Comments:</i> From a practicable standpoint, we think it is important that the ordinance indicate how to address fractional units. For example, an ownership project that proposes 35 units a 10% requirement would be 3.5 units. Would the development have to provide 3 or 4 units? How will fractional units be addressed? Will it always be rounded up or rounded down? Could there be options to pay a fee for the fractional unit?</p> <p><i>Recommendation:</i> Allow a fee payment for units with a lot size of 4,000 sq. ft. and higher ...</p> <p><i>Comments :</i> Why is this 4,000 square feet and not something greater like 5,000 square feet as is he minimum lot size in most single family residential areas?</p> <p><i>Recommendation:</i> Keep the 7.5% on-site requirement and/or allow fee payments for high density condominium projects.</p>

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		<i>Comments</i> : What about large high density projects that are near transit? I think this would be a missed opportunity to lower the requirement or allow those projects the ability to pay a fee.
		<i>Recommendation</i> : Require on-site units for projects with over 100 units ...
		<i>Comments</i> : Why such a high threshold? We are just not seeing these types of densities on projects and I anticipate there may be fewer and fewer opportunities for larger rental projects and with such a high threshold, I think we may be missing opportunities to have more affordable rental units.
		<i>Recommendation</i> : Reduce the on-site requirement for the above projects from 7.5% to between 6% and 5% while maintaining the existing low- and very low-income level split ...
		Alternatively, allow rents for the on-site units to be set up at 80% of AMI ...
		<i>Comments</i> : Wondering if these could be kept as options for a developer to choose from, either provide a lower percentage but require the units maintain the low and very low income level split or provide a higher percentage, say 7.5% but allow them to be set-up at 80% of AMI.
		<i>Recommendation</i> : Table 3: Recommended Fee Range Structure Options
		<i>Comments</i> : I found this Table confusing in the executive Summary since there is no explanation of what Alternative A and B are?
		<i>Recommendation</i> : Council also has the option to include no grandfathering provision - in other words, Council may require that all projects that receive entitlements after the amendments become effective are subject to the new requirements
		<i>Comments</i> : This would be Planning staff's preference as it is easier to administer.
		<i>Recommendation</i> : Consider transit-oriented inclusionary requirements.
		<i>Comments</i> : We truly believe this is important, especially if we want to obtain units in close proximity to services and transit. Glad to see this part of the discussion with Council.
		<i>Next Steps</i> : Grandfathering: Does Council concur with the recommendation to include a grandfathering provision to mitigate financial impacts to projects currently in the pipeline?
		<i>Comments</i> : Should the question be asked what level of grandfathering they feel comfortable with?





DATE: Oct. 5, 2017

TO: Hayward Acting Housing Manager Omar Cortez (*via email to Yolanda Cruz at [yolanda.cruz@hayward-ca.gov](mailto:yolanda.cruz@hayward-ca.gov)*)

FROM: BIA|Bay Area East Bay Executive Director for Governmental Affairs Lisa Vorderbrueggen

RE: Comments and Input on Hayward Affordable Housing Ordinance Update

Dear Mr. Cortez,

BIA|Bay Area is a membership organization that consists of more than 400 residential developers and associated companies that entitle and construct homes for people of all income levels. A BIA representative and a number of its members attended the Hayward Housing Department stakeholders' meeting on Sept. 21, 2017, to hear about proposed changes to the city's affordable housing ordinance. We came away from the session with a number of concerns detailed below.

We are most troubled about the surprise proposed elimination of the by right fee option for the provision of affordable housing units. Not only is the by right fee option featured in Hayward's state-certified Housing Element, local revenue is more important than ever as local jurisdictions will need those dollars to compete for limited new state and county affordable housing funds. The state has a number of housing-related programs available for local affordable housing that will receive significant funding increases starting in 2018. In addition, Alameda County voters two years ago passed a \$580 million affordable housing measure. Most of these programs require a local match and with the elimination of redevelopment, Hayward will need a local revenue source to leverage these new dollars.

Local funds are also especially critical when it comes to assembling cash to build homes for the very poor. The city's own consultant noted at the stakeholder meeting that fees "are the only way you get extremely low income housing." It appears to be working. Hayward outperformed most other Alameda County cities in 2007-2014, providing 246 very low income units or 32 percent of its very-low RHNA need, the second highest number of units after Oakland among cities in Alameda County. Similarly, fees are the only viable option to fund transitional shelters for the homeless.

Rather than eliminate a policy that works, BIA encourages Hayward to expand the discussion and look to increase production of all types of housing units. "The single most important factor for an inclusionary zoning policy to achieve its goals is a significant and sustained level of market-rate development in the local market," wrote an expert in an article in the Urban Land Institute magazine in July 2016. A California Legislative Analyst wrote in March 2015, "Inclusionary housing programs rely on private housing development to fund construction of affordable housing. Because of this, barriers that constrain private housing development also limit the amount of affordable housing produced by inclusionary housing programs."

While retaining the by right fee provision, Hayward can encourage the construction of affordable units as part of new housing projects by increasing the certainty involved with the city's existing "Combination of Alternatives" compliance option and tie it to an updated density bonus ordinance. In order to facilitate new

partnerships between private developers and nonprofits to build housing for low income residents, the alternative compliance option should contain clear criteria for mandatory approval as well as expedited processing. The density bonus program should provide a sufficient number of meaningful concessions and incentives to serve as financial incentives for developers to partner with a nonprofit to build the affordable units onsite or provide the units themselves. As an added resource, one of the statewide housing bills adopted this year – Building Homes and Jobs Act by state Sen. Toni Atkins, D-San Diego – earmarks planning money in its first year to cities that Hayward could use to update its density bonus ordinance.

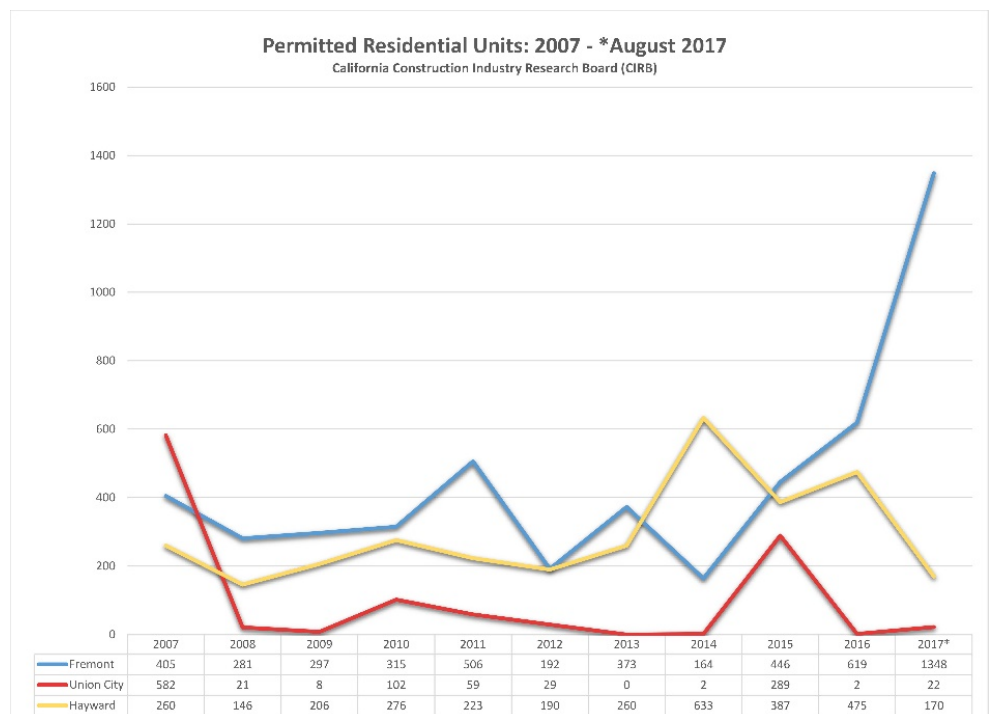
Among our other areas of concern:

**OUTREACH APPEARS PERFUNCTORY.** The slideshow presented at the stakeholders’ meeting strongly indicated that policy decisions had already been made, particularly on the key issue of the elimination of the by right fee option. For example, the consultants’ recommendations assume based on adoption of the very policy that is supposed to be under consideration. By definition, a stakeholders’ process is held to take input before decisions are made.

**THE CITY PROVIDED AN INSUFFICIENT TIME TO REVIEW THE NEXUS STUDY AND PROPOSED POLICIES.** No draft materials or draft policy recommendations were provided prior to the Sept. 21, 2017, stakeholder meeting. You provided BIA via email on Sept. 26, 2017, a copy of the consultants’ slide presentation and the nexus study. The deadline to submit comments to the city was a little more than a week later on Oct. 5, 2017. This is an insufficient amount of time to review a complex 66-page financial analysis.

**NEXUS STUDY DATA DOES NOT APPEAR TO HAVE BEEN GROUND-TRUTHED.** None of the market rate developers that attended the stakeholder meeting was consulted about the cost or other data used in the nexus study update or about the fundamental policy question on the fee option.

**WE ACKNOWLEDGE THAT THE CURRENT IN LIEU FEE CAN BE INCREASED.** But we question the consultants’ recommendation to immediately set the fees at rates comparable to Fremont and Union City. The markets in each of these communities is very different than Hayward. As you can see from the table on the right, Fremont is dramatically out-producing Hayward this year and Union City lags. In addition, Hayward’s housing production rate appears to be slowing compared with prior years. A steep and punitive fee increase will cost the city much needed new housing at all income levels.



Any fee hike should be phased in over a period of several years in order to allow developers to factor the added costs into their financing plans. In addition, projects currently in the development pipeline should be grandfathered under the current fee structure.

In summary, BIA|Bay Area and its members strongly oppose the elimination of the by right fee option and what the consultant described as the “disincentivizing” of the use of the fee option by hiking Hayward’s rates beyond what other jurisdictions charge. Rather than narrow the choices available to homebuilders and reduce the potential numbers of new homes in the city, we encourage Hayward to broaden its policy discussion and pursue options that will increase production of all housing types. This includes new partnerships between market-rate and nonprofit housing developers through density bonus incentives.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Vorderbrueggen".

Lisa A. Vorderbrueggen  
*BIA|Bay Area East Bay Executive Director for Government Affairs*  
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CC:  
The Honorable Mayor Barbara Halliday  
Hayward Councilmembers Sara Lamnin, Francisco Zermeño, Marvin Peixoto, Al Mendall, Elisa Márquez and Mark Salinas  
Hayward City Manager Kelly McAdoo