

CITY COUNCIL MEETING

DECEMBER 6, 2022

PRESENTATIONS

DENSITY BONUS ORDINANCE

PUBLIC HEARING

ITEM #22

PH 22-065

Density Bonus Ordinance Update



Background

- Density Bonus Ordinance was adopted in 2005.
- Ordinance *Does Not Comply* with State Legislation.
- City was awarded SB2 monies in 2019 for this project.
- On February 1, 2022, the City held a Joint Work Session with the City Council and Planning Commission to establish priorities for analysis.
- On June 26, 2022, the Homelessness Housing Task Force held a work session to review the Ordinance and provide feedback on staff recommendations.
- On October 18, 2022, the City Council held a work session to review the Ordinance and provide feedback on staff recommendations.
- On November 10, 2022, the Planning Commission held a work session to review the Ordinance and provide feedback on staff recommendations.



Purpose of the Density Bonus

Help make the development of affordable housing and housing for specific target populations economically feasible by:

- Reducing development cost by providing concessions
- Increasing revenue by allowing development at a higher density (more units)
- Streamlining the Review and Approval Process for Density Bonus Applications

Summary of Feedback Received

Feedback from the City Council, Planning Commission, and Homelessness Housing Task Force include support for:

- **Creating a flexible ordinance** to accommodate future changes by citing State law instead of codifying full state legislation
- **Aligning density bonus approval process** with standard entitlement process to streamline housing permitting
- **Offering incentives above what State law offers**
- **Tailor the ordinance** to meet Hayward's housing need
- **Provide additional incentives/concessions**

Additional Feedback – Teacher Density Bonus

Comment: Council expressed desire to provide density bonus for teacher and faculty housing to incentivize additional housing construction for those populations.

Staff Response: Staff did not include additional provisions for teacher/faculty housing as the State recently adopted AB2295, which will make it easier for school districts to build affordable housing for teachers and staff on site. AB2295 allows staff housing to be built on any property owned by a school district without requiring the district to request zoning changes from the City if the housing development satisfies certain conditions.

Until such time new housing is built on school district property, teachers and facility would still qualify for housing in a project proposing on-site affordable units and/or for a project requesting a density bonus.

Additional Feedback – Parking Reductions

Comment: Council expressed concern with further reductions to the amount of parking that projects are required to provide.

Staff Response: A project that is 100% affordable or located with ½ mile of a major transit stop is already is entitled to a reduced parking requirement per State law. Staff is not proposing any changes that conflict with this part of State law but did add a requirement that if an applicant is requesting a concession to further reduce the amount of parking beyond what the State allows, the applicant shall submit:

- Reasonable documentation that demonstrates the requested reduction qualifies as a concession under State law; and
- A TDM plan to incentivize alternative modes of travel and reduce parking demand

The State does allow cities to require a higher parking ratio for certain housing projects if the higher parking ratio is supported by a specific parking study. The Planning Commission and Council will be discussing Citywide parking standards and issues comprehensively as part of the Residential Design Standards work planned for early 2023.

Basis For Staff's Recommendation

- Feedback from the City Council, Planning Commission and the Homelessness Housing Task Force
- Feedback from Affordable and Market Rate Developers
- Feedback from the Public and Community Stakeholders
- Comprehensive Review of Ordinances from Other Local Jurisdictions
- History of Previous Density Bonus Requests Approved by the City
- Results of the Displacement Study, completed in 2021
- Best Practices in Density Bonus Ordinances

Main Components of the Ordinance Update

Proposed Ordinance includes four main changes:

- **Exceed the State's Density Bonus Maximum by 5%** for all density bonus projects that meet State's on-site affordable unit requirement;
- **Exceed the State's Density Bonus Maximum by 10%** for projects that meets State's on-site affordable unit requirement and **target special populations**;
- **Increase the number of incentives/concessions** for projects that exceed the minimum on-site affordable housing requirements under the City's Affordable Housing Ordinance (AHO) in order to encourage development of more affordable units; and
- **Streamline reviews** of Density Bonus applications.





Targeting Special Needs Populations

Increase density bonus for housing that accommodates certain target populations:

- Rental projects that provide more than 20% of the rental units for large families (3+ bedrooms)
- Projects incorporating universal design principles in more than 20% of the units
- Senior housing projects (defined by Govt Code)
- College student housing (defined by Govt Code)
- Projects with units set-aside for foster youth, disabled vets, or individuals experiencing homelessness (defined by Gov Code)

Existing vs. Proposed Density Bonus

Target Population Served State Density Bonus	State Required Restricted Affordable Units	State maximum Density Increase	Proposed Hayward Maximum Density	Proposed Hayward Maximum Density Increase for Special Targeting
Very Low Income	15%	50%	55%	60%
Low Income	23%	50%	55%	60%
Moderate Income	44%	50%	55%	60%
Foster Youth, Disabled Veterans, Unhoused Individuals	10% restricted at very low Income	20%	25%	30% (15% restricted at very low income)
College Students	20% Low-Income Student	35%	40%	45% (25% restricted low-income students)

* Density Bonus for larger unit types, affordable units for seniors, and universal design are not shown.

What is a Concession?

A concession/incentive is defined as:

- A reduction of site development standards or a modification of zoning code or architectural design requirements, such as a reduction of minimum square footage requirements;
- Approval of mixed-use zoning; or
- Other regulatory incentives or concessions which result in identifiable and actual cost reductions.



Existing State vs. Proposed Hayward Concessions

No. of Incentives/ Concessions Required by State	Proposed No. of Incentives/ Concessions	Percentage of VLI Units	Percentage of LI Units	Percentage of MI Units
1	1*	5%	10%	10%
2	3	10%	17%	20%
3	4	15%	24%	30%
4	5	100% (LI/VLI) or 100% (MI 20% / LI 80%)		

*The first tier is not increased because compliance with the Affordable Housing Ordinance's on-site affordable housing requirement makes the project eligible for one incentive/concession.

Other Components of Ordinance Update

- Default to the State guidelines, when applicable, to ensure the City's Ordinance reflects any changes to State law;
- Simplify the new Ordinance so that developers and staff can implement the new regulations with ease; and
- Develop a checklist and informational handout for perspective developers to promote the updated program



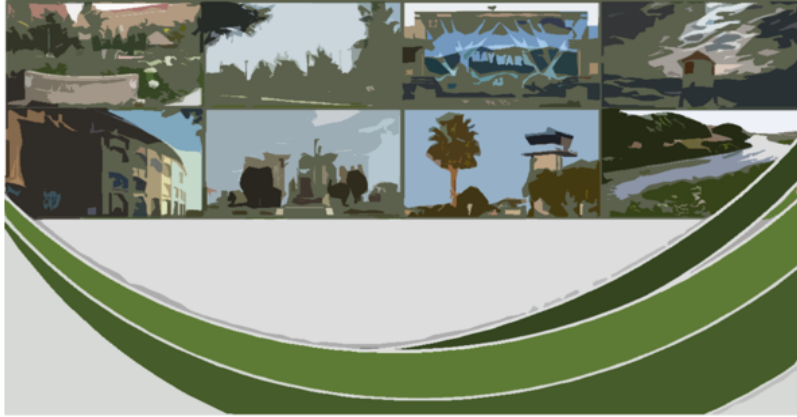
Additional Financial Incentives

Fee Waivers, Reductions and Deferrals

Fee Waivers: Council has already approved waiver of park fees and traffic impact fees for 100% affordable housing projects and reduction of fees for the on-site affordable housing units provided as part of a mixed-income project. Developers do not need to request this concession, but staff proposes to promote this to incentivize on-site affordable housing.

Fee Deferrals. Deferral of some utility connection fees that would help off-set some upfront financial obligations that applicants are required to pay. Currently, utility connection fees are due prior to installation of the meter and are necessary for maintaining infrastructure. These fees could be deferred for the affordable units until issuance of certificate of occupancy and would be made a condition of project approval. Deferral of fees saves the developer the cost to finance the fees.

Environmental Review



Density Bonus Ordinance Update

Addendum to the City of Hayward General
Plan 2040 Environmental Impact Report

SCH # 2013082015

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November 2022

In 2014, the City adopted the Hayward 2040 General Plan and related Environmental Impact Report (EIR).

This project requires an addendum to the Hayward 2040 General Plan EIR, which was certified by the City Council in July 2014.

The Addendum addresses the project, which includes proposed text amendments to revise Chapter 10, Article 17 (Affordable Housing Ordinance) and Article 19 (Density Bonus Ordinance) to facilitate affordable residential development and bring the City's regulations into compliance with current State Density Bonus Law.

The proposed modifications to the General Plan EIR described in the Addendum would not require major revisions to the General Plan EIR due to new or substantially increased significant environmental effects.

No subsequent or supplemental EIR or further CEQA review is required.

Recommendation

- That the Council adopts a Resolution supporting the proposed Text Amendments to Chapter 10, Article 17 and Article 19, of the Hayward Municipal Code for the adoption and updates to the City's Density Bonus Ordinance, including an Addendum to the Hayward 2040 General Plan and introduces an Ordinance for Zoning Text Amendments to Chapter 10, Planning, Zoning and Subdivisions of the Hayward Municipal Code regulating development seeking a Density Bonus.

Next Steps

- If the Council introduces the attached ordinance this evening, a second reading and adoption will be brought back during a regular meeting scheduled in January 2023. If approved, the proposed text amendments will be effective 30 days after adoption.
- Following adoption, staff will create informational documents to aid developers and staff in processing these applications and promote the City's updated Density Bonus program.

Questions

