

I. EXECUTIVE SUMMARY

Background

The City of San Mateo, like other cities in the San Francisco Bay Area, is faced with high housing costs. Many residents would not be able to afford their own home if they had to purchase it in today's market conditions. Long time residents see their grown children move out of the area. Families who can't afford current market prices resort to doubling up, causing overcrowding, or long distance commuting. Employers are frustrated in attracting and retaining well qualified personnel. Demographic forecasts indicate that population, households and new jobs will continue to grow in San Mateo and the demand for housing, especially affordable housing, will increase. Since San Mateo is essentially a built out community, new residential development in the years ahead will consist mostly of infill and redeveloped properties.

As part of the Bay Area regional planning for housing, each city is assigned a specific Regional Housing Needs Allocation (RHNA) to ensure enough land is available to support new housing units. During the next Housing Element cycle beginning 2009, San Mateo will ensure that its current zoning can accommodate its RHNA allocation of 3,051 units. However, even an adequate amount of land dedicated for housing and a strong demand for housing will not mean that enough units will be built to meet that demand. Based on past development trends, public resources for affordable housing, and a look at projects currently in the pipeline, it is very likely that only a portion of the RHNA units will actually be built during the next Housing Element period. This is due to a variety of constraints on development such as high land and development costs, zoning restrictions including height and density limits, environmental conditions, and neighborhood resistance. This is especially true for affordable housing units. During the current Housing Element cycle the City has only met 19% of the RHNA goal and 65% of the City's goal it set for itself based on its financial resources to subsidize affordable housing and the projected units provided in the Below Market Rate Housing Program. Projections for the next planning period indicate even less financial resources available to the City to support affordable housing coupled with a greater need.

Although the City policies have some influence on housing development, it has little control over the market influences that impact the construction of housing by the private market. The affordable units achieved through the Below Market Rate Program are only provided if market rate housing is built by private developers. The City has some direct influence in the construction of affordable housing, providing it has financial resources to directly subsidize those projects.

Affordable housing and the City's Below Market Rate (BMR) program have been the subjects of several City Council meetings dating back to 2002. Since that time, additional housing issues pertaining to residential development on commercially zoned properties, State of California density bonus law, and maximum residential densities permitted in the City of San Mateo have been raised. These housing issues are related and are being reviewed in a comprehensive manner in this report since they have an effect on land use and public policy decisions.

Issues

In 2006, the City Council reviewed and provided direction to staff on a work program for the Housing and Land Use Study. The major issues to be addressed included: 1) Review of the City's current Below Market Rate (BMR) Program in relation to dispersing BMR units throughout a development, on-site versus off-site construction of BMR units, evaluation of the existing threshold for BMR units to determine if the minimum 10 percent should be adjusted and/or if affordability levels should be lowered; 2) Examination of the effects of State density bonus law on residential densities and how bonus provisions may be utilized by developers; 3) Analysis of lowering densities citywide and potential impacts to the General Plan, specifically the Housing Element; and 4) Review of existing regulations that permit residential development in non-residential zoning districts. The issue of adopting a commercial linkage fee for development of affordable housing was added to the Housing Study during the review process.

Technical Advisory Committee

The Housing and Land Use Study work program called for the creation of a Technical Advisory Committee (TAC) to assist staff in the review of information, materials, and comments received at public meetings and workshops, and also to review draft housing policy statements. The format for review of the issues included public workshops to introduce the issue and review existing City codes, policies, and procedures that pertain to the respective issue, followed by comments from the public. TAC meetings were scheduled to follow the workshops for review of workshop comments and discussion of the issues and options. It was intended that the TAC would assist staff in determining the varied community interests involved in the production of housing.

Each member of the TAC represented a segment of the community and expressed their views and experiences related to housing issues discussed at each meeting. In some cases, a consensus was reached, in others there was a spirited debate regarding the merits of various approaches to addressing San Mateo's housing needs. However, regardless of each individual's viewpoints, the need for housing in San Mateo and in the region was recognized.

This report includes recommendations of the San Mateo Community Development Department. These recommendations were formed by the discussions of the TAC, comments made at the public workshops and other correspondence submitted to the City. While the policies may not be universally endorsed by each and every TAC member, they nevertheless result from the discussions which took place over the course of the TAC's involvement in this effort.

Recommendations

The following section of the Housing and Land Use Study Report provides a summary of the issues, analysis, and recommendations contained in the full report that follows this chapter. The recommendations contained in this report will be the basis for future actions such as General Plan amendments, zoning ordinance revisions, and potential changes to other existing City policy documents. These recommended changes would then be implemented on an individual basis.

DENSITY BONUS LAW

In 1983, San Mateo adopted a density bonus program that provided for a 25% density bonus and one developer concession or incentive if a project provided either 10% very low income units, 20% low income units or senior housing. There was also a 10% bonus option for a project that provided 20% moderate income ownership units that was added at a later date.

State of California Density Bonus Law has been in existence since the 1980's, but underwent major revisions with the adoption of SB1818, effective in January 2005. The new law establishes a sliding scale for density bonuses associated with the provision of affordable housing options that can reach a maximum of 35%. SB 1818 also establishes a sliding scale of one to three development concessions or incentives to be provided dependent upon the type and amount of affordable housing provided. It also mandates the use of statewide parking ratios for housing projects which qualify for a density bonus. This law has proven difficult to interpret and apply for local cities. The fact that a developer may request a concession or incentive of his own choosing under the Density Bonus Law runs counter to the historical process of reviewing planning applications. The concern arises over whether the concession or incentive results in a poorly designed project that does not fit into its surroundings. This results in uncertainty for the developer, city planners and the Planning Commission.

Currently San Mateo does not have a clear process to review density bonus requests or to give guidance to developers on the reasonableness of a specific concession or incentive. Also the City's current Density Bonus ordinance does not specifically address the new provisions of the law. It is recommended that the City clarify its position on various aspects of the recent legislation and that staff survey best practices of cities that have set up standards or processes, and then develop a proposal to update its Density Bonus Ordinance with more specific language regarding concessions or incentives.

RECOMMENDATION:

Update the City's Density Bonus Ordinance to fully address recent legislation, including more specific language on concessions and incentives.

RESIDENTIAL DENSITY

Policy Issue: Examine residential density regulations, looking at the potential for lowering densities and the impact on the City's Housing Element of the General Plan.

Development in the San Mateo Rail Corridor Transit-Oriented Development Plan (Rail Corridor Plan) area would allow the development of approximately 4,031 residential units over the next 20 years (2,097 – 2,347 of these would be new dwelling units on properties where residential land use was not previously allocated in the General Plan). State of California Density Bonus Law (SB 1818) allows for a density bonus up to 35% which could create a density of 67.5 units per acre, as opposed to the 50 units per acre expressed in the General Plan and Measure P. As a result, there

has been discussion of reducing multi-family densities on a City-wide basis to offset this potential increase in residential development.

The Measure P voter initiative established residential density ranges for the General Plan. These overall density ranges are fixed and can only be changed with voter approval. The City may re-designate specific areas or properties to lower density as long as there are no conflicts with Measure P. In addition, the City's Housing Element is required by law to be certified by the State of California Housing and Community Development Department (HCD), and must plan for the construction of new housing in amounts that are allocated to each city as its "fair share" of the expected regional growth. Although the City will meet its upcoming fair share housing allocation, reductions in density standards could have an impact on the City's ability to obtain future certifications of the Housing Element, which could jeopardize the City's ability to receive loans and/or grants from the state and potentially expose the City to lawsuits for noncompliance.

It is important to recognize other potential impacts of reducing density on various parcels in the City. Lowering density levels may result in a reduction of housing units proposed, and proportionately in affordable housing units in the City. Owners of properties that are proposed for density reductions may experience a loss in land value. There also is the potential for creating non-conforming use of properties if new density standards cause existing residential development to exceed the maximum density and floor area regulations permitted on a given site. Reduced density may result in the construction of larger units which could alter the distribution of unit types citywide. Density reductions could also result in more requests for density bonuses, which will allow developers to obtain reduced parking requirements, and other concessions (floor area ratio & building height increases, reduced setbacks, etc.) as prescribed in State density bonus law.

Development trends in San Mateo indicate that developers are not maximizing density on their project sites, nor are they demonstrating a demand to use density bonus provisions in their residential projects. From 1992 through August 2007, only 35% of all residential development proposals in the high density category approached the maximum allocated density of 50 units per acre. In addition, only 50% have reached or exceeded 40 units per acre. There have been 5 developments since 1992 that have utilized a density bonus, resulting in 71 density bonus units (less than 3% of all units constructed).

Staff is not proposing a reduction in density standards to land use categories on a citywide basis. It is important to acknowledge the City's need to provide for the development of housing, both market rate and affordable units. While the City may meet its regional fair share housing allocation in the near term, it is important to recognize long range efforts to promote additional housing to meet regional fair share allocations in the future, and maintain a certified Housing Element.

RECOMMENDATION:

No change to existing density standards as established in the General Plan and Zoning Code.

In addition to citywide density discussions, there have been public comments that in some areas of the City development is not consistent with the existing land use patterns in the neighborhood. In total, there are 14 specific areas in the City that have been suggested for evaluation of residential density, land use changes, and neighborhood compatibility (see Appendix B). In order to comprehensively look at the issues related to these potential changes, staff has added the review of these 14 specific areas into the work program for the General Plan Update and/or Downtown Specific Plan Update.

AFFORDABLE HOUSING

Policy Issues: Review the Below Market Rate (BMR) program percentages, affordability levels, and location and types of BMR units.

Examine adoption of a commercial linkage fee for new non-residential development.

The BMR program plays a vital role in the City's goals to plan and assist the development of new affordable housing and help the City meet its regional housing need allocation (RHNA). Developers who construct projects with 11 or more units are currently required to provide 10% of the units at affordable levels. The BMR units for newly constructed rental units are targeted to "lower" income households (less than 80% of median income) and ownership units are targeted to "moderate" income households (less than 120% of median income). The BMR units must be included onsite, dispersed throughout the project, and the number of bedrooms in BMR units must be provided at the same ratio as the market rate units. BMR units are allowed to be constructed offsite if the developer can demonstrate infeasibility and only if they are completed at the same time or sooner than the market rate units. One of the basic principals of the BMR program is that it scatters affordable housing units throughout the community over time so the units blend in with the community at large. Since the inception of the program, permits for 2,381 new market rate residential units have been issued, which generated 234 affordable units (164 rentals, and 70 ownership units) located in 21 different developments. While BMR units are being constructed under the current program, the wait lists for BMR units are long (over 500 families on the rental list and 225 families on the first time homebuyer list). To date, no project has utilized the offsite construction option.

Change BMR Inclusionary Requirement

San Mateo's current BMR requirement of 10% is one of the lowest in San Mateo County. 7 cities in the county have a requirement of 15%. In the unincorporated areas of the County and in 5 other San Mateo County cities the requirement is 20%. The City's consultant, Economic & Planning Systems (EPS), reviewed whether the adoption of inclusionary requirements by cities impacted development patterns by comparing building permits issued before and after adoption of policies, but found no conclusive evidence one way or another. San Mateo's own past experience would suggest that increasing the BMR requirement would cause a temporary period of adjustment as developers and land owners determine the cost impacts.

The recommendation is to raise the overall BMR requirement to 15% and maintain the current income targets of the program. Since the BMR rent levels for “lower” income does not nearly meet the needs for a large percentage of households on current waiting lists, the option was developed to encourage the production of “very low” income units by reducing the required percentage to 10%. The development models prepared by EPS indicate that the cost to the developer is fairly equivalent to provide 15% lower income rentals versus 10% very low income rentals.

RECOMMENDATION:

Increase the BMR requirement to 15% citywide at current income targets of “lower” income for rentals, and “moderate” income for ownership.

Rental Option: 10% “very low” income.

Redevelopment Areas

The proposed 15% citywide BMR requirement satisfies Redevelopment law so the total number of affordable units will be met automatically, but the affordability targets differ from the RDA obligation of 9% moderate and 6% very low income units. The existing RDA income targeting does not differentiate between rental and ownership units and therefore creates pricing requirements that are quite different from the citywide BMR practices and can be out of sync with the City’s overall goals. In a rental situation, the 9% moderate income requirement allows rents that are above market averages. Conversely, requiring 6% very low income BMR’s in a for-sale project puts an additional financial burden on the developer since the restricted price for a very low income 2 bedroom unit is currently \$142,000 rather than the moderate sales price of \$271,000. This situation has the unintended effect of discouraging construction of housing in the Redevelopment Areas, especially in the Downtown where development has more physical constraints.

It is recommended to apply the 15% low or moderate income targets in Redevelopment areas in the same manner as other parts of the City for consistency. As a result of this change, the 6% “very low” requirement for the project areas would then become the responsibility of the Redevelopment Agency. Currently all previous very low income obligations have been met in the Redevelopment Areas. Since Redevelopment law does not dictate the location of the affordable units, they can be built outside of the redevelopment area at a two for one ratio and still comply with the project area requirements.

RECOMMENDATION:

Apply the citywide BMR income targets to the Redevelopment Areas.

Fractional Unit Fees

Measure P allows that a fractional fee could be collected for projects under the threshold of 11 units and fractional BMR requirements of less than 0.5 of a unit. The City has not yet adopted this

as policy. This would spread the affordable housing requirement to more projects on a proportionate basis.

A number of cities in San Mateo County collect fees for small projects under the threshold to provide affordable units. Most impose the fee on projects starting at 2 to 4 units. For some consistency with other jurisdictions, it is recommended that the City adopt fees for projects sized between 4 and 10 dwelling units.

Currently, for projects of 11 or more units, the number of required BMR units is calculated by rounding up from 0.5 units or more when a fraction occurs. A 15-unit project would require 1.5 BMR units which rounds up to the construction of 2 units. A project with 14 units requires 1.4 units, which is rounded down to 1 unit. It is recommended to collect a fractional fee on a sliding scale for any fractions that occur in the range of 0.1 to 0.4 in all projects greater than 11 units. In this case, a 14 unit building would provide one unit and pay a fee for the .4 fraction of a unit.

RECOMMENDATION:

Adopt fees for fractional units for projects sized between 4-10 units. Adopt fees for fractional units of 0.1-0.4 for projects with 11 or more units.

Offsite Construction of BMR Units and Land Dedication

Since Measure P allows offsite construction of BMR units if it is infeasible to build onsite, defining “infeasible” could provide some clarity for developers. It is assumed that the reason a developer would want to build BMR units offsite would be due to “economic” infeasibility. This would most likely occur in projects that consist of units that are very expensive to build due to site constraints, size of the units, and/or luxury materials and amenities. Some cities have tried to address this by defining “luxury” to determine when to relieve developers from the onsite requirement. Mountain View has established a projected sales price as a threshold; however it is currently so low it covers almost all new multi-family construction. Palo Alto tried to tie construction costs of a unit to the BMR restricted price, then dropped that practice since it took so much staff time to negotiate with developers what costs to include in the formula. Still other cities take a different approach and allow offsite construction only if the number of units provided offsite exceeds what they would have obtained onsite, or if it furthers another housing goal identified in its Housing Element.

Other cities have no definition, but simply negotiate infeasibility on a case by case basis. This option provides more flexibility, but creates some level of uncertainty and the potential for inconsistency in its application. In seeking a fairly simple procedure for San Mateo, it is recommended that a developer provide written justification including project cost estimates to demonstrate the infeasibility of providing BMR units onsite.

Density Bonus law allows land dedication in lieu of building affordable units onsite under a set of very specific circumstances. Another option for San Mateo is to use these criteria as an alternative for offsite construction in the case of infeasibility.

The basic provisions of the land dedication option are that a developer provides the City a site that is at least one acre in size, zoned at least 40 units to the acre, and is located within 1/2 mile of the market rate site that is agreeable to the City. The affordable units are required to be very low income and a density bonus is less than if they were built onsite.

RECOMMENDATION:

Allow developers to justify economic infeasibility based on submission of specific criteria to construct off site, and allow a land dedication option as described in California density bonus law as an alternative to offsite construction.

Both of these options require the offsite units to be constructed at the same time or before the market rate units. Given the difficulty in finding suitable residential sites, these options would be rarely used. However it does open up the possibility for market rate developers to joint venture with an affordable housing developer to leverage more units than the BMR requirements.

Flexibility in BMR Unit Design

Most of the current residential planning applications would be considered “high end” market rate housing. The finishes are upscale and the unit sizes are very large. For example, about half of the two bedroom units constructed over the past 10 years have been 1,400 square feet or larger. There are a number of recommendations that can decrease developer costs that occur with the proposed 15% BMR requirement, yet still provide livable and attractive affordable units.

Currently the program requires the BMR units to be no smaller than the smallest market rate unit offered by bedroom size. This works well in projects that have a variety of unit sizes. However in the situation that the market rate units are all very large, the BMR units are also large. Currently the program has about 40 two-bedroom units sized 1,200 square feet or larger. These units could still be considered spacious if they were 1,000-1,100 square feet. Flexibility in BMR unit design may decrease developer costs for BMR units and still result in very livable and attractive units. In addition, design flexibility may help to offset developer costs associated with the increase requirement to 15% for BMR construction. Therefore it is recommended to allow BMR units to be smaller than market units in these situations as long as minimum square footages are maintained to avoid inadequately sized BMR's.

RECOMMENDATION:

Allow smaller units by square footage but establish minimum sizes in relation to market rate units.

Although single family detached residential development is rare in San Mateo, it is extremely expensive to provide “like” units for BMR's. Recent projects show dwelling sizes ranging from 1,600 to 2,600 square feet to match the other market rate homes per our current program guidelines. The City could allow the BMR houses to be constructed smaller than the other units, but they may not be to scale with the rest of the development. Alternatives that other cities have used include: allowing BMR units to be provided in the form of duplexes in single family detached developments; and in mixed-product projects, allow the single family obligation in the multifamily

portion of project. In both cases, the BMR units should be architecturally compatible with the rest of the development.

RECOMMENDATION:

Allow flexibility of product type in single family detached projects as long as the exterior design is compatible.

Depending on housing needs at any point in time, the City may decide that a different bedroom mix may be a greater benefit to the program than the usual BMR formula as long as there is always a minimum 10% provided and the total bedroom count is obtained. For example if a 40 unit project is required to provide 6 BMR units under the new 15% requirement: one 3 BR unit, four 2 BR units and one 1 BR unit, (total 12 bedrooms) the City may agree to accept four 3 BR units instead if it determines there is a pressing need for large units. Conversely, the City may accept more units with smaller bedroom counts in an effort to maximize the number of units obtained.

RECOMMENDATION:

Allow different bedroom size distribution if the City determines it meets a need. At all times at least 10% must be provided and a minimum total bedroom count must be provided.

Commercial Linkage Fee

Measure P includes language that allows the City to study and if possible adopt a fee that is charged to commercial development to support housing. The rationale for a commercial linkage fee is that new commercial development increases the number of jobs in a community, which then puts additional pressure on the existing housing supply, causing housing costs to increase. A commercial linkage fee spreads the burden of the community's housing shortage. Currently, residential developers take on the sole burden of affordable housing through the BMR program, whereas commercial developers bear no financial responsibility for housing even though their projects may exacerbate the affordability of existing housing stock. The San Mateo County Housing Needs Study projects that between 2005 and 2025 the number of jobs countywide will increase 40%, therefore it is likely that new commercial space will be constructed to accommodate those jobs and create more demand for existing housing stock.

A nexus study was prepared by Keyser Marsten Associates in February 2003. The study serves as a way to quantify the impact of commercial development on housing and to devise an impact fee to mitigate that pressure. The nexus study determined that a fee could be justified in the range of \$20-25 per square foot. However, the recommended level of a fee was in the range of \$5-10 per square foot. The report indicated that the increase in total development costs for such a fee would be 1.5% and 3% respectively, which would not significantly impact development activity. Since this study was completed in 2003, we asked the City's economic consultant, Economic & Planning Systems (EPS) to review the study and determine whether the recommendations are still valid. The conclusion by EPS is that the methodology and key assumptions of the Keyser Marsten study are

still supportable and that updating the affordability gap and employment density would provide a nexus for a higher fee than the original study.

EPS has conducted an analysis of economic impacts for a similar commercial linkage fee study for Sonoma County. That study concluded that Bay Area jurisdictions that adopted commercial linkage fees attracted similar levels of commercial development before and after implementation of the fees, suggesting that no negative impact was realized. One reason for this is that the costs of such fees, when known early enough in the development process, can be reflected in the price a developer is willing to pay for land, and thus does not require higher rents or other premiums that may keep tenants from choosing the implementing city as their location.

Since the City is currently studying other new or increased development fees, care should be taken to look at the cumulative impact of increased fees on development. The City could also exempt certain types of developments that are more sensitive to these fees such as retail, or projects under a certain physical size. It is also recommended that a fee be implemented a year or so after its approval in order to give developers time to adjust their costs assumptions well in advance of project approvals.

The cities located closest to San Mateo that have commercial linkage fees include Menlo Park, Palo Alto, Mountain View and Sunnyvale. The fees for office space for these cities range from \$3 to \$16 per square foot. The Bay Area average is about \$5 per square foot. Based on this information, staff recommends a \$5 per square foot fee as a starting point for evaluation and will adjust the fee if necessary after consideration of the City's complete fee schedule as part of the budget process for next fiscal year.

RECOMMENDATION:

Adopt a commercial linkage fee of \$5 per square foot on new commercial developments subject to revision after taking into consideration other new development fees imposed by the City.

RESIDENTIAL DEVELOPMENT IN NON-RESIDENTIAL LAND USE AREAS

Policy Issue: Review the City's existing regulations and policies that allow residential land use in non-residential zoning districts.

The City's General Plan and Zoning Code allow for residential development on most non-residential designated properties. In the last few years, there have been a number of approved and proposed developments which involve redevelopment of existing office and commercial sites with multi family residential uses. These proposed land use changes have raised questions about the appropriateness of residential development in non-residential areas. Can the City accommodate future commercial development in the long term if land designated for non-residential use is instead redeveloped for residential purposes? Are there impacts resulting from the redevelopment of large office campus sites to residential land use? Should the City continue to allow residential

development as a permitted use on non-residential designated properties, require the approval of a special use permit, or eliminate residential development in non-residential areas?

General Plan text included as part of the Measure H and Measure P voter initiatives specifically allows residential development in various commercial, office, mixed use, and downtown land use categories. The text does not specifically state whether residential is a permitted or special use. As such, the City may determine the appropriate level of review (non-discretionary permitted use or discretionary special use permit) for residential development in these land use categories, but may not prohibit residential development.

Of the 33 residential developments approved between 1992 and August 2007, one development (Delaware Place) was located in a commercial zoning district, while 10 others were proposed on mixed-use designated properties. The Delaware Place site has since been reclassified to a TOD designation as part of the Rail Corridor Plan.

It should be noted that many large office campus sites generally border established single family and duplex neighborhoods, and allow a medium residential density of 18 – 35 units per acre. Redevelopment of these sites could create impacts to adjacent neighborhoods and possibly internal land use conflicts if only portions of a campus were developed for residential use. Staff is recommending that residential development on E-I, Executive Park, properties be reviewed for land use compatibility with adjacent neighborhoods and City policies.

RECOMMENDATION:

Amend the Zoning Code to require a special use permit for residential development on E-I, Executive Park, zoned properties.