



CITY OF SAN MATEO

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Agenda Report

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TO: City Council
FROM: Drew Corbett, City Manager
PREPARED BY: Community Development Department
MEETING DATE: June 15, 2020

SUBJECT:
Ordinance Introduction – Municipal Code Amendments Modifying Park Fee Credit Threshold and AB 1763 Covered Affordable Housing Projects Near Public Transit

RECOMMENDATION:
Introduce Ordinances to amend Municipal Code Section 26.64.030, “Private Park and Recreational Facility Credit”, to waive the minimum threshold requirement for 100% affordable housing projects in order for them to receive credits against the Park Impact Fee for on-site recreational amenities; and add Municipal Code Section 27.15.080, “Affordable Housing Projects Near Transit”, to provide waivers or reductions from development standards for 100% affordable housing projects covered by AB 1763 near major public transit.

BACKGROUND:
This report outlines two Municipal Code amendments that the staff has identified as being beneficial to further the development of 100% affordable housing projects in the City of San Mateo. These amendments will apply to the housing project on the Downtown Opportunity Sites (480 E. 4th Ave. and 400 E. 5th Ave.) by MidPen Housing that is currently in the entitlements process, as well as to any future affordable housing projects that are eligible under the provisions of each proposed Code.

Private Park and Recreational Facility Credit
The Municipal Code requires residential development projects to dedicate land or pay an in-lieu fee to mitigate their impacts on park and recreational facility use. This ensures that the City’s park and recreation facilities are able to adequately serve the population. The Municipal Code currently allows for credits against the Park Impact Fee for on-site amenities provided within projects that reduce the potential impact on park use by project residents. In order to qualify for the potential credits, the acreage of on-site amenities must first meet a minimum threshold of at least 25% of the total project’s required acreage of dedicated park land. The types of amenities that qualify for these credits include play structures, barbecue/picnic areas, community rooms, pools, fitness rooms, etc.

Affordable housing projects, defined as projects where 100% of the units are restricted to incomes of 120% Area Median Income or below, face development challenges since they are often built on constrained, infill lots. These projects provide on-site park and recreational amenities for their residents, but it is challenging to provide enough space to meet the minimum threshold to be eligible for the credit. Given the challenges in financing affordable housing projects, and the public subsidies required, any ability to reduce project costs can go a long way towards financing additional affordable units.

As an example, the affordable housing project proposed by MidPen Housing on the Downtown Opportunity Sites will have 225 affordable rental units with dedicated space for a fitness room, community room, a computer lab for afterschool programs, and a courtyard with a play structure and barbecue area. Although the project has multiple qualifying amenity

spaces, it falls a few thousand square feet short of meeting the minimum threshold of 25% land dedication for amenity space and therefore would not be eligible for any credits against their required Park Impact Fee payment. If the minimum threshold were waived, the project's dedicated space for amenities would qualify for a credit of roughly \$335,000 against the estimated \$4.5 million impact fee.

At the November 18, 2019 Study Session, the City Council received a presentation on various options that could reduce the overall costs of the MidPen Housing project. The City Council expressed support for waiving the 25% minimum threshold for qualifying on-site recreational amenities for all 100% affordable housing projects. The proposed Ordinance included as [Attachments 1 and 2](#) would amend the Municipal Code Section 26.64.030 (b)(1) to waive this threshold for 100% affordable housing projects serving income levels of 120% of Area Median Income or below.

On March 4, 2020, the Parks and Recreation Commission reviewed the proposed language of the proposed Municipal Code amendment and recommended that the City Council approve waiving the minimum 25% threshold that is required to obtain for credits for onsite amenities for housing projects that are 100% affordable. Although most Commissioners voiced support for this change, there were concerns raised that this change was being considered outside of a more comprehensive fee evaluation process. The final Commission vote on this matter was 3-1 in support of recommending City Council approval.

Affordable Housing Project Near Public Transit

In accordance with Government Code Section 65915, the City has codified an existing density bonus ordinance in Municipal Code Chapter 27.15 that allows for density bonus projects consistent with State density bonus law. The State Legislature recently enacted Assembly Bill 1763, which amends the State density bonus law. Assembly Bill 1763 provides that housing developments that are 100% affordable and within a half-mile of a major transit stop are entitled to: unlimited density, a height increase of up to three additional stories or up to 33 feet, and up to four incentives or concessions as defined by Government Code Section 65915. The City's three Caltrain stations qualify as major transit stops under the legislation. This State law preempts local Measure P, which amended the City's General Plan to provide for a height limit of 55 feet.

Although Assembly Bill 1763 provides for unlimited density and additional height, it does not address other corresponding development standards that may be impacted by increased density and building height such as building bulk, open space, or set back requirements. Additionally, Assembly Bill 1763 eliminated the ability for 100% affordable projects within a half-mile of a major transit stop to request additional waivers or deviations of development standards (above the four concession or incentives provided by the bill itself), which are typically used for other density bonus projects. The City's development standards were developed based on lower density projects and some of the provisions cannot be appropriately applied to high-density projects, which can result in the need for multiple waivers or deviations.

On March 24, 2020, the Planning Commission recommended adoption of a Municipal Code Amendment related to AB 1763 affordable housing projects. Since that meeting, staff has revised the AB 1763 Code Amendment and has conducted additional environmental review in accordance with the California Environmental Quality Act (CEQA). The Planning Commission reviewed, and recommended adoption of the revised Code Amendment on May 26, 2020, as summarized below.

Proposed Code Amendment: 27.15.080 – Affordable Housing Projects Near Transit

The proposed Code Amendment provides the opportunity for future housing developments that are 100% affordable and within a half-mile of a major transit stop to request waivers or reductions of up to six applicable development standards in addition to the four concessions allowed under AB 1763 to increase flexibility and allow qualifying projects to build to the increased densities provided via AB 1763 under State density bonus law. The request to waive or reduce development standards shall be considered by the decision-making body with the authority to act on the affordable housing project and would be subject to the following findings:

- (1) The requested deviations will not conflict with the General Plan;

- (2) The development is of an excellent design quality and is consistent with applicable Design Guidelines;
- (3) The development is in the best interests of the public health, safety, or welfare;
- (4) The development will not impair the desirability of investment or occupation in the vicinity; and
- (5) The project has demonstrated use of all allowable incentives consistent with Government Code Section 65915.

The currently proposed Code Amendment is different from the previous version reviewed by the Planning Commission in March. The prior Code Amendment modified four specific development standards: streetwall plane, building line and setback, percentage of compact parking, and private open space. Upon further consideration, staff has determined that it would be more appropriate to allow for future applicants to request waivers or reductions from development standards that are necessary for each project to achieve the density otherwise permitted by State law. Instead of modifying specific standards, the revised Code Amendment allows for case-by-case review of each request to waive or reduce a development standard and includes specific findings that must be made. This provides increased flexibility for the Code Amendment to be applied for future projects that qualify under AB 1763. As with the previously reviewed Code Amendment, this Code Amendment will only be applicable to housing developments that are 100% affordable to lower income households, located within half-mile of a major transit stop, and utilize the provisions of AB 1763. The draft Code Amendment is included as Attachment 3.

Concessions or Incentives vs. Waivers or Reductions of Development Standards

The State's density bonus law includes provisions that allow housing projects to deviate from local development standards through concessions or incentives, and via waivers or reductions of development standards. While each result in providing relief from a given local development standard, the purpose for which they are utilized are distinguished by the State's density bonus law.

A concession or incentive is generally defined as a reduction or relief from a local development standard or modification of a zoning code or architectural design requirement that would result in identifiable, financially sufficient, and actual cost reductions or avoidance. A local agency is required to grant the requested concession or incentive unless it can demonstrate the proposed concession or incentive would not result in identifiable and actual cost reductions; would cause a public health or safety problem; would cause an environmental problem; would harm historical property; or would be contrary to state or federal law.

A waiver or reduction of development standards can be requested by a developer in cases where a local development standard would physically preclude the construction of the development at the densities or with the concessions or incentives a qualifying project is permitted under the State density bonus law.

As noted above, AB 1763 allows four concessions or incentives for projects that are 100% affordable and located within half a mile of transit. AB 1763 does not allow for any waivers or reductions for these projects. Staff believes that given our current development standards, which are written specifically for buildings that are five stories or less, that additional waivers or reductions are needed to make these taller, higher-density projects feasible. For example, a new multi-family residential project in the CBD-S zoning district has more than 100 applicable zoning and development standards. Compliance with all the applicable development standards specified by the underlying zoning district is difficult under normal circumstances, and even more so when designing for added building height and increased density permitted under State law. Staff believes that allowing for up to six waivers or reductions of development standards, subject to review and compliance with the required findings, will increase the feasibility and ensure high-quality design for Covered Projects.

Additionally, the determination to provide six waivers was informed partly on the needs of the joint Downtown Affordable Housing and Parking Garage Sites (PA19-033) project between the City and MidPen Housing. The project was directed by City Council to utilize the provisions of AB 1763 for the purpose of increasing the total number of affordable housing units. To physically build added height and density, that project is currently anticipated to require seven waivers or reductions in development standards and can only use four concessions under AB 1763. Without this Code Amendment, that project would not be feasible.

Planning Commission Comments

The Planning Commission reviewed the proposed Code Amendment on May 26, 2020. Members of the Commission expressed concerns related to the number of waivers and modifications that a Covered Project could receive under this Code Amendment. The proposed Code Amendment will allow for Covered Projects to request up to six waivers or reductions of development standards, which are in addition to the four concessions or incentives allowed per State law, thereby allowing for Covered Projects to receive up to 10 deviations of development standards. Staff arrived at six waivers or reductions to allow for maximum flexibility for future affordable housing projects near transit.

In addition to the discussion of the number of waivers and modifications, staff provided the following clarifications in response to Commissioner questions:

- AB 1763 is State law which preempts local ordinances including those enacted by voter initiative. As such, the maximum height limit of 55 feet established by the General Plan (Measure P) is not applicable to Covered Projects.
- The Code Amendment would apply to both rental or for-sale projects, so long as they meet the requirements for 100% affordable within a half-mile of transit.
- The Code Amendment does not apply to all development City-wide; it only applies to housing projects that are 100% affordable housing units and are located within a half-mile of a major transit stop.
- In addition to being 100% affordable, the Code Amendment also requires that all units be low income units with up to 20 percent that can be moderate income units.
- The waivers and incentives allowed by the Code Amendment are not guaranteed; the Code Amendment requires compliance with a specific set of findings, all of which must be reviewed and approved by the decision-making body.
- There is a pending bill that could change AB 1763 and render this Code Amendment unnecessary; however, the proposed legislation is currently being discussed in a committee of the State Legislature and it is unlikely to take effect in 2021. Therefore, staff recommends proceeding with this proposed Municipal Code amendment to cover proposed projects between now and the State Legislature's possible amendment of Government Code Section 65915.

BUDGET IMPACT:

The budget implications associated with the reduction of Park Impact Fees is hard to quantify since it is not known how many 100% affordable projects will be built in the future and to what degree they will be eligible for credit. There are no budget implications associated with the Municipal Code Amendment to modify development standards for 100% affordable projects near transit.

ENVIRONMENTAL DETERMINATION:

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), adoption of the Ordinance reducing the park fee credit threshold for AB 1763 affordable housing projects is subject to the "common sense exemption" from CEQA. It can be seen with certainty that lowering the threshold at which 100% affordable housing projects receive a park fee credit for providing private recreation improvements will not impact the environment, because only 100% affordable projects located within half-mile of major transit facilities will receive the credit and private recreational amenities will be provided.

With regard to the proposed ordinance authorizing up to six waivers of development standards for AB 1763 projects, staff prepared an IS-ND in accordance with the provisions of CEQA. The IS-ND discusses the potential environmental impacts caused by the proposed project. The public review period and comment period of the IS-ND occurred between April 30, 2020 and May 21, 2020. The IS-ND concludes that the project would not have significant effects to the environment and no mitigation measures are required. A hardcopy of the IS-ND is included with this administrative report as [Attachment 4](#).

No public comments have been submitted as of the date this report was published. Public comments submitted after the publication of this report shall be forwarded to the Planning Commission for review and consideration during the Public Hearing.

NOTICE PROVIDED

All meeting noticing requirements were met, including:

- A Notice of Intent to Adopt a Negative Declaration and Notice of Public Hearing was published in the San Mateo Daily Journal;
- Posting of the Notice of Intent to Adopt a Negative Declaration with the San Mateo County Clerk Recorder;
- Distribution to the City's "900 List", which contains individuals and organizations interested in citywide planning projects;
- Posting on the City's What's Happening Project webpage; and
- Posting at City Hall

ATTACHMENTS

Att 1 – Proposed Ordinance Amending Private Park and Recreational Facility Space Credit

Att 2 – Proposed Ordinance Amending Private Park and Recreational Facility Space Credit (track changes)

Att 3 – Proposed Ordinance for Affordable Housing Projects Near Transit

Att 4 – Initial Study Negative Declaration – Affordable Housing Projects Near Transit

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