CITY OF HAYWARD
AGENDA REPORT

Meeting Date 11/03/05
Agenda 1

TO: Planning Commission

FROM: Director of Community and Economic Development

SUBJECT: **Density Bonus Ordinance**

RECOMMENDATION:

That the Planning Commission recommend that the City Council adopt the Negative Declaration and introduce the proposed Density Bonus Ordinance, subject to the attached findings.

DISCUSSION:

In 1979, the California Legislature created an incentive program, the "Density Bonus Law" to encourage private developers to include affordable units in their market-rate developments without government subsidies. By increasing the density of a residential development beyond what is allowed by the underlying zoning, the per-unit land and infrastructure costs are reduced. Consequently, a developer could "subsidize" the cost of creating the affordable units through the proceeds generated by the greater number of market rate units allowed by the density bonus.

In 2004 and 2005, the California legislature adopted amendments which have made significant changes to the 1979 law. These changes included reducing the number of affordable units a developer must create in order to qualify for a density bonus and expanding the incentives and concessions a municipality must grant the developer. State law requires local governments to adopt procedures by which developers may request increases to the allowable density of their residential development and/or other concessions, if they meet specific conditions.

Elements of the State Density Bonus Law

The State density bonus law requires the City to include the following three main elements in a Density Bonus Ordinance:

1. Density bonus – An increase in the number of residential units beyond what is allowed by the zoning for a particular site;

2. Incentives and concessions – Relief from development standards including parking requirements; and

3. Alternatives to the creation of specified units – Other means, aside from creating affordable or senior units, by which a developer may be granted a density bonus, concessions and incentives.

Density Bonus for Specified Units: Affordable or Senior Housing

The ordinance must provide for a density bonus, and incentives or concessions (described later in this report), when a developer constructs a residential development containing units meeting specific requirements.

Affordable Units – A developer of a residential development of five or more units may request a density bonus if the developer agrees to at least one of the following:

- Make at least five percent of the total units of their development affordable to Very Low Income Households (Very Low income is defined as households earning no more than 50% of the Area Median Income (AMI) adjusted for household size); or

- Make at least ten percent of the total units affordable to Lower Income Households (80% of AMI); or

- Make at least ten percent of the units in a common interest development affordable to moderate income households (120% of AMI).

The "density bonus" for providing affordable units is a density increase of at least 5 percent and no more than 35 percent over the otherwise maximum allowable residential density. The exact amount of the density bonus will vary according to the percentage of housing units made affordable at a given income category. Attachment A presents the range of density increases available to the developer if affordable units exceed the various threshold requirements. All density calculations resulting in fractional units shall be rounded up to the next whole number. Attachment B shows maximum annual incomes, adjusted for family size, for various income levels.

State law requires that units made affordable to very low and low-income households maintain their affordability for at least 30 years. However, only the initial occupants of affordable ownership units in a common interest development must be moderate income households. Rather than apply resale restrictions to these units, the City is authorized to recapture the initial amount required to make the unit affordable and a proportionate share of the appreciation upon subsequent sale, in accordance with the formula set forth in the State Density Bonus law.

Senior Housing - A developer of housing reserved exclusively for senior citizen households may request a 20% density bonus if the developer agrees to at least one of the following:

- Construct a residential development of 35 or more units; or

- Construct a mobile home park of any number of spaces.

The developer must specify the category of units which will warrant the density bonus.

Incentives and Concessions: Development Standards and Parking

State law requires that the ordinance include incentives and concessions to developers creating affordable (but not senior) units that will result in identifiable, financially sufficient and actual cost reductions. The City has little flexibility in determining the nature of these concessions and incentives since State law provides specific definitions for each. According to State law, "concession or incentive" includes:

- A reduction in site development standards;

- Modification of zoning code requirements; and

- Modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission.

State law specifically defines the following reductions in site development standards as concessions or incentives:

- A reduction in setback and square footage requirements;

- A reduction in the ratio of parking spaces that would otherwise be required; and

- Approval of mixed use zoning.

According to State law, by agreeing to create the minimum percentage of affordable units as described above, a developer will be entitled to one incentive or concession. By increasing the percentage of affordable units in specific steps, the developer will trigger additional incentives or concessions. Attachment A also shows the progression of incentives or concessions that apply at specific percentages for each income range.

Developments entitled to the regulatory relief described above, are also allowed to employ the following parking ratio:

- Zero to one bedroom – one onsite parking space;

- Two to three bedrooms – two onsite parking spaces;

- Four or more bedrooms – two and one-half parking spaces.

Additionally, State law allows for developers to meet the onsite parking requirements through tandem parking or uncovered parking.

Alternatives to the creation of Specified Units:

The revised State law requires the City to provide a density bonus along with concessions and incentives if a developer agrees to the following action even though they do not directly create affordable housing units:

- *Land Donation* – State law now permits a developer to donate a certain amount of land to the City in lieu of constructing affordable housing. By donating the land, the developer is entitled to a 15% increase over the maximum allowable density. The parcel must be at least one acre in size or of sufficient size to permit the development of at least 40 units. It must also have the appropriate zoning to make the development of the units feasible.

- *Child Care Facility:* If a developer includes a child care facility within or adjacent to the residential development which includes affordable units, the City must grant either an additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility, or an additional concession or incentive designated by the City to contribute significantly to the economic feasibility of the construction of the child care facility. However, the Child Care Facility must remain in operation for a term equal to the affordability term of the units, and children attending the facility must reflect the percentage of Affordable Units at each income level within the development.

Proposed Density Bonus Ordinance

The proposed ordinance closely follows the State law and will allow the City to impose specific procedures, collect fees and standardize monitoring and enforcement of the affordable units produced in accordance with the ordinance. Attachment C is the proposed ordinance.

The City has very little discretion in the terms of this proposed Ordinance but will retain its ability to conduct design and environmental review for developments incorporating density bonuses and incentives or concessions. The grounds for rejecting a requested incentive or concession are narrow; the City must make a written finding, based upon substantial evidence, of one of the following:

- Incentive or concession is not required to provide for affordable housing costs; or

- Incentive or concession would have a specific adverse impact upon public health and safety, or the physical environment, or historic properties, and there is no way to mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households.

The proposed ordinance would primarily apply to developments of 5 to 19 units. A review of Planning records since 2000 indicates that there have been about 20 residential development projects which fall within 5 to 19 units. The City's Inclusionary Housing Ordinance (IHO) requires residential developments of 20 or more units to provide fifteen percent of units to be affordable for 45 years and developments of 20 or more dwelling units will be governed by the IHO. The proposed ordinance specifies that the IHO will prevail if there is any conflict between the two ordinances, e.g. in the term of the affordability restrictions.

On October 4, 2005, the City Council considered the draft Ordinance during its Work Session. Clarification was requested regarding the annual income represented by various income categories, whether the developer would be required to provide operating funds for a Child Care Facility, and the conditions under which the City might not grant a requested incentive or concession. These points have been addressed above.

PUBLIC NOTICE:

A Notice of the Public Hearing and associated Negative Declaration on the proposed Density Bonus Ordinance was published in the Daily Review on October 19, 2005. No comments have been received to date in response to this notice.

ENVIRONMENTAL REVIEW:

The proposed ordinance is defined as a "project" under the parameters set forth in the California Environmental Quality Act (CEQA) Guidelines. However, no significant environmental impacts are identified in staff's Environmental Checklist and, therefore, a Negative Declaration has been prepared (both included as Attachment D).

CONCLUSION:

The City is required by State law to adopt procedures by which developers may request increases to the allowable density of their residential development and/or other concessions, if they meet specific conditions. The proposed Density Bonus Ordinance closely follows the State law and will allow the City to impose specific procedures, collect fees and standardize monitoring and enforcement of the specified units produced in accordance with the ordinance.

Prepared by:

Gail Patton
Neighborhood and Economic Development Manager

Recommended by:

Sylvia Ehrenthal
Director of Community and Economic Development

Attachments:

A. Range of Density Bonus and Incentives/Concession Available
B. Income Limits Chart
C. Draft Density Bonus Ordinance
D. Negative Declaration and Environmental Checklist
E. Findings for Approval

Range of Density Bonus and Incentives/Concessions Available Based on Percentage of Affordable Units Provided at Various Income Levels

Affordable Housing Set-Aside	Resulting Density Bonus and Incentives/Concessions					
	Very Low		Low		Moderate	
	Density Increase	*No. of Incentives*	*Density Increase*	*No. of Incentives*	*Density Increase*	*No. of Incentives*
5%	20.0%	1				
6%	22.5%	1				
7%	25.0%	1				
8%	27.5%	1				
9%	30.0%	1				
10%	32.5%	2	20.0%	1	5.0%	1
11%	35.0%	2	21.5%	1	6.0%	1
12%	35.0%	2	23.0%	1	7.0%	1
13%	35.0%	2	24.5%	1	8.0%	1
14%	35.0%	2	26.0%	1	9.0%	1
15%	35.0%	3	27.5%	1	10.0%	1
16%			29.0%	1	11.0%	1
17%			30.5%	1	12.0%	1
18%			32.0%	1	13.0%	1
19%			33.5%	1	14.0%	1
20%			35.0%	2	15.0%	2
21%			35.0%	2	16.0%	2
22%			35.0%	2	17.0%	2
23%			35.0%	2	18.0%	2
24%			35.0%	2	19.0%	2
25%			35.0%	2	20.0%	2
26%			35.0%	2	21.0%	2
27%			35.0%	2	22.0%	2
28%			35.0%	2	23.0%	2
29%			35.0%	2	24.0%	2
30%			35.0%	3	25.0%	2
31%					26.0%	2
32%					27.0%	2
33%					28.0%	2
34%					29.0%	2
35%					30.0%	3
36%					31.0%	3
37%					32.0%	3
38%					33.0%	3
39%					34.0%	3
40%					35.0%	3

ATTACHMENT A

CITY OF HAYWARD
Maximum Income and Gross Rent Levels
FY 2005

	Household Size									
	1	2	3	4	5	6	7	8	9	10
30% Median	17,400	19,850	22,350	24,850	26,850	28,800	30,800	32,800	34,500	36,500
Rent	435	496	559	621	671	720	770	820	863	913
35% Median	20,100	23,000	25,900	28,800	31,100	33,400	35,700	38,000	40,300	42,600
Rent	503	575	648	720	778	835	893	950	1,008	1,065
50% Median	28,800	32,900	37,000	41,100	44,400	47,700	51,000	54,300	57,500	60,800
Rent	720	823	925	1,028	1,110	1,193	1,275	1,358	1,438	1,520
HUD/HCD Very Low	**29,000**	**33,100**	**37,250**	**41,400**	**44,700**	**48,000**	**51,350**	**54,650**	**57,500**	**60,800**
Rent	725	828	931	1,035	1,118	1,200	1,284	1,366	1,438	1,520
60% Median	34,500	39,500	44,400	49,300	53,300	57,200	61,200	65,100	69,000	73,000
Rent	863	988	1,110	1,233	1,333	1,430	1,530	1,628	1,725	1,825
70% Median	40,300	46,000	51,800	57,500	62,100	66,700	71,300	76,000	80,600	85,200
Rent	1,008	1,150	1,295	1,438	1,553	1,668	1,783	1,900	2,015	2,130
80% Median	46,000	52,600	59,200	65,800	71,000	76,300	81,500	86,800	92,100	97,300
Rent	1,150	1,315	1,480	1,645	1,775	1,908	2,038	2,170	2,303	2,433
HUD Low/HCD Lower	**46,350**	**53,000**	**59,600**	**66,250**	**71,550**	**76,850**	**82,150**	**87,450**	**92,800**	**98,100**
Rent	1,159	1,325	1,490	1,656	1,789	1,921	2,054	2,186	2,320	2,453
95% Median	54,700	62,500	70,300	78,100	84,300	90,600	96,800	103,100	109,300	115,600
Rent	1,368	1,563	1,758	1,953	2,108	2,265	2,420	2,578	2,733	2,890
HUD/HCD Median										
100% Median	**57,500**	**65,800**	**74,000**	**82,200**	**88,800**	**95,400**	**101,900**	**108,500**	**115,100**	**121,700**
35% of Monthly Income	1,677	1,919	2,158	2,398	2,590	2,783	2,972	3,165	3,357	3,550
110% Median	63,300	72,300	81,400	90,400	97,700	104,900	112,100	119,400	126,600	133,800
35% of Monthly Income	1,846	2,109	2,374	2,637	2,850	3,060	3,270	3,483	3,693	3,903
115% Median	66,200	75,600	85,100	94,500	102,100	109,700	117,200	124,800	132,300	139,900
Rent	1,655	1,890	2,128	2,363	2,553	2,743	2,930	3,120	3,308	3,498
HCD Moderate										
120% Median	**69,000**	**78,900**	**88,800**	**98,600**	**106,500**	**114,400**	**122,300**	**130,200**	**138,100**	**146,000**
Rent	1,725	1,973	2,220	2,465	2,663	2,860	3,058	3,255	3,453	3,650

HUD Median Income (Oakland PMSA): $82,200

NOTE: Income limits rounded to nearest $50
Gross rents at 30% of household income

DRAFT

ORDINANCE NO. _____

ORDINANCE ADDING ARTICLE 19 TO CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE RELATING TO DENSITY BONUSES

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS AND PURPOSE.

The City Council finds and determines that lack of access to affordable housing has a direct impact upon the health, safety and welfare of the residents of the City of Hayward. According to the 2000 U.S. Census, about forty percent (40%) of Hayward tenant households (8,669 households) pay more than thirty percent (30%) of their income for rent. Only twenty-two percent (22%) of the population of Alameda County can afford to buy a home here, significantly below the national average of fifty-seven percent (57%). According to the 2000 U.S. Census, approximately thirty-two percent (32%) of tenant households pay more than thirty-five percent (35%) of household income for rent. Forty percent (40%) of tenants pay more than thirty percent (30%) of household income for rent. Because all forms of housing are expensive to build, rent and buy, a variety of housing programs and resources are required to help meet the need for affordable housing. The City is limited in its ability to maintain a thriving mixed-income community without additional affordable housing. Rising land prices have been a key factor in preventing development of new affordable housing. New housing construction in the City that does not include affordable units aggravates the existing shortage of affordable housing by absorbing the supply of available residential land. This reduces the supply of land for affordable housing and increases the price of remaining residential land. Providing the affordable units required by this Ordinance will help to ensure that part of the City's remaining developable land is used to provide affordable housing.

The California Legislature requires each local government to adopt an ordinance that specifies how the jurisdiction will comply with Section 65915 et seq. of the California Government Code. This Ordinance is intended to satisfy the requirements of Government Code Section 65915 et seq. by specifying the methods and procedures by which developers of certain Residential Development Projects may request density bonuses and other incentives in relationship to the construction of said Residential Development Projects, or in relationship to the donation of land intended for the construction of Residential Development Projects, in which Affordable Housing Units will be reserved for and made available to Very Low income, Lower income, Moderate income, Senior Citizen households and age-restricted Mobilehome Parks.

Section 2. The City of Hayward's Municipal Code is hereby amended to add Article 19 to Chapter 10 as follows:

"ARTICLE 19
DENSITY BONUS ORDINANCE

"SEC. 10-19.100 TITLE.

This Article shall be known and may be cited as the Density Bonus Ordinance of the City of Hayward.

SEC. 10-19.110 DEFINITIONS.

Certain words and phrases are defined within this Article. Where it appears from the context of such words, phrases, or provisions that a different meaning is intended, the definition shall be as determined by the Director of Community and Economic Development/Planning Director.

a. 'Affordable Housing Cost,' 'Affordable Ownership Housing Cost' and 'Affordable Rental Housing Cost' are defined as the allowable percentage of gross household income a household spends on housing costs for a given income group, as defined below:

1. For Very Low Income households, the Affordable Housing Cost shall not exceed the product of thirty percent (30%) times fifty percent (50%) of the Area Median Income adjusted for family size appropriate for the unit;

2. For Lower Income households, the Affordable Housing Cost shall not exceed the product of thirty percent (30%) times seventy percent (70%) of the Area Median Income adjusted for family size appropriate for the unit;

3. For Moderate Income households, the Affordable Housing Cost shall not be less than twenty-eight percent (28%) of the gross income of the household, nor exceed the product of thirty-five percent (35%) times one hundred ten percent (110%) of the Area Median Income adjusted for family size appropriate for the unit;

4. For owner-occupied units, the Affordable Housing Cost includes the monthly mortgage principal and interest, property taxes, homeowner's insurance, and homeowner/condominium association fees (where applicable); and,

5. For renter-occupied units, the Affordable Housing Cost includes the monthly rent plus utility allowance, as defined by the Alameda County Housing Authority.

b. 'Affordable Housing Unit' is defined as a Dwelling Unit within a Residential Development Project which will be made available to and reserved for Very Low Income households, Lower Income households or Moderate Income households at an Affordable Housing Cost for the respective group(s).

c. 'Applicant' is defined as any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities who seek residential property development permits or approvals from the City of Hayward.

d. 'Area Median Income (AMI)' is defined as the median income for the Oakland Primary Metropolitan Statistical Area (PMSA) as defined annually by the U.S. Department of Housing and Urban Development (HUD) and adopted by the California Department of Housing and Community Development (HCD). Income groupings that are subdivisions of AMI, such as Very Low, Low, Lower and Moderate-Income households, are also defined and published by HUD and adopted by HCD.

e. 'Child Care Facility' is defined as a facility installed, operated, and maintained for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

f. 'Child Care Facility Density Bonus' means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of the City of Hayward of the following amounts: A maximum of five (5) square feet of floor area for each one square foot of floor area contained in the Child Care Facility for existing structures; or a maximum of ten (10) square feet of floor area for each one square foot of floor area contained in the Child Care Facility for new structures.

g. 'Condominium Conversion Density Bonus' means an increase in units of twenty-five percent (25%) over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

h. 'Density Bonus' is defined as a density increase of at least five percent (5%), unless a lesser percentage is elected by the Applicant, and no more than thirty-five percent (35%) over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the Applicant to the City of Hayward.

i. 'Development Standard' is defined as site or construction conditions that apply to a Residential Development Project pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation.

j. 'Dwelling Unit' is defined as a dwelling designed and intended for residential occupancy by one household.

k. 'Floor Area' is defined as to a commercial or industrial project, as the floor area as calculated under the applicable zoning ordinance of the City of Hayward and as to a Child Care Facility, as the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

l. 'Household Income' is defined as the gross annual household income for all adult wage earners, Senior Citizen or disabled family members and any other sources of household income.

m. 'Lower Income Households' is defined as households with a total combined income not exceeding eighty percent (80%) of the Area Median Income, adjusted for household size, as established by the U.S. Department of Housing and Urban Development.

n. 'Marketing Plan' is defined as a plan that describes how the Applicant will inform the public, and those within the appropriate income groups, of the availability of Affordable Housing Units.

o. 'Maximum Allowable Residential Density' is defined as the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.

p. 'Mixed-Use Development Project' is defined as a Residential Development Project that may include a mix of commercial, office, industrial or residential uses.

q. 'Mobilehome Park' is defined as a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

r. 'Moderate Income Households' is defined as households with a total combined income not exceeding one hundred and twenty percent (120%) of the Area Median Income, adjusted for household size, as established by the U.S. Department of Housing and Urban Development.

s. 'Presumed Occupancy Levels' are defined as: One person for a studio unit; two people for a one bedroom unit; three people for a two bedroom unit; and one additional person for each additional bedroom thereafter.

t. 'Resale Controls and/or Rent Restrictions' are defined as the restrictions, set forth by the City of Hayward or by state and/or federal law, by which the rents paid on rental Affordable Housing Units and the sales price for ownership Affordable Housing Units

are limited to ensure that the unit remains affordable to Very Low or Low Income households for a term of no less than thirty (30) years. With respect to rental units, such rent restrictions shall generally be in the form of a regulatory agreement recorded against the applicable property. With respect to owner occupied units, such resale controls shall generally be in the form of resale restrictions, deeds of trust and/or other similar documents recorded against the applicable property.

u. 'Residential Development Project' is defined as detached single-family dwellings, multiple dwelling structures, groups of dwellings, condominium or townhouse developments, condominium conversions, cooperative developments, and mixed use developments that include housing units. This definition also includes contiguous or non-contiguous parcels that have one or more applications filed within a twenty-four (24) month period and which are under the same ownership.

v. 'Senior Citizen Household' is defined as a household headed by a person sixty-two (62) years of age or older.

x. 'Senior Citizen Housing Development' is defined as a development of at least thirty-five (35) dwelling units reserved for Senior Citizen Households and as further described in Sections 51.3 and 51.12 of the Civil Code.

y. 'Very Low Income Households' is defined as households with a total combined income not exceeding fifty percent (50%) of the Area Median Income, adjusted for household size, as established by the U.S. Department of Housing and Urban Development.

SEC. 10-19.120 APPLICATION.

The provisions of this Article apply to Residential Development Projects and mixed-use Residential Development Projects, consisting of either five (5) or more general Dwelling Units, Senior Citizen Housing Developments or Mobilehome Parks. For those projects that are subject to the provisions of Hayward Municipal Code Chapter 10, Article 17, Inclusionary Housing Ordinance, Affordable Housing Units provided under the Inclusionary Housing Ordinance may be counted toward the requirements of this Article. To the extent that the provisions of this Article and the Inclusionary Housing Ordinance are in conflict, the provisions of the Inclusionary Housing Ordinance prevail.

SEC. 10-19.130 SPECIFIED HOUSING UNITS

The City shall grant a Density Bonus, and incentives or concessions described in Section 10-19.200, when an Applicant for a Residential Development Project seeks and agrees to construct at least any one of the following:

a. Ten percent (10%) of the total Dwelling Units of a Residential Development Project for Lower Income Households; or

b. Five percent (5%) of the total Dwelling Units of a Residential Development Project for Very Low Income Households; or

c. A Residential Development Project meeting the requirements of a Senior Citizen Housing Development or a Mobilehome Park; or

d. Ten percent of the total Dwelling Units in a common interest development as defined in Section 1351 of the Civil Code, for persons and families of Moderate Income, provided that all units in the development are offered to the public for purchase.

The Applicant shall elect whether the Density Bonus shall be awarded on the basis of Section 10-19.130 (a), (b), (c) or (d). All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a Density Bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. The Density Bonus shall not be included when determining the number of Dwelling Units that is equal to five (5%) or ten (10%) percent of the total Dwelling Units.

For Residential Development Projects that meet the criteria of Section 10-19.130(a), the Density Bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

For Residential Development Projects that meet the criteria of Section 10-19.130(b), the Density Bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30

10	32.5
11	35

For Residential Development Projects that meet the criteria of Section 10-19.130 (c), the Density Bonus shall be twenty (20%) percent.

For Residential Development Projects that meet the criteria of Section 10-19.130(d), the Density Bonus shall be calculated as follows:

Percentage Moderate Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

Residential Development Projects incorporating a Density Bonus require review and approval by the Planning Commission; provided, however, that if the Residential Development

Project involves another permit or entitlement requiring City Council approval, then the Planning Commission may recommend approval or deny the project. Decisions of the Planning Commission may be appealed to the City Council as provided in Section 10-1.2845 of the City's Zoning Ordinance.

SEC. 10-19.140 LAND DONATION.

When an Applicant donates land to the City, the Applicant shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire Residential Development Project as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

This Density Bonus shall be in addition to any Density Bonus mandated by Section 10-19.130, up to a maximum combined increase of thirty-five (35%) percent if the Applicant seeks both the increase required under this section and the increase under Section 10-19.130. All Density Bonuses resulting in fractional numbers shall be rounded up to the next whole number.

An Applicant shall be eligible for the increased Density Bonus described in this section if all of the following conditions are met:

a. The Applicant donates and transfers the land to the City no later than the date of approval by the City of the final subdivision map, parcel map, or residential development application of the Residential Development Project seeking the Density Bonus.

b. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to Very Low Income households in an amount not less than ten percent (10%) of the number of residential units of the proposed Residential Development Project seeking the Density Bonus.

c. The transferred land is characterized by the following:

1. It is at least one acre in size or of sufficient size to permit development of at least forty (40) units; and

2. It has the appropriate general plan designation and is appropriately zoned for affordable housing; and

3. It is or will be served by adequate public facilities and infrastructure; and

4. It shall have appropriate zoning and development standards to make the development of the Affordable Housing Units feasible; and

5. No later than the date of approval of the final subdivision map, parcel map, or of the Residential Development Project seeking the Density Bonus, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the Very Low Income housing units on the transferred land, except that the City may subject the proposed Residential Development Project to subsequent design review, if the design is not reviewed by the City prior to the time of transfer.

d. The transferred land and the Affordable Housing Units shall be subject to a deed restriction, which shall be recorded on the property at the time of dedication, ensuring continued affordability of the units for a term of at least thirty (30) years.

e. The land is transferred to the City or to another housing developer approved by the City.

f. The transferred land shall be within the boundary of the proposed Residential Development Project or, if the City agrees, within one-quarter mile of the boundary of the proposed Residential Development Project.

SEC. 10-19.150 CHILD CARE FACILITIES.

When an Applicant proposes to construct a Residential Development Project that conforms to the requirements of Section 10-19.130 and includes a Child Care Facility that will be located on the premises of, as part of, or adjacent to, the Residential Development Project, the City shall grant either of the following: (i) An additional Density Bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the Child Care Facility; or (ii) an additional concession or incentive designated by the City to contributes significantly to the economic feasibility of the construction of the Child Care Facility.

The City shall require, as a condition of approving the Residential Development Project that the following occur: (i) The Child Care Facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the Affordable Housing Units are required to remain affordable pursuant to this Article; and (ii) of the children who attend the Child Care Facility, the children of Very Low Income Households, Lower Income Households, Moderate Income Households shall equal a percentage that is equal to or greater than the percentage of Dwelling Units that are made affordable to Very Low Income Households, Lower Income Households, or families of Moderate Income Households pursuant to Section 10-19.130.

Notwithstanding any requirement of this Article, the City shall not be required to provide a Density Bonus or concession for a Child Care Facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

SEC. 10-19.160 CONDOMINIUM CONVERSIONS.

When an Applicant's Residential Development Project is the conversion of an existing apartment complex to a condominium complex and the Applicant agrees to make at least thirty-three percent (33%) of the total units of the proposed condominium Residential Development Project affordable to moderate-income households for thirty years (30), or fifteen percent (15%) of the total units of the proposed condominium Residential Development Project to Lower Income households for thirty years (30), and agrees to pay for the administrative costs incurred by the City related to process the application and monitor the future status of the Affordable Housing Units, the City shall either (i) grant a Condominium Conversion Density Bonus or (ii) provide other incentives of equivalent financial value to be determined by the City.

An Applicant shall be ineligible for a Condominium Conversion Density Bonus or other incentives under this Section if the apartments proposed for conversion constitute a Residential Development Project for which a Density Bonus or other incentives were previously provided under this Article or the City's Inclusionary Housing Ordinance.

SEC. 10-19.170 DESIGN, DISTRIBUTION AND TIMING OF AFFORDABLE HOUSING UNITS

Affordable Housing Units must be constructed concurrently with market-rate units. The Affordable Housing Units shall be integrated into the Residential Development Project and be comparable in infrastructure (including sewer, water and other utilities), construction quality and

exterior design to the market-rate units. The Affordable Housing Units must also comply with the following criteria:

a. Rental Residential Development Projects: When Affordable Housing Units are required in rental Residential Development Projects, the units should be integrated with the project as a whole. All Affordable Housing Units shall reflect the range and numbers of bedrooms provided in the project as a whole, and shall not be distinguished by design, construction, or materials. All Affordable Housing Units shall be reasonably dispersed throughout the project.

b. Owner-occupied Residential Development Projects: When Affordable Housing Units are required in owner-occupied Residential Development Projects, the units should be integrated with the project as a whole. Affordable Housing Units may be smaller in aggregate size and have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. All Affordable Housing Units shall reflect the range and numbers of bedrooms provided in the project as a whole, except that if the market-rate units provide more than four bedrooms, the Affordable Housing Units need not provide more than four bedrooms.

No building permits will be issued for market-rate units until permits for all Affordable Housing Units have been obtained, unless Affordable Housing Units are to be constructed in phases pursuant to a plan approved by the City.

Market-rate units will not be inspected for occupancy until all Affordable Housing Units have been constructed, unless Affordable Housing Units are to be constructed in phases pursuant to a plan approved by the City.

SEC. 10-19.180 REQUESTS FOR INCENTIVES OR CONCESSIONS.

Applicant must submit a Density Bonus Application, as described in Section 10-19.220 below, for the specific incentives or concessions that the Applicant requests. The City shall grant the concession or incentive requested by the Applicant unless the City makes a written finding, based upon substantial evidence, of either of the following:

a. The concession or incentive is not required in order to provide for Affordable Housing Costs;

b. The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the Federal Register of Historic Resources, the California Register of Historical Resources or the City 's List of Officially Designated Architecturally and Historically Significant Buildings and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low and Moderate Income households.

SEC. 10-19.190 GRANTING OF INCENTIVES OR CONCESSIONS.

If the conditions of 10-19.130 are met by Applicant, the following incentives or concessions may be granted:

a. One incentive or concession for a Residential Development Project that makes: At least ten percent (10%) of the total units affordable to Lower Income households; or at least five percent (5%) of the total units affordable to Very Low income households; or at least ten percent (10%) of the total units affordable to persons and families of Moderate Income in a common interest development.

b. Two incentives or concessions for a Residential Development Project that makes: At least twenty percent (20%) of the total units affordable to Lower Income households; or at least ten percent (10%) of the total units affordable to Very Low income households; or at least twenty percent (20%) of the total units affordable to persons and families of Moderate Income in a common interest development.

c. Three incentives or concessions for a Residential Development Project that makes: At least thirty percent (30%) of the total units for Lower Income households; at least fifteen percent (15%) for Very Low Income households, or at least thirty percent (30%) for persons and families of Moderate Income in a common interest development.

SEC. 10-19.200 TYPES OF INCENTIVES OR CONCESSIONS.

For the purposes of this Article, concession or incentive may mean:

a. A reduction in site Development Standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission, resulting in identifiable, financially sufficient, and actual cost reductions, or

b. A reduction in setback and square footage requirements; or

c. A reduction in the ratio of vehicular parking spaces and/or configurations as set forth in Government Code Section 65915(p); or

d. Approval of mixed use zoning in conjunction with the Residential Development Project if commercial, office, industrial, or other land uses will reduce the development cost of the Residential Development Project and if the commercial, office, industrial, or other land uses are compatible with the Residential Development Project and the existing or planned development in the area where the proposed housing project will be located.

Nothing in this Section shall be construed to require the provision of direct financial incentives for the Residential Housing Development, including the provision of publicly owned land by the City or the waiver of fees or dedication requirements.

SEC. 10-19.210 COMPLIANCE.

The provisions of this Article shall apply to all agents, successors and assignees of an Applicant, developer, builder or property owner proposing a Residential Development Project governed by this Article. No tentative map, use permit, special development permit or occupancy permit shall be issued for any Residential Development Project unless exempt from or in compliance with the terms of this Article.

The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to actions to revoke, deny or suspend any permit or development approval.

SEC. 10-19.220 DENSITY BONUS APPLICATION

In order to receive the concessions and/or incentives described in Section 10-19.200, the Applicant must submit to the City a Density Bonus Application (DBA) which will be treated as part of the development application. At any time during the review process, the Planning Director may require from the Applicant additional information reasonably necessary to clarify and supplement the application or determining the consistency of the proposed DBA with the requirements of this Article.

The DBA should include, but not be limited to, the following:

a. A description of the Residential Development Project including the proposed total number of Affordable Housing Units, Senior Housing Units or Mobilehome Park Units;

b. The zoning and general plan designations and assessors parcel number(s) of the project site;

c. A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway and parking layout.

d. A description of the concessions or incentives requested.

e. If an additional incentive(s) is requested, the application should describe why the additional incentive(s) is necessary to provide the Affordable Housing Units.

SEC. 10-19.230 AFFORDABLE HOUSING UNIT PLAN

The Applicant must submit an Affordable Housing Unit Plan (AHUP) which will be treated as part of the development application. At any time during the review process, the Planning Director may require from the Applicant additional information reasonably necessary to clarify and

supplement the application or determining the consistency of the proposed AHUP with the requirements of this Article.

The AHUP should include, but not be limited to, the following:

a. The location, structure (attached, semi-attached, or detached), proposed tenure (for-sale or rental), and size of the proposed market-rate, commercial space and/or Affordable Housing Units;

b. A floor or site plan depicting the location of the Affordable Housing Units and a floor plan describing the size, in square footage, of the Affordable Housing Units;

c. The income levels to which each Affordable Housing Unit will be made affordable;

d. The documents that will be used to assure that the units remain affordable for the desired term, such as resale and rental restrictions, deeds of trust, and rights of first refusal and other documents;

e. For phased Residential Development Projects, a phasing plan that provides for the timely development of the number of Affordable Housing Units proportionate to each proposed phase of development as required by this Article;

f. A marketing plan that describes how the Applicant will inform the public, and those within the appropriate income groups, of the availability of Affordable Housing Units; and

g. Any other information reasonably requested by the Planning Director to assist with evaluation of the AHUP under the standards of this Article.

SEC. 10-19.240 AFFORDABLE HOUSING UNIT AGREEMENT.

The form of the Affordable Housing Unit Agreement (AUA) will vary, depending on the manner in which the provisions of this Article are satisfied for a particular development. The AUA shall be recorded as a restriction on the parcel or parcels on which the Affordable Housing units will be constructed. The approval and recordation of the AUA shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The AUA shall be binding on all future owners and successors in interest. An AUA must include, at minimum, the following:

a. A description of the development, including the total number of units, the number of Affordable Housing Units, and the tenure of the Affordable Housing Units;

b. The size, in square footage, and location of Affordable Housing Units;

c. A description of the household income group to be accommodated by the Affordable Housing Units, and the formula for determining the affordable rent or affordable sales price and housing cost for each Affordable Housing Unit;

d. The term of affordability for the Affordable Housing Units;

e. A schedule for completion and occupancy of the Affordable Housing Units;

f. Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions;

g. The Marketing Plan for sale or rental of the Affordable Housing Units;

h. Provisions for monitoring the ongoing affordability of the Affordable Housing Units, and the process for qualifying prospective resident households for income eligibility; and

i. A description of the concession(s) or incentive(s) provided by the City.

SEC. 10-19.250 AFFORDABLE HOUSING UNIT AGREEMENTS FOR OWNERSHIP UNITS

In the case Residential Development Projects consisting of ownership units, the AUA must provide the following additional conditions governing the sale and use of Affordable Housing Units during the applicable use restriction period:

a. Affordable Housing Units shall be sold to Very Low Income households, Lower Income households or Moderate Income households in a common interest development, at an affordable sales price and housing cost as defined by this Article.

b. Affordable Housing Units shall be owner-occupied by Very Low or Lower Income households or by Moderate Income households within common interest developments.

c. The purchaser of each Affordable Housing Unit shall execute an instrument or agreement approved by the City restricting the sale of the Affordable Housing Unit in accordance with this Article during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the Affordable Housing unit and shall contain such provisions as the City may require to ensure continued compliance with this Article and with Government Code Section 65915. With respect to Moderate Income Affordable Housing Units, the instrument or agreement shall provide for equity-sharing as set forth in Government Code Section 65915.

d. Any additional obligations relevant to the compliance with this Article.

SEC. 10-19.260 AFFORDABLE HOUSING UNIT AGREEMENTS FOR RENTAL UNITS

In the case of Residential Development Projects consisting of rental units, the AUA must provide the following additional conditions governing the use of Affordable Housing units during the use restriction period:

a. Specific property management procedures for qualifying and documenting tenant income eligibility, establishing affordable rent and maintaining Affordable Housing units for qualified tenants;

b. Provisions requiring property owners to verify household incomes and maintain books and records to demonstrate compliance with this Article.

c. Provisions requiring the Property Owner to submit an annual report to the city, which includes the name(s), address, and income of each household occupying target units, and which identifies the bedroom size and monthly rent or cost of each Affordable Housing unit.

d. Provisions describing the amount of, and timing for payment of, Administrative Fees to be paid to the City for the on-going compliance monitoring of the provisions of this Article.

e. Any additional obligations relevant to the compliance with this Article.

SEC. 10-19.270 ADMINISTRATIVE FEE

An administrative fee shall be charged to the Applicant for City review of all materials submitted in accordance with this Article and for on-going enforcement of the provisions of this Article. The fee amount shall be established by City Council resolution and will be described in the City of Hayward Master Fee schedule. Fees will be charged for staff time and materials associated with the following activities: Development review process; project marketing and lease-up; long-term compliance of the Affordable Housing Units.

SEC. 10-19.280 VIOLATION OF AFFORDABLE HOUSING COST REQUIREMENTS

In the event it is determined that rents in excess of those allowed by operation of this Article have been charged to a tenant residing in a rental Affordable Housing Unit, the City may take the appropriate legal action to recover, and the rental unit owner shall be obligated to pay to the tenant (or to the City in the event the tenant cannot be located), any excess rent charges.

In the event it is determined that a sales price in excess of that allowed by operation of this Article has been charged to an income-eligible household purchasing an ownership Affordable

Residential Unit, the City may take the appropriate legal action to recover, and the Affordable Residential Unit seller shall be obligated to pay to the purchaser (or to the City in the event the purchaser cannot be located), any excess sales costs."

Section 3. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 4. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the___ __ day of_____, 2005, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the_ _____ day of _____, 2005, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

DEPARTMENT OF
COMMUNITY AND ECONOMIC DEVELOPMENT

NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. *PROJECT DESCRIPTION*:

Density Bonus Ordinance. A proposed ordinance amending Chapter 10 (Planning, Zoning and Subdivisions) of the Hayward Municipal Code by adding a new Article 19 pertaining to Density Bonuses consistent with the State Density Bonus Law (Government Code Section 65915), which allows for increased residential densities for projects that guarantee that a portion of housing units will be affordable to households of low income, moderate income, senior citizens, or where a qualifying land donation or a child care facility is also proposed in conjunction with qualified housing projects. The scope of this project is limited to the adoption of the ordinance only.

II. *FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT*:

The proposed project will have no significant effect on the area's resources, cumulative or otherwise.

III. *FINDINGS SUPPORTING DECLARATION*:

1. The proposed ordinance has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Checklist Form has been completed for the proposed ordinance. The Initial Study has determined that the proposed ordinance could not result in significant effects on the environment.

2. The proposed Ordinance establishes an incentive for private developers to create housing affordable to households of very-low, low and moderate income in order to meet the need for affordable housing for residents of Hayward.

3. The proposed Ordinance is consistent with the goals and policies of the City of Hayward General Plan Housing Element in that it encourages the provision of an adequate supply of housing units in a variety of housing types that accommodate the diverse housing needs of those who live or wish to live in the City of Hayward.

4. The ordinance encourages the integration of affordable and market-rate units. This type of development activity is consistent with the City of Hayward General Plan Housing Element policy to ensure that the City's housing stock contains and adequate number of decent and affordable for-sale and rental units for households of all income levels.

5. The ordinance encourages the development of affordable for-sale housing. This development activity is consistent with the City of Hayward General Plan Housing Element policy of encouraging ownership housing and assisting tenants to become homeowners in order to attain a 70% owner-occupancy rate.

IV. *PERSON WHO PREPARED INITIAL STUDY:*

Gail Patton, Neighborhood and Economic Development Manager

Dated: October 18, 2005

V. *COPY OF INITIAL STUDY IS ATTACHED*

For additional information, please contact the City of Hayward Department of Community & economic Development, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4228.

DISTRIBUTION/POSTING

- Provide copies to project applicants and all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.

Environmental Checklist Form
Initial Study

1. Project title: **Density Bonus Ordinance**

2. Lead agency name and address: **City of Hayward, 777 B Street, Hayward, CA 94541**

3. Contact person and phone number: **Gail Patton, Neighborhood & Economic Development Manager - (510)583-4228 – gail.patton@hayward-ca.gov**

4. Project location: **City of Hayward**

5. Project sponsor's name and address: **City of Hayward, 777 B Street, Hayward, CA 94541**

6. General plan designation:
   All General Plan designations where residential development is allowed.

7. Zoning: **All zoning designations where residential development is allowed.**

8. Description of project:
   Density Bonus Ordinance. A proposed ordinance amending Chapter 10 (Planning, Zoning and Subdivisions) of the Hayward Municipal Code by adding a new Article 19 pertaining to Density Bonuses consistent with the State Density Bonus Law (Government Code Section 65915), which allows for increased residential densities for projects that guarantee that a portion of housing units will be affordable to households of low income, moderate income, senior citizens, or where a qualifying land donation or a child care facility is also proposed in conjunction with qualified housing projects. The scope of this project is limited to the adoption of the ordinance only.

9. Surrounding land uses and setting: **City-wide**

10. Other public agencies whose approval is required: **None**

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology /Soils
☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality	☐ Land Use / Planning
☐ Mineral Resources	☐ Noise	☐ Population / Housing
☐ Public Services	☐ Recreation	☐ Transportation/Traffic
☐ Utilities / Service Systems	☐ Mandatory Findings of Significance	

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Sylvia Ehrenthal — October 18, 2005

Signature — Date

for Gail Patton — City of Hayward

Printed Name — Agency

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
I. **AESTHETICS** -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

COMMENT: *The ordinance regulates density bonuses for qualified projects. As a result, the land use density of a qualified project may increase and/or development standards, including setbacks and height restrictions may be modified, where the surrounding land uses or existing community were not developed under the same standards. However, the ordinance will not, in and of itself, create an impact to visual resources. Subsequent projects will be subject to environmental review as appropriate to determine if they pose any potential impacts to the environment.*

II. **AGRICULTURE RESOURCES**: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
III. **AIR QUALITY** -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒
Comment: Subsequent projects will be subject to environmental review as appropriate to determine if they pose any potential impacts to the environment.				
IV. **BIOLOGICAL RESOURCES** -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒
Comment: Subsequent projects will be subject to environmental review as appropriate to determine if they pose any potential impacts to the environment.				
V. **CULTURAL RESOURCES** -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒
COMMENT: *The ordinance regulates density bonuses for qualified projects. As a result, the land use density of a qualified project may increase and/or development standards, including setbacks and height restrictions may be modified, where the surrounding land uses or existing community were not developed under the same standards. However, the ordinance will not, in and of itself, create an impact to visual resources. Subsequent projects will be subject to environmental review as appropriate to determine if they pose any potential impacts to the environment.*				
VI. **GEOLOGY AND SOILS** -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☒	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒

COMMENT: *The entire City lies within a general region of known fault zones and seismic activity. However, the ordinance will not, in and of itself, subject residents to seismic hazards. Subsequent projects will be subject to environmental review as appropriate to determine if they pose any significant hazards.*

VII. **HAZARDS AND HAZARDOUS MATERIALS** - Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☒	☐

COMMENT: *Parts of the City are adjacent to wildlands. However, the ordinance will not, in and of itself, subject residents to wildland fire hazards. Subsequent projects will be subject to environmental review as appropriate to determine if they pose any significant hazards.*

VIII. **HYDROLOGY AND WATER QUALITY** -- Would the project:

a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☒	☐
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

COMMENT: *Parts of the City contain flood hazard areas. However, the ordinance will not, in and of itself, subject residents to flood hazards. Subsequent projects will be subject to environmental review as appropriate to determine if they pose any significant hazards.*

IX. **LAND USE AND PLANNING** - Would the project:

a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

COMMENT: *The proposed ordinance regulates density bonuses for qualified projects. The density bonus, if granted, may result in additional units exceeding what is permitted under the City's General Plan. However, the City could typically expect that density bonus projects would be spread throughout the City rather than concentrated in one area, and that the relative change in patterns, scale, or character, would be minimal in relation to the City as a whole. Although the density bonus provides an opportunity to increase the number of units typically permitted by the General Plan land use designation, the increase is mandated by State law to provide an incentive for developers to provide a greater number of housing units to households whose incomes otherwise limit housing opportunities. The benefits of affordable housing are expected to outweigh the increase in density permitted.*

X. **MINERAL RESOURCES** -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
XI. **NOISE** - Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

COMMENT: *New residential developments facilitated by the adoption of the proposed ordinance are not expected to generate any noise levels that exceed acceptable standards. However, it is possible that the residents of the homes could be exposed to excessive noise levels if the homes are built near existing noise sources such as highways, railroads, the airport, or industrial operations. Although the ordinance will not result in the direct increase in ambient noise levels, projects facilitated by the ordinance may increase ambient noise levels due to higher density development, such as traffic, human voices, landscape maintenance equipment, and similar noise generators.*

XII. **POPULATION AND HOUSING** -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
XIII. **PUBLIC SERVICES**				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☐	☒
Police protection?	☐	☐	☐	☒
Schools?	☐	☐	☒	☐
Parks?	☐	☐	☒	☐
Other public facilities?	☐	☐	☒	☐

COMMENT: *The development of new housing projects could create impacts due to increased population and demand on schools, parks, libraries and similar public facilities. However, the ordinance will not, in and of itself, create demands on services or facilities. Development pursuant to the ordinance will be required to pay school impact fees and park dedication in-lieu fees to mitigate the impact of additional households on the schools and parks. Subsequent projects will be subject to environmental review as appropriate to determine if they pose any significant impacts.*

XIV. **RECREATION** --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

COMMENT: *The development of new housing projects could create impacts due to increased population and demand on neighborhood and regional parks. However, the ordinance will not, in and of itself, create demands on services or facilities. Subsequent projects will be subject to environmental review as appropriate to determine if they pose any significant impacts.*

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
XV. **TRANSPORTATION/TRAFFIC** -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☐	☐	☒	☐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Result in inadequate parking capacity?	☐	☐	☒	☐
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒

COMMENT: *The development of new housing projects, as may be facilitated by adoption of the proposed ordinance, could add incrementally to the overall increase in local traffic. Housing projects with higher residential densities and a greater number of units could potentially have an adverse effect on specific local road systems. Such impacts can only be addressed on a project-level review. Similarly, reduced off-street parking standards could result in parking shortages if parking needs are not adequately assessed and provided for in the project design. Subsequent projects will be subject to environmental review as appropriate to determine if they pose any significant impacts.*

XVI. **UTILITIES AND SERVICE SYSTEMS** - Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒
XVII. MANDATORY FINDINGS OF SIGNIFICANCE --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

CONCLUSION:

The proposed ordinance is in conformance with the purposes, intent, and provisions of the City's General Plan. The ordinance will encourage the development of housing, which is in keeping with the need for housing for all income levels, as stated in the General Plan. Specifically, the proposed ordinance supports the following Housing Policies and Strategies of the Housing Element of the General Plan:

- **Expand The Housing Supply**
  Encourage the provision of an adequate supply of housing units in a variety of housing types which accommodate the diverse housing needs of those who live or wish to live in the City.

- **Preserve Owner-Occupied Housing**
  Encourage the development of ownership housing and assist tenants to become homeowners in order to reach a 70% owner-occupancy rate, within the parameters of Federal and State housing law.

- **Develop Affordable Housing**
  Ensure that the City's housing stock contains an adequate number of decent and affordable units for households of all income levels.

Due to the nature of the project – the adoption of a proposed Density Bonus Ordinance, where the specific sites of future development activities are not yet known - there is a lack of site-specific knowledge with which to conduct a site-specific environmental review. Therefore, this environmental review is conducted at a "plan" level of analysis, rather than the more detailed site-specific level. No actual site-specific development is proposed by the Ordinance. Therefore, an analysis which includes more detailed, site-specific information about any potential development impacts is not feasible at this time and would occur when the City prepares a future environmental document in connection with site-specific project activities. A more detailed project-level analysis pursuant to the CEQA will continue to be required for any project activity that has the potential to impact the physical environment. The proposed project will have no significant effect on the area's resources, cumulative or otherwise.

FINDINGS FOR APPROVAL

Density Bonus Ordinance. Request to amend Chapter 10 (Planning, Zoning and Subdivisions) of the Hayward Municipal Code by adding a new Article 19 pertaining to Density Bonuses consistent with the State Density Bonus Law (Government Code Section 65915), which allows for increased residential densities for projects that guarantee a portion of housing units will be affordable to households of very-low, low income, moderate income, senior citizens, or where a qualifying land donation or child care facility is also proposed in conjunction with qualified housing projects. The scope of this project is limited to the adoption of the ordinance only.

1. The proposed ordinance has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and a Negative Declaration has been prepared for the proposed project.

2. The proposed Ordinance will establish an incentive for private developers to create housing affordable to households of very-low, low and moderate income in order to meet the need for affordable housing for residents of Hayward.

3. The proposed Ordinance is consistent with the goals and policies of the City of Hayward General Plan Housing Element in that it will encourage the provision of an adequate supply of housing units in a variety of housing types that accommodate the diverse housing needs of those who live or wish to live in the City of Hayward.

4. The ordinance will encourage the integration of affordable and market-rate units which is consistent with the City of Hayward General Plan Housing Element policy to ensure that the City's housing stock contains and adequate number of decent and affordable for-sale and rental units for households of all income levels.

5. The ordinance will encourage the development of affordable for-sale which is consistent with the City of Hayward General Plan Housing Element policy of encouraging ownership housing and assisting tenants to become homeowners in order to attain a 70% owner-occupancy rate.