

CITY OF MOUNTAIN VIEW

ENVIRONMENTAL PLANNING COMMISSION STAFF REPORT MAY 30, 2019

5. PUBLIC HEARING

5.1 Below-Market-Rate Housing Program Phase 2 Modifications

RECOMMENDATION

That the Environmental Planning Commission adopt a Resolution Recommending that the City Council Amend the Affordable Housing Program Ordinance, Mountain View City Code Sections 36.40 through 36.40.70, and Amend the Associated Below-Market-Rate Housing Program Administrative Guidelines, to be read in title only, further reading waived (Exhibit 2 to the Staff Report).

PUBLIC NOTIFICATION

The Commission's agenda is posted 72 hours prior to the meeting, is advertised on Channel 26, and appears on the City's Internet web page. The public notice for this meeting was also published in accordance with Government Code Section 65090 and persons who have filed written requests for notice.

BACKGROUND

In late 2017, the City Council held two Study Sessions providing input on, among other housing strategies, modifications to the City's Below-Market-Rate (BMR) Housing Program. Those modifications have been processed in two phases. Phase 1 was completed in February 2018 and went into effect April 2018. It included increasing the BMR affordable housing requirement for rental units from 10 percent to 15 percent, updating the BMR Rental In-Lieu Fee with a per-square-foot fee equivalent to the 15 percent requirement, and adding language to the BMR Program to allow developers to request an alternative mitigation.

Phase 2 involves an overall update of the BMR Program, including the various modifications identified by the City Council at previous Study Sessions that were not included as part of Phase 1, such as increasing the BMR ownership requirement to 15 percent, incorporating Council's direction regarding the Moderate-Income category, and modifying the in-lieu fee methodology. In addition to the Council-requested BMR modifications, other related program

design elements have been incorporated into Phase 2 modifications for EPC and Council consideration for the BMR program to have overall internal consistency.

A community meeting to discuss Phase 2 modifications was held on March 21, 2019. The EPC and City Council held Study Sessions on April 29, 2019 and May 14, 2019, respectively, to provide input on Phase 2 modifications (see Exhibit 1 for City Council Study Session report), and the input has been used to finalize amendments to the BMR Ordinance (Exhibit 2—Attachment 1) and Phase 2 Guidelines (Exhibit 2—Attachment 2). Council Study Session input is summarized below.

ANALYSIS

At the May 14, 2019 Study Session, Council provided input on the following seven questions.

- *Question No. 1: Does Council support a higher BMR requirement for rowhouse/townhouse projects, up to 25 percent?*

Council determined that rowhouse/townhouse projects should be subject to the 15 percent BMR requirement at 100 percent AMI weighted average. The Council also directed staff to assess if the BMR program could allow for an AMI level above the Moderate-Income level, up to 150 percent AMI. If so, the Council also supported allowing rowhouse/townhouse projects the option of a 20 percent BMR requirement at a 120 percent AMI weighted average.

Staff has determined that the BMR program can allow BMR units to be sold up to 150 percent AMI. However, BMR ownership units above 120 percent AMI would not count towards the City's regional housing needs allocation (RHNA) affordability goals. Additionally, staff recommends that, if in-lieu fees are requested as an alternative mitigation and is granted by Council, those fees be limited to funding affordable housing developments at 120 percent AMI and below.

- *Question No. 2: Does Council support the recommended BMR on-site requirements for rental and for-sale projects, including BMR units in perpetuity?*

Council supported the recommended BMR on-site requirements for rental and for-sale projects, including BMR units in perpetuity.

- *Question No. 3: Does Council support the recommendations regarding alternative mitigations?*

Council supported the recommendations for alternative mitigations.

- *Question No. 4: Does Council seek to facilitate the delivery of BMR units on-site by setting the fee level equivalent to the value of on-site units (calculated at \$96 per net habitable square foot for rental projects and \$54.50 per net habitable square foot for for-sale projects)?*

Council supported the fee equivalencies at \$96 per net habitable square foot for rental projects and \$54.50 per net habitable square foot for ownership projects.

Per Council direction in Question 1 to provide rowhouse/townhouse developments the option of a 20 percent BMR requirement at 120 percent AMI weighted average, the in-lieu fee equivalent to the 20 percent requirement is \$92 per net habitable square foot. Staff recommends that this fee be included in the Guidelines, with the reiteration that in-lieu fees are an alternative mitigation that must be requested, that any such fees received by the City be invested in affordable housing developments no greater than 120 percent AMI, and that BMR units on-site is the requirement of the program.

- *Question No. 5: Does Council agree with the exemption provision for Phase 2 modifications noted above?*

Council supported staff's recommendation for the exemption provision for non-Gatekeeper projects. However, Council recommended that Gatekeeper projects currently in the pipeline that, by the end of the 2019 calendar year, are deemed ready for a public hearing regarding project approval shall be exempt from Phase 2 modifications. Staff recommends that December 20, 2019 (last day before holiday closure) be the last day that a Gatekeeper project could be deemed ready for a public hearing regarding project approval.

- *Question No. 6: Does Council support the two-tiered approach outlined above for ongoing tenant eligibility?*

Council supported the concept of balancing the stability of existing tenants and placing eligible households on the waiting list into a BMR rental unit, but wanted additional emphasis on preserving existing tenancies, especially if an existing household becomes over-income but still cannot afford market rents. Council was open to options to achieving greater tenant stability, such as: (1)

allowing tenants to become over-income by more than 10 percentage points (original staff recommendation); (2) allowing tenants at different income levels to become over-income by different amounts; (3) allowing tenants a longer period to transition out of a BMR rental unit if they no longer income-qualify; and/or (4) allowing the rent levels of BMR units to “float up” to match the increasing incomes of existing tenants.

Based on Council input, staff compared the current average market rate rents in Mountain View compared to the maximum monthly rent that Low- and Moderate-Income households could pay based on the incomes for assumed household sizes according to the “bedroom +1” formula. While the maximum rent for Low-Income households (Row 4 below) is below-market rents, Median-Income rents (Row 3) are at or below market rents, and Moderate-Income rents (Row 2) are at or higher than market rents (see Table 1 below). Data also appears to suggest that rents may have stabilized. If market rents decline, Moderate-Income rents would be even higher than market rents, and the gap between market rents and Median-/Low-Income rents would narrow.

Table 1. Comparison of Market Rents with Rents at Different Income Levels

	Studio	1 Bedroom	2 Bedrooms	3 Bedrooms
Average market rents Citywide (2019 Q2)	\$2,125/mo.	\$2,640/mo.	\$3,408/mo.	\$4,004/mo.
Maximum Moderate-Income rents (120% AMI)	\$2,760/mo.	\$3,150/mo.	\$3,550/mo.	\$3,940/mo.
Maximum Median-Income rents (100% AMI)	\$2,300/mo.	\$2,630/mo.	\$2,960/mo.	\$3,285/mo.
Maximum Low-Income rents (80% AMI)	\$1,820/mo.	\$2,080/mo.	\$2,340/mo.	\$2,600/mo.

Based on this data and Council direction for greater stability for existing BMR tenants, staff recommends the following “graduated” over-income scale:

- Tenant households in units up to 80 percent AMI shall be allowed to exceed the 80 percent AMI level by 15 percentage points (i.e., allowed to go up to 95 percent AMI) and shall have one year to transition once they exceed the 15-point threshold.

- Tenant households in BMR units over 80 percent AMI up to 100 percent AMI shall be allowed to exceed the 100 percent AMI level by 5 percentage points (i.e., allowed to go up to 105 percent AMI) and shall have one year to transition once they exceed the 5-point threshold.
- Tenant households in units over 100 percent AMI may not be allowed to be over-income and shall have one year to transition once they become over-income.

Staff believes it would be preferable to allow tenants to become over-income rather than to allow BMR AMI levels/rents to “float up” because: (1) administration of floating units is more complex to track and monitor over time; (2) keeping the BMR units at the designated AMI levels allows the project to stay in compliance with the overall weighted average requirements; and (3) allowing rents to float up means that the property owner would receive more rent, but the City does not receive additional BMR benefits.

- *Question No. 7: Does Council have input on other components of Phase 2 modifications?*

Council provided the following additional input:

- Incorporate a periodic review of the BMR program, for example, every five years (Council supported). This recommendation shall be incorporated into BMR procedures.
- Concern about annual rents for BMR units increasing too fast for existing tenants. (Comment made by one Councilmember, no further Council discussion.) Staff will take this under advisement.
- Lower AMI range for BMR rentals, capped at 100 percent AMI. (Comment made by one Councilmember, no further Council discussion. Staff anticipates taking no further action.)
- Adjust in-lieu fees annually by CPI both up and down. Staff will incorporate this into the Guidelines and Master Fee Schedule.

Based on Council’s input summarized above, modifications to the BMR Ordinance and Administrative Guidelines were finalized (see Exhibit 2,

Attachments 1 and 2) and is presented for EPC consideration to recommend adoption by the City Council.

CONCLUSION

During two Study Sessions held in late 2017, the Council provided direction to modify the City's BMR Housing Program, including increasing the 10 percent BMR requirement for rental and ownership projects to 15 percent. The modifications have been conducted in two phases. Phase 1 went into effect in April 2018 and Phase 2 modifications are presented here for EPC consideration. It is recommended that the EPC adopt a resolution recommending that the City Council amend the BMR Housing Program Ordinance and Guidelines.

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~~821-05-30-19SR~~

- Exhibits:
1. Council Report - May 14, 2019
 2. BMR Phase 2 Modifications Study Session Resolution
Attachment 1 – Ordinance Amendments
Attachment 2 – Guidelines Amendments