



# COUNCIL REPORT

**DATE:** May 23, 2023  
**CATEGORY:** New Business  
**DEPT.:** Community Development  
**TITLE:** **North Bayshore Precise Plan Bonus Office Floor Area Ratio Authorization**

## **RECOMMENDATION**

1. Find that the determination on authorization to apply for development permits for Bonus Office Floor Area Ratio is not a project under the California Environmental Quality Act.
2. Consider the North Bayshore Precise Plan Nonresidential Bonus Office Floor Area Ratio (FAR) request from The Jeffrey A. Morris Group, Inc., for an allocation of 86,994 net new office square feet at 1808 North Shoreline Boulevard, and if Council desires to provide authorization as requested, provide direction to staff to return with a resolution for adoption.
3. Direct staff to update the North Bayshore Bonus Floor Area Ratio Review Guidelines to provide more clarity regarding the process and requirements.

## **BACKGROUND**

### **2014 North Bayshore Precise Plan and Bonus Office Floor Area Ratio Allocations**

The City identified North Bayshore as a “change area” in the City’s 2030 General Plan, and the City Council adopted the North Bayshore Precise Plan (NBPP or Precise Plan) in 2014 to establish policies and standards for the transformation of the area consistent with the vision of the General Plan. The Precise Plan also included an overall cap on office development, and the Bonus Nonresidential Floor Area Ratio (FAR) program (also referred to as the Bonus Office FAR program) was created to help implement the vision and broad land use and development goals of the General Plan and Precise Plan for the North Bayshore Area.

In May 2015, the City Council considered 10 Bonus Office FAR applications and allocated 2.2 million square feet of Bonus FAR to four office projects and one hotel. Since then, three of these projects are completed or under construction:

- The Broadreach project at 1625 Plymouth Street, which is complete.

- The Google project at Landings Drive, which is partially constructed and has been paused at this time.
- The Shashi hotel at 1625 North Shoreline Boulevard, which is complete.

The other two office projects did not obtain entitlements, and their authorizations have expired. The allocation amount and methodology were updated when the Precise Plan was updated in 2017, and previously allocated floor area was returned to the available pool.

### **2017 Update to North Bayshore Precise Plan and Subsequent Allocations**

In 2017, the City Council adopted a comprehensive update to the Precise Plan, to allow up to 9,850 residential units in the North Bayshore Precise Plan Area. The 2017 amendments also revised the Bonus Nonresidential FAR Guidelines criteria to clarify submittal deadlines and to add new residential uses as a key criterion when evaluating applications to Bonus Office FAR. The Environmental Impact Report for the 2017 update evaluated and provided environmental clearance for a total net new office floor area allowed in the Precise Plan of 3.505 million square feet, calculated from existing conditions in 2015. Because some projects were already approved by 2017, only 1.55 million square feet of this total remained available for allocation to new projects at the time the Precise Plan update was adopted.<sup>1</sup>

On March 23, 2021, the City Council authorized a Bonus Office FAR requalification request for approximately 1.3 million square feet of net new office floor area to be included within Google's North Bayshore Master Plan, which also includes approximately 7,000 residential units. After the allocation to Google, approximately 250,000 square feet of Bonus Office FAR remains available for allocation in the North Bayshore Precise Plan Area.

On December 7, 2021, the City Council approved the Gateway Master Plan, which created a framework where a maximum of 500,000 square feet of net new office floor area could be allocated to the Gateway area. The 1.3 million square feet previously authorized for the Google Master Plan included 250,000 square feet in the Gateway Master Plan area, leaving a total of 250,000 square feet available in the Gateway. SyWest, the remaining property owner on the Gateway site, did not express an interest in applying for this remaining office floor area. Therefore, Council, at this meeting, also directed staff to initiate another process to solicit applications for the remaining office floor area.

At that same meeting on December 7, 2021, the City Council also adopted revisions to the NBPP to revise Bonus FAR Review Guidelines (Appendix F) to the North Bayshore Precise Plan

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<sup>1</sup> This does not include about 680,000 square feet that was under review at the time (1255 Pear Avenue Phase 2 and Landings Drive), for a total capacity of 2.227 million square feet.

(Attachment 1). The Guidelines included new criteria and thresholds and a revised application process, described in greater detail below. The revised process also clarified that only projects within the Complete Neighborhood Areas (Joaquin, Shorebird, and Pear) were eligible to apply.

### **2022 Applications for Bonus Office FAR**

On October 7, 2022, the City invited property owners within the Precise Plan's Complete Neighborhood Areas (Joaquin, Shorebird, and Pear) to submit applications to request up to 250,000 square feet of net new office floor area. The City was contacted by only one applicant, The Jeffrey A. Morris Group, Inc., who was interested in applying for the Bonus Office FAR and submitted an application. The application proposes a six-story, 108,856 square foot office building at 1808 North Shoreline Boulevard. The proposal includes a net new office area of 87,000 square feet (which includes approximately 70,000 square feet of Bonus Office FAR). The project also proposes a list of public benefits to meet the Bonus FAR Review Guidelines and achieve compliance with the NBPP requirements for Bonus FAR. Please note that the report reflects the applicant's revised offer for funds toward affordable housing from a total of \$6.2 million to \$7.2 million (Attachment 2). A detailed discussion of the proposal is provided in the Analysis section below.

### **ANALYSIS**

The Precise Plan includes two separate requirements for office floor area:

- **Bonus Office FAR.** The Precise Plan allows a nonresidential base FAR of 0.45. The Precise Plan also allows project proponents to request additional office square footage ("Bonus Office FAR") above the base FAR in exchange for meeting criteria in the Precise Plan, such as the provision of housing units, more sustainable features and measures, transportation improvements, and/or other community benefits.
- **Net New Office Floor Area** is capped overall by the Precise Plan and informs the Precise Plan's Complete Community targets. The City Council authorizes projects to receive net new floor area through the Bonus Office FAR allocation process. The City reviews applications for net new office floor area for adherence to **Bonus FAR Review Guidelines** and **Bonus FAR Tier Requirements**, as discussed below. Authorized applicants are required to submit a complete application for a planning permit (Master Plan or Planned Community Permit) no later than one year from the date of Council authorization, with the possibility of a six-month extension if granted by the City Council.

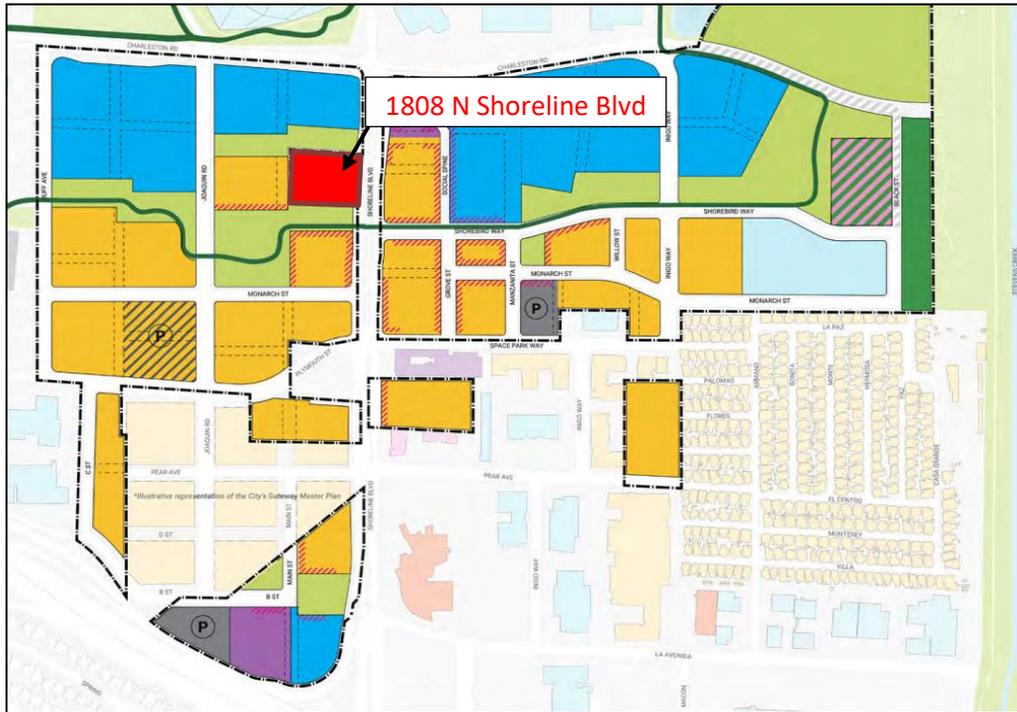
### **Proposed Project—1808 North Shoreline Boulevard**

The proposed project site is located between Charleston Road and Plymouth Street on the west side of North Shoreline Boulevard within the Joaquin Complete Neighborhood area (see

Figure 1). The site is currently surrounded by office and research and development uses. It is also surrounded on all sides by the proposed Google North Bayshore Master Plan. The Master Plan includes residential to the west and south of the site as well as across Shoreline Boulevard. To the north of the site are office uses and to the south are open spaces (public parks and publicly accessible private open space or POPAs) proposed in the North Bayshore Master Plan (see Figure 2).



**Figure 1: Project Context Map**



**Figure 2: Project Relation to North Bayshore Master Plan**

The applicant proposes a six-story, 236,036 square foot building that is comprised of 108,856 square feet of office, 4,000 square feet of ground-floor retail fronting North Shoreline Boulevard, three levels of aboveground parking, and outdoor rooftop terraces. The proposed Site Plan is shown in Figure 3. Details about the project are shown in Table 1. A plan set is included as Attachment 3.



Figure 3: Proposed Site Plan

Table 1: Project Details

1808 North Shoreline Boulevard	
Complete Neighborhood Area/Character Area	Joaquin/Core
Lot Size	1.99 acres
Existing FAR	21,862 sq. ft./0.25 FAR
<b>Proposed Total FAR</b>	<b>108,856 sq. ft./1.25 FAR</b>
Proposed Net New FAR	86,994 sq. ft./1.0 FAR
Base FAR Allowed	39,188 sq. ft./0.45 FAR
<b>Proposed Bonus FAR (over Base)</b>	<b>69,668 sq. ft./0.8 FAR</b>

NOTE: Area related to retail and parking are not counted toward FAR and not included in this table.

*Bonus FAR Proposal*

For nonresidential projects, up to the maximum FAR (1.5 FAR in the Core Character Area) may be granted if the project meets the requirements for higher building environmental performance

and contributes to public benefits or district-level improvements. The applicant proposes a LEED Platinum® building and \$1.9 million in transportation and affordable housing contributions (see Table 2).

**Table 2: Bonus Office FAR Tier Requirements Versus Project Proposal**

Bonus FAR Tiers	Bonus FAR Requirements	Proposing	Meet requirements?
Base: Up to 0.45 FAR	Meet standards in Land Use and Design Chapter	Meet standards	Yes, subject to comprehensive development review.
	Meet standards in Green Building and Site Design Chapter	Meet standards	Yes, subject to comprehensive development review.
<u>Tier 1:</u> 0.45—0.75 FAR	Provide both: LEED Platinum <u>and</u> public benefit or district-improvement project, focusing on transportation.	LEED Platinum <u>and</u> Public Benefit contribution (Transportation) \$200,000	Yes
<u>Tier 2:</u> 0.75—1.0 FAR	Provide one: Higher-performing green building; zero net green building; public benefit or district improvement project.	Public Benefit contribution (Affordable Housing) \$850,000	Yes
<u>Tier 3:</u> 1.0—1.25 FAR	Provide one: Higher-performing green building; zero net green building; public benefit or district improvement project; or transfer of development.	Public Benefit contribution (Affordable Housing) \$850,000	Yes

Since North Bayshore Bonus FAR projects do not have a set public benefit value, and each project is established on a case-by-case basis, the applicant used the current East Whisman public benefit value of \$27.25<sup>2</sup> per square foot to determine the total value of additional square footage above the Base FAR. This results in the total public benefit contribution of **\$1.9 million**: \$200,000 for transportation and \$1.7 million for affordable housing. Please refer to Table 4 below for the total contribution toward affordable housing, which includes an additional \$3 million for Qualifying Threshold requirements not represented in Table 3.

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<sup>2</sup> Public Benefit Values in Precise Plans are established by the City Council. Office in East Whisman is set at a rate of \$27.25 per square feet over 0.4 FAR per the Fiscal Year 2022-23 Development Fee Schedule.

**Table 3: Public Benefit Contribution**

Public Benefit Contribution					
	Allowed FAR	Allowed sq. ft.	Incremental sq. ft.	\$ per sq. ft.	Total
Base FAR	0.45	39,188	—	—	—
Bonus FAR Tier 1	0.75	65,314	26,126	\$7.66	\$200,000
Bonus FAR Tier 2	1.00	87,085	21,771	\$39.04	\$850,000
Bonus FAR Tier 3	1.25	108,856	21,771	\$39.04	\$850,000
<b>Total Requested</b>	<b>1.25</b>	<b>108,856</b>	<b>69,668</b>	<b>\$27.27</b>	<b>\$1,900,000</b>

**Bonus FAR Review Guidelines—Qualifying Thresholds and Criteria**

The Bonus FAR Review Guidelines in Appendix F of the Precise Plan (Attachment 1) state that proposals must meet the following three thresholds to be considered for a Bonus FAR allocation (staff comments are presented in italics below):

- The project must be located within the North Bayshore Precise Plan Complete Neighborhood boundaries.

*The project is within the Complete Neighborhood Areas, and no further analysis of this criterion is necessary.*

- The project must include residential units on-site or off-site to achieve the housing targets in the Precise Plan.

*Analysis of the project proposal to provide funding for affordable housing rather than units is provided below in the section titled “Inclusion of Residential Units.”*

- The project must demonstrate substantial compliance with the Precise Plan’s vision and guiding principles, including goals, objectives, and strategies in the applicable Character Area.

*Analysis of the project’s compliance with the Precise Plan’s vision and guiding principles is provided below in the section entitled “Precise Plan Principles.”*

Additionally, the City Council may consider the following public benefit criteria in evaluating Bonus FAR applications, including, but not limited to: affordable housing that exceeds requirements; improvements to implement the CIP Action Plan; habitat enhancements, small business preservation, nonauto transportation improvements; districtwide improvements (transportation, habitat, or utility projects); and early phasing of improvements and development.

*The project proposes the bulk of its public benefits toward affordable housing and a minor amount toward transportation.*

#### Qualifying Threshold: Inclusion of Residential Units

The proposal does not provide *constructed* residential units on-site or off-site. The applicant has stated that their site size does not make inclusion of residential units or dedication of land for affordable housing economically feasible. Additionally, the applicant has stated that creating direct partnerships to construct residential or affordable housing projects are not possible since many areas are held by larger entities with their own development plans. Therefore, in lieu of providing residential units, the project proposes the following contributions toward affordable housing, some of which include required impact fees as shown in Table 4 below. Please note that the report reflects the applicant’s revised offer for funds toward affordable housing from a total of \$6.2 million to \$7.2 million (Attachment 2).

Recent affordable housing projects have received approximately \$125,000 per unit from the City. At this ratio, the project could facilitate the construction of approximately 57.6 affordable units.

**Table 4: Proposed Housing Fees/Contributions**

<b>Fee/Contribution</b>	<b>Amount</b>	<b>Comments</b>
Housing Impact Fee	\$2,500,000	Required
Contribution to reach Bonus Tier 2	850,000	Required
Contribution to reach Bonus Tier 3	850,000	Required
Contribution instead of units	2,500,000	To be considered toward Qualifying Threshold
Additional funds for affordable housing	<u>500,000</u>	Additional funds proposed since January 9 deadline
<b>Total Contributions/Fees</b>	<b><u>\$7,200,000</u></b>	
<b>Estimated Affordable Units (% of Precise Plan Targets)</b>	<b>57.6 (2.9%)</b>	<b>Based on estimated City subsidy of \$125,000 per unit.</b>
<b>Proposed Net New Office Sq. Ft. (% of Precise Plan Targets)</b>	<b>86,994 (3.9%)</b>	

The qualifying threshold to be considered for Bonus FAR is to include residential units either on- or off-site, which may be through partnerships with residential developers. The intent of the Bonus FAR Review guidelines are to ensure that office uses advance the Precise Plan’s balanced community goals. Because office development has higher value to property owners, it is the “currency” to ensure that residential development is built. The NBPP does not explicitly require a quantitative jobs-housing linkage (unlike the East Whisman Precise Plan, which requires new

office development to facilitate or integrate residential development at a ratio of three units per 1,000 square feet of office). However, it does say that projects need to “include units to achieve the housing targets in the Precise Plan” (see Appendix F, Page F-4).

Based on the current set of approved and pending applications,<sup>3</sup> proposed projects on other sites are meeting the targets for market-rate units. Table 5 shows progress toward key Precise Plan targets.

**Table 5: Precise Plan Targets**

	Precise Plan Targets	Applications Submitted/Approved	Balance	Proposal
Market-Rate Units	7,880 units	8,174 units	Excess of 294 units	None
Affordable Housing Target (20% of total units)	1,970 units	540 units, plus potential for 1,162 units on dedicated land	268 units needing funds for land and construction, and 1,162 units needing funding for construction (total 1430 units)	\$7.2M toward affordable housing*
Employment	2,227,000 net new sq. ft.	1,977,000 net new sq. ft.	250,000 net new sq. ft.	86,994 net new sq. ft.

*\*NOTE: Includes impact fees and requirements to meet Bonus Office FAR Tiers 2 and 3.*

There are two needs for funding in order to meet the Precise Plan target of 20% affordable housing, and the City has not yet identified funding sources to fill these needs:

- The majority of existing projects’ 15% affordable housing requirements are proposed to be met through land dedication. The North Bayshore Precise Plan recognizes the constraint of providing inclusionary affordable housing and allows projects to meet their affordable housing requirements by dedicating land that can accommodate the affordable housing requirement. This will require the City to partner with affordable housing developers to construct the units on the dedicated land (approximately 1,162 units as noted in Table 5) and provide some funding toward that construction.
- The Precise Plan has an affordable housing target of 20%. As noted in Table 5, approximately 268 units will require funding for land and construction. Therefore, the City

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<sup>3</sup> Including the Pear Avenue project (approved and proposed to be revised), Eden Housing project (approved), Google North Bayshore Master Plan (proposed), and SyWest project at 1500 North Shoreline Boulevard (proposed).

will have to rely on public benefits in the Precise Plan and other sources, including partnerships with affordable housing developers to bridge the gap for land and construction costs for those units. The affordable housing developers often rely on the City contributions toward a portion of their funding stack.

The criteria state that the proposal “may include partnerships with affordable housing developers.” The provision of funding may not be a direct partnership, but it does facilitate a City partnership with affordable housing developers on the dedicated sites expected in the area or on land purchased by affordable housing developers. Therefore, while the proposal may not fit within a strict reading of the guidelines, staff believes it complies with the spirit and intent of the guidelines by providing funding to the City to undertake such partnerships. The flexibility to accept funding to the City for the construction of affordable housing units was specifically discussed by some Councilmembers and staff at the Council meeting when the Bonus FAR Review Guidelines were reviewed for revision in December 2021. Since there is a range of possible interpretations of this language, staff is recommending updates to the language to add clarity to the process.

**Staff Conclusion:** The qualifying criterion has two parts: (1) providing units (for example, through partnerships); and (2) achieving the housing targets in the Precise Plan. The previous paragraph establishes that the project complies with the spirit and intent of (1). However, there is no clear metric in the guidelines for meeting (2). Staff notes that the project is increasing office by 3.9% of the targets and would facilitate affordable housing by approximately 2.9% of the targets (see Table 4, above). Council, in its discretion, may make the determination whether this is adequate to meet the intent of the criteria.

#### Qualifying Threshold: Precise Plan Principles

In addition, to receive Bonus Office FAR, the projects must demonstrate substantial compliance with the 14 guiding principles that are identified in the Precise Plan to support the Plan’s vision and development standards. Of these 14, 13 are relevant to the project site and scope. Overall, the project is generally in compliance with these principles. However, compliance with one principle, “Create Complete Neighborhoods,” is based on staff’s interpretation in the previous section that the project, by providing funding to the City, is helping to meet Complete Neighborhood targets. A complete listing of the Precise Plan principles, including a high-level assessment of how this proposal complies with each, is presented in Attachment 4.

### **Additional Project Information**

The project has also provided additional details that have not been reviewed for the purposes of the Bonus Office FAR allocation. However, staff would like to note three specific items if the applicant is authorized to submit an application:

- The proposed funding is measured in 2023 dollars and will be increased by the Construction Cost Index (CCI) each year until the payment is made. Additionally, Housing Impact Fees counted in the project's housing funding will be based on the rates applicable on the date they are paid.
- The application notes that the project expects to meet Precise Plan standards. Staff notes that this review will only be conducted after an application is authorized and adherence to the Precise Plan will be required.
- The applicant originally submitted a Transportation Demand Management Plan (TDM), which proposes a single-occupancy vehicle (SOV) range of 45% to 65%. However, the applicant has since revised the proposal to say that the 45% SOV rate may be achievable given recent trends toward remote work. Staff notes that the Precise Plan currently requires a minimum 45% SOV mode share for new office development. Additionally, in December 2021, the City Council approved the 2021 Circulation Study and directed staff to amend the Precise Plan with the Study's recommendations, which included a 35% to 40% SOV rate to maintain compliance with the gateway trip cap. **If the project is authorized, staff notes that a trip-reduction standard based on the amendments to the Precise Plan pursuant to the 2021 Circulation Study will be applied and enforced through a condition of approval.**

### **Bonus FAR Review Guidelines Language**

Now that the City has gone through a Bonus FAR application process, staff recommends updating the Bonus FAR Review Guidelines (Appendix F in the Precise Plan) to address points of uncertainty during this review process. For example, the Guidelines should be updated to provide more clarity to applicants and staff regarding the following:

- Flexibility within the guidelines;
- The amount of units or funding expected relative to the amount of office proposed; and
- Other procedural revisions.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The California Environmental Quality Act (CEQA) does not apply since the City Council's action (considering and authorizing applications to submit formal applications) is not a project as defined by CEQA. However, environmental review will be conducted for the project during the development review if it is authorized to move forward.

## **FISCAL IMPACT**

If authorized, staff will begin review of the project upon submission of an application. If approved, the project could result in several fiscal benefits for the City, including:

- The provision of public benefit funds for transportation and affordable housing;
- The provision of impact fees for transportation, utilities, and affordable housing; and
- Increased property tax payments.

If not authorized, there will be no fiscal impact.

## **NEXT STEPS**

If the City Council authorizes the applicant to submit an application for the Bonus Office FAR, next steps include:

- The applicant must submit a complete application for a Planned Community Permit or Master Plan<sup>4</sup> no later than one year from the date of City Council Bonus FAR authorization, with the possibility of a six-month extension if granted by the City Council. **Staff additionally recommends that a Planned Community Permit be submitted within one year of Master Plan approval.**
- The applicant has also stated interest in pursuing a Development Agreement with the Master Plan to allow for a longer entitlement period to submit a Planned Community Permit and/or building permit. The review for a Development Agreement will include an assessment of the time period and public benefits provided by the project and require adoption by the City Council.

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<sup>4</sup> The Precise Plan allows a Master Plan to be submitted prior to a Planned Community Permit. The purpose of the Master Plan is to ensure the project is integrated into the Joaquin-North Complete Neighborhood Area. Master Plan components would include a circulation strategy, parking strategy, urban design strategy, and implementation strategy. Timing of the subsequent Planned Community Permit would be determined at Master Plan approval.

If the City Council denies the authorization request, no further action on this project would occur.

**CONCLUSION**

Staff recommends that Council provide direction whether to authorize the North Bayshore Bonus Office FAR request and to return with a resolution for adoption. In addition, staff recommends that Council authorize staff to revise the Bonus FAR Review Guidelines to provide additional clarity to the Bonus FAR process.

**ALTERNATIVE**—Provide other direction to staff regarding the Bonus FAR application or process.

**PUBLIC NOTICING**

Notices were sent to properties within 750' of the project site and the agenda was posted to the City's website.

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810-05-23-23CR  
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- Attachments:
1. North Bayshore Precise Plan Bonus FAR Review Guidelines
  2. Cover Letter and Project Description
  3. Project Plans
  4. Precise Plan Guiding Principles