



City Council Report

City Council Meeting: March 10, 2020
Agenda Item: 7.B

To: Mayor and City Council
From: David Martin, Director, City Planning
Subject: Introduction and Adoption of an Emergency Interim Zoning Ordinance and Resolutions for Associated Amendments to the Text of the Land Use and Circulation Element, Bergamot Area Plan, and Downtown Community Plan Authorizing 100% Affordable Housing Projects and Housing Projects Compliant with the Housing Accountability Act to be reviewed through an Administrative Approval process.

Recommended Action

That the City Council:

- 1) Adopt a Resolution to amend the text of the Land Use and Circulation Element to authorize 100% affordable housing projects and Tier 2 housing projects compliant with the Housing Accountability Act ("HAA") to be reviewed through an Administrative Approval process.
- 2) Adopt a Resolution to amend the text of the Bergamot Area Plan to authorize 100% affordable housing projects and Tier 2 housing projects compliant with the HAA to be reviewed through an Administrative Approval process.
- 3) Adopt a Resolution to amend the text of the Downtown Community Plan to authorize Tier 2 housing projects compliant with the HAA to be reviewed through an Administrative Approval process.
- 4) Introduction and Adoption of an Urgency Interim Zoning Ordinance authorizing 100% affordable housing projects and Tier 2 housing projects compliant with the HAA to be reviewed through an Administrative Approval process.

Executive Summary

California continues to be in the midst of an ongoing housing shortage sparking strong debate at the State, regional, and local levels. Unlike prior years, the upcoming 6th cycle Housing Element Update will be challenging. This is due to the Regional Housing Needs Assessment (RHNA) process that is currently pending finalization and is anticipated to result in an allocation requiring that Santa Monica demonstrate availability of land and zoning capacity to permit approximately 8,800 housing units between 2021-2029, of which 69% would be affordable housing. Within this context, Council held a

study session on December 10, 2019 on housing policy issues and directed staff in the four following areas:

- Support 100% affordable housing
- Review the application of the State density bonus in commercial zones
- Incentivize housing production in the Bergamot area and the commercial boulevards
- Preserve existing housing stock

Currently, other than the Downtown Community Plan (DCP) area, a Development Review Permit requiring a Planning Commission public hearing is required for 100% affordable housing projects greater than 50 units and for housing projects larger than 30,000 square feet. The DCP allows for larger housing projects to be reviewed through an administrative process but otherwise allows all 100% affordable housing projects to be processed without a public hearing.

In response to Council's December 10 direction, staff evaluated areas where changes to support housing production could be made relatively quickly. With respect to 100% affordable housing, it has become increasingly apparent that requiring discretionary review functions as a barrier to the production of affordable housing. This is because tax credits are increasingly the vehicle by which 100% affordable housing projects are funded. The tax credit process establishes strict deadlines by which projects must be approved and building permits issued. A discretionary process places time delays and uncertainty on 100% affordable housing. Similarly, the Housing Accountability Act ("HAA") provides little discretion for the City's review for housing projects that comply with zoning ordinance standards. Within the context of California's housing crisis, the pending RHNA allocation, and the urgent need to produce affordable housing, the staff-recommended process change for code-compliant housing projects is a necessary first step in the long-term work plan to support housing production.

Background

Past Council Actions	
Meeting Date	Description
July 6, 2010 (Attachment E)	Adoption of Land Use and Circulation Element
September 11, 2013 (Attachment F)	Adoption of Bergamot Area Plan
June 23, 2015 (Attachment G)	Adoption of Zoning Ordinance Update
July 25, 2017 (Attachment H)	Adoption of Downtown Community Plan

On December 10, 2019, Council held a study session regarding housing policy in light of State and Regional directives regarding housing production. Among other things, Council directed staff to proceed with efforts to support housing production, particularly 100% affordable housing.

The Land Use and Circulation Element (LUCE) was adopted by City Council on July 6, 2010. The Land Use and Circulation Element (LUCE) set forth a land use system based on the premise that projects with increased height and FAR above the base would provide additional community benefits. This concept was then largely transferred to the Bergamot Area Plan (BAP), Downtown Community Plan (DCP), and zoning ordinance. The LUCE sets forth development parameters for each land use designation including process thresholds for Tier 1, Tier 2, and Tier 3 projects. As a result, the zoning ordinance and adopted plans (i.e. LUCE, BAP, and DCP) establish the conditions where a Planning Commission public hearing is required, specifically, height and FAR for Tier 2 projects and process thresholds based on project size. For example, the LUCE states that Tier 1 projects are ministerial up to the discretionary review threshold established in the zoning ordinance. Similarly, 100% affordable housing projects are identified as being only subject to administrative review if they do not exceed 50 units. While helpful in providing guidance for implementation, such process thresholds are already in the zoning ordinance and not necessary in the LUCE. As part of the implementation of the LUCE, the Bergamot Area Plan (BAP) was adopted by City Council in September 2013. The Plan includes the same process thresholds as the LUCE.

The Downtown Community Plan (DCP) was adopted by City Council in July 2017 and included housing production incentives by way of more generous process thresholds in Section 9.10.050 of the DCP, shown as follows:

	Housing Project	All Other Projects
Administrative Approval	Projects up to 75,000 sf	Less than 10,000 sf
Development Review Permit	Tier 2 greater than 75,000 sf	10,000 – 30,000 sf
	Tier 3 between 75,000-90,000 sf	
Development Agreement	Tier 3 greater than 90,000 sf	Greater than 30,000 sf

On February 5, 2020, the Planning Commission adopted a Resolution of Intention to consider amendments to the LUCE, BAP, and DCP to amend application process thresholds for 100% affordable housing projects and all other housing projects compliant with the Housing Accountability Act.

Planning Commission Recommendation

On February 19, 2020, the Planning Commission voted 5-1 to recommend that Council adopt the proposed amendments to allow 100% affordable housing projects and HAA-compliant housing projects to be processed through an Administrative Approval process subject to the following:

- Prohibit medium-term housing in new projects;
- Ensure that the projects be consistent with the adopted Bicycle Action Plan, Pedestrian Action Plan, and Sustainability Plan; and
- Post the Administrative Approval determinations and approved plans posted on the City’s website

The Commission held additional discussion regarding other issue areas for Council consideration and determined further Council direction on concepts was warranted. As a result, the Commission made a second motion to recommend that the City Council consider:

- Adding a requirement that housing projects providing deed-restricted affordable units pursuant to the City’s Affordable Housing Production Program include case management or support services.

- This concept has been included in the conditions of approval for recent housing entitlements however, some Commissioners were not in agreement this provision was necessary for all affordable housing units.
- Explore ways of delegating authority to staff to approve minor deviations from Zoning Ordinance requirements where there is a conflict with technical requirements in Building and/or Fire Codes.
 - Some Commissioners were uncomfortable with providing staff the authority to approve deviations from Code requirements.

The attached Emergency IZO incorporates the requirement to post the Administrative Approval determinations and project plans on the City's website. However, prohibitions on medium-term housing have not been included as staff recommends considering medium-term housing regulations as part of the upcoming new housing models discussion so that any regulations will apply equally to all residential properties Citywide. Any project requirements set forth in the Bicycle Action Plan, Pedestrian Action Plan, or Sustainability Plan, including Building and Energy Code requirements, that are already integrated into the Municipal Code will apply to projects reviewed through the Administrative Approval process. Council could provide staff direction to explore whether additional Municipal Code changes are warranted to integrate any additional provisions of those plans into the Municipal Code. On the remaining issues Council should provide direction as to whether they warrant further exploration by staff

Discussion

Proposed amendments to the LUCE, BAP, and DCP to allow 100% affordable housing projects and HAA-compliant housing projects up to Tier 2 maximums to go through an administrative process would not change any development standards but create a more streamlined application process, providing certainty for housing providers. Based on consultation with both affordable and market-rate housing providers, the uncertainty presented by a discretionary process is a factor in whether to move forward with housing projects in light of other risks out of the City's control including land costs, construction costs, and lender requirements. Under existing conditions for the past five years, on average, the City issued building permits for approximately 200 units per year

for housing projects, of which approximately 20% are for affordable housing. With the pending RHNA allocation calling for the City to demonstrate that building permits could potentially be issued for approximately 1,100 units/year between 2021 and 2029, of which approximately over 750 are to be for affordable housing, there is a need to establish parameters that maximize streamlining of the housing approval process.

Process Thresholds for 100% Affordable Housing Projects

At the time of adoption of the LUCE and BAP, implemented through the 2015 Zoning Ordinance Update, it was thought that requiring a discretionary process would provide the City more control over applications that request additional height and FAR. The RHNA process for the 6th cycle Housing Element update is underway and it is expected that the City will need to demonstrate capacity to produce a greatly increased number of housing units, particularly affordable housing units.

Except for the DCP area, 100% affordable housing projects over 50 units are currently required to be reviewed through a Development Review Permit process. These projects are typically code compliant and would produce much needed affordable housing units and thus, a discretionary review process has little or no added value. In addition, affordable housing projects within ½-mile of a major transit stop are afforded additional development potential and concessions through recent changes to the State density bonus law. With challenges in available funding, 100% affordable housing projects are turning to financing sources such as tax credits, which establish a strict schedule for obtaining entitlements and building permits. These financing tools and State bonuses will be more effective in producing affordable housing if paired with streamlined local processes to ensure that these units are brought to the market as quickly as possible. The following chart shows a timeline comparison between the current review procedures and the proposed procedures for review of 100% affordable housing:

Year 1												Year 2			
1	2	3	4	5	6	7	8	9	10	11	12	1	2-12		
<i>DR Approval Process for 100% Affordable Housing Projects</i>															
Development Review								PC Appeal Period		ARB Hearing		ARB Appeal Period		Plan Check	
DR Submission	ARB Prelim		Planning Commission Public Hearing												
<i>AA Approval Process for 100% Affordable Housin Proects</i>															
Administrative Approval						ARB Hearing		ARB Appeal Period		Plan Check					
AA Submission	ARB Prelim	Approval Issued													

Process Thresholds for Housing Projects Compliant with Housing Accountability Act

The HAA severely restricts a local jurisdiction’s to review housing projects that meet objective general plan, zoning and subdivision standards and criteria, including, design review standards, in effect at the time the project application is deemed complete. Specifically, unless specific health and safety findings can be made, the HAA prohibits the City from denying or placing conditions on a project that would have the effect of reducing the project’s density. As a result, cities are afforded narrow jurisdiction over HAA-compliant projects and the Planning Commission has previously questioned the utility of such a discretionary process for housing projects. As such, these proposed amendments would seek to provide a streamlined administrative process for Tier 2 housing projects that meet all objective standards in accordance with the HAA.

Applicability of Emergency Interim Zoning Ordinance

Pursuant to City Charter Section 615 and SMMC Section 9.46.090(C), an emergency Interim Zoning Ordinance is effective immediately upon adoption and expires after 60 days unless extended for a period up to five years. In this case, the emergency Interim Zoning Ordinance would be effective immediately after Council adoption and expire on May 9, 2020. This Interim Zoning Ordinance would allow a streamlined review process to promptly commence that furthers the City’s housing production objectives and will help the City meet its housing production mandates. Conceptually, staff is considering a one-year period to monitor and evaluate how the Administrative Approval review process is meeting objectives. Accordingly, if Council adopts this emergency Interim Zoning Ordinance, prior to its 60-day expiration, staff would bring back an ordinance recommending an extension of the interim regulations for a period of one year in order to make recommendations for permanent revisions to the Zoning Ordinance.

If Council adopts the emergency IZO, the applicability of the ordinance is a policy decision that may be further refined by Council. Staff recommends that the IZO apply to any Administrative Approval application filed after the March 10, 2020, the effective date of the emergency Interim Zoning Ordinance.

Environmental Analysis

The proposed Urgency Interim Zoning Ordinance and amendments to the LUCE, BAP, and DCP to amend the application process thresholds for 100% affordable housing projects and all other housing projects compliant with the Housing Accountability Act are categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Implementation Guidelines (common sense exemption). Based on the evidence in the record, it can be seen with certainty that there is no possibility that the proposed changes may have a significant effect on the environment. The recommended amendments represent procedural changes in how projects are reviewed and do not substantively affect the policy decisions with respect to development standards made with the City Council's adoption of the 2015 Zoning Ordinance Update or the LUCE, BAP, and DCP. Therefore, no further environmental review under CEQA is required.

Financial Impacts and Budget Actions

There is no immediate financial impact or budget action necessary as a result of the recommended action.

Prepared By: Jing Yeo, Planning Manager

Approved

Forwarded to Council



David Martin, Director

3/5/2020



Rick Cole, City Manager

3/5/2020

Attachments:

- A. PCD - Emergency IZO - Process Thresholds - 03.10.2020
- B. PCD - Reso - BAP Housing Thresholds - 03.10.2020
- C. PCD - Reso - DCP Housing Thresholds - 03.10.2020
- D. PCD - Reso - LUCE Housing Thresholds - 03.10.2020
- E. City Council Adoption of Land Use and Circulation Element, July 6, 2010
- F. City Council Adoption of Bergamot Area Plan, September 11, 2013
- G. City Council Adoption of Zoning Ordinance Update, June 23, 2015
- H. City Council Adoption of Downtown Community Plan, July 25, 2017
- I. Written Comments
- J. Power Point Presentation