



Town of Moraga Ordinances, Resolutions and Requests for Action	Agenda Item
	10. A.

Meeting Date: December 14, 2022

TOWN OF MORAGA

STAFF REPORT

To: Honorable Mayor and Councilmembers

From: Afshan Hamid, AICP, Planning Director
Barry Miller, FAICP, Planning Consultant

Subject: Consider Adopting a Resolution Approving the Establishment of a Development Incentives Policy for Eligible Projects Providing On-Site Affordable Housing Units in Accordance with the Town's Affordable Housing Requirements
(California Environmental Quality Act (CEQA) - Exempt Pursuant to CEQA Guidelines Section 15061(b)(3))

Request

The Town Council is being asked to consider adopting a resolution on the proposed development incentives policy for eligible projects meeting the Town's Affordable Housing Requirements. The Town Council reviewed a draft of the incentives on December 7, and in general was in support.

Background

The Town is in the process of undertaking a Comprehensive Advanced Planning Initiative, including a State-mandated update of the Moraga Housing Element, and related General Plan and zoning amendments. As part of the Housing Element, the Town is required to demonstrate to the State Department of Housing and Community Development (HCD) that it has the capacity to add at least 1,118 new housing units by 2031, including 673 units that are potentially affordable to lower- and moderate-income households. The 1,118-unit assignment is commonly referred to as the Town's "RHNA"—or Regional Housing Needs Allocation.

One of the tools commonly used and recommended by HCD to ensure that at least some of the units in new developments are "affordable" is inclusionary housing (also called inclusionary zoning). Inclusionary housing ordinances require developers to provide a percentage of new residential units at a price that is considered affordable to very low-, low-, or moderate-income households. The "Inclusionary" units have deed restrictions that limit the rent (or sales price) that may be charged, as well as the annual income of the tenant (or purchaser). Inclusionary Housing is an Affordable Housing tool to help the

1 Town meet its RHNA goal. Over 60 percent of the Town's RHNA goal is comprised of
2 housing units that are affordable to lower- and moderate-income households. State
3 Density Bonus Law provides an additional tool to meet these targets; however, it is
4 voluntary while the proposed Inclusionary Zoning Ordinance would be mandatory.

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6 The Town Council requested that staff solicit feedback from developers prior to
7 developing an Inclusionary Housing Ordinance and Development Incentives Policy. Staff
8 convened a "Developer Roundtable" on October 20 to receive input on potential
9 Inclusionary Housing requirements. A link to the video of the Developer Roundtable can
10 be found [here](#).

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12 Staff developed a Draft Development Incentives Policy based on the input and feedback
13 received from Town Council, the Developer Roundtable, the Planning Commission,
14 several local developers, and other stakeholders. The Policy will create local incentives
15 in excess of State Density Bonus Law to support the inclusionary housing ordinance. The
16 Planning Commission received a presentation on the proposed Development Incentives
17 Policy on November 14. On December 7, the Town Council received a briefing on the
18 proposed Policy. During the public comment period, developers raised the following
19 points:

- 20
21 • St. Mary's College representative commented that due to market costs, additional
22 incentives which allowed 120 units on the site were needed (equivalent to a density
23 of 48 DUA).
24 • A local developer requested that the incentives align with the State Density Bonus
25 Law, provide different fee schedules for rental and owner projects, and allow for very
26 low-income rentals as well as low-income rentals.

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28 Staff reached out to the developers to further clarify their comments and made a number
29 of proposed revisions. A redline version of the Development Incentives Policy detailing
30 the proposed revisions is included as Attachment B.

31 **Discussion**

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34 The revised Development Incentives Policy that includes specific bonuses and incentives
35 available to developers providing inclusionary units on-site is included as Exhibit A to the
36 Resolution. Developers would be entitled to the bonuses provided by the State of
37 California under State Density Bonus Law (SDBL), and an additional local bonus that
38 allows construction of 30 to 43.2 units per acre. Developers would be further entitled to
39 incentives comparable to those offered through the SDBL.

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41 The incentives can be adopted by resolution rather than by ordinance so that they can be
42 more easily amended in the future. The incentives respond to feedback from the
43 developer roundtable that multi-family projects may not be economically viable at the
44 proposed General Plan and zoning density of 24 units per acre. Additional incentives
45 have been proposed on top of those already allowed by the State, enabling densities of
46 up to 30 units per acre for projects complying with the Ordinance, up to 36 units per acre
47 for projects providing senior housing, and up to 39.6 units per acre for projects providing
48 student/faculty housing.

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2 The incentives would allow some of the provisions of SDBL for lower-income households
3 to apply to projects with affordable housing units serving households earning up to 80
4 percent of AMI. Current SDBL defines low-income households as earning up to 60
5 percent of AMI, so the broader definition (which is consistent with the RHNA definition)
6 would provide an expansion of potential incentives. More specifically, projects meeting
7 the inclusionary requirements on-site would be eligible for the SDBL parking standards,
8 which are lower than the Town's standards, plus one development incentive, such as
9 reduced setbacks, additional height, or increased lot coverage.

10 11 **Next Steps**

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13 At the December 14 meeting Town Council is requested to adopt the Policy Resolution
14 after the second reading of the Affordable Housing Ordinance. The Ordinance will
15 become effective on January 13, 2023, 30 days after the second reading. Once adopted,
16 the effectiveness of the Ordinance and policy resolution will be periodically evaluated,
17 with modifications made as needed based on results.

18 19 **CEQA**

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21 The proposed Municipal Code Amendments are exempt from the provisions of the
22 California Environmental Quality Act (CEQA) (Public Resources Code Section 2100, et
23 seq.) pursuant to CEQA Guidelines Section 15061(b)(3). Adoption and implementation
24 of the proposed Policy does not constitute a "project" as defined by CEQA because the
25 Policy by itself would not result in a direct physical change to the environment or a
26 reasonably foreseeable indirect change.

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28 The Ordinance and Policy are occurring within the context of a broader planning initiative
29 that is subject to CEQA. A Draft EIR has been prepared for the Comprehensive Advanced
30 Planning Initiative and was published on October 27. The comment period for the
31 Planning Initiative EIR ends on December 12, 2022 at 5:00 p.m.

32 33 **Fiscal Impact**

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35 The adoption of a policy will not have a fiscal impact.

36 37 **Alternatives**

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39 1. Adopt the resolution, or
40 2. Revise and adopt the resolution, or
41 3. Not adopt the resolution and provide alternative direction to staff.

42 43 **Recommendations**

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45 1. Find the proposed Policy Resolution to be exempt from CEQA pursuant to CEQA
46 Guidelines Section 15061(b)(3) and Adopt by Resolution.
47 2. Adopt a Resolution Approving the Proposed Development Incentives Policy for
48 Eligible Projects Meeting the Town's Affordable Housing Requirements On-Site.

1 **Report reviewed by: Cynthia Battenberg, Town Manager**
2 **Karen Murphy, Assistant Town Attorney**
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4 **Attachments:**
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- 6 **A.** Resolution____-2022 Approving the Establishment of a Development Incentives
7 Policy for Eligible Projects Providing On-Site Affordable Housing in Accordance
8 with the Town's Affordable Housing Requirements.
9 Exhibit A - Draft Development Incentives Policy for Projects Meeting the Town's
10 Affordable Housing Requirements On-Site, Clean version
11 **B.** Draft Development Incentives Policy for Projects Meeting the Town's Affordable
12 Housing Requirements On-Site, Redline version