

Mads Odom

From: Pam Cavanagh [REDACTED]
Sent: Wednesday, January 03, 2024 12:02 AM
To: Peter Lehman; Scott Davies; Abigail Strickland; Judith Mayer; Dan Tangney; Joel Yodowitz; Matthew Simmons; David Loya
Subject: Gateway Plan...Planning Commission meeting Jan 4, 2024

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Hello Planning Commissioners,

When Andrea Tuttle wrote the following letter, the sensibility of it rang true then and remains true today. Each area she highlights remains a major concern. In particular, building heights are a huge concern for me. Various other well credentialed individuals have expressed many of the same concerns Andrea Tuttle brings forth in her February 13, 2022 letter.

Thank you for serving the city on the Planning Commission. Choose wisely for Arcata future.

Sincerely, Pam Cavanagh

4 11th Street, Arcata

September 1982 came an Arcata resident

Andrea Tuttle's 2/13/2022 letter to the City of Arcata Planning Commission and Council Members:

RE: Recommendations for Amendments: Draft Gateway Area Plan

Dear Arcata Council Members and Planning Commissioners,

As a long-time resident of Arcata, I have closely read the Draft Gateway Area Plan with a combination of appreciation for some elements and horror for others. I offer five recommendations for revising problematic portions of the plan.

As an underlying assumption, we should take as given:

- Almost all Arcatans support deliberate land use planning. Most agree we need to provide a fair share of housing for people who want to live here. We are socially and environmentally sensitive and caring. We are not NIMBYs.
- We support mixed use, mixed income and mixed ownership opportunities, and want to support housing needs of our teachers, responders, and employees. The Gateway area offers opportunities for some residential infill.
- We support all the policies addressing environmental protection, riparian corridors, wetlands, open space and parks, renewable energy, EV charging sites, low-carbon alternatives, bike paths and transit systems, low-car dependency, support of arts and protection of historic sites.
- We are here because we love the quality-of-life that Arcata provides. Arcata is different from places elsewhere. We feel lucky to be here.

These values bring us together as Arcatans. We endorse the GAP policies that support these attributes.

Problems with the existing draft:

However, my strong opposition to the Draft GAP stems from the assumptions that underlie the promotional tone of the document. The document starts from an assumption that we *want* to radically convert the current community character to something entirely different.

It designates a high density, urban “sacrifice area” in the area between Samoa and Alliance, in order to house an arbitrarily-defined number of people unrelated to carrying capacity and limiting factors.

1) Density and Carrying Capacity: The document starts from an excessive assumption of “needed” population increase derived by cramming population into tall buildings assuming every “under-utilized” parcel is converted to residential use and filled to the brim. The proposed 3500 units is over 5 times larger than the state housing mandate of 610 units.

3500 units is a mathematically-derived number. It is NOT a “factual” number that reflects the carrying capacity of the

city to support such growth. It has no relationship to the ability – or desire - of the town and infrastructure to accommodate that many people. Depending on the multiplier you choose for residents per unit (range of 2 – 3), 3500 units would mean an increased population of 7000 to 10,500 people, which would increase the 2020 population by a third- to half-again (i.e., a 37% to 55% increase over the 2020 US Census Bureau population of 18,875). This is huge. Wastewater treatment capacity is the principle limiting factor to the number of residences that can be supported in the city. A full-buildout calculation must include the number of beds planned by CalPoly and other areas of the city. A full-buildout calculation will indicate the amount of remaining sewage treatment capacity that can be allocated to the Gateway area (see further discussion under item 2).

Recommendation #1: Use remaining wastewater treatment capacity to set the cap on the full-buildout number of new residential units in Arcata.

2) Wastewater Treatment Capacity: Even with planned upgrades, the treatment capacity of the current plant will be greatly exceeded by 3500 units, in combination with the approx. 1000 new beds anticipated from CalPoly, anticipated ADUs, and other development under consideration.

- **Inequity of a Building Moratorium:** When treatment capacity is exceeded, waste discharge violations are issued by the NCRWQCB and a building moratorium is imposed. This will stop development in the entire city, not just the Gateway area. Building moratoria are not lifted until treatment capacity is increased, which will be a lengthy and expensive process probably involving physical relocation of the current plant.

It is unfair to force everyone in the city to stop their project, including ADUs, because over-density in the Gateway area has used up remaining treatment capacity.

- **No Re-location area is designated for the waste treatment plant:** Continued sea-level rise threatens the existing treatment plant and levees can only be raised so high, especially with increased storm surge. The GAP and CEQA documents should assess alternatives for locating a replacement site somewhere within the city, which may mean placing it in the GAP area. Options for relocation should be analyzed and provisions made for setting aside land now, before residential development fills the limited suitable places that still remain.

- **Increased Utility rates for sewage treatment:** The CEQA document should disclose increased rates of sewer bills to be levied on existing residents to pay for the expanded treatment plant capacity necessitated by new development. Equity issues of imposing new costs on existing residents in order to accommodate new residents should be disclosed and explained.

Recommendation #2: Address fundamental wastewater treatment issues before approving new development visions. Good planning requires realistic assumptions of underlying conditions.

3) Building height and scale: With apologies to the drafters, the very idea of 8-story housing blocks in Arcata is an insult. It is disingenuous to propose a plan that is dependent on unrealistic building types.

- **Geology:** It geologically hazardous to build tall buildings on unconsolidated bay and river sediments. This is compounded by our proximity to the Cascadia subduction zone and major ground shaking earthquakes. Engineering solutions may be possible, but costs of deep piles and other techniques will out-price the median market we are trying to provide for. We should not tease developers into thinking there is a bonanza for high rises awaiting here.

- **Visual Impact:** 5- to 8-Story building heights in Arcata are unacceptable. They are a tremendous violation of community character, when 4-stories are already considered “tall” compared to existing neighborhoods. Intrusive tall blocks emerging from flat land, towering over the rest of the city, visible from much of the entire Humboldt bay area, and blocking views of the horizon from all directions will be an eyesore. Arcata does not aspire to become “an urban core”, and there is no need to inflict that on ourselves.

- **Visualization Mock-Ups:** The Draft offers no 3-D visualization examples of what different building heights would look like at full-buildout of 3500 units. Mockups should visually place structures in actual neighborhoods to show the impacts of mass and shadows on existing structures and pedestrians. Aerial and ground-based photos should be used as base layers, with obliques and shadow paths illustrating full-buildout of 3500 units.

Recommendation #3: Limit building heights to a maximum of 4 stories, with some sort of design review required for any building over 2 stories.

4) Industrial relocation: The 3500-unit proposal assumes all existing industrial parcels will be designated as non-conforming uses, thereby clouding their ability to remodel, expand and continue the business in place. Some landowners may be interested in rezoning now, and they should be accommodated. But industrial uses, and the jobs they provide, add character to the city and remind residents of the necessary parts of an economy and functions of a city.

Recommendation #4: Planners should take a more fine-grained survey of industrial property owners to determine actual interest in rezoning and offer a more realistic set of rezone options in the plan.

5) Maintenance: New construction looks lovely -- bright paint, new materials, fresh landscaping. Poor maintenance and shoddy materials however turn buildings into eyesores of faded paint, rust stains and sagging fences.

Recommendation #4: The development approval process should require ongoing maintenance and upkeep of buildings (e.g. 3 units or more) as a basic condition, and not simply left to owner-discretion. Formation of a community maintenance district supported by landowner fees should be considered.

In Sum

The notion of infill development to help meet housing needs is laudable. The Gateway area offers potential space to provide some needed housing. But this needs to be grounded in reality. Most Arcatans support the vision of well-planned, mixed-use, mixed-income, pedestrian-friendly neighborhoods.

But the draft plan needs to be amended to more realistically reflect the capacity of the city to absorb new growth.

- Use carrying capacity of the treatment plant to base feasible population expansion
- Offer a full range of alternative zoning plans to choose among, not just one vision.
- Do not assume that a 20-year planning horizon means that growth will be metered out over time and that impacts will be gradual. In fact, especially under ministerial permitting, savvy investors and developers will immediately cherry-pick development sites before city-provided amenities (e.g. transit, trails) can be built.

I commend this effort as a proposal, but look forward to a realistic second draft. Thank you for the opportunity to comment.

Sincerely,

s/ Andrea Tuttle

Mads Odom

From: David Loya
Sent: Thursday, January 04, 2024 9:06 AM
To: Kathleen Stanton; mmathews@cityofarcata.org
Subject: RE: Review Revised Draft General Plan 2045

Good morning, Kathleen.

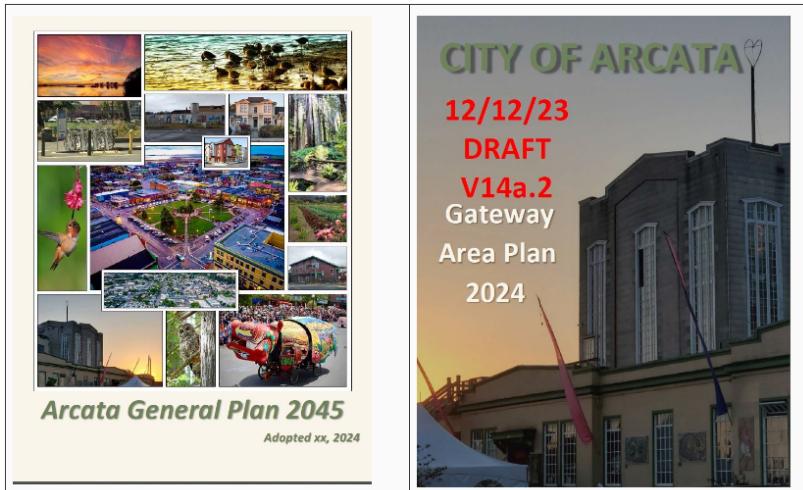
Thank you for your input. I know that the Council has heard and read your request to remove the “overlay”. I wanted to make sure that you knew that the Council will be taking this matter up individually in the coming months. I would expect in the next two months.

Also, I wanted to offer a meeting to discuss your concerns. I think there is a misunderstanding about the overlays, which only apply in areas where they have been adopted. Currently, the only overlays proposed that would allow high-density neighborhoods with buildings taller than four stories are in the Gateway Area. Nothing of the sort is proposed in Sunny Brea. I’m happy to discuss your concerns in more detail if you would like.

Cheers,

David Loya (him)
Community Development Director
City of Arcata
p. 707-825-2045
c. 707-834-5013

[Check out the City's General Plan 2045 – It's updated and awesome!](#)



The General Plan is the City's “Constitution” if you will. It is the foundational policy document that establishes the framework for City decision making on everything from land use to resource protection to public safety. The Plan guides how we invest as a community in parks, trails, transit, and open space. The Plan outlines how the City should look, feel, and function. This update to the General Plan builds on the excellent planning work done by our community on the General Plan 2020 and has a focus on equity and access to all members of our community, current and future. Join the conversation about this update!

From: Kathleen Stanton [REDACTED]
Sent: Wednesday, January 3, 2024 7:33 PM

To: mmathews@cityofarcata.org; Alex Stillman <castillman@cityofarcata.org>; satkinssalazar@cityoarcata.org; Kimberley White <kwhite@cityofarcata.org>; Sarah Schaefer <sschaefer@cityofarcata.org>; David Loya <dloya@cityofarcata.org>
Subject: Review Revised Draft General Plan 2045

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1/3/2024

RE: Review Revised Draft General Plan 2045

Good Evening Councilmembers and Staff,

I'm concerned about allowing OVERLAY ZONES as staff has recommended to be applicable throughout the city. I believe that allowing buildings that could be four stories tall or higher in every single neighborhood and allowing commercial stores everywhere is not good planning for the future of Arcata.

I don't believe that policies that are specific to the Gateway Area are necessarily applicable CITY WIDE and I addressed that several months ago to the Council and you agreed. You directed staff to have the Planning Commission review Gateway Policies and see if they would be a good fit in various neighborhoods and you didn't think a BLANKET application of all Gateway Policies was appropriate throughout the City. It is my understanding that there has been practically no Planning Commission consideration of staff's proposal for a Blanket Approval of Overlay Zones throughout the city.

I think the blanket application of OVERLAY ZONES for anywhere in the City is not good zoning because it doesn't respect the different and various aspects of Arcata's neighborhoods that make them special and distinctive.

I'd like to share a story with you about the application of an OVERLAY ZONE in the Bayview Neighborhood about 20 years ago to make way for a KINKOS COPY CENTER. Kinkos wanted to have their business in the heart of a residential neighborhood about three blocks off campus on C St. The property was eligible for Landmark Status and therefore an OVERLAY ZONE would apply. Back then, Kinkos used to be open 24 hours a day and would most certainly be doing business late at night and there was a neighborhood outcry that this kind of business was inappropriate for a single family residential neighborhood. Neighbors didn't want additional parking problems and having customers coming and going until all hours of the evening for good reason. The plan was eventually NOT Approved by the City.

If, however, you approve this OVERLAY ZONE policy then all neighborhoods will be open and vulnerable to the conversion and construction of retail, personal and business services, and other commercial uses that may not be a good fit along with the construction of 5, 6, & 7 story apartment buildings.

Please remove these implementation measures from the General Plan. Let's see if the EXPERIMENTAL Gateway Plan actually turns out well before deciding that OVERLAY ZONING is suitable on a City Wide Basis.

Thank you,
Kathleen Stanton

Mads Odom

From: Fred [REDACTED]
Sent: Monday, January 08, 2024 8:26 PM
To: Scott Davies; Dan Tangney; Judith Mayer; Matthew Simmons; Peter Lehman; Joel Yodowitz; Abigail Strickland; Meredith Matthews; Stacy Atkins-Salazar; Alex Stillman; Kimberley White; Sarah Schaefer; David Loya
Subject: The Community Benefits Program is not likely to create home-ownership possibilities

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: City Council, Planning Commission, Community Development Director
From: Fred Weis
Subject: The Community Benefits Program is not likely to create home-ownership possibilities

To the Arcata City Council:

When I write these letters to you, they are not meant as criticisms of you. You've been fed a lot of sketchy or misleading information over these two years of Gateway discussions.

The Gateway plan started out with lots of positive goals. As time has gone on, the notion of creating housing – any kind of housing, primarily rentals, and made available at “what the market will bear” market-rate rents – has eclipsed the earlier stated ideals and goals of inclusion and workforce-affordable housing. The words “affordable” and “home ownership” are still there in the written document. What do those words mean? In many ways how this ownership and affordability would be actualized has been severely reduced.

The quotes here are from the Council's meeting on January 3, 2024.

Conclusion

In terms of what the Gateway Area Plan's Community Benefits Program is offering, it's not likely that developers will choose to construct and provide any homeownership opportunities.

The Barrel, Corridor, and Hub districts all have a 3-story minimum. The Neighborhood district has a 2-story minimum, but there are very few parcels that are either empty or likely to be redeveloped in the Neighborhood district. (I looked into this in April 2022 and counted around 4 or 5 single-family parcels as possibilities.)

There could be 3-story attached townhouses (also called “rowhouses) built, as condos. A common arrangement is to have a rental unit on the first floor to help with the mortgage, and then two-stories for owner-occupancy on floors #2 and #3. They'd be pricey, as the apartment unit would add perhaps \$300,000 to the price, and a buyer would have to qualify for the entire mortgage.

Without a suitable condo program, the likelihood of home-ownership in the Gateway Area looks grim.

Given how things look, we are very unlikely to see any substantial home-ownership opportunities. And yet, throughout the public input process, this was shown as the #1 or #2 most important desire.

I'm not saying that it would be easy. But to abandon this desired housing type and say that "the market" will provide is simply not adequate. It is not the planning for the future that we want to see in Arcata.

Thank you.

-- Fred Weis

1. The Community Benefits Program as an incentive to create home-ownership possibilities

Councilmember Sarah Schaefer, on home-ownership via the Community Benefits program:

"It's a high point – it's like nine. It's one of the highest point values that is on the Community Benefits table."

Unfortunately, the Community Benefits program is not likely to be much help in the creation of home ownership possibilities.

If a developer specifically wants to build for-sale units (that is: condominiums) then it can happen. But if developers don't want to, then the Community Benefits program doesn't offer enough to them to create any encouragement.

In the earlier iteration of the Community Benefits Program, on a **1 to 9 scale**:

- "Owner-Occupied **Affordable** Housing" – meaning affordable at the 80% mean income level – would get: **9 points**.
- "Owner-Occupied **Market Rate** Housing" would get: **4 points**. While not specified, the implication is that the entire building would be owner-occupied housing.

In the current Community Benefits Program (still in discussion; not yet recommended by the Planning Commission), the scale is now **1 to 3**.

- If greater than 50% of the units are "for-sale owner occupied" – meaning market-rate housing -- then the award is **2 points**.
- If "inclusionary units are for-sale owner occupied" then the award is **3 points**. Not specified, but the implication is that **all units** in the building would be affordable owner-occupied to get that 3 points.

To give some perspective to this, a developer can achieve 2 points for:

- Enclosed secure bike parking that's more than 50% of what's required.
- Publicly accessible electric vehicle charging above the minimum required.

A developer can achieve 3 points for:

- A resident-serving commercial space above 1,500 sq.ft. for a restaurant or convenience store.
- A mix of unit sizes, with each size being at least 20% of the total number of units. This benefit is still in process, but conceivably could mean that in a 100-unit apartment building, there could be 20 one-bedroom units, 20 two-bedroom units, and 60 studio units – and the developer would get 3 points.

To build four stories, 3 points are needed. To build five stories, 4 points are needed.

For many reasons, creating condominium for-sale units is more costly than producing units for rent. If a developer's business model is to build condos, then that's what he or she will do. But if a developer can get the necessary 3 or 4 points by doing nothing more than putting in extra bike storage or a local-oriented store or restaurant, then that would be far less expensive to the developer than other community benefits, such as making condos.

Bottom line: The Community Benefits Program is not going to operate as an incentive to get the benefits that the community has clearly stated they want: home ownership and affordable rents.

2. On the housing stock of single-family homes for sale

Mayor Meredith Matthews:

"And again -- We're not losing any housing stock. Right now we have houses in Sunny Brae that five college students are living in -- that could move to the Gateway Area and be in a walkable [neighborhood], close to their job, be able to get to school. And then that [previously rented] home is now available for sale. So there are other mechanisms for homeownership."

Let's imagine this scenario. Those five college students are living in a four-bedroom house in Sunny Brae, with a yard and a garage, that rents for \$2,500. (Two of the tenants are coupled and share a bedroom.)

The owner of the house recognizes that, in financial terms, there's a better return on investment from selling the property, even after paying the capital gains taxes. The house is put on the market for sale, and the existing tenants need to find new housing.

What happens: Buying this house at a price of \$550,000 will take an annual income (or combined incomes) of about \$130,000 plus roughly \$120,000 in available funds for a down payment and associated expenses. The monthly costs with insurance and taxes are a bit over \$3,600.

Of the previous renters, the couple moves into a Gateway two-bedroom with one of their roommates, at \$1,900 a month rent. The two others also rent a two-bedroom for \$1,900.

Instead of paying \$2,500 for the five of them renting the Sunny Brae house, they are now paying \$3,800 for two apartments with no garage and no yard in the Gateway area.

Yes, a house has been added to the “home-ownership” column, but who is better off in this scenario? Certainly not the five Arcatans who were renting the house.

3. Owner-Occupied Affordable Housing as a Community Amenity

[This was Gateway policy GA-3i; now transferred to the General Plan as D-8d. Here it is:

Owner-occupied affordable housing as a community amenity. Encourage new home ownership opportunities to households of all income levels. Include deed-restricted affordable opportunities for low- and moderate-income households. Encourage a range of ownership opportunities including condominiums, townhouses, and other alternative ownership models. Provide strong incentives through community benefits program for owner occupancy.]

Councilmember White:

"I feel like we've kind of dropped that ball of home ownership opportunities in the Gateway Area Plan. And so I'm wondering what can we do to beef that up a bit."

Community Development Director David Loya:

"The owner-occupied affordable housing as a community amenity is still part of the Gateway Area Plan as it relates to these D-8 policies that house the community benefits. That's the way that the Commission has recommended it. And so the Gateway Area Plan will have through its community benefits program a tie-in to these policy areas. And, in fact,

these policies inform what the community benefits program is. And so maybe there's something more that you meant by that "we've dropped the ball about owner occupied affordable housing." **But I think that the connection is still there to support owner-occupied affordable housing as a community amenity."**

Councilmember White:

"I guess I'm just more concerned that we are not really in these words of "ensure" or to -- That's what I'm concerned about, is that it might not be ... there's no way to guarantee that they're going to create that and choose that particular amenity. And through it, then, we're back to what Sarah said, she's given up hope for any possibility. And I just --"

Councilmember Schaefer: [Interrupting]

"I blame the Fed [Federal Reserve Bank] for that, though. I blame the Fed for that. And the interest rates. Not our housing policy in the City."

[Note: As interest rates go down, it is very likely that prices in Arcata will go up. We'll know more in a year or two.]

Councilmember White:

"But what we just don't have the housing stock for homeownership opportunities at this time."

=====

Mads Odom

From: Fred [REDACTED]
Sent: Tuesday, January 16, 2024 1:52 PM
To: Meredith Matthews; Stacy Atkins-Salazar; Alex Stillman; Kimberley White; Sarah Schaefer; Scott Davies; Dan Tangney; Judith Mayer; Matthew Simmons; Peter Lehman; Joel Yodowitz; Abigail Strickland; Karen Diemer; Tabatha Miller; David Loya
Subject: [QUAR] Inclusionary Zoning discussion, January 17, 2024 -- Considerations and issues
Attachments: 2024-01-17_City-Council-Agenda-Packet_Inclusionary-Zoning_pp51-54.pdf
Importance: Low

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: Mayor Matthews, Arcata City Council
Planning Commission, Community Development Director David Loya
City Manager Karen Diemer, Finance Director Tabatha Miller
From: Fred Weis
Attached: 2024-01-17_City-Council-Agenda-Packet_Inclusionary-Zoning_pp51-54.pdf
Subject: Inclusionary Zoning discussion for the January 17, 2024 City Council Meeting
Considerations and issues
Staff Report is incorrect in describing the new State density bonus amendment, AB 1287

For a quick read, skip to "Some Recommendations" below.

Councilmembers:

The Staff Report for "Consider Inclusionary Zoning Policy" contains numerous misrepresentations, opinions expressed as though they are facts, omissions of crucial information, and a misunderstanding of existing State density bonus law. The report is deficient. In my view, it would be impossible to design or evaluate inclusionary zoning policies for Arcata based on this staff report.

I am not asking that you believe me and what I am saying here. I will point you to the pertinent sections of the Staff Report. You can read and evaluate for yourselves. It's my view that the Staff Report is wrong. I think you will agree.

Included in the Staff Report:

"The income of moderate-income households is sufficient to pay market rents without burden."
Really? I'd say that **hundreds of Arcata renters have a different opinion.**

Technically and by definition, Director Loya may have a case. But as he wrote in the May 9, 2023 staff report to the Planning Commission: **"It is important to note that all of these definitions and programmatic applications lose sight of the way we experience affordable housing at the household level."**

I -- and many other people -- want to see an inclusionary housing program that provides results. I don't want one that is merely theoretical.

The report's portrayal of the new State density bonus amendment is incorrect.
Important to the discussion is the new State law AB 1287, the State density bonus amendment that is referenced in the Council's packet. At the end of this message I am including descriptions from law firms of their explanations of this law. The new amendment, AB 1287, **does not replace the previous density bonus**

law percentages, as the staff report states. It augments them. It is a "bonus on top of a bonus" -- an additional bonus on top of bonuses that already exist and continue to exist.

The faulty misinterpretation of AB 1287 in this Staff Report should not be the basis for determining Arcata's inclusionary zoning percentages.

I will also point out some absolutely crucial details that are missing from this staff report. As one example, the Council is aware that the state density bonus law is initiated ("kicks in") if a certain percentage of the project is set as being deed-restricted very-low income or low-income rental housing. Yet there are other ways for a developer to utilize the density bonuses, and these other methods are not mentioned.

Are you aware that the density bonus also can start when 20% of the project is for lower-income **college students?** Rent is calculated on a per-bed basis, not on a per-unit basis. Separate from pure college student housing, there is also **cluster-type housing**, with private units sharing a common kitchen. These also receive the density bonuses -- and **with no income requirement.** A project with all senior housing will receive the density bonus, also with no income requirement.

The point is that if a developer wants to take advantage of the state density bonus law, there are plenty of ways to do it that do not require very-low or low-income housing -- or even moderate-income housing. Put another way, a developer can completely bypass the construction of low-income housing -- both that of Arcata's inclusionary zoning and of the State density bonus law.

Also not mentioned are Incentives/Concessions and Waivers. Director Loya has put a focus on having Arcata's inclusionary zoning amount be at least 1% under where the State density bonus law would start. **But if a developer can get some of our design standards removed, that can be much more valuable to the developer than the cost of one extra percent of affordable housing.** [See below for a portion of an article on this, from the Southern California Association of Governments.]

Director Loya's statement from his video on the State density bonus laws and inclusionary zoning has not yet been explained to the Commission or to the Council.

"And so project proponents will be driven by the Density Bonus provisions. **And our design standards and Community Benefits programs are unlikely to be implemented due to waivers and concessions.**"

For more on that, see arcata1.com/density-bonus-incl-zoning-comm-benefits-loya-presentation

Some recommendations

1. That the Council gets input from other sources.

In this current Staff Report and in many previous verbal and written examples, Director Loya has shown a lack of understanding of the issues of affordable housing and inclusionary zoning.

2. Request the involvement of Tabatha Miller.

In her presentations to the Council, the City's Finance Director has displayed her abilities to compile and outline her research and knowledge, and then offer accurate summaries of complex issues. By offering clarity, the Council can make good decisions. In my view, it would be very beneficial if Director Miller was willing to take this on.

If the Council, City Manager, and City Finance Director wish to follow this suggestion, I would guess that the Finance Director can accumulate the information for understanding of inclusionary zoning guidelines, resulting in a presentation to the Council, in perhaps ten hours of her time.

3. Consider utilizing the services of an outside consultant.

A consultant with a proven track-record would substantially help the Commission and the Council evaluate Arcata's available choices. A firm that has experience with helping smaller cities with **actual affordable housing creation** would be ideal.

Errors and Omissions in the Staff Report

Councilmembers, you can read or skim this as you choose. I've stated how I see this: Because of numerous misrepresentations, opinions expressed as though they are facts, omissions of crucial information, and a misunderstanding of existing State density bonus law, I regard this Staff Report as without merit and, what's worse, very misleading.

A. Why Moderate-Income and Workforce affordable housing is needed

Director Loya expresses the opinion that a moderate-income program is unnecessary.

Here are quotes from the Staff Report:

- "The Council directed staff to evaluate a workforce program. On October 10, 2023, staff provided an analysis of a moderate-income program to the Planning Commission. **The conclusion of that assessment was that a moderate-income program is not needed.**" (Council Agenda Packet page 51)
- "**The income of moderate-income households is sufficient to pay market rents without burden.**" (Packet page 51)
- "**A median-income household earnings and housing costs at the upper limit can pay market rents (Table 2).**" (Packet page 52)
[As it is written, it may be missing a word. It could be read as: A median-income household **with** earnings and housing costs at the upper limit can pay market rents.]

If Staff's assessment is "a moderate-income program is not needed," then I propose that there is something incorrect about the assessment. Putting this another way: If what we see and experience -- **in real life** -- does not match an arithmetic analysis, then a good scientist might want to take a fresh look at the assumptions and variables of that analysis. And then try to find what's wrong with the assessment. Or, putting it this way: "**The income of moderate-income households is sufficient to pay market rents without burden.**" -- Really? I'd say that **hundreds of Arcata renters have a different opinion.**

The Council can note that the "Market Rent Arcata" figures in Table 4 (page 52) are based on "Data collected and analyzed by Community Development staff for current market conditions." When presenting this to the Planning Commission, the Director acknowledged that these market rent figures were from a very small sampling collected over a short period of time. That acknowledgement is not included in this Staff Report to the City Council.

B. The Staff Report's misinterpretation of the new amendments to the State density bonus law

The Staff Report section on the new density bonus amendment starts on page 53. That paragraph begins:

"As of January 1, 2024, Density Bonus law changed pursuant to AB 1287. The law now requires affordable housing productions to hit thresholds of 15% very-low income, 24% low income, or

44% moderate income for owner-occupied units before density bonus triggers. This provides a larger gap between the City's Inclusionary Zoning requirement as proposed by the Planning Commission and the density bonus."

Unfortunately, the highlighted sentence is 100% inaccurate. The statement seems based on the Director's misunderstanding of the new law. There is no "larger gap" that is in effect.

The new law does not, as the Staff Report says, **require** 15% very-low income or 24% low-income housing "before density bonus triggers." The density bonus is initiated for very-low-income starting at 5% and low-income at starting at 10% still apply -- just as before.

Here's how the new law works, for housing based on income level:

- The first level where the density bonus starts is at 5% for very-low-income housing and at 10% for low-income housing. At those levels, the developer receives a 20% density bonus.
- As the amount of eligible very-low or low-income housing increases, **the density percentage also increases**.
- In the pre-2024 system, when very-low-income gets up to 15% of the number of units in the project, the amount of the density bonus **maximum of 50%** is reached.
For low-income housing, when the percentage gets to 24% of the number of units, the **maximum of 50% bonus** is reached.

The new law says the developer can "stack" the bonuses by combining either additional very-low income or some **moderate-income rental units**. (Before, the moderate-income units had to be for-sale.)

- In the previous system, if the project proposed to have 15% for very low-income rentals, that would result in the maximum density bonus of 50%. In the new system, including 5% to 10% more low-income rentals would result in **an additional 20% to 38.75% density bonus** -- that is, it increases the bonus up to 70% to 88.75%.
- If the project proposed to have 15% for very low-income rentals plus 15% for moderate-income rentals, the project would be entitled to 50% from the very low-income units and 50% **in addition** from the moderate-income units -- **added together to get a 100% density bonus**. Under the previous system, the maximum would be 50%.

To repeat: The new law does not, as the Staff Report says, **require** 15% very-low income or 24% low-income housing "before density bonus triggers." The previous starting points of very-low at 5% and low-income at 10% still apply. When the amounts of 15% and 24% were reached and the old system "maxed out" at 50%, however, the new law allows even more of a density bonus if the developer so chooses.

The Staff Report describes this incorrectly, and suggests action the Council might take based upon this incorrect information. We also have the question of: How is it that this is the first time that the Director has brought this up? This bill took effect on January 1, but it was signed by the governor on October 11, 2023, three months ago.

AB 1287 also confirms that it is the Coastal Commission that is the ultimate authority on construction in the coastal zone, and not other entities or non-coastal-zone housing law.

C. How this affects us here in Arcata

We've been working on and discussing design elements, different iterations of Community Benefits programs, and true inclusionary zoning and actual workforce affordable housing for about two years now in this go-around. The Director has made these statements:

- "And so project proponents [i.e. developers] will be driven by the Density Bonus provisions. And our design standards and Community Benefits programs are unlikely to be implemented due to waivers and concessions."
- "The income of moderate-income households is sufficient to pay market rents without burden."
- "The Council directed staff to evaluate a workforce program. **The conclusion of that assessment was that a moderate-income program is not needed.**"

The Director has proposed that our inclusionary zoning have a percentage level that is slightly under where the State density bonus level starts. Acting on incorrect and misleading information, the majority of the Planning Commissioners agreed.

Now the Director is saying that the density bonus does not start until there is 15% very-low-income, 24% low-income, or 44% for-sale moderate income units, and proposed that Arcata's inclusionary zoning levels can be increased. **But that is not true. The density bonus still starts at 5% and 10%.**

Another factor that comes into play has to do with how our new draft General Plan 2045 deals with housing density. For Residential-Medium zones, the maximum density would be 25 units per acre. In the previous General Plan, this was 15. For Residential-High zones, the maximum density would be 50 units per acre. In the previous General Plan, this was 32.

When the density bonus amount was a maximum of 50%, this would result in a proposed Residential-High zone density of 50 + 50% of 50, for a total of 75 units per acre. With the new maximum bonus amount of 100%, a Residential-High zoning can yield 100 units per acre.

As a point of reference, Sorrel Place has a density of 64 units per acre. By reducing parking requirements and reducing or eliminating setbacks and upper-floor step-backs, density can be increased.

7th Street, between I and J Street. Four stories, flat roof. **44 units, 83 bedrooms.**

Average unit size 824 square feet. 0.69 acres, about half of the city block.

Completed in January 2022. Density is **64 units per acre or 121 bedrooms per acre.**

It's also proposed In Commercial Mixed-Use and Central Commercial districts, which allow residential uses, the proposal is that there be no maximum listed density (Policy LU-1r). Recent amendments to the state density bonus law covers this situation -- where there is not a specified density, expressed in units per acre. **If more of Arcata is considered to be re-zoned as Commercial Mixed-Use, this can become an issue and should be studied.**

Source Material and Links

For information on AB 1287, the amendment to the State density bonus law effective the January 1, 2024, see the first two segments of articles shown here:

AB 1287 – Legislature Creates an (Additional) Density Bonus for Very Low- and Middle-Income Households

and

Density Bonus Law Updates

<https://www.coxcastle.com/publication-ab-1287-legislature-creates-an-additional-density-bonus-for-very-low-and-middle-income-households#:~:text=AB%201287%2C%20which%20was%20just,additional%20very%20low%2Dincome%20housing%20using.>

Cox Castle

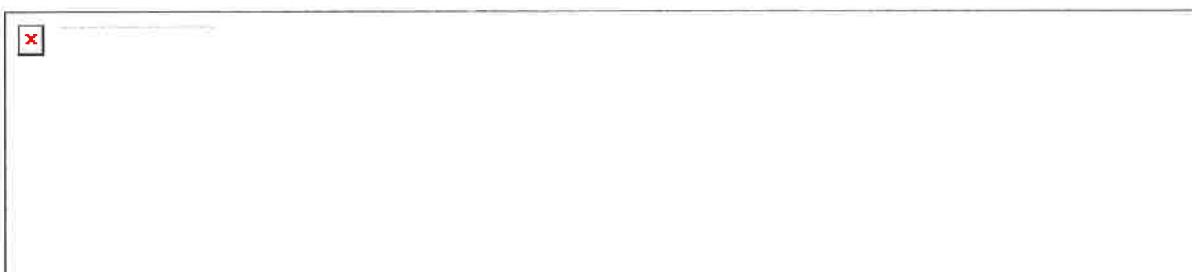
AB 1287 – Legislature Creates an (Additional) Density Bonus for Very Low- and Middle-Income Households

10.27.23

News & Publications

California has changed the State Density Bonus Law to give developers the option to incorporate significant additional density into eligible bonus projects. AB 1287, which was just signed into law by Governor Newsom, creates a **new stackable density bonus** (bonus on top of bonus) specifically designed to facilitate construction of middle-income housing and additional very low-income housing. Importantly, this new law provides the first opportunity to receive a density bonus for **moderate income rental** units.

To be eligible for AB 1287's additional bonus, a project must satisfy specific criteria. First, the project must propose to construct sufficient very low-income, low-income, or moderate-income units to achieve a 50% base density bonus (i.e., 15% very low-income, or 24% low-income, or 44% moderate-income). These units are still subject to prior requirements, including that any moderate-income units used to satisfy the base bonus be for-sale. The very low and low-income units can either be for-sale or rental units. Second, after committing to the required minimum base bonus, the applicant has the option to commit to constructing additional very low-income or moderate-income units as part of the project and receive an **additional** density bonus at specified percentages. These additional very low-income or moderate-income units may be offered as for sale or rental units – the first time that moderate income units qualifying for a density bonus can be offered for rent. As with the base bonus, the additional bonus is calculated based on a percentage of the project's base density. Thus, this bonus is additive of the initial 50% bonus, meaning a project could obtain a 100% density bonus if providing the required percentage of affordable units. The additional bonus percentages are as follows:





To illustrate using a project with a base density of 100 units, if the project proposed to reserve 15% of the base units for very low-income households *plus* 15% for moderate-income households, the project would be entitled to a **100% density bonus** (50% from the very low-income units and 50% from the moderate-income units). And, unlike a project that obtains a bonus through only moderate-income units, the additional moderate-income units in a stacked (bonus + bonus) project may *offer the moderate-income units for rent*. (Govt. Code § 65915(v) [additional "rental or for-sale affordable units to very low income households or moderate income households"].)

<https://www.reubenlaw.com/2023-housing-legislation-round-up/#:~:text=Density%20Bonus%20Law%20Updates&text=If%20additional%20very%20low%20income,would%20be%20restricted%20as%20affordable.>

Reuben, Junius & Rose, LLP

Density Bonus Law Updates

- **AB 1287** (Alvarez) Additional Density Bonus Layer. This bill adds another density bonus layer option to the State Density Bonus Law. If additional very low income or moderate income units are provided, a project is eligible to receive up to an additional 20% to 50% density bonus **on top of the base density bonus**, provided no more than 50% of the total units would be restricted as affordable. In addition, this bill alters the definition of "maximum allowable residential density" to mean the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, the greatest number of units allowed by the range. This bill clarifies that a local government is not prohibited from requiring reasonable documentation to establish eligibility for a requested density bonus and parking ratios. This bill also authorizes up to four incentives or concessions for projects that include at least 16% of the units for very low income households or at least 45% of the units for moderate income households in for sale projects.

<https://www.meyersnave.com/californias-density-bonus-law-2023-update/>

Meyers Nave -- California's Density Bonus Law – 2023 Update

2023 Changes

Shared Housing Projects. AB 682 establishes “shared housing” as a new category of housing eligible for a density bonus and the other benefits of the Density Bonus Law. “Shared housing” is defined in the legislation as a residential or mixed use structure containing five or more private units which share common areas such as a kitchen or dining area. The separate units within the shared housing development are treated the same as traditional self-contained housing units for purposes of the density bonus law. The new legislation opens up the density bonus law to support a wider range of housing options such as group homes.

Base Density Calculation. Under the Density Bonus Law, the density bonus amount is calculated on a “base density” of the number of units that would be permitted to be constructed under generally applicable local requirements. Most cities and counties have adopted standards for the maximum number of units per acre, which can be used to calculate the base density. But for those communities that do not have such standards, it can be very difficult to determine the base density. AB 682 establishes a method for determining the base density in those communities, which is to be estimated by analyzing objective standards for such factors as allowable floor area ratios, setback requirements, open space and parking requirements. The developer may submit a base density study to the community, which must accept it if it has included all applicable objective development standards.

[Note: Arcata's General Plan 2045 proposes removing standards for maximum number of units per acre. If this were to be done, the density bonus would be based on the estimated maximum, per this amendment.]

Chart of density bonus - 2023

from: https://www.meyersnave.com/wp-content/uploads/California-Density-Bonus-Law_2023.pdf

Maximum available density bonus. Pre-2024.

This level of units...

Results in this amount of density bonus

DENSITY BONUS CHART*

AFFORDABLE UNIT PERCENTAGE**	VERY LOW INCOME DENSITY BONUS	LOW INCOME DENSITY BONUS	MODERATE INCOME DENSITY BONUS***	LAND DONATION DENSITY BONUS	Entire project is Senior -- No affordability requirement. SENIOR****	FOSTER YOUTH/ DISABLED VETS/ HOMELESS	Number Low-Inco COLLEG STUDEN
5%	20%	-	-	-	20%	-	-
6%	22.5%	-	-	-	20%	-	-
7%	25%	-	-	-	20%	-	-
8%	27.5%	-	-	-	20%	-	-
9%	30%	-	-	-	20%	-	-
10%	32.5%	20%	5%	15%	20%	20%	-
11%	35%	21.5%	6%	16%	20%	20%	-
12%	38.75%	23%	7%	17%	20%	20%	-
13%	42.5%	24.5%	8%	18%	20%	20%	-
14%	46.25%	26%	9%	19%	20%	20%	-
15%	50%	27.5%	10%	20%	20%	20%	-
16%	50%	29%	11%	21%	20%	20%	-
17%	50%	30.5%	12%	22%	20%	20%	-
18%	50%	32%	13%	23%	20%	20%	-
19%	50%	33.5%	14%	24%	20%	20%	-
20%	50%	35%	15%	25%	20%	20%	35%
21%	50%	38.75%	16%	26%	20%	20%	35%
22%	50%	42.5%	17%	27%	20%	20%	35%
23%	50%	46.25%	18%	28%	20%	20%	35%
24%	50%	50%	19%	29%	20%	20%	35%
25%	50%	50%	20%	30%	20%	20%	35%
26%	50%	50%	21%	31%	20%	20%	35%
27%	50%	50%	22%	32%	20%	20%	35%
28%	50%	50%	23%	33%	20%	20%	35%
29%	50%	50%	24%	34%	20%	20%	35%
30%	50%	50%	25%	35%	20%	20%	35%
31%	50%	50%	26%	35%	20%	20%	35%
32%	50%	50%	27%	35%	20%	20%	35%
33%	50%	50%	28%	35%	20%	20%	35%
34%	50%	50%	29%	35%	20%	20%	35%
35%	50%	50%	30%	35%	20%	20%	35%
36%	50%	50%	31%	35%	20%	20%	35%
37%	50%	50%	32%	35%	20%	20%	35%
38%	50%	50%	33%	35%	20%	20%	35%
39%	50%	50%	34%	35%	20%	20%	35%
40%	50%	50%	35%	35%	20%	20%	35%
41%	50%	50%	38.75%	35%	20%	20%	35%
42%	50%	50%	42.5%	35%	20%	20%	35%

[https://scag.ca.gov/sites/main/files/file-attachments/density_bonus_law_-what_are_incentives_concessions_and_waivers.pdf?1667860893#:~:text=Density%20Bonus%20Law%20\(DBL\)&text=Code%20%C2%A7%C2%A765915%20%2D%2065918,market%20rate%20\(BMR\)%20rents.](https://scag.ca.gov/sites/main/files/file-attachments/density_bonus_law_-what_are_incentives_concessions_and_waivers.pdf?1667860893#:~:text=Density%20Bonus%20Law%20(DBL)&text=Code%20%C2%A7%C2%A765915%20%2D%2065918,market%20rate%20(BMR)%20rents.)

Southern California Association of Governments

Density Bonus Law: What Are Incentives/Concessions and Waivers?

What Is an Incentive/Concession?

Usually, a development project must be modified and/or reduced to comply with established objective design standards and other development regulations such as limits on building height, setback, parking, and on-site open space requirements, etc. Concessions and incentives, as defined under State law, **allow a developer to deviate from those design standards and/ or development regulations when such regulations potentially make the project economically infeasible for the developer to build.**

Incentives/concessions include “[a] **reduction in site development standards or a modification of zoning code requirements or architectural design requirements** ... that result in identifiable and actual cost reductions, to provide for affordable housing costs.”

What Are Waivers?

Waivers are yet another form of assistance under State law, separate from incentives/concessions. A waiver is a reduction or **modification of any “development standards”** and other regulations when those requirements potentially make the construction of the project **physically infeasible**, if not **approved**. The developer must provide written documentation to justify why the waiver(s) is needed to construct the project. Unlike concessions and incentives, there is no limit in the number of waivers an applicant can request and applicants are entitled to a waiver of any and all development standards that would physically preclude the development at the density permitted and with the incentive(s) granted. [Gov. Code §65915(e)(1) and §65915(e)(2)] “Development standards” includes a site or construction condition, including, but not limited to, a **height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement**, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

https://www.meyersnave.com/wp-content/uploads/California-Density-Bonus-Law_2023.pdf

Meyers Nave -- Guide to the California Density Bonus Law

Revised 2023

REQUIRED INCENTIVES AND CONCESSIONS

In addition to the density bonus, **the city or county is also required to provide one or more “incentives” or “concessions” to each project which qualifies for a density bonus** (except that market rate senior citizen projects with no affordable units, and land donated for very low income housing, do not appear to be entitled to incentives or concessions). A concession or incentive is defined as:

- **A reduction in site development standards or a modification of zoning code or architectural design requirements**, such as a reduction in setback or minimum square footage requirements; or
- Approval of mixed use zoning; or
- **Other regulatory incentives or concessions which actually result in identifiable and actual cost reductions.**

The number of required incentives or concessions is based on the percentage of affordable units in the project:

NO. OF INCENTIVES/ CONCESSIONS	VERY LOW INCOME PERCENTAGE	LOWER INCOME PERCENTAGE	MODERATE PERCENTAGE
1	5%	10%*	10%
2	10%	17%	17%
3	15%	24%	24%
4	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)

* One incentive or concession is also required for projects that include at least 20 percent of the units in the project for lower income students in a student housing development.

The city or county is required to grant the concession or incentive proposed by the developer unless it finds that the proposed concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs or rents, would cause a public health or safety problem, would harm historical property, or would be contrary to law. The Density Bonus Law restricts the types of information and reports that a developer may be required to provide to the local jurisdiction in order to obtain the requested incentive or concession. A 2021 appellate court case, Schreiber v. City of Los Angeles, held that a local government may not require an applicant to submit a pro forma or other documentation to prove that a requested incentive or concession is required in order to make the housing development economically feasible. However, local agencies can require applicants to show that requested incentives and concessions will result in cost reductions for the project to provide for affordable housing costs or rents. The local jurisdiction has the burden of proof in the event it declines to grant a requested incentive or concession. Financial incentives, fee waivers and reductions in dedication requirements may be, but are not required to be, provided by the city or county. The developer may be entitled to the incentives and concessions even without a request for a density bonus.

OTHER FORMS OF ASSISTANCE

A development qualifying for a density bonus also receives two additional forms of assistance which have important benefits for a housing project:

- **Waiver or Reduction of Development Standards.** If any other city or county development standard would physically prevent the project from being built at the permitted density and with the granted concessions/incentives, **the developer may propose to have those standards waived or reduced.** The city or county is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concessions/incentives. The city or county is not required to waive or reduce development standards that would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. The waiver or reduction of a development standard does not count as an incentive or concession.

concession, and there is no limit on the number of development standard waivers that may be requested or granted. Development standards which have been waived or reduced utilizing this section include setback, lot coverage and open space requirements, and should apply to building height limits as well. This ability to force the locality to modify its normal development standards is sometimes the most compelling reason for the developer to structure a project to qualify for the density bonus. A recent appellate court case, Banker's Hill 150 v. City of San Diego, ruled that a developer who seeks to waive or reduce development standards under the Density Bonus Law cannot be required to strip the project of amenities or redesign the project in order to meet local development standards.

<https://www.bhfs.com/insights/alerts-articles/2023/missing-middle-governor-signs-bill-to-bolster-middle-income-housing>

Brownstein Hyatt Farber Schreck, LLP

Missing Middle: California Governor Signs Bill to Bolster Middle-Income Housing

On [Arcata1.com](https://arcata1.com/affordability-and-home-ownership-selected-articles/):

<https://arcata1.com/affordability-and-home-ownership-selected-articles/>

Affordability and Home Ownership for housing in Arcata

More than 40 articles on affordability, home ownership, the State density bonus law explained, and other subjects. Includes articles with statements by Arcata's Community Development Director David Loya on these subjects.

State Density Bonus Laws / Inclusionary Zoning / Community Benefits — David Loya presentation:

- "And so project proponents will be driven by the Density Bonus provisions. **And our design standards and Community Benefits programs are unlikely to be implemented due to waivers and concessions.**"

David Loya on Affordable Housing – May 9, 2023 staff report to the Planning Commission:

- "It is important to note that all of these definitions and programmatic applications lose sight of the way we experience affordable housing at the household level."
- "First, **folks have been confused** about what we mean when we use the term affordable housing. In particular, when the term "market rate affordable housing" has been used."

Complete Nonsense: David Loya's May 23 Staff Report on Ownership Opportunities:

"First, as the unit count in the area increases to meet the housing needs of the rental sector, new units with comparable rents to bedrooms in single-family homes that are older will attract the current market sector renting single-family homes."



STAFF REPORT – CITY COUNCIL MEETING

January 17, 2024

TO: Honorable Mayor and City Council Members

FROM: David Loya, Director of Community Development

PREPARER: David Loya, Director of Community Development

DATE: January 11, 2024

TITLE: **Consider Inclusionary Zoning Policy.**

RECOMMENDATION:

Staff recommends the Council consider and provide direction on the City's Inclusionary Zoning policy.

INTRODUCTION:

The Council and Planning Commission have considered Inclusionary Zoning on several occasions over the second half of 2023. The Planning Commission made a formal recommendation to the Council at a joint study session with the Commission on September 26, 2023. The Council directed the Commission to reconsider the program, including adding a moderate-income rental component to the program. On November 14, 2023, the Commission refined its recommendation adding a moderate-income rental requirement. This item provides the Council an opportunity to resolve the outstanding policy discussion and provide direction to develop both a policy and an implementing ordinance.

BACKGROUND:

The Commission has studied this issue at several hearings. Councilmembers should review the record for information on inclusionary zoning, including the staff report and video from the August 8, 2023, meeting. This context will assist understanding the Commission's recommendation based on the Council's direction at the September 26 Study Session. The matter was also taken up by the Commission on October 10 and November 14, 2023. The Commission made a recommendation at its November meeting.

DISCUSSION:

The Council directed staff to evaluate a workforce program. On October 10, 2023, staff provided an analysis of a moderate-income program to the Planning Commission. The conclusion of that assessment was that a moderate-income program is not needed. The rental rates as calculated using standard practices are higher than the market rate for nearly every family size earning 120% AMI, a program set based on generally accepted standards does not make sense in our area. The income of moderate-income households is sufficient to pay market rents without burden.

For the purposes of developing a workforce housing density bonus, we define the upper income limit as median income. A median-income household earnings and housing costs at the upper limit can pay market rents (Table 2). But the median income category floor is 80% AMI.

Table 2. Income and rents affordable to median income households.

Household Size	1	2	3	4	5
Unit Size	0BR	1BR	2BR	3BR	4BR
Median Monthly	\$4,887	\$5,587	\$6,283	\$6,983	\$7,541
30% Median Monthly	\$1,466	\$1,676	\$1,885	\$2,095	\$2,262
Less Utility Allowance	\$1,346	\$1,556	\$1,765	\$1,975	\$2,142
Hourly Wage (2080hr/yr)	\$28.20	\$32.24	\$36.25	\$40.29	\$43.51

The City could consider adopting its own standard that is based on low-income rent limits set by the State. This program will need to be evaluated by the City's legal team but could be structured similar to the low-income program adjusting for income. Staff proposes using the formula 30% of 75% of AMI to establish rent limits adjusted for household size (Table 4).

Table 4. Comparison of various rent programs and market rent.

Household Size	1	2	3	4	5
	0BR	1BR	2BR	3BR	4BR
Low HOME Rent	\$722	\$773	\$928	\$1,072	\$1,196
High HOME Rent	\$812	\$907	\$1,183	\$1,360	\$1,498
Fair Market Rent Countywide	\$812	\$907	\$1,183	\$1,681	\$2,015
Market Rent Arcata*	\$975	\$1,195	\$1,350	\$2,000	\$2,424
Proposed Workforce Housing Limits	\$980	\$1,137	\$1,294	\$1,451	\$1,577

<https://www.hcd.ca.gov/sites/default/files/docs/grants-and-funding/income-limits-2023.pdf>

* Data collected and analyzed by Community Development staff for current market conditions.

The Council had competing desires to increase the percentage of inclusionary units and simultaneously avoid interfering with the Gateway planning work due to the provisions of State Density Bonus Law. The following proposal was recommended by the Planning Commission on November 14, 2023, in an attempt to avoid interacting with Density Bonus law as it was written prior to January 1, 2024. In addition, the Commission recommended adding a median-income rental category (Table 5). This was the Commission's recommendation as of for low and very low-income households. However, the Council may wish to revisit this based on changes in Density Bonus law effective Jan 1 (Table 6).

Table 5. Inclusionary Zoning Proposed Amendment.

Household Income	% Affordable	Requirement
Very-Low (50% AMI)	4%	Pick one
Low (80% AMI)	6%	Pick one
Median Income (AMI)	10%	Required

Density Bonus Amendments Jan 1, 2024

As of January 1, 2024, Density Bonus law changed pursuant to AB 1287. The law now requires affordable housing productions to hit thresholds of 15% very-low income, 24% low income, or 44% moderate income for owner-occupied units before density bonus triggers. This provides a larger gap between the City's Inclusionary Zoning requirement as proposed by the Planning Commission and the density bonus. The Council may wish to consider increasing the Inclusionary Zoning thresholds to obtain a higher proportion of affordable units since the overlap is less of an issue. Staff recommends the Council either return to the Commission recommendation of 6% for very-low and 9% for low income, or consider increasing the number to 10% and 15% respectively. There is now enough of a spread for these numbers to separate the programs.

This Commission proposal would require a developer that triggers inclusionary zoning to provide 10% of the units to households earning less than area median income, as well as either 4% to very-low income households or 6% to low-income households. Staff recommends the Council consider the "New Recommendation" shown in Table 6.

Table 6. Affordability comparisons between inclusionary zoning and density bonus.

Affordability Option	% affordable	unit count	
		30	150
New recommendation VL	10%	3	15
New recommendation L	15%	5	23
PC recommendation VL	4%	2	6
PC recommendation L	9%	3	14
Density Bonus VL	15%	5	23
Density Bonus L	24%	8	36

In addition, because the floor on moderate income affordable housing was raised to 44%. Council should consider how this interacts with the Community Benefits program. Currently, the program allows credit if greater than 50% of the units are for-sale owner occupied. This does not include a restriction for affordability. There is also credit if the Inclusionary Units are for-sale owner occupied. The density bonus for owner occupied only requires 44% of the units to trigger the benefits of density bonus. Council may want to consider creating a gap between these two programs.

Other jurisdictions' Inclusionary Zoning requirements

Santa Cruz - <https://www.cityofsantacruz.com/government/city-departments/economic-development/housing-assistance-information/housing-programs/measure-o-inclusionary-housing> - Measure O that implemented the Inclusionary Zoning requirements of Santa Cruz.

<https://www.codepublishing.com/CA/SantaCruz/html/SantaCruz24/SantaCruz2416.html>.

Inclusionary zoning ordinance: 1 unit for a 2-4 unit project; >4 units 20% for for-sale project. Rental projects 5 or greater must have 20%. Santa Cruz allows an in lieu fee.

Santa Rosa - <https://www.srcity.org/2556/Inclusionary-Housing-Policy> - 4% Low, 3% very low 5% moderate; in Downtown this is 4%, 3%, and 5%, respectively. All projects pay a housing impact fee or provide units. There is an alternative for off-site unit creation. Santa Rosa allows an in lieu fee.

Los Angeles County <https://planning.lacounty.gov/long-range-planning/inclusionary-housing/> - going through adoption of an amendment currently. Good resources on feasibility in their market. The threshold is 135% AMI, moderate income or less for rental and purchase projects.

General Info on IZ - https://wclp.org/wp-content/uploads/2018/12/inclusionary-factsheet_v2.pdf

POLICY IMPLICATIONS:

Inclusionary zoning will help stabilize neighborhoods in light of new development and ensure mixed income neighborhoods result from new investment.

COMMITTEE/COMMISSION REVIEW:

The Planning Commission made a recommendation on November 14, 2023.

ENVIRONMENTAL REVIEW (CEQA):

The General Plan EIR will cover this action.

BUDGET/FISCAL IMPACT:

This is part of the budget for the overall General Plan update.

Mads Odom

From: Fred [REDACTED]
Sent: Wednesday, January 17, 2024 8:11 AM
To: Meredith Matthews; Stacy Atkins-Salazar; Alex Stillman; Kimberley White; Sarah Schaefer; Scott Davies; Dan Tangney; Judith Mayer; Matthew Simmons; Peter Lehman; Joel Yodowitz; Abigail Strickland; Karen Diemer; David Loya; Tabatha Miller
Subject: IN BRIEF -- Inclusionary zoning considerations for Jan 17 Council meeting

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

** Can be read quickly **

Hello --

This is a shorter version of what I wrote yesterday.

This will likely be easier for you to read.

In addition, there's a list of questions that the Council may want to ask of staff.

Please view the 1/16/2024 message for further detail.

Thank you.

-- Fred Weis

1. The Staff Report section on the new density bonus amendment starts on page 53.

"As of January 1, 2024, Density Bonus law changed pursuant to AB 1287. **The law now requires affordable housing productions to hit thresholds of 15% very-low income, 24% low income, or 44% moderate income for owner-occupied units before density bonus triggers.** This provides a larger gap between the City's Inclusionary Zoning requirement as proposed by the Planning Commission and the density bonus."

What is written in the Staff Report is not valid. It is incorrect. The previous levels of 5% very-low-income and 10% low-income -- where the State density bonuses will start -- are still in place. There is **not** a larger gap.

This is not my opinion. This is fact.

2. The new law provides for bigger density bonuses. **It is a bonus on top of the existing bonus. The new law says the developer can "stack" the bonuses by combining either additional very-low income or some moderate-income rental units.** (Before, the moderate-income units had to be for-sale.)
3. If you want to read more, there are links to two articles from law firms, below. Also below are extracts from those articles, with main points highlighted.
4. **It is my view that the Staff Report, as it's presented, is terribly misleading.** There are other errors and (in my view) incorrect opinions expressed in this staff report.
5. It is my view that Staff is not capable of presenting information on inclusionary zoning in an unbiased manner. We have seen much evidence of this, both in this staff report and previously. Yesterday I

suggested that the City's Finance Director be involved (if she is inclined). In addition, I suggest having an outside consultant look at our situation and offer advice.

6. Here are some questions that can be asked:

1. The proposal for Arcata's inclusionary zoning starts with a project size of 30 units. Other cities start with smaller projects -- starting at 5 units. Can ours start at 5? If not, why not?

Using an example of 10% (if that is what it turns out to be) and a lower starting threshold, then a 29-unit project would result in 3 affordable units. A 5-unit project would result in 1 affordable unit. (The number is rounded up.) If the threshold were 30-units, then there would be **zero** affordable units.

2. Other cities have 20% affordable inclusionary zoning. In some places there are calls for 25%. How is this higher amount done in those cities? Is it that the more expensive "market rate" apartments provide a greater subsidy, so the developer can afford to include more lower-income units?
3. If our starting threshold were to be 30, suppose a developer builds a 28-unit apartment building this year, on one section of the parcel, and then makes another 28-unit building on the same parcel next year. Each project would be under the 30-unit threshold. Then we would not get a single unit of affordable housing?
4. Senior housing, low-income student housing (rents are charged by the bed, not by the apartment), and single-kitchen clustered housing -- what are the triggers for density bonus amounts from these sources? Since those would likely be easier to build than true affordable housing, if a developer wanted to get the density bonus and the waivers and concessions, wouldn't the developer be more inclined to go that route? (This is different from an all-affordable building like Sorrel Place.)
5. Is anyone aware of developers who want to build? What size and type of projects are they proposing? What are their time-frames? What are they waiting for? Could we get some specifics on this, please.
6. What are waivers and incentives/concessions? How does a developer get them? How does that affect our design standards and proposed community benefits programs? If, say, a developer put in 10% low-income housing in the project, could the developer put in more parking than would be allowed, or change the setbacks, or shade on adjacent properties, and make other changes to our standards?
7. Can the Director please explain his statement: "And so project proponents will be driven by the Density Bonus provisions. And our design standards and Community Benefits programs are unlikely to be implemented due to waivers and concessions."
8. Can the Director please explain these statements from the agenda packet:
"The income of moderate-income households is sufficient to pay market rents without burden."
"The conclusion of that assessment was that a moderate-income program is not needed."
"A median-income household earnings and housing costs at the upper limit can pay market rents (Table 2)."

<https://www.reubenlaw.com/2023-housing-legislation-round-up/#:~:text=Density%20Bonus%20Law%20Updates&text=If%20additional%20very%20low%20income,would%20be%20restricted%20as%20affordable.>

Density Bonus Law Updates

- **AB 1287** (Alvarez) Additional Density Bonus Layer. This bill adds another density bonus layer option to the State Density Bonus Law. If additional very low income or moderate income units are provided, a project is eligible to receive up to an additional 20% to 50% density bonus **on top of the base density bonus**, provided no more than 50% of the total units would be restricted as affordable. In addition, this bill alters the definition of "maximum allowable residential density" to mean the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, the greatest number of units allowed by the range. This bill clarifies that a local government is not prohibited from requiring reasonable documentation to establish eligibility for a requested density bonus and parking ratios. This bill also authorizes up to four incentives or concessions for projects that include at least 16% of the units for very low income households or at least 45% of the units for moderate income households in for sale projects.

<https://www.coxcastle.com/publication-ab-1287-legislature-creates-an-additional-density-bonus-for-very-low-and-middle-income-households#:~:text=AB%201287%2C%20which%20was%20just,additional%20very%20low%2Dincome%20housing%20using.>

Cox Castle

AB 1287 – Legislature Creates an (Additional) Density Bonus for Very Low- and Middle-Income Households

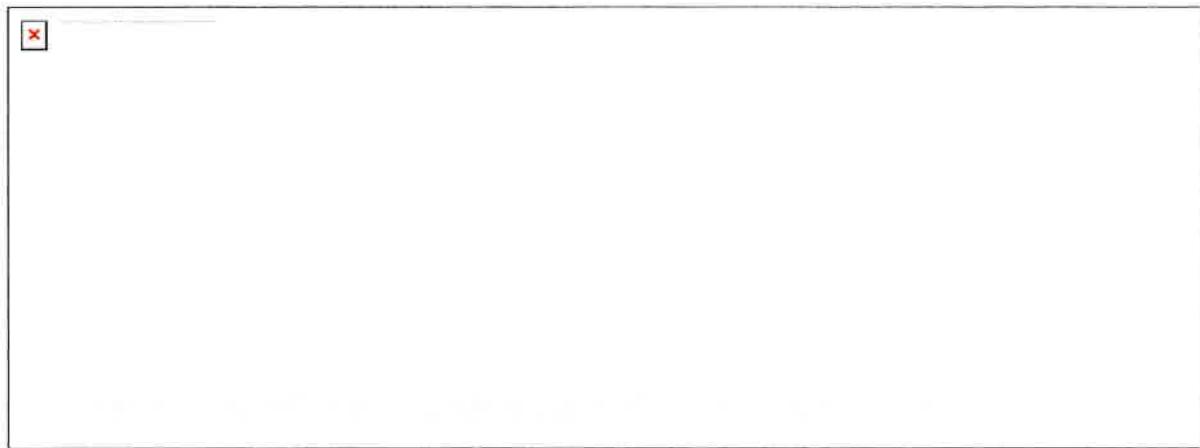
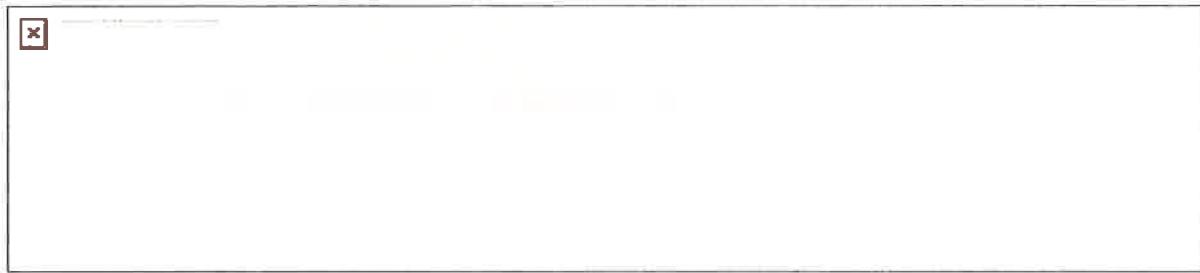
10.27.23

News & Publications

California has changed the State Density Bonus Law to give developers the option to incorporate significant additional density into eligible bonus projects. AB 1287, which was just signed into law by Governor Newsom, creates a **new stackable density bonus** (bonus on top of bonus) specifically designed to facilitate construction of middle-income housing and additional very low-income housing. Importantly, this new law provides the first opportunity to receive a density bonus for **moderate income rental** units.

To be eligible for AB 1287's additional bonus, a project must satisfy specific criteria. First, the project must propose to construct sufficient very low-income, low-income, or moderate-income units to achieve a 50% base density bonus (i.e., 15% very low-income, or 24% low-income, or 44% moderate-income). These units are still subject to prior requirements, including that any moderate-income units used to satisfy the base bonus be for-sale. The very low and low-income units can either be for-sale or rental units. Second, after committing to the required minimum base bonus, the applicant has the option to commit to constructing additional very low-income or moderate-income units as part of the project and receive an **additional** density bonus at specified percentages. These additional very low-income or moderate-income units may be offered as for sale or rental units – the first time that moderate income units qualifying for a

density bonus can be offered for rent. As with the base bonus, the additional bonus is calculated based on a percentage of the project's base density. Thus, this bonus is additive of the initial 50% bonus, meaning a project could obtain a 100% density bonus if providing the required percentage of affordable units. The additional bonus percentages are as follows:



To illustrate using a project with a base density of 100 units, if the project proposed to reserve 15% of the base units for very low-income households *plus* 15% for moderate-income households, the project would be entitled to a **100% density bonus** (50% from the very low-income units and 50% from the moderate-income units). And, unlike a project that obtains a bonus through only moderate-income units, the additional moderate-income units in a stacked (bonus + bonus) project may offer the moderate-income units for rent. (Govt. Code § 65915(v) [additional "rental or for-sale affordable units to very low income households or moderate income households"].)
