



BUILDING INDUSTRY ASSOCIATION

DATE: Nov. 6, 2017

TO: Hayward Mayor Barbara Halliday, Mayor Pro Tem Elisa Márquez and Councilmembers Al Mendall, Francisco Zermeño, Mark Salinas, Sara Lamnin and Marvin Peixoto

FROM: BIA|Bay Area East Bay Executive Director for Governmental Affairs Lisa Vorderbrueggen

RE: Comments on Proposed Affordable Housing Ordinance Revisions and In-Lieu Fee

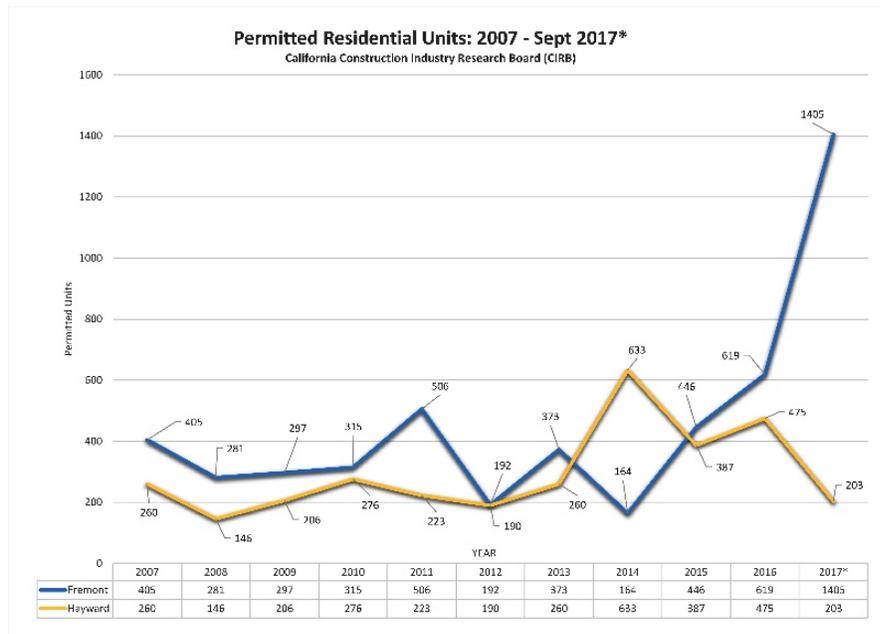
Dear Mayor Halliday and Councilmembers:

Thank you for the continued opportunities to discuss how to provide more housing for people of all income levels in Hayward. To that end, I would like to make the following comments and recommendations regarding the city’s draft Affordable Housing Ordinance and proposed affordable housing in-lieu fees.

I applaud the staff and City Council for retaining the “fee by right” option and the “combination of alternatives” provision. Hayward needs more housing and providing every project with as many tools necessary for its success will help ensure that either units or money to leverage units will materialize.

The proposed \$18 to \$20 per sq. ft. in-lieu fee is too high. The City should consider doubling the in-lieu fee to \$10 per sq. ft. for two years, then conducting an assessment of the impacts before considering additional increases. While we agree that Hayward’s current fee could be raised, BIA members tell me that a fourfold hike will render many of the residential projects in the city’s development pipeline infeasible for the foreseeable future. The natural inclination may be to fear a loss of the fees but in reality, the city could lose both the housing and the fees.

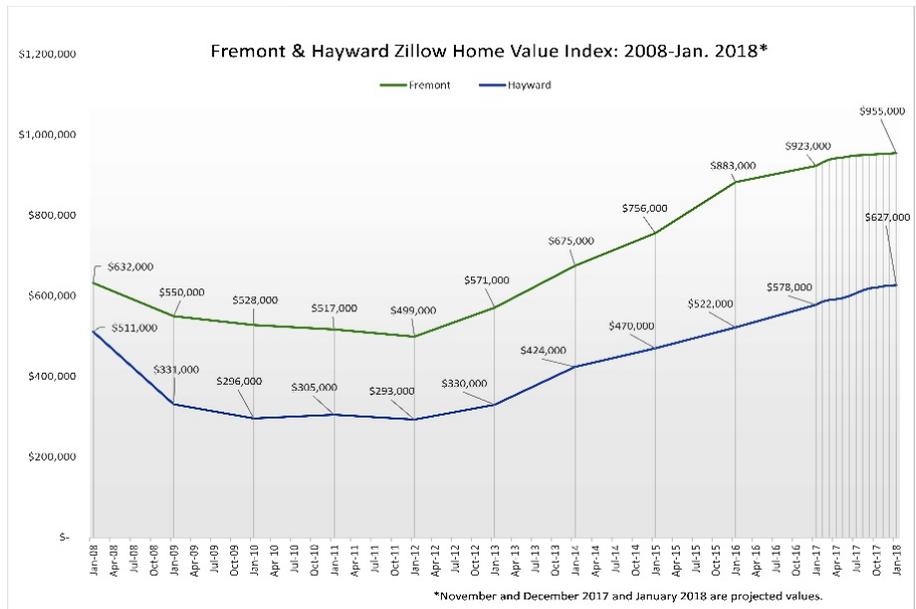
Construction and other housing development costs have been increasing during the past four years at rates that far exceed the rate of inflation. As a result, projects in Hayward’s pipeline are already facing significant headwinds that make development more risky and less attractive to the investment community. That trend, coupled with a significant increase in regulatory costs (like the fee increase the City is proposing), could make some projects entirely infeasible. For example, when Meritage Homes began seeking entitlements for Mission Crossings in 2015, the company said its financial projections showed a solid financial return that justified the risk for a risky redevelopment program that involved subsidizing a hotel and retail facility plus 140 townhomes. If the project were to be burdened with an additional \$4.3 million in affordable housing fees, the added cost would not only make it impossible to subsidize the hotel, it would kill the entire deal. The land seller would not take the loss and the Hayward market is not sufficiently robust to allow for increasing the sales prices to cover the cost. Home builders don’t have the same direct



pricing power of a consumer commodity. If production costs exceed what the market will return on the investment, housing investors will go elsewhere.

“Elsewhere,” for example, could be Fremont. As the chart on Page 1 shows, Fremont issued 1,405 residential permits in the first nine months of 2017 compared to 203 in Hayward. The chart below offers a possible reason why: Fremont has a substantially higher median home value than Hayward – in excess of \$330,000 in September – which allows developers to achieve the higher sales prices and rents necessary to recover the growing costs of producing housing while still attracting investors.

The City should consider phasing the in-lieu fee increase over two years, which will allow new projects time to incorporate the added costs into their financing structures. Under a \$10 per sq. ft. fee, the phasing could be set at \$7 per sq. ft. on July 1, 2018, and \$10 per sq. ft. on Jan. 1, 2019. Other cities have used this approach, as well. Oakland, for example, spread its affordable housing impact fee increase across three years, starting in 2016 with increases on July 1 of each successive year. Fremont also phased in some of its fee increases when it revised its affordable housing program in 2015.



For projects with pending development applications, I respectfully ask the City to consider the following alternative grandfathering provision: All development applications submitted by Nov. 28, 2017, that are deemed complete by Feb. 1, 2018, the presumed effective date of the amended ordinance, shall be grandfathered under the current Affordable Housing Ordinance and in-lieu fee schedule. Requiring developers to obtain a completed application AND all discretionary approvals prior to Nov. 28, 2017, in order to qualify for the grandfather provision is nearly tantamount to offering no grandfathering provision at all. It is the city that controls the discretionary approval schedule and determines when an application is “complete.”

More important, as I noted earlier, many of the projects on the pipeline list may no longer be economically feasible under your proposed ordinance amendments. Without a grandfathering or transition period, many of these much-needed housing units will not be built and the city will not collect any fees. I look forward to continuing to work with you on this important issue.

Sincerely,

Lisa Vorderbrueggen

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