



January 9, 2019

Paul McDougall, Housing Policy Manager  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT  
2020 W. El Camino Avenue, Suite 500 Sacramento, CA 95833  
TRANSMITTED VIA EMAIL

RE: City of Hollister Proposed Growth Management Ordinance

Dear Mr. McDougall,

BIA Bay Area appreciates the HCD's attention to the City of Hollister's proposed Growth Management Ordinance (GMO). Following up on our conversation of January 8, 2019, I'm providing remarks on several significant BIA concerns with the proposed GMO:

- The GMO fails to consider how State housing law establishing by right development, permit streamlining, and other project protections, through the Housing Accountability Act and SB 35, would be incorporated into the allotment and entitlement process;
- The GMO may run afoul of the HAA by effectively requiring a permit in order to apply for a building permit. BIA questions whether the refusal to grant all of the requested allotments at one time equals a project denial or density reduction, arguing that disapproving an allocation request qualifies as disapproving a land use approval or entitlement that is necessary for the issuance of a building permit and that therefore denial of an allocation request must be accompanied by health and safety findings;
- The GMO would constrain the development of multifamily housing. In multifamily projects, refusing to approve the full number of allotments for the project in one phase often renders the project infeasible and effectively kills the project. Multifamily projects often require issuance of all building permits in one phase. The developer needs that certainty that all allotments will be issued and therefore may pull building permits in order to receive financing;
- The GMO fails to consider carry over of unassigned allocations nor does it consider how the City should address any shortage of allotments for multifamily or other desirable project applications;
- The GMO does not explicitly exempt housing designated for Moderate income families as it does for housing units designated for Extremely Low, Very Low, and Low income families. As we know, housing designated for Moderate Income families is in very high demand and should be exempted from the GMO;

- The GMO adds significant delays and obstacles to the entitlement process. The GMO fails to address how the City would streamline the cumbersome allotment/entitlement process, preferably by establishing concurrent processing of GP amendment, zoning, and site development permits;
- The GMO includes over one hundred project rating criteria divided into five categories that would add tens of thousands of dollars to each unit. According to the Staff Report: *“The guiding principle for each of the five categories is to provide amenities/elements above and beyond the minimum necessary to satisfy the established requirement.”* This “guiding principle” should be considered a significant flaw in the GMO. BIA is very concerned about municipalities that continue to use growth management as the means of exorbitant extraction of land and dollars without legal nexus or feasibility;
- Subjective criteria in the GMO points scheme poses another conflict with the HAA because the HAA prohibits a city from denying any land use approval necessary for a building permit (such as an allotment) if the applicant complied with existing objective standards; Examples of subjective criteria in the GMO include increased densities over general plan requirements, increased setbacks, minimum materials and labor requirements, onsite security in perpetuity, lighted curb address numbers, 50% maximum of two-story units, etc. Language in Appendix M reveals that these criteria are extremely subjective:
 

*Compliance with adopted Zoning and Subdivision Codes alone is an insufficient way for the City to approve residential units because of the high demand. This application process is being implemented to provide high quality development and a high quality of life for Hollister residents.*
- Individual GMO rating criteria of significant concern that need to be eliminated or completely revised:

Two-point category:

- 32. Will the project applicant contribute additional parkland development impact funding of at least 25% of the existing fee.
- 33. Will the project applicant contribute additional school impact funding of at least 25% of the existing fee?
- 34. Will the project applicant contribute funding to the library of at least \$100.00 per unit?
  - BIA comment - The City exacts park fees on each unit through the Quimby act and is in the process of updating its Greenprint and nexus study; school funding is established by the State and a strictly prescribed formula is applied on each unit that is built within each district. These criteria are out-and-out efforts to skirt state law by requiring “volunteer” payments above that which is required.

Three-point category:

- 22. Does 25% of the units have at least one entry, one bathroom on ground floor and one bedroom on ground floor that is “accessible?”
- 23. Will the project development utilize at least 25% of labor and materials from San Benito County sources;
  - BIA comment - These criteria should be eliminated. There is no requirement for accessibility in single family units and the City should not establish one. Labor and

material costs are at an all-time high; labor shortages are impacting all development, especially in San Benito County.

Twenty-point category:

This category contains most of the points available to project proponents, over 200 points, and also contains the highest exactions for City amenities, an amount that would add from \$30,000 up to \$80,000 to each unit. Subdivided into common issue groups for comment:

Transportation:

- 5. Will the project applicant contribute additional funding for improvements to regional highways such as Highway 156 or Highway 25 at a minimum of \$15,000.00 per residential unit for the project?
- 6. Will the project applicant contribute additional funding for off-site improvements to the city's public rights-of-way including but not limited to road repair, placement or replacement of sidewalks, lighting, landscaping, safe bicycle paths, safe pedestrian connections, or implementation of the safe routes to school program in the amount of at minimum \$10,000.00 per residential unit?
- Will the project applicant contribute to the completion of planned roads in the circulation element of the general plan or within approved master plans such as the extension of Memorial Drive, the extension of Westside Blvd., or the extension of Bert Drive in the amount of at minimum \$10,000.00 per residential unit?
  - BIA comment – In November 2018, the San Benito County Council of Governments recently sponsored and passed Measure G, a \$450 million-dollar sale tax measure that will widen Hwy 25 to four lanes, construct improvements on Hwy 156, and allocate funds for local streets and roads. Through Measure G, San Benito County has become a self-help county, eligible for increased funding from the State and Federal governments. Also, Santa Clara County passed Measure B, a transportation sales tax measure which includes funding to improve the Hwy 101/25 interchange. The City of Hollister should not be extracting additional dollars from projects that are already paying impact fees and sales taxes to improve City and County transportation.

Affordable Housing:

- 3. Will at least 20% of the residential units for the project be for affordable housing, special needs housing, or senior housing to assist in meeting the City's RHNA?
  - BIA comment – The City has no inclusionary housing ordinance and should not be introducing a back door IHO through these criteria that avoid compliance with AB 1505.

In conclusion, BIA Bay Area appreciates the opportunity to provide comment to HCD regarding Hollister's very problematic proposed Growth Management Ordinance. We look forward to continuing dialogue on this issue.

Yours truly,

Dennis Martin  
BIA Bay Area Government Affairs