



City of Huntington Beach

File #: 21-577

MEETING DATE: 8/24/2021

PLANNING COMMISSION STAFF REPORT

TO: Planning Commission
FROM: Ursula Luna-Reynosa, Director of Community Development
BY: Nicolle Aube, AICP, Senior Analyst

SUBJECT:
ZONING TEXT AMENDMENT NO. 19-004 (AFFORDABLE HOUSING ORDINANCE)

REQUEST:
To amend Section 230.26 - Affordable Housing of the Huntington Beach Zoning and Subdivision Ordinance.

LOCATION:
Citywide

APPLICANT:
City of Huntington Beach

PROPERTY OWNER:
Not applicable

BUSINESS OWNER:
Not applicable

STATEMENT OF ISSUE:

1. Does the project satisfy all the findings required for a Zoning Text Amendment?
2. Has the appropriate level of environmental analysis been determined?

RECOMMENDATION:

That the Planning Commission take the following actions:

A) Find that Zoning Text Amendment (ZTA) No. 19-004 is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (General Rule) of the CEQA Guidelines because there is no potential for the project to have a significant effect on the

environment (Attachment No. 1).

B) Recommend approval of Zoning Text Amendment No. 19-004 with findings (Attachment No. 1) by approving draft City Council Ordinance No. 4235 and forward to the City Council for consideration (Attachment No. 2).

ALTERNATIVE ACTION(S):

- A) Do not recommend approval of Zoning Text Amendment No. 19-004 to the City Council; or
- B) Continue Zoning Text Amendment No. 19-004 and direct staff accordingly.

PROJECT PROPOSAL:

Background:

Zoning Text Amendment No. 19-004 represents a request to amend Section 230.26 - Affordable Housing of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). In conjunction with ZTA No. 19-004, an update to the in-lieu fee is proposed. However, the in-lieu fee update is subject only to City Council approval and will be provided via a draft resolution for City Council consideration along with the zoning text amendments proposed as part of this ZTA No. 19-004.

The City has contracted with an economic consultant, Keyser-Marston Associates (KMA), to assist in technical analysis and proposes the following changes to the ordinance:

- Updates and expands the options for projects to meet affordable housing requirements.
- Revises the in-lieu fee payment option and fee calculation methodology for ownership and rental housing projects. Notably, the option to pay in-lieu fees is recommended to be expanded for ownership projects of any size and rental projects with up to 100 units. Currently, the in-lieu fee option is limited to projects consisting of 30 units or less.
- Clarifies that rental projects must provide affordable units at the lower income level.
- Overall minor clarifications and revisions, including adding a “Definitions” section.

The existing Affordable Housing ordinance is codified as Section 230.26 - Affordable Housing within the Huntington Beach Zoning and Subdivision Ordinance. The City’s Affordable Housing policies were established in the mid 1990’s and codified in 2005. The current affordable housing ordinance requires new residential projects proposing three or more units to provide at least 10 percent of the total units as affordable to either moderate or lower-income households. The existing ordinance provides several options for a project to meet the affordable housing obligation. A project may provide affordable units within the proposed project for onsite compliance. Further, the affordable units are permitted to be provided at an off-site location, and may be new construction or substantial rehabilitation of existing units. Preservation of at-risk units identified in the Housing Element may also satisfy the affordable housing obligation. All off-site inclusionary units must be constructed or rehabilitated prior to or concurrently with the primary project.

The proposed revisions to the ordinance expand the options to satisfy the affordable housing obligation such as providing an affordable housing parcel within a larger market-rate project and dedicating land to the City for construction of affordable housing. The draft ordinance also includes

specific compliance requirements for each option, such as providing an appraisal and Phase I Environmental Site Assessment for land to be dedicated to the City to fulfill the affordable housing obligation. Construction of affordable units off-site will also be subject to specific standards, such as a 15% inclusionary requirement, the units shall be a rental product type, and 40% of the units shall contain at least two bedrooms.

The current ordinance establishes an affordability term for affordable units. Affordable housing units are required to be available at an affordable housing cost for a 55 year term for rental units and 45 years for ownership units. The proposed revisions to the ordinance clarify that rental units are required to be made available to lower-income households and ownership units to moderate income households.

The existing ordinance also permits the affordable housing obligation to be satisfied through the payment of in-lieu fees for new residential construction projects up to 30 units. As such, the current ordinance also includes provisions for the methodology, collection, and use of the affordable housing in-lieu fees. The option to pay in-lieu fees is recommended to be expanded to include all ownership projects of any size and rental projects with up to 100 units. KMA recommends a revised in-lieu fee methodology to calculate fees on a per square foot basis instead of the existing per unit methodology. Although not part of Zoning Text Amendment No. 19-004, the draft revised affordable housing in-lieu methodology and fee calculations are provided in the KMA study for information purposes only (Attachment Nos. 4 and 5).

Study Session:

The Planning Commission held a study session for ZTA No. 19-004 on August 10, 2021. The Commission asked staff to return with information regarding the following items:

- Section 230.26(E)(3)(d)(iii) - (vi): Redundancy among environmental requirements for land dedication option.

Staff has revised the legislative draft to remove items (v) and (vi) as they are duplicative of item (iv).

- What is the City's progress towards production of the 5th Cycle RHNA?

See Table B of Attachment No. 6 - 2020 Housing Element Annual Progress Report.

- Has an applicant previously utilized the land dedication option to fulfill the affordable housing requirements?

A search of City records indicates that an applicant has not previously dedicated land to fulfill the affordable housing requirements. The land dedication option is not provided in the existing ordinance, although it is an option in the existing density bonus ordinance.

- Is there risk to the City in accepting donated land?

There could be some risk to the City in accepting a vacant property for affordable housing. However, risk would be mitigated through the City's due diligence process, and ultimately,

acceptance of the property would be at the City Council's discretion.

ISSUES AND ANALYSIS:

General Plan Conformance:

The proposed ZTA is consistent with the goals and policies of the City's General Plan including:

Land Use Element

Goal LU-4: A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

Policy LU-4 (A): Encourage a mix of residential types to accommodate people with diverse housing needs.

Housing Element

Goal 3: Enhance housing affordability so that modest income households can remain an integral part of the Huntington Beach community.

Policy 3.1: Housing Diversity. Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

Program 10: Continue to utilize the Inclusionary Housing Ordinance as a tool to integrate affordable housing within market rate developments, or alternatively, to generate fees in support of affordable housing in off-site locations. Establish an in-lieu fee amount for projects with between 10-30 units. Re-evaluate the Ordinance consistent with case law and to reflect market conditions and adopt an amendment to the Ordinance in the first half of 2020. Since the City has already addressed its moderate income RHNA allocation, the City will implement a City-wide policy to require at least half of on-site inclusionary units to be provided at levels affordable to lower income households.

The proposed ZTA ensures that affordable units constructed on-site in market rate rental housing projects would be provided for lower income households. In addition, the proposed ZTA would allow all ownership housing projects to pay an in-lieu fee to satisfy the affordable housing requirement. If affordable units are provided within a market rate ownership housing project, the affordability level is set at moderate income. If in-lieu fees are paid by the developer of a market rate ownership housing project, those fees would be utilized for affordable housing projects that would provide deeper levels of affordability at low, very low and extremely low income levels. The proposed ZTA would therefore facilitate production of housing that meets all economic segments of the community consistent with General Plan Housing Element goal and policies. In addition, providing more options for developers to comply with affordable housing requirements furthers General Plan Land Use Element policies to encourage a mix of residential housing types and accommodate the diverse housing needs of the community.

Zoning Compliance:

The proposed updates to Section 230.26 do not change the Zoning designation of any property. The

following provides a review of the proposed amendments.

1. General Reorganization and Renumbering

The existing ordinance requires the public to read through several various sections to gather all the information needed. The proposed update reorganizes the ordinance into a few key sections: Definitions, Applicability, On-Site Options, Alternatives to On-Site Options, and Miscellaneous Provisions. Notably, several requirements that were previously in the Miscellaneous Provisions section have been reorganized under each applicable section in order to increase readability for the public. For example, each option that permits a phasing plan to construct the market rate units and affordable units in phases is proposed to state this within its section.

2. Applicability

The existing ordinance requires that a minimum of 10% of all new residential projects proposing three or more units shall be affordable housing units. There is no proposed change to the minimum percentage of affordable units, except for the following options:

- Minimum 15% inclusionary requirement: Off-site production
- Minimum 20% inclusionary requirement: Acquisition/rehabilitation projects and land dedication

An applicant would only be required to provide more than 10% affordable units if they were to choose one of the above options to fulfill the inclusionary requirement. Projects located in Specific Plan areas will defer to the inclusionary requirements of each Specific Plan, if applicable.

3. On-Site Affordable Housing

The existing ordinance includes provisions for fulfilling the inclusionary requirements on-site within a market rate project. The existing ordinance permits rental units to be made available to low-income or moderate-income households and ownership units to moderate-income households. The proposed amendments would require rental units to be made available to lower-income households, which is inclusive of low, very low, and extremely low-income households.

The revised ordinance proposes more specific provisions for the existing options to provide affordable units on-site, including the following items:

Ownership Units

- Affordable to moderate-income households
- Bedroom mix shall be proportional to the bedroom mix of the market rate units
- Affordable units may be no more than 20% smaller in square footage than the average square footage of the market rate units

Rental Units

- Affordable to lower-income households
- Bedroom mix shall be proportional to the bedroom mix of the market rate units
- Affordable units may be no more than 20% smaller in square footage than the average square footage of the market rate units
- Interior improvements shall comply with the Low-Income Housing Tax Credit (LIHTC) minimum construction standards

The revised ordinance expands the on-site affordable housing option to permit construction of

affordable rental units within a market-rate ownership housing project. If a developer chooses this option, they may create a separate affordable housing parcel within the market-rate project site for the affordable rental units. The developer may enter into an agreement with an Affordable Housing Developer to construct, own, and operate the affordable housing units. Several provisions for the affordable units are proposed, such as a minimum of 40% of the units shall include at least two bedrooms and the Affordable Housing Developer shall enter into an Affordable Housing Agreement with the City.

4. Alternatives to On-Site Affordable Housing

The existing ordinance includes general provisions for fulfilling the inclusionary requirements through options alternative to providing the affordable units within the market rate project. The existing ordinance permits offsite production of affordable units, acquisition and rehabilitation of existing units, land dedication, and payment of in-lieu fees. The revised ordinance proposes specific provisions for each of these options and updates each option in response to market trends.

Offsite Production of Affordable Units

The existing ordinance permits offsite construction of affordable units. The proposed update expands this section to include the following provisions:

- Minimum 15% inclusionary requirement
- Minimum 40% of units shall include at least two bedrooms
- Bedroom mix of affordable units shall be proportional to the bedroom mix of the market rate units that generated the inclusionary requirement
- Affordable units can be a maximum of 20% smaller than the average size of the market rate units

Acquisition and Rehabilitation of Existing Units

The existing ordinance permits acquisition and rehabilitation of deed-restricted affordable units identified as at-risk of conversion to market-rate units in the Housing Element. Units are typically identified as at-risk if affordability restriction periods are set to expire within the next five years. The proposed update expands this section to include the conversion of motels to rental units. It is also proposed for the inclusionary requirement to be set at 20% for developers choosing this option.

Land Dedication

The existing ordinance does not include a land dedication option to fulfill inclusionary housing requirements, although this option is available in the existing density bonus ordinance. The proposed land dedication option allows the City Council the discretion to approve a developer's proposal to dedicate property in-lieu of constructing affordable units. Several provisions are proposed regarding the dedication of land, including the following:

- Minimum 20% inclusionary requirement
- The property shall be located within the City of Huntington Beach
- The developer shall convey the property to the City at no cost
- The existing General Plan and zoning standards shall allow for a residential use at a density sufficient to allow for the required number of affordable units to be constructed
- The site shall be suitable in terms of size, configuration, and physical characteristics to allow for the required number of affordable units to be developed on a cost efficient basis

- The developer shall provide a title report, appraisal, Phase I Environmental Site Assessment (ESA), Phase II ESA if the Phase I report indicates hazardous materials were previously used on the site, and a site closure letter from the appropriate regulatory agency showing the site was remediated to residential standards if hazardous materials were previously remediated

In-Lieu Fee Payment

The existing ordinance permits all residential projects proposing up to 30 units to pay an in-lieu fee to fulfill the inclusionary housing requirement. The existing methodology calculates the fee on a per-unit basis.

The proposed updates to the ordinance extends in-lieu fee eligibility to ownership projects proposing any number of units and rental projects up to 100 units.

In-lieu fees paid to fulfill inclusionary requirements are placed in the City's Affordable Housing Trust Fund (AHTF). There are no proposed changes to this section of the ordinance. The existing ordinance provides several provisions for using the AHTF monies, including the following:

- Constructing residential projects with a minimum 50% of units affordable to very low and low-income households
- Units constructed using AHTF monies must be affordable for a minimum of 55 years
- City Council has discretion to use AHTF for other related costs such as gap financing, pre-development costs, rehabilitation, and administrative costs

5. General Clarifications and Revisions

The proposed updates to the ordinance include several clarifications and revisions.

Definitions Section

The existing affordable housing ordinance and proposed update include several technical terms that do not appear elsewhere in the HBZSO. The proposed definitions section is included in order to define existing and new terms in the ordinance.

Reduced Fees for Affordable Housing

The existing affordable housing ordinance includes section 230.26.G., which states that projects exceeding the minimum inclusionary requirement on site would be eligible for reduced city fees pursuant to adoption of an Affordable Housing Fee Reduction Ordinance by the City Council. This section was effectively completed through adoption of the Development Impact Fee (DIF) ordinances, which included fee exemptions for affordable housing units made available to lower income households. As such, this section is proposed to be deleted.

Accessory Dwelling Units

Recent state laws have expanded the option and ability of property owners to construct accessory dwelling units (ADU) on single-family or multi-family properties. The proposed update includes a provision which notes that construction of an ADU does not satisfy the inclusionary housing requirement. ADUs are typically much smaller in size than the associated market rate units. It can also become burdensome to ensure that all affordable housing monitoring and compliance regulations are adhered to. For example, deed-restricting an ADU as an affordable unit when it is on the same property as a market rate single-family residence would require the single-family property owner to income qualify each tenant of the ADU.

Urban Design Guidelines Conformance:

Not applicable.

Environmental Status:

ZTA No. 19-004 does not propose directly or indirectly development that would result in physical changes to the environment. As such, ZTA No. 19-004 would also be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines, which exempts activities where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

Coastal Status:

The proposed amendment will be forwarded to the California Coastal Commission as a minor Local Coastal Program Amendment for certification.

Design Review Board:

Not applicable.

Other Departments Concerns and Requirements:

ZTA No. 19-004 was prepared with input from the Housing Division of the Community Development Department and reviewed by the City Attorney's Office.

Public Notification:

Legal notice was published in the Huntington Beach Wave on August 12, 2021 and notices were sent to individuals/organizations requesting notification (Planning Division's Notification Matrix). As of August 16, 2021, no communications regarding the request have been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION: MANDATORY PROCESSING DATE(S):
Not applicable. Legislative Action - Not Applicable.

SUMMARY:

Staff recommends approval of ZTA No. 19-004 based on the following reasons:

1. It is consistent with the general land uses, programs, goals, and policies of the General Plan.
2. It addresses a community need to update the existing ordinance to implement Housing Element programs, to facilitate provision of housing opportunities for all economic segments of the community, and reflect current market conditions.

ATTACHMENTS:

1. Suggested Findings of Approval - ZTA No. 19-004
2. Draft City Council Ordinance No. 4235
3. ZTA No. 19-004 Legislative Draft
4. KMA Report
5. KMA Financial Analysis
6. 2020 Housing Element Annual Progress Report