



# City of Emeryville

INCORPORATED 1896

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## 4300 San Pablo RFQ/P Questions and Answers As of October 24, 2019

1. The RFQ/P states on page 3 that 50 points are needed for the maximum local bonus. Table 9-4.204 (e) of the Planning Regulations indicates we can earn 50 points through the inclusion of affordable housing. The Regulations also state that “no fewer than half of the bonus points required for the project...shall be earned through the provision of affordable housing” indicating there is no cap on the percentage of points that may be earned through the inclusion of affordable units. We are not seeing language in the Planning Regulations that requires inclusion of other Community Benefits if all bonus points needed are met through the affordable units.
  - The number of development bonus points needed for a project can range from zero (if a project needs no bonus) up to 100 points (if a project needs the full bonus for FAR, density, and/or height). The intent is that half of the bonus points must come from affordable housing and the other half must come from other community benefits. So a project needing the full 100 bonus points must earn 50 points for affordable housing and the other 50 for other community benefits. If “half” does not work out to a round number, the regulations specify that the points for affordable housing shall be rounded up to the nearest multiple of five, and the balance of the points must come from other community benefits. For example, if a project needed 47 bonus points, half of this is 23.5 points. For the affordable housing points, this would be rounded up to 25 points, leaving 22 points (47 minus 25) to be earned from other community benefits. A project needing 47 bonus points could not opt to earn all 47 points from affordable housing; it is supposed to be half affordable housing and half other community benefits, or as close to half-and-half as possible. While the wording of the Planning Regulations may not be entirely clear on this point, this is how it has always been interpreted and applied in practice by the City. If a developer wishes to propose that additional affordable units be granted bonus points under the community benefits portion of this formula, they can apply for the Flexible Community Benefit, which must be approved by the City Council.

**4300 San Pablo  
RFQ/P Questions and Answers  
As of October 21, 2019**

1. Community Benefits. It appears that the community benefit points needed to qualify for the maximum local density bonus can all be achieved by providing income restricted affordable units in the project -- i.e. if the project is 100% affordable, then additional types of community benefits are not required. Is that correct?
  - No that is not correct. The categories for community benefits are spelled out in Table 9-4.204(e) of the Planning Regulations. They include (1) Public Open Space, (2) Zero Net Energy, (3) Public Improvements, (4) Utility Undergrounding, (5) Additional Family Friendly Units [note that this is not necessarily the same as additional affordable units], (6) Small Business fund contribution, and (7) Flexible Community Benefit. In the last category, the applicant can propose whatever community benefit they wish, which requires City Council approval. The applicant can propose additional affordable units under the flexible community benefit category; whether or not it is approved is up to the City Council.
  
2. Tab 5 of the submittal requirements (page 6) requests that we include a sensitivity analysis that tests the pro forma with variations in housing affordability. Can you please be more specific about what affordability levels the City would like to see tested?
  - Developers are asked to submit proposals that respond to the target tenant population of extremely low-, very low-, and low-income households. The City has not identified a specific income mix amongst these various income groups. It will be up to the developer to determine the income targeting they wish to pursue.
  
3. Tab 6 of the submittal requirements (page 7) asks that we include the proposed engineer – which engineer are you referring to here? Typically, engineers would be selected in schematic design or design development and include surveyor, civil, mechanical, electrical, and structural engineers.
  - The identification of a civil engineer would be most appropriate for this RFQ/P.
  
4. Tab 6 requests a one-page statement for each member of the project team – is this referring just to individuals who are part of the Developer's staff? Or do you want individual statements from all the consultants as well (legal, financial etc.)?
  - Developers shall submit a one-page statement identifying each staff member that will be assigned to the project for each team member. Project team members consist of the developer, legal representation, ownership entity, proposed architect, engineer, and property manager and service provider(s), if applicable.

**4300 San Pablo  
RFQ/P Questions and Answers  
As of October 10, 2019**

1. I thought I remember hearing that the PPT slide deck and other info will be emailed out to those who attended the meeting. I haven't received anything yet so if I somehow missed that distribution can you please send it to me directly?
  - The list of attendees at the Pre-Submittal Meeting and the Power Point Presentation was posted on the City's Website. A copy of both documents is attached as well.
2. We have noticed that the Project Information, Sources and Uses, 30 yr cashflow are very detailed. Do you need this level of detail for Phase 1 (RFQ) of this process?
  - Yes, the Project Information, Sources and Uses, 30 yr cashflow are required for submission in Phase 1. Financial feasibility/stability of the project is an evaluation criterion for Phase 1 and Phase 2.
3. If you do need a high level of details, have you considered pushing back the submittal date to the end of October?
  - The submittal date for Phase 1 has been extended to October 31, 2019 at Noon.
4. I'm writing to see if the City would consider extending the Phase 1 RFQ/P deadline by two weeks?
  - The submittal date for Phase 1 has been extended to October 31, 2019 at Noon.
5. Section 9-4.301 of Emeryville's code says setbacks abutting a lot in a residential zone are – for interior side “3 feet plus an additional 2 feet for each 1 foot by which the height of the building on the nonresidential lot exceeds 30 feet” and for rear “10 feet plus an additional 2 feet for each 1 foot by which the height of the building on the nonresidential lot exceeds 30 feet.” The height limit is 75 feet with density bonus. 75 feet minus 30 feet is 45 feet. 45 feet times 2 feet is 90 feet. So the interior side setback is 93 feet and the rear setback is 100 feet. That takes up most of the lot. How do you deal with that?
  - The lower 30 feet can be at the 3-foot or 10-foot line. The building can step back from there. If the fourth floor is 10 feet tall, it steps back 20 feet, and so on. So, if you call the northern boundary at the senior housing the rear, you could get to 60 feet height on San Pablo Avenue south of a line 70 feet from the northern boundary, and on 43rd Street west of a line 63 feet from the eastern boundary.
6. Can a driveway be in a side yard?
  - Note the catch-all in Section 9-4.301(e) that says: “The restrictions imposed by this subsection may be modified, and additional features may be allowed in required yards, upon the granting of a minor conditional use permit pursuant to Article 5 of

Chapter 7.” Thus, a driveway can be permitted with a minor CUP. In the case of this project, which will require both Planning Commission and City Council approval (because of deviating from the required unit mix), we can just address that CUP along with the other required planning approvals.

7. How do you address intergenerational housing without violating fair housing?

- While HUD’s Fair Housing Act (FHA) prohibits housing discrimination based on age, race, nationality, religion, gender, handicap, or familial status (i.e., having one or more children under age 18 living in the household), HUD created an exemption called the Housing for Older Persons Act (HOPA). HOPA protects senior housing communities from being sued for age discrimination by those under the minimum age requirement. For 55 and over communities, they must meet all of the following requirements in order to qualify for the HOPA exemption:
  - A minimum of 80 percent of the community’s units must have at least one occupant who is 55 years of age or older.
  - The community must publish and comply with policies and procedures that demonstrate they intend to operate as “55 and older” housing.
  - The community must comply with HUD’s requirements for age verification of residents.