

B4 Housing Constraints Analysis

Constraints to the development of adequate and affordable housing include market, governmental, infrastructure, and environmental factors. These constraints may result in housing that is not affordable to low- and moderate-income households and may render residential construction economically infeasible for developers. Constraints to housing production significantly impact households with low and moderate-incomes and special needs.

According to Government Code Section 65583, local governments are required to analyze governmental and non-governmental constraints to the production, maintenance, and improvement of housing for persons of all income levels and those with special needs and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing as part of housing elements update. Where constraints to housing production are related to the City's regulations or land use controls, the City must identify appropriate programs to mitigate these constraints, particularly ones that impact the production of affordable housing or housing for special needs populations.

The following chapter outlines non-governmental, governmental, environmental and infrastructure constraints and was used in the development of specific policies and actions included in the Housing Plan to remove barriers to housing and to incentivize housing production, specifically targeting housing production at all income levels and housing for persons with special needs.

B4.1 Summary of Local Housing Constraints

- The costs associated with developing housing have increased 30 percent over the last 12 months and are expected to continue to rise over the next fiscal year. There is a lack of federal, state, and local funding and the funding that is available is increasingly competitive. The time and effort needed to identify, compete for, and layer affordable housing funds is a major constraint to development of affordable housing in Atwater.
- Although Atwater's development regulations allow for a variety of densities throughout the city, development standards are not sufficiently flexible. Height restrictions for multi-family developments, residential parking requirements for smaller units, and strict limitations on manufactured housing development all potentially constrain the development of a variety of housing types.
- Use permit regulations for group homes and residential care facilities could pose a constraint to housing for individuals with special needs and use permit regulations for emergency shelters and single-room occupancy (SRO) units in certain zones could pose a constraint on housing access for unhoused individuals. Additionally, the City's definition of "family" is a constraint.
- Atwater's development review and impact fees are much higher than in other small cities in the region, which may be a constraint to development.

B4.2 Non-Governmental Constraints

The availability of housing is affected by a complex set of interrelated market factors including but not limited to cost of land, cost of construction, and availability of financing. These factors contribute to determining a new home's sale price or the rents required to make a project feasible.

Non-governmental constraints include factors outside of direct governmental control that directly impact housing prices. The cost of construction and the availability of financing contribute to the cost of housing and can hinder the production of housing. The following analysis accounts for these non-governmental constraints.

B4.2.1 Land Costs

The cost of land can impede the production of housing. Land costs are influenced by many variables, including land scarcity and developable density (both of which are indirectly controlled through governmental land use regulations), location, site constraints, availability of infrastructure improvements, and the availability of public utilities.

Table B4-1 provides the average price per acre for land listed for sale throughout Atwater in July 2023. The average price per acre is significantly higher for smaller lots (\$282,611.46), most of which are located in residential or commercial zones. The price per acre is less for larger lots, averaging \$34,919.99 per acre. Most of these larger properties are located in agricultural zones. The average price per acre for all plots is \$158,765.73.

Table B4-1 Listed Land Prices – Atwater

Lot Size	Average Price per Acre (Listed)
Less than 10 acres	\$282,611.46
10 or more acres	\$34,919.99
Average \$/acre	\$158,765.73

Source: Zillow, Inc., 2023.

Table B4-2 provides the average price per acre for land sold in 2022 in Atwater. The average price per acre for all land sales was \$245,557.50, higher than the average list price shown above. The average sales price per acre for larger lots averaged \$34,865.04, which is in line with the asking price for listed properties (\$34,919.99 per acre).

Table B4-2 Sold Land Prices – Atwater

Lot Size	Average Price per Acre (Listed)
Less than 10 acres	\$456,250.00
10 or more acres	\$34,865.04
Average \$/acre	\$245,557.50

Source: Zillow, Inc., 2023.

Conclusion

The housing market (vacant and developed land) in Atwater can vary depending on location, allowable density, availability of improvements, and proposed land use of the site. In general, entitled single-family subdivisions with infrastructure extension plans command higher prices than raw undeveloped land.

While land costs increase over time, these raw costs are not necessarily a constraint to housing. In general, land costs in Merced County are lower compared to coastal counties, and comparable in price to other nearby counties such as Madera and Fresno counties. As a result, raw land costs are not considered a constraint to the development of housing in Atwater.

Recommended Action

None required.

B4.2.2 Construction Costs

A major component of the cost of housing is the cost of building materials, including wood and wood-based products, cement, asphalt, roofing materials, and pipes. The availability and demand for such materials affect prices for these goods.

Another major cost component of new housing is labor. The cost of labor in Merced County is comparatively low because the area’s cost of living is relatively low compared to other areas in California. However, labor for government subsidized housing work is additionally costly for the Central Valley, as wages are rooted in the required State Labor Standards based on higher northern and southern California prevailing wages.

Based on recent affordable multi-family projects, the cost of construction in the county is estimated to be between \$400,000 and \$675,000 per unit.¹ The estimate includes direct and indirect (e.g., insurance, permits, utilities, plans) construction costs, including material, labor, and equipment costs, the price of land, development impact fees, and administrative costs.

Table B6-3 shows the estimated typical development costs in Atwater for a single-family home, assumed to be 1,600 square feet, and a 10-unit multi-family development with 800 square foot units. This includes the price of land, site improvement costs, construction costs, and permit and development impact fees; however, this does not include financing or marketing costs by the developer. As shown in the table below, the typical cost of an individual single-family development is an estimated \$772,779, while the development cost of an apartment unit is an estimated \$367,556.

Table B6-3 Estimated Construction Cost – City of Atwater

Cost Type	Single-Family ¹	MultiFamily ²
Home Price ³	\$480,000	\$2,400,000
Site Improvement Cost	\$8,000	\$20,000
Construction Cost	\$267,790	\$1,198,400
Permit and Impact Fees	\$16,989	\$57,160
Total Cost	\$772,779	\$3,675,560
Cost per Unit	\$772,779	\$367,556

¹Assumed to be a 1,600 sq. ft. single-family home.

²Assumed to be a 10-unit multi-family complex of 800 sq. ft. units.

³Land price based on average price per square foot provided by the City at \$300 per square foot

The City of Atwater has conducted a polling of infrastructure related workers. The industry has experienced a 35 percent increase over the past 24 months. Construction work consisting of windows mill work and similar work has experienced a 40 percent increase over the past 24 months.

¹ Central Valley Voice, City of Merced Affordable Housing Project Update, October 1, 2022, <https://centralvalleyvoice.com/2023/02/22/city-of-merced-affordable-housing-project-update/> accessed June 2023.

There is little that municipalities can do to mitigate the impacts of high construction costs, apart from reducing the number of local amendments to uniform building codes that unnecessarily increase construction costs without significantly adding to health, safety, or construction quality.

Conclusion

Although the cost of construction constrains housing development, construction costs are similar across jurisdictions in Merced County, illustrating that the constraints are market driven rather than an impact of local policy.

Recommended Action

None required.

B4.2.3 Availability of Financing

Mortgage interest rates have a large influence over housing affordability. Higher interest rates increase a homebuyer's monthly payment and decrease the range of housing that a household can afford. Lower interest rates result in a lower cost and lower monthly payments for the homebuyer.

When interest rates rise, housing prices typically fall to compensate. Similarly, when interest rates decrease, housing prices begin to rise. There is often a lag in the market, causing housing prices to remain high when interest rates rise until the market catches up. Lower-income households often find it most difficult to purchase a home during this time period.

Where financing is available, construction capital seems to be directed at the best transactions – those with large, established, and well-capitalized sponsors. Given recent trends of increasing interest rates, the availability of financing is likely to be more of a constraint on new housing construction during this Housing Element planning period than it has been in the recent past.

Market-Rate Development Financing

As discussed in Land Costs and Construction Costs, above, market-rate development is generally financed by investors, and the cost to build a project must be recovered by revenue from sales or rents, which drives up the ultimate rent or sales prices of new housing as the component costs increase. A market in which housing supply is limited and demand is high can support higher housing prices, but lower-income segments of the community are priced out. Therefore, it is difficult for the private sector, for-profit developers, and market-rate housing to meet the housing needs of all community members.

Affordable Housing Financing

A description of available funding sources for affordable development is provided in Chapter 3, *Regional Housing Needs Assessment*.

Mortgage and Rehabilitation Financing

The availability of financing affects the ability of residents to purchase or improve a home. Under the Home Mortgage Disclosure Act (HMDA), lending institutions are required to disclose information on the disposition of loan applications and the income, gender, and race of loan applicants. The primary purpose of reviewing the lending activity is to determine whether home financing is available to city residents. The data presented in this section includes the disposition of

loan applications submitted to financial institutions for home mortgages, home improvement, and refinance loans.

Lending activity data provides information regarding home financing availability for city residents. The most recent data set available for Merced County from 2022 shows that 10,760 households applied for a home financing loan which includes loans for home purchase, home improvement, and refinancing. As discussed in Chapter 3, *Regional Housing Constraints*, of the total applications received for home purchase 47.7 percent of the loans originated while 15.7 percent were denied.

Conventional loans are made by the private sector (banks, mortgage companies, etc.) and are not guaranteed or insured by the U.S. government. Conversely, government-backed loans, such as those issued by the Federal Housing Administration, Department of Veterans Affairs, and the Rural Housing Services/Farm Service Agency, are completely or partially insured by the U.S. government. Within the county, 8,028 of the applications received were for conventional loans and 2,732 were for government backed loans. As discussed in Chapter 3, *Regional Housing Constraints*, 37 percent of the conventional loans originated, and 12.6 percent of the applications were denied. Additionally, 10.7 percent of the government backed loans originated and 3.1 percent of the applications were denied.

County data shows that of the loans originated, Hispanic/Latino applicants comprised approximately 50 percent of approvals, white, non-Hispanic/Latino comprised approximately 30 percent, Asian American represented 16 percent, Black/African American applications represented three percent, and American Indian/Alaskan Native comprised less than one percent of approved applications. American Indian/Alaskan Native and Black/African American residents were the only racial populations that was representative for mortgage applications relative to proportion of population.

Hispanic/Latino residents were underrepresented for mortgage applications (50 percent of applications, 61 percent of population). White, Non-Hispanic residents were overrepresented for mortgage applications approvals relative to proportion of population (30 percent of approvals, 26 percent of population), as were Asian American residents (16 percent of approvals, eight percent of population). Of application denials, Black/African American residents were overrepresented in application denials (four percent of denials, three percent of the population).

Construction Financing Timing

The timing between project approval and requests for building permits affects project viability. Project delays may result from developers' inability to secure financing for construction. In Atwater, the average time between project approval and request for building permit is typically three to nine months, but varies by type of project. Some projects take years to pull building permits and secure financing. Single-family homes usually experience the least delay (three to nine months). Multi-family housing construction tends to be more complex and usually requires more time between entitlement and building permit issuance (six to nine months).

Conclusion

Although discrimination in mortgage lending is prohibited by the federal Fair Housing Act, other factors may contribute to a potential homebuyer's ability to secure safe financing, such as credit history, savings, and education regarding the home-buying process. Federal Financial Institutions Examination Council (FFIEC) HMDA data, by itself, does not provide insight into these other factors. Therefore, it is important that the City supports housing education and opportunities for all residents.

Recommended Action

The City shall continue to implement goals and policies to support homeownership opportunities and home-buying education, particularly for racial and ethnic groups underrepresented in the homebuying market. This includes maintaining existing local programs such as the Homebuyer Assistance Program as well as state and federal program funding. The City will implement Program 10 to identify resources and funding to assist moderate and lower-income homebuyers. Through this program, Atwater will promote the availability of Permanent Local Housing Allocation (PLHA) funds provide assistance for qualifying applicants includes help to cover costs of mortgage, rent, rental deposit, and/or utility expenses, with the goal of assisting eight households through these funds.

B4.2.4 Requests for Lower Development Densities

Due to the use of Planned Development zones/districts identified in the City of Atwater’s Municipal Code, higher density yields are typical. The City has found that this is a trend in recent development applications.

B4.3 Governmental Constraints

Although local governments have little influence on market factors such as interest rates, local policies and regulations can still impact where, how much, and what type of residential development is built. Land use controls, site improvement requirements, fees and exactions, and permit processing procedures, among other policies and regulations, may constrain the maintenance, development, and improvement of housing.

B4.3.1 Land Use Controls

Land use controls provided in the General Plan and the Zoning Code influence housing production in various ways. Any permitted and conditionally permitted uses in each zone guide new development and provide both developers and the public with an understanding of how vacant land should be developed in the future. This includes the density of development that will occur within a particular zone, the compatibility of planned uses in each area, and the range and type of buildings and uses that will be located throughout Atwater.

B4.3.1.1 General Plan

The City of Atwater 2000 General Plan provides policies and programs to guide development in the city. The General Plan includes the provision of new residential neighborhoods, the development of policies that encourage mixed-use development in the downtown area and commercial areas, Zoning Code updates to accommodate residential and commercial areas, implementation of road safety measures, and the addition of an Environmental Justice element.

The Atwater General Plan contains the following residential land use designations:

- Very Low Density Residential: 0 to 3.0 units per acre.
- Low Density Residential: 3.1 to 7.0 units per acre.
- Medium Density Residential: 7.1 to 15.0 units per acre.
- High Density Residential: 15.1 to 35 units per acre
- Downtown Residential Mixed Use: 0 to 25 units per acre.
- Residential Transition: 0 to 21 units per acre.

Atwater is currently in the process of updating the General Plan, although it is unclear at this time if this update will change these residential land use designations.

Conclusion

The General Plan includes six residential land use designations with density ranges from 0 to 35 dwelling units per acre. These densities are sufficiently high to allow the development of affordable housing for all income levels. Minimum densities are included to maximize residential development on a limited supply of land as well as achieve a balance and variety of housing types.

Recommended Action

None required.

B4.3.1.2 Zoning Code

The City regulates the type, location, density, and scale of residential development primarily through the Zoning Code, as well as specific plan development codes. A zone is assigned to every parcel in the city and the Zoning Code identifies compatible uses. In general, the City's zoning regulations are designed to encourage a more appropriate use of land, conserve and stabilize the value of property, provide adequate open space, facilitate provision of adequate community utilities, encourage building development of pleasant design, promote health and safety, and provide economic and social advantages resulting in planned use of land resources. Additionally, development standards such as setbacks, height limits, lot coverage, open space requirements, and parking are identified for each zone. Some zones may allow similar uses but have different development standards. Development standards in Atwater may be considered a constraint to the development of housing units if they are too restrictive or reduce the development potential on a specific parcel.

The City's Zoning Code allows residential uses in the following zones:

- **Agricultural Zones (A-P, A-R, R-R):** The agricultural zones are intended to preserve lands best suited for agriculture from the encroachment of incompatible uses, as well as to protect lands designated for eventual urban development to ensure the orderly and beneficial conversion of these lands to nonagricultural use. The minimum site area is divided into three zones with varying minimum area requirements: Agricultural Preserve (A-P), Agricultural Residential (A-R), Rural Residential (R-R). The minimum site area is 10 acres for A-P, two acres for A-R, and one acre for R-R. All three zones permit single-family residences with a maximum of one unit per site.
- **Residential Estate (R-E):** The R-E zone is intended to provide living areas within the city limited to very low-density concentrations of single-family dwellings. The minimum site area is 16,000 square feet for permitted use. No more than one unit is allowed on each site in the R-E zone.
- **Single-Family Residential (R-1):** The R-1 zone is intended primarily to provide living areas at locations designated by the general plan for medium low and medium density including single-family dwellings. In the R-1 zone, no more than one dwelling unit is allowed on each site, except as provided under Section 17.26.030. Table B4-4 shows the minimum site area per dwelling unit in R-1 zones.

- **Two-Family Residential (R-2):** The R-2 zone is intended primarily for the development of two-family residential structures at densities consistent with policies in the general plan. The minimum lot area is 6,000 square feet for permitted uses. The R-2 zone allows for two single-family dwellings or one duplex per lot on each site.
- **Multiple-Family Residential (R-3):** The R-3 zone is intended to provide living areas within the city limited to medium and high-density concentrations of multi-family housing. This includes single-family dwellings, duplex, and multi-family structures, except as provided under Chapters 17.22 and 17.24 of Atwater’s municipal code.
- **Mobile home Park (R-M):** The R-M zone intends to set regulations regarding mobile home parks at locations designated by the general plan. The minimum lot area is five acres with a minimum of 20 mobile home spaces.
- **Residential Transition (R-T):** The R-T zone is established to create a transition between commercial areas and adjacent residential neighborhoods, as well as on land where mixed uses have been approved through re-zoning. It can be used for median density multi-family residential zones and commercial uses on the condition that the Planning Commission approves the commercial development after a public hearing.
- **Light Industrial Zone, Industrial Zone (M-1, M-2, respectively):** The M-1 and M-2 zone and the industrial zone are intended to provide sites to accommodate process-oriented industries with modern plant or retail facilities. This also includes emergency shelters for those experiencing homelessness.

In Atwater, minimum residential lot sizes are required in some zones. Table B4-4 provides the minimum lot area per dwelling unit standard by zone.

Table B4-4 Site Area Per Dwelling Unit

Zone	Lot Area
A-P	10 acres (0.1 units/gross acre)
A-R	2 acres (0.5 units/gross acre)
R-R	1 acre (1.0 unit/gross acre)
R-E	16,000 square feet (2.7 units/gross acre)
R-1-10	10,000 square feet (4.4 units/gross acre)
R-1-8	8,000 square feet (5.5 units/gross acre)
R-1-6	6,000 square feet (7.3 units/gross acre)
R-1-5	5,000 square feet (8.7 units/gross acre)
R-1-4	4,000 square feet (10.9 units/gross acre)
R-1-3	3,000 square feet (14.5 units/gross acre)
R-2	6,000 square feet (14.5 units/gross acre)
R-1-M	5,000 square feet/ unit (8.7 units/gross acre)
R-3-2	2,000 square feet/ unit (21.8 units/gross acre)
R-3-2.5	2,500 square feet/ unit (17.4 units/gross acre)
R-3-1	1,000 square feet/ unit (43.6 units/gross acre)
R-3-1.5	1,500 square feet/ unit (29.0 units/gross acre)
R-M	3,108 square feet/ unit (14.0 units/gross acre) [avg]

Zone	Lot Area
R-T	2,000 square feet/ unit (21.0 units/gross acre)
M	0.5 acre

Source: Atwater Zoning Code, Adopted October 2023.

Conclusion

The City’s Zoning Code provides for a range of densities and is consistent with the General Plan land use designations.

Recommended Action

None required.

B4.3.2 Residential Development Standards

Table B4-5 shows the development standards for residential zones. The minimum parcel area for residential zones ranges from 3,000 square feet to five acres. Maximum site coverage is 70 to 75 percent of the lot area, depending on the zone.

The front setback requirement is 30 feet for all agricultural zones and five feet for all R zones, with the exceptions of R-E, R-1-10, R-1-8 zones, which have a 20-foot setback requirement. The side setback requirement is 10 feet for the agricultural, R-E, and R-1-10 zones, and five feet for the 11 remaining R zones and all RM zones. The rear setback requirement is 30 feet for agricultural zones; five feet for R-1-5, R-1-4, R-1-3; 15 feet for R-1-6, R-1-M, R-3-2.0, R-3-2.5; and 20 feet for the remaining six R zones.

The maximum height requirements are 35 feet for all residential zones. Maximum height requirements for ADUs are between 16 to 25 feet in all zones, depending on if the unit is attached or detached from the primary residence. Maximum density ranges from 0.1 units per acre in the A-R zone to 43.6 units per gross acre in the R-3 zone.

Table B4-5 Residential Development Standards

Zone	Minimum Parcel Area	Minimum Setback (in feet)			Maximum Height (feet) ¹	Maximum Height (Accessory Structure)	Maximum Site Coverage (percent of lot)	Maximum Density (du/acre)
		Front (feet)	Side (feet)	Rear (feet)				
A-P	10 acres	30	10	30	35	35	-	0.1
A-R	2 acres	30	10	30	35	35	-	0.5
R-R	1 acre	30	10	30	35	35	-	1
R-E 2	14,300 sq. ft.	20	10	20	35	16	70	2.7
R-1-10 2	10,000 sq. ft.	20	10	20	35	16	70	4.4
R-1-8 2	8,000 sq. ft.	20	5	20	35	16	70	5.4
R-1-6	6,000 sq. ft.	20	5	15	35	16	70	7.3
R-1-5 2	5,000 sq. ft.	10	5	5	35	16	75	8.7
R-1-4 2	4,000 sq. ft.	10	5	5	35	16	75	10.9
R-1-3 2	2,400 sq. ft.	10	5	5	35	16	75	14.5

Zone	Minimum Parcel Area	Minimum Setback (in feet)			Maximum Height (feet) ¹	Maximum Height (Accessory Structure)	Maximum Site Coverage (percent of lot)	Maximum Density (du/acre)
		Front (feet)	Side (feet)	Rear (feet)				
R-2	6,000 sq. ft.	15	5	20	35	16	70	14.5
R-1-M	5,000 sq. ft.	15	5	15	35	16	70	8.7
R-3-2.0	10,000 sq. ft.	15	5	20	35	16	70	21.8
R-3-2.5	10,000 sq. ft.	15	5	20	35	16	70	17.4
R-3-1.0	10,000 sq. ft.	15	5	15	35	-	70	43.6
R-3-1.5	10,000 sq. ft.	15	5	15	35	-	70	29.0
R-M	5 acres	20	5	5	-	-	70	14
R-T	10,000 sq. ft.	10	5	5	35	16	-	21
M-1	0.5 acres	15	-	-	35	-	90	-
M-2	0.5 acres	15	-	-	35	6	90	-

Source: Atwater Zoning Code, Adopted October 2023.

Conclusion

Development standards related to parcel area, setbacks, height of primary structures, site coverage, and density do not constrain residential development. Limiting maximum height to 35 feet in multi-family zones is a potential constraint to housing development. The City should provide an opportunity for minor modifications to height restrictions for developments with an affordable component.

Recommended Action

Amend the Zoning Code to allow minor modifications to height restrictions developments with an affordability component, this will be implemented through Program 6 which will amend the development standards in the city’s Zoning Code.

B4.3.2.1 Parking

According to the Turner Center for Housing Innovation at UC Berkeley, parking can cost \$25,000 to \$75,000 per space to construct. However, given the age of data and the increased cost of land and construction costs discussed above, the costs per parking space are likely much higher.² Parking provided in underground or structured parking facilities, or if required to be covered or enclosed, can significantly increase the cost of housing and could affect the feasibility of various housing projects in the city. In addition, requirements for parking space locations and maximum distances from dwelling units may also increase the cost of housing and affect the feasibility of housing projects. Requiring less parking not only reduces the project budget but can allow for more space to build additional housing units.

² Turner Center for Housing Innovation at UC Berkeley, 2016. Available at: <http://turnercenter2.berkeley.edu/proforma/>

Atwater does not face any spatial constraints to parking provisions that would necessitate underground or structured parking facilities. However, covered or enclosed parking requirements contribute to increased housing costs in the city and potentially constrain affordable residential development.

Table B4-6 provides the residential parking requirements in Atwater.

Table B4-6 Residential Parking Requirements

Residential Use	Required Parking Spaces	
Single-family units	Single-family units	2 per unit
	Single-family units financed under Farmers Home Administration	1 per unit
Multiple-family units	4 or less units	2 per unit
	5 or more units	1.5 per unit
Studio apartments		2 per unit
Senior citizen housing		2 per unit
Mobile Home Park		2.2 per unit

Source: Atwater Zoning Code, Adopted October 2023.

Conclusion

Residential parking requirements for smaller units, including mobile homes, senior citizen housing, studios (2 parking spaces required per unit) pose a potential constraint to housing development. Requiring more than one parking space for smaller units can be cost prohibitive for developers and may pose site design challenges.

Recommended Action

Revise the Zoning Code to require no more than one space per unit for mobile homes, senior citizen housing, studios, and one-bedroom units. Through Program 6, the Zoning Code will be updated to reduce parking requirements for the above housing types.

B4.3.2.2 Open Space and Park Requirements

Chapter 17.44.150.H of the Zoning Code outlines the City’s requirements for open space. Atwater names two main types of open space: private open space for reserved land for the exclusive use of residents, customers, and workers, and common open space set aside for the general public. Open space may be used for a variety of functions, such as noise buffers, aesthetics, active or passive recreation, wildlife conservation, flood control, groundwater recharge, and pedestrian and bicycle trails. The municipal code does not outline specific zones where open space and parks are required.

The City has few requirements regarding open space and parks in planned developments, although they state that the amount of open space provided should be based on the amount needed to effectively perform the function for which is intended. For example, small pockets of open space are not adequate as active recreational areas; an area large enough to support a sports court is more appropriate to perform that function. Open space buffers should also be large enough to achieve the desired goal of reducing noise. In addition, open space for recreation or social activities should be of minimum slope (less than 10 percent), take advantage of available sunlight, and be buffered from the noise and traffic of adjacent streets or other incompatible uses. Valuable natural resources

such as waterways or trails and bike paths, that have been damaged or improperly used in the past, shall be restored.

In the Mobile Home Park Zone (R-M), all areas that are not occupied by mobile homes, accessory structures, and other buildings, paving or recreational facilities must be landscaped and maintained with lawn, ground cover, shrubbery or other ground materials approved by the Planning Commission. In addition, a minimum of 30 percent of the parcel must be landscaped or an open space recreation area, and each mobile home space must be provided with at least one tree with a preference towards shade trees. Open space recreation or common park areas should encompass at least eight percent of the total area of the mobile home park. For all zones in the medium density single-family zone, there is a minimum landscape and open space recreation requirement of 25 percent of the parcel. There are no other open space and park requirements for this zone.

Atwater's Zoning Code has also designated the Open Space Combining Zone (O-S) to protect and maintain land to be used for outdoor recreation, the maintenance of public safety, and to encourage proper and orderly growth of the city of efficiently utilize public services, and to enhance the environment. Development in the O-S zone that does not require a building permit includes parks and recreational facilities and playgrounds including structures strictly related to recreation, flood plains, airport clear zones, public utilities, roads, trails, bikeways, information and directional signs, and temporary uses such as carnivals, fairs, exhibits and contests.

Conclusion

The open space and park requirements for planned developments, mobile home parks, and medium density single-family zones in Atwater do not constrain housing development.

Recommended Action

None required.

B4.3.2.3 Density Bonus

California law requires local jurisdictions to provide density bonuses (generally ranging from five to 80 percent) and development incentives or concessions for housing developments that include housing units that are affordable to lower- and moderate-income households or senior housing or the donation of land for housing within the local jurisdiction (Government Code Section 65915-65918). Certain housing development projects may be granted unlimited density if they meet certain conditions, including projects where 100 percent of units are affordable units (including density bonus units) with no more than 20 percent of units for moderate-income households and the project is located within on-half mile of a major transit stop as defined by subdivision (b) of Section 21155 of the Public Resources Code. An unlimited density bonus means there is no cap on the total number of residential units per acre permitted on the site; however, there are other restrictions, such as height limits, that have a practical limiting effect on the number of units that can be built. Development incentives or concessions are reductions or modifications to site development standards or architectural design requirements that result in cost reductions, such as setbacks, parking requirements, and maximum building height.

Atwater's 2017 Housing Element included programs directing the City to amend the Zoning Code to adopt a density bonus policy and other incentives or concessions for residential projects that include affordable or senior housing. While the necessary changes were detailed in the 2017 Housing Element, this density bonus program has not yet been codified into the City's Zoning Code.

Inclusionary housing ordinances are implemented by local jurisdictions that require developers to reserve a certain percentage of units to further increase lower-income housing stock; however, Atwater does not have an inclusionary housing ordinance.

Conclusion

The Zoning Code does not address current density bonus standards and is not in compliance with State Density Bonus Law.

Recommended Action

Amend the Zoning Code establish density bonuses for housing developments that include housing units affordable to very low-, low-, and moderate-income households or housing units for seniors and the donation of land for housing, consistent with current state laws and requirements. To facilitate the development of affordable housing, the City will implement Program 7 to establish density bonus standards and density increases under the City's Density Bonus Ordinance. Standards for this include an expedited and streamlined project application review for housing for very low-income households, large families, persons with disabilities or developmental disabilities, and farmworkers. Under this program, the Zoning Code will be amended by January 31, 2025, to establish density bonuses for the housing types listed above.

B4.3.2.4 On- and Off-Site Improvement Standards

The typical improvements required by local jurisdictions for subdivision and development of property include reasonable off-site and on-site improvements for the parcels being created, including those that are necessary for public health and safety and/or a necessary prerequisite for the orderly development of the surrounding area. As stated in the Department of Housing and Urban Development's (HUD) study of Subdivision Requirements as a Regulatory Barrier, such requirements can reasonably be considered regulatory barriers to affordable housing if Atwater determines that the requirements are greater (and hence, more costly) than those necessary to achieve health and safety requirements in the community.

Citywide Development Standards

The City's Zoning Code requires underground utilities for new residential development. Where possible, and feasible, joint use of trenching is encouraged. The City does not have the authority to require joint use of trenching by independent utility companies. Redevelopment projects and building permits proposing changes equal to more than 25 percent of the assessed value of the home, are required to bring the street improvements up to City standards. In areas of the city that have previously been developed, funds for rehabilitation of substandard units have included provisions for street improvements. Street sections are designed to accommodate storm water drainage and to facilitate safe automobile, pedestrian, and bicycle circulation. Street improvements that provide sidewalks increase accessibility for persons with mobility impairments.

The City provides and operates water, sanitary sewer, and stormwater drainage services. Electricity, gas, communications, and garbage services are provided by outside entities. Utility companies that provide service to the City may require that between six and 10 feet of the area outside of the right-of-way be reserved as a utility easement for the placement of service lines.

Improvement Standards

The City requires curbs, gutters, and sidewalks on all residential streets, including access ramps at corners. The typical right-of-way for local streets is approximately 60 feet, 40 feet of which is for pavement. The Municipal Code provides for a minimum right-of-way width of 60 feet for a subdivision. The Municipal Code also allows for private streets to deviate from the City standards, provided that future maintenance of the streets is assured by the developer. Streetlights and fire hydrants are required at regular intervals within the city to ensure an acceptable level of public health and safety.

The extension of necessary utilities is also a requirement for all development in Atwater. The City provides and operates water, sanitary sewer, and stormwater drainage services. Electricity, gas, communications, and garbage services are provided by outside entities. The City has adequate capacity to provide water and sewer service to future housing development, and only needs to extend service lines to development areas. The improvement requirements imposed by those agencies are outside the purview of the City. However, the City does require approval from those agencies prior to the approval of any subdivision map. Utility companies that provide service to the City may require that between 6 and 10 feet of the area outside of the right-of-way be reserved as a utility easement for the placement of service lines.

Conclusion

On- and off-site improvement standards for the City of Atwater are typical of small cities and comparable to surrounding jurisdictions. Street improvements that provide sidewalks increase accessibility for persons with mobility impairments. The provision of street improvements is not a constraint to the development of housing as these requirements are necessary to achieve health and safety requirements.

Recommended Action

None required.

B4.3.3 Provision of a Variety of Housing Types

Housing Element law specifies that jurisdictions must identify adequate sites that are zoned to encourage the development of a variety of housing types available to all economic segments of the population. People and households of different ages, types, incomes, and lifestyles have a variety of housing needs and preferences that evolve over time and in response to changing life circumstances. This includes single-family homes, multi-family housing, accessory dwelling units, mobile homes, agricultural employee housing, homeless shelters, and transitional housing, among others. Table B4-7 summarizes the housing types permitted and conditionally permitted in the City of Atwater.

Table B4-7 Residential Use Matrix

Residential Use	A-R	R-E ¹	R-1 ²	R-1-M	R-2	R-3	R-M	P-D	R-T	M
Single-Family (1 per lot)	P	P	P	P						
Single-Family (2 per lot)					P					
Single-Family (Multiple)						P			P	
Duplex					P	P			P	
Multi-family						P			P	
Manufactured Housing		C	C	P		C			P	
Mobile home (1 per lot)				P						
Mobile home park							C	C		
Transitional Housing		P	P	P	P	P			P	
Supportive Housing		P	P	P	P	P			P	
Living Quarters for Others ³		A								
Community Care Facilities	C	A								
Second Unit	A	C								
Accessory Dwelling Unit		C	C			C				
Patio Homes			C							
Mixed Use									C	
Emergency Shelter										P
Nursing or Convalescent homes									C	

P= permitted use; A= accessory use; C= conditional use

¹ This section includes R-E, R-1-10, R-1-8, R-1-6, under low density residential zones.

² This section includes R-1-5, R-1-4, R-1-4, under medium-density single-family residential zones.

³ Chapter 17.16.030.E outlines this use as “living quarters for relatives, friends, or persons regularly employed on the premises, but not rented or otherwise conducted as a business, provided that no kitchen facilities are installed.”

Source: Atwater Zoning Code, Adopted 1984

B4.3.3.1 Manufactured Housing

State law mandates that manufactured homes must be permitted in the same manner and in the same zones where conventional single-family structures are permitted (Government Code Section 65852.3). Manufactured housing is permitted in the R-M (Mobile Home Parks) and R-1-M (Single-Family Residential-Mobile Home Zone) zones. They are also categorized as accessory dwelling units, meaning that conditional use of manufactured housing is permitted in R-E, R-1, and R-3 zones. Most of the City’s stock of manufactured housing is in mobile home parks. Although this housing type is allowed in the R-1-M zone, there is no land designated for the R-1-M zone.

Conclusion

Very few residential zones permit the construction of manufactured homes, which poses a constraint for the development of housing.

Recommended Action

The City will implement Program 6 to revise the Zoning Code to allow for manufactured homes in all zones where single-family housing is permitted, subject only to the same requirements of conventional single-family housing.

B4.3.3.2 Accessory Dwelling Units

In recent years, several bills have added requirements for local governments related to accessory dwelling unit (ADU) regulation. Updates to state law in 2016 and 2017 included changes pertaining to the allowed size of ADUs, permitting ADUs by-right in at least some areas of a jurisdiction, and reduced parking requirements related to ADUs. More recent bills reduce the maximum allowable time to review and approve ADU applications to 60 days and remove lot size and replacement parking space requirements. AB 68 allows an ADU and a junior ADU (JADU) to be built on a single-family lot, if certain conditions are met. The State has also removed owner-occupancy requirements for ADUs, created a tiered permit fee structure for ADUs based on their size and location, and prohibits fees on units of less than 750 square feet. In addition, AB 671 requires the Housing Element to include plans to incentivize and encourage affordable ADU rentals.

In 2022, two laws were passed that affect ADU law. Both went into effect in 2023. SB 897 increases the existing height limit for attached and detached ADUs that meet certain conditions. AB 2221 clarifies existing ADU law to close procedural and permitting loopholes for approving ADUs, including the requirement for approving or denying applications within 60 days of application submittal and providing a full set of comments and remedies to applicants with denied applications. Additionally, AB 2221 adds front setbacks to the list of local development standards that local governments cannot impose if they would preclude construction of an attached or detached ADU of at least 800 square feet, that is at least 16 feet in height and that has at least four-foot side and rear yard setbacks.

ADUs and JADUs are permitted by-right in the R-E, R-1, and R-3 zones. ADUs and JADUs are permitted as a converted unit in an existing space or a limited detached unit to each lot. Single-family lots permit one ADU and multi-family lots allow for one or more converted ADUs and two limited detached ADUs. These units are subject to development standards and conditions outlined in Section 17.28.010 of the City's Zoning Code and included below:

- A. An ADU or JADU shall be either created in a residential or mixed-use zone with a building permit or in a single-family or multi-family zone with an ADU permit.
 - a. Height. A detached ADU created on a lot with a single-family or multi-family unit may not exceed 16 feet. It may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multi-family dwelling unit that is located one-half mile walking distance of a major transit stop or transit corridor. The ADU may be up to 20 feet in height to accommodate a roof pitch on the ADU that is aligned with that of the primary dwelling unit. A detached ADU created on a lot with a multi-family unit with more than one story above grade may not exceed 18 feet in height.
 - b. An ADU that is attached to a primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower.

- B. Fire Sprinklers. The ADU shall require sprinklers if the primary residence requires them. The construction of an ADU may not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- C. Rental Term. No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.
- D. No Separate Conveyance. An ADU or JADU may be rented, but except as otherwise provided in Government Code Section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multi-family lot).
- E. Septic System. If the ADU or JADU will connect to an on-site wastewater-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- F. Owner Occupancy. All ADUs and JADUs permitted after January 1, 2025, are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property for ADUs and the primary dwelling or JADU for JADUs.
 - a. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.
 - b. This requirement does not apply to a JADU if the property is entirely owned by another governmental agency, land trust, or housing organization.
- G. Deed Restriction. A deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Department before a building permit is issued for an ADU/JADU. This restriction must run with the land and bind all future owners. The City outlines these provisions below:
 - a. Except as otherwise provided in Government Code section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.
 - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - c. The deed restriction runs with the land and may be enforced against future property owners.
 - d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To do so, an owner may make a written request to the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of the Zoning Code. If the ADU or JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
- H. The deed restriction is enforceable by the director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit. Income Reporting. In order to facilitate the City's obligation to identify adequate sites for housing in

accordance with Government Code sections 65583.1 and 65852.2, the following requirements must be satisfied:

- a. The applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU when filing a building-permit application.
 - b. Within 90 days after each yearly anniversary of the issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the owner is in violation of this Code, and the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.
- I. Building & Safety.
- a. The ADU/JADU units must comply with all local building code requirements.
 - b. There must not be a change of group occupancy under the local building code, unless the building official or Code Enforcement Division makes a written finding based on substantial evidence in the record that the construction could have a specific, adverse impact on public health and safety. This does not prevent the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

The City also requires additional requirements for accessory dwelling units that require an ADU permit, outlined below:

- A. Maximum Size. A detached or attached ADU shall not exceed 850 square feet for a student or one-bedroom unit and 1,000 square feet for a unit with two or more bedrooms.
 - a. An attached ADU that is created on a lot with an existing primary dwelling is limited to 50 percent of the floor area of the existing dwelling.
 - b. The application of other development standards in Chapter 17.28.010.F of Atwater's municipal code might limit the size of the ADU, but it shall not require the ADU to be less than 800 square feet.
- B. Floor Area Ratio (FAR). No ADU subject to Chapter 17.28.010.F may cause the total FAR of the lot to exceed 45 percent.
- C. Setbacks. The ADU must conform to a four-foot side and rear-yard setback and 25-foot front yard setback, or 65 feet if it follows the provisions of Chapter 17.12.110 of Atwater's Municipal Code. However, no setback is required if the ADU is constructed in the same location and dimensions as an existing structure.
- D. Lot Coverage. No ADU subject to this section may cause the total lot coverage of the lot to exceed 50 percent.
- E. Minimum Open Space. No ADU subject to this section may cause the total percentage of open space of the lot to fall below 50 percent.
- F. Passageway. No passageway, as defined by Chapter 17.28.010.C.9 of Atwater's municipal code, is required for an ADU.
- G. Parking. Generally, one off-street parking space is required for each ADU, unless specified in Chapter 17.28.010.F.7.b of Atwater's Municipal Code listed below, where no parking is required:
 - a. The ADU is located within one-half mile walking distance of public transit.

- b. The ADU is located within an architecturally and historically significant historic zone.
 - c. The ADU is part of the proposed or existing residence or an accessory structure under Chapter 17.28.010.F.7.a of Atwater’s municipal code.
 - d. When on-street parking permits are required but not offered to the occupant of the ADU.
 - e. When there is an established car share vehicle stop located within one block of the ADU.
 - f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multi-family dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed above in subsections G.a-e.
- H. **Architectural Requirements.** The materials, colors, architectural design, and roof slope of the ADU should match that of the primary dwelling. The internal horizontal dimensions of the ADU must be at least 10 feet wide in every direction, with a minimum interior wall height of seven feet. The exterior lighting must be limited to down-lights or otherwise required by the building or fire code. The ADU must have an independent exterior entrance located on the side or rear of the building and not facing the public right-of-way. All windows and doors of the ADU may not have a direct line of sight to an adjoining residential property. Windows and doors in the ADU that are less than 30 feet from a property line that is not a public right-of-way line must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.
- I. **Landscape Requirements.** Evergreen landscape screening must be planted and maintained between the ADU and adjacent parcels as follows:
- a. At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one 24-inch box size plant shall be provided for every 10 linear feet of exterior wall.
 - b. Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least six feet in height may be installed.
 - c. All landscaping must be drought tolerant.
 - d. All landscaping must be from the City’s approved plant list.
- J. **Historical Protections.** An ADU that is on or within 600 feet of real property that is listed in the California Register of Historic Resources must be located so as to not be visible from any public right-of-way.

Conclusion

The City of Atwater's ADU Ordinance was last updated in 2023 and is in compliance with state ADU law.

Recommended Action

None required.

B4.3.3.3 Multi-Family

Multi-family housing is permitted by-right in the R-2, R-3-2.5, R-3-2.0, R-3-1.5, and R-3-1.0 zones. Multi-family development is not permitted in any other zone but can be incorporated into the R-T zone (residential transition) where a mix of two land uses has been approved over the years through

re-zoning. Up to 21 dwelling units per acre may be allowed, depending on environmental constraints.

Conclusion

Multi-family development requirements are not a constraint to residential development.

Recommended Action

None required.

B4.3.3.4 Group Homes/Residential Care Facilities

State law requires residential care facilities with six or fewer persons to be allowed by-right in all zones that allow residential uses in zones where single-family residential uses are allowed. Zoning Code section 17.06.174 defines a community care facility as any facility, place, or building which is maintained and operated to provide non-medical residential care or day care services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons. A community care facility which services six or fewer persons is considered a residential use of the property. The Zoning Code does not specify a unique set of performance standards for community care facilities. Zoning Code section 17.06.240 defines a family as an individual or two or more persons related by blood, marriage, or adoption, or a group of not more than five persons (excluding domestic employees) who need not be related by blood, marriage, or adoption, living together in a single-family dwelling unit. This definition could be considered a constraint in that it conflicts with state definitions allowing up to six unrelated persons within a residential context.

Community care facilities are permitted in agricultural (A-R) and low-density residential zones (R-E, R-1-10, R-1-8, and R-1-6) as accessory uses. For the A-R zone, the maximum occupancy is 12 persons, while the low-density residential zones don't restrict the number of residents served by the facility. The City currently has no provisions in the Zoning Code to allow the development of group homes in additional residential zones.

In 2018, AB 2162 required cities to change their zoning to provide a "by-right" process and to expedite review for supportive housing projects of 50 units or fewer. This law applies to sites in zones where multi-family and mixed uses are permitted, including in nonresidential zones permitting multi-family use. Additionally, AB 2162 prohibits local governments from imposing any minimum parking requirements for units occupied by supportive housing residents if the development is located within one-half mile of a public transit stop. AB 2162 requires 25 percent of the units (or a minimum of 12 units, whichever is greater) to be approved by-right with no minimum parking. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.

Conclusion

The City does not specify a detailed set of performance standards for community care facilities and only allows for such developments in two zones. The Zoning Code does not permit community care facilities with seven or more persons in all zones that permit housing, which constrains the development of these uses.

Recommended Action

The City will implement Program 6 to amend the Zoning Code to allow community care facilities serving six or fewer residents as a single-family use in all zones that permit housing and allow care facilities of seven or more residents in all zones that permit residential uses, with objectivity and approval certainty, subject only to the same restrictions imposed upon residential uses of similar type and form.

B4.3.3.5 Emergency Shelters

In 2019, AB 101 was passed requiring that a Low Barrier Navigation Center development be a use by-right in mixed use districts and nonresidential districts permitting multi-family uses. A Low Barrier Navigation Center is a low barrier, temporary, service-enriched shelter that helps homeless individuals and families obtain permanent housing. The City will need to amend its Zoning Code to explicitly allow the development of Low-Barrier Navigation Centers, by-right, in residential use and mixed-use districts, as well as nonresidential districts permitting multi-family uses.

AB 139, which went into effect on January 1, 2020, mandates that emergency shelters may only be subject to standards that apply to residential and commercial development within the same zone. AB 139 also states that there should be sufficient parking to accommodate all staff working in the emergency shelter.

AB 2339 was passed in 2022 and went into effect January 1, 2023. AB 2339 requires that jurisdictions identify zoning designations where emergency shelters are allowed to include sites that meet at least one of the following:

- Vacant and zoned for residential use;
- Vacant and zoned for nonresidential use and located near amenities and services for homeless individuals;
- Nonvacant and is suitable for use as a shelter in the current planning period.

Emergency shelters are allowed by-right in the M-1 and M-2 zones and are not allowed in any zone allowing residential uses. However, due to the wide unavailability of vacant parcels in the M-1 and M-2 zones, the City allotted areas within the Business Park zone for emergency shelters. The Zoning Code limits the maximum stay to six months or less. The definition of emergency shelter in the Zoning Code does not include interim interventions, (e.g., navigation centers, bridge housing, and respite or recuperative care), as required by AB 2339. The City's standards for emergency shelters include the following:

- An emergency shelter may have up to 60 beds.
- Emergency shelters shall have separation of at least 300 feet from residential zones, parks, and schools.
- Facilities shall establish and maintain set hours for client intake and discharge. The hours of operation shall be consistent with the services provided and shall be posted in a publicly visible and accessible location on a sign that is no larger than one square foot.
- Outdoor activity and intake areas shall be screened from public view and from the view of adjacent properties.
- A security plan shall be submitted to the Sheriff's Department for review and approval prior to operation and shall be reviewed annually.
- On-site lighting shall be provided in all parking, pedestrian paths, and entry areas.

- A minimum of one supervisory level staff member must be present on the site during hours of operation. Operator(s) must ensure that loitering does not occur on the property during non-shelter hours and must ensure that clients are not loitering, littering, or otherwise creating a nuisance to the neighborhood.
- The emergency shelter shall provide on-site parking for all staff plus one space per ten occupants allowed at the maximum capacity.
- The maximum length of stay shall be no longer than six months, as established by the California Health and Safety Code for emergency shelters.
- Operation of emergency shelters shall comply with all federal, state, and local requirements, and all applicable Building, Fire, and Health and Safety codes.

The Merced County Point-in-time count estimated that 855 unhoused individuals were residing in the county in 2022, including 59 in Atwater. Of that number, 15 are unsheltered and 44 are sheltered. As shown in Table B4-8, Atwater has the potential capacity for more than 6,326 individuals in emergency shelters in the M-1 and M-2 zones, which is significantly greater than the identified 59 individuals counted in 2022.

Table B4-8 Emergency Shelter Capacity Analysis

APN	Acreage	Realistic Capacity (beds)
001-146-018	3.95	860
001-146-019	17.5	3,811
056-021-010	7.6	1,655
Total	29.05	6,326

Source: City of Atwater, 2023

Conclusion

Maximum stay requirements pose a constraint to housing access for residents experiencing homelessness. In addition, emergency shelters are not allowed in any residential zones. This is not consistent with state law which requires that low-barrier navigation centers be allowed by-right in areas zoned for mixed use and nonresidential zones permitting multi-family uses. Furthermore, interim interventions are not included in the Zoning Code definition of emergency shelter.

The City requires more parking than is required to accommodate staff. As stipulated by AB 139, this adds additional project costs and is a constraint to the development of emergency shelters. Additionally, the requirement that emergency shelters have a separation of a minimum of 300 feet from residential zones, parks, and schools may also constrain development.

Recommended Action

The City will implement Program 6 to revise the definition of emergency shelter in the Zoning Code to remove maximum stay requirements, to include interim interventions, and to allow emergency shelters in residential and/or residential mixed-use zone(s). Through Program 6, the Zoning Code will also be amended to define Low-Barrier Navigation Centers, consistent with state law and to explicitly allow by-right, in mixed-use and nonresidential districts permitting multi-family uses. The amendments to the Zoning Code under Program 6 will also ensure off-street parking requirements to provide parking spaces for staff only, remove maximum stay requirements, and remove the requirement to have a minimum 300 separation from residential zones, parks, and schools.

B4.3.3.6 Transitional and Supportive Housing

“Transitional housing” is defined as buildings configured as rental housing operating under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from the beginning of the assistance. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

“Supportive housing” is defined as housing with no limit on length of stay that is occupied by the target population and that is linked to on-site or off-site services that assist the supportive housing resident in retaining permanent housing, health services, and employment, as needed. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone. AB 2162, which went into effect on January 1, 2019, requires that cities allow supportive housing with up to 50 units by-right in multi-family and mixed-use zones and precludes cities from imposing parking requirements on supportive housing developments located within 0.5-mile of a public transit stop.

Transitional and supportive housing is allowed as permitted use in R-E, R-1, R-2, R-1-M, R-3, and R-T zones. R-3 zones and R-T zones also permit multi-family uses, in compliance with state law. The City does not impose additional requirements on transitional and supportive housing types beyond those that apply to residential uses.

Conclusion

The City allows transitional and supportive housing in zones allowing multi-family and mixed uses, in compliance with state law. However, the Zoning Code does not currently comply with AB 2162, whereby supportive housing that is within a half-mile of a transit line, no minimum parking spaces are required.

Recommended Action

Through Program 6, the City will update the Zoning Code to comply with AB 2162, whereby for supportive and transitional housing located within half-mile from transit, no minimum parking can be required.

B4.3.3.7 Farmworker Housing / Employee Housing

The Employee Housing Act (Health & Safety Code Section 17021.6) requires that any employee housing consisting of no more than 36 beds in group quarters or 12 units or spaces designed for use by a single family or household, shall be deemed an agricultural land use. No conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located.

The Zoning Code does not allow the development of farmworker housing or employee housing in any residential or zone that permits agricultural uses. Further, there is no definition of farmworker housing or employee housing provided in the current Zoning Code.

Conclusion

The Zoning Code does not permit the development of farmworker and employee housing in any zone. The City's Zoning Code does not comply with state law regarding farmworker/employee housing.

Recommended Action

The City will implement Program 6 to revise the Zoning Code to permit employee housing for six or fewer employees as a single-family residential use in zones that permit agricultural uses and to allow farmworker and employee housing with up to 36 beds in group quarters or up to 12 units or spaces designed for use by a single-family or household as an agricultural use to ensure compliance with the Employee Housing Act (Health & Safety Code Section 17021.6).

B4.3.3.8 Single-Room Occupancy Units

The City currently has no provisions in the Zoning Code to allow the development of single-room occupancy units (SROs).

Conclusion

Zoning Code standards do not permit the development of SROs, which constrains the production of a wide variety of housing types in the city.

Recommended Action

The City will implement Program 6 to revise the Zoning Code to allow the development of SROs in residential zones allowing multi-family uses and/or in commercial zones allowing hotel and motel uses.

B4.3.4 Housing for Persons with Disabilities

California Government Code Section 65583 requires local jurisdictions to analyze potential and actual government constraints on the maintenance, improvement, and development of housing for persons with disabilities. This is to ensure that persons with either physical or mental disabilities are provided reasonable accommodation for access to and the enjoyment of all facilities, including housing. Government Code Section 65583(c)(3) also requires housing elements to provide a program to "...address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities."

This section analyzes if the zoning policies and permitting procedures in Atwater impose any constraints to persons with disabilities accessing appropriate and adequate housing in the city.

B4.3.4.1 Definition of Family

Local jurisdictions may restrict access to housing for households that do not meet the jurisdiction's definition for "family." A restrictive definition of "family" that limits the number of individuals living together may illegally limit the development and siting of group homes for persons with disabilities, but not for housing families that are similarly sized or situated.

The City of Atwater's definition of family is as follows:

- “Family” means an individual or two or more persons related by blood, marriage, or adoption, or a group of not more than five persons (excluding domestic employees) who need not be related by blood, marriage, or adoption, living together in a single-family dwelling unit.

Conclusion

The City’s definition of “family” restricts the number of persons living together to five. This is a constraint to the development of group homes with six or more persons. Additionally, the Zoning Code should not distinguish between biologically related and unrelated persons.

Recommended Action

The City will implement Program 6 to amend the Zoning Code to remove the limit of number of persons residing in a dwelling unit as a “family” and revise the definition of “family” to comply with fair housing laws.

B4.3.4.2 Reasonable Accommodation Procedures

The federal Fair Housing Act and the California Fair Employment and Housing Act require that cities and counties provide reasonable accommodation where such accommodation may be necessary to afford individuals with disabilities equal housing opportunities. Cities and counties must also consider requests for accommodations related to housing for people with disabilities and provide the accommodation when it is determined to be “reasonable” based on fair housing laws and the case law interpreting the statutes.

Reasonable accommodation is one of the tools intended to further housing opportunities for people with disabilities. These accommodations require that local jurisdictions make modifications or exceptions in their zoning laws and other land-use regulations when accommodations are necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling. For example, it may be a reasonable accommodation to waive a setback requirement so that a paved path of travel can be provided to residents with mobility impairments.

Reasonable accommodation enables developers and providers of housing for people with disabilities a means of requesting from the local government flexibility in the application of land use and zoning regulations or, in some instances, even a waiver of certain restrictions or requirements because it is necessary to achieve equal access to housing.

The City enforces the California Building Code (Title 24 of the California Code of Regulations), which regulates the access and adaptability of buildings to accommodate person with disabilities (access standards, safety measures, braille sign standards, etc.). The City allows existing and new homes to be retrofitted or fitted for features that provide accessibility and independent living for persons with disabilities. Handicapped parking is not addressed in the City’s parking requirements, but it is a provision in the California Building Code.

The City does not require special building code compliance or additional levels of review to build, improve, or convert housing for persons with physical disabilities. Requests for modifications to ensure disability housing access and accommodations do not require a building permit and many other accommodations can be permitted over the counter. Any person with disabilities or individuals representing such person can request permits for reasonable accommodations for disabled persons to City staff, who use a standard entitlement process to ensure land use compatibility and sited facilities.

Conclusion

Atwater enforces state requirements related to reasonable accommodation.

Recommended Action

None required.

B4.3.5 Planning and Development Fees

The development review process is intended to regulate all projects. Through this process, residential yard size and other open space uses are determined, which in turn control population density for conformance with the General Plan. Regulation is necessary to conserve and stabilize property values, provide adequate open space, diminish street congestion; facilitate adequate community utilities such as transportation, water, sewage, schools, parks, and other public facility requirements; and to safeguard public health, safety, and general welfare.

The City charges various fees and assessments to cover the cost of processing permits and providing certain services and utilities. Development impact fees in Atwater are reasonable in comparison to other jurisdictions in the state and region. Table B4-9 describes residential development planning fees for both single- and multi-family development.

Table B4-9 Residential Development Planning Fees

Fee Title	Single-Family Unit Cost
Annexation Application	\$3,063 plus \$115 per acre
Pre-zoning	Deposit \$2,041 + actual cost
Specific Plan Preparation	Actual Cost + 20%
General Plan Amendment Preparation	Deposit of \$2,031, Actual Cost + 20%
Site Plan Review	Deposit of \$1,029 + actual cost
Tentative Subdivision Map	Deposit of \$3,046 + \$61 per lot, Actual Cost + 20%
Tentative Parcel Map	Deposit \$1,876 + \$61 per lot, Actual Cost + 20%
Conditional Use Permit	Actual Cost. \$2,000 Minimum Deposit
Variance	Deposit \$993, Actual Cost + 20%
Zone Change	Deposit \$1847, Actual Cost + 20%
PD Zone: Master Plan Application	Deposit \$2242, Actual Cost + 20%
PD Zone: Final Development Plan Application	Deposit \$2242, Actual Cost + 20%
Environmental Assessment	Actual Cost + 20%

Source: City of Atwater, Miscellaneous Fee Schedule, Amended June 27, 2022.

Table B4-10 shows development impact and permit fees for single-family and multi-family prototype developments. The total cost of development impact and permit fees for a typical 12,000 square foot single-family house on an existing lot is in excess of \$22,000, or about 10.5 percent of the median sales price of \$208,000 for such a home in Atwater. For a typical 800 square foot unit in a multi-family development, these fees are approximately \$14,000 per unit.

Table B4-10 Residential Development Fees

Impact Fees	Cost Per Unit	
	Single-Family	Multi-Family
Development Impact and Connection Fees		
Parks and Recreation	\$1,240	\$1,020 per unit
Sewer Connection	\$400	\$400 per unit
Sewer Capacity Fees	Dwelling Unit: \$3,667 Mobile Home: \$3,312	Dwelling Unit: \$3,667 per unit Mobile Home: \$3,312 per unit
Water Connection	\$400	\$400 per unit
Water Capacity Fees	Residential Estate: \$2,989 Detached Single-Family Residential: \$2,689	Med/High Density Residential: \$1,257 per unit
Government Building	\$949 per acre	\$949 per acre
Fire	\$1,038 per acre	\$1,038 per acre
Police	\$800 per acre	\$800 per acre
Traffic Circulation	\$3,684 per acre	\$3,684 per acre
Traffic Signals/Options	\$312 per acre	\$312 per acre
Subtotal	\$21,958	\$13,945
Development Permit Fees		
Building Inspection	Based on a Fee Type (Sq Footage)	Based on Fee Type (Sq Footage)
Building Plan Check	75% of project valuation or Based on 3 rd Party Hourly Rate	75% of project valuation or Based on 3 rd Party Hourly Rate
Site Improvement Inspection	3% of improvement value	3% of improvement value
Site Improvement Plan Check	Cost + 25%	Cost + 25%
Notes: Typical 6,000 sq. ft. residential lot and 1,500 sq. ft. single-family unit		
Source: City of Atwater, Schedule of Fees, 2023.		

Single-family development fees in Atwater are comparable to similarly sized cities in the same county. Fees for a single-family unit range are approximately \$21,958 in Atwater but range from \$12,326 to \$58,103 in the cities of Livingston, Dos Palos, Gustine, Los Banos, and Merced. Similarly, fees for multi-family are comparable, at approximately \$13,945 per multi-family unit in Atwater. Multi-family fees range from \$8,997 to \$47,550 per unit in other cities in the region. Table B4-11 shows a comparison of development fees in other Merced County jurisdictions.

Table B4-11 Residential Development Fee Comparison

Jurisdiction	Total Cost Per Unit	
	Single-Family	Multi-Family
Atwater	\$21,958	\$13,945
Dos Palos	\$12,435	\$12,435
Gustine	\$58,103	\$47,550
Livingston	\$20,804	\$5,561
Los Banos	\$32,961	\$26,197
Merced (City)	\$12,326	\$8,997
Merced (County)	\$30,996	\$26,423

The City typically collects entitlement fees at time of application submittal, and all appropriate development impact fees and building permit fees at the time of building permit issuance. For projects with entitlements (i.e. subdivision maps or conditional use permits), this puts fee payment well into the overall timeline. However, for already entitled properties, such as infill units on single lots, this process imposes potential financial impacts upon the developer, since the developer's recovery of those costs does not occur until such time as the individual units are sold. The postponement of these fees until a Certificate of Occupancy is issued could facilitate the development of additional housing. The City is currently deferring fee payment until the final construction inspection is complete. In the past two years the City has reduced development impact fees as a measure to revive the housing market in the aftermath of the economic downturn. The City does not currently waive development fees as a means of expediting the availability of housing for very low- and low-income households.

Conclusion

Planning and development fees are comparable to other cities in Merced County and are not considered a constraint to development.

Recommended Action

None required.

B4.3.6 Permit Types

The City of Atwater provides the full range of services relating to the development of property within its Sphere of Influence. Subdivision map processing, parcel maps, planned developments, special use permits, and building plans are all processed by the City. The City actively encourages developers to meet and confer with its planning staff prior to the formal submittal of an application as a means to facilitate the timely processing of the application. Pre-application conferences can resolve misunderstandings regarding zoning and development standards and processing procedures.

Several permitting processes may be required depending on the type of development proposal:

Subdivision and Merger

City requirements for these actions parallel State Subdivision Map Act requirements. For projects that require separate ownership parcels, a subdivision is required to establish the land division. The subdivision process is subject to Permit Streamlining Act requirements, but also usually requires CEQA review and can take up to a year to complete. Mergers would be accomplished through the filing of a new map creating a smaller number of parcels. The City follows the approval and disapproval findings of the Government Code section 66474. These are as follows:

- The subdivision must be consistent with applicable general and specific plans.
- The site must be physically suitable for the type of development and the proposed density of development.
- The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- The design of the subdivision or type of improvements is not likely to cause serious public health problems.

The design of the subdivision or the type of improvements will not conflict with an easement. These findings are/are not considered subjective.

Permitted Uses

Permitted Uses, also known as “use by-right,” refer to uses that are permitted in a specific zoning district, and as a result are not subject to additional review or applied conditions for approval by the Planning Commission. Permitted Uses also generally will not cause an adverse environmental impact on surrounding uses. Permitted Uses must still acquire all necessary permits to proceed with development, however the process is much more streamlined than for projects requiring a Conditional Use Permit. Most residential development is allowed by-right in residential zones.

Site Plan Review

Projects subject to the City’s site plan and design review process (all applications for building permits, permitted uses, conditional uses other than agricultural residential, residential estate, and single-family residential buildings and minor structures for the conduct of a business which is to be conducted primarily in the open air outside of a structure) must be approved by the Community Development Director, or designee, to ensure consistency with the City’s Residential Design Guidelines or Commercial and Industrial Guidelines. Atwater’s site plan review process consists of review and approval by the Community Development Director, or their designee.

Conditional Use Permit

Many uses require the applicant to obtain a conditional use permit. The purpose of a conditional use permit is to allow the proper integration into the community of uses which may be suitable only in specific locations in the zone, or only if such uses are designed or laid out on the site in a particular manner. Conditional use permits are approved or denied by the Planning Commission and can be appealed to the City Council. A Planning Commission public hearing is to be set within 30 days of receipt of an application, although CEQA requirements could extend this time for some projects. Conditional use permit processing is subject to Permit Streamlining Act requirements.

The few residential uses that require a conditional use permit approval in Atwater are second units in the R-E and R-1 zones (but refer to Program 7 to permit second units by-right); mobile home parks; and apartments above the ground floor in the C-C and C-G zones. In approving a conditional use permit the Planning Commission must find that the proposed structure or use conforms to the requirements and the intent of the municipal code and the General Plan; that conditions of approval deemed necessary in the public interest will be met; and that the use will not constitute a nuisance or be detrimental to the public welfare of the community. For a mobile home park, the findings must indicate that dimensions, location, and layout of each mobile home space, buildings, other structures, garbage storage, parking areas, landscaping, fencing, signs, street lighting, and fire protection devices meet state, federal, and local requirements. The submittal requirements are not different than the development plans that would be required for any other approval route.

The Planning Commission may approve a proposed use as long as it conforms to the requirements of the Code and the General Plan, any additional conditions stipulated by the Planning Director as deemed necessary in the public interest will be met, or will not constitute a nuisance or be detrimental to the public welfare of the community. These findings are/are not considered subjective.

Planned Development

The purpose and benefits of a Planned Development are described above in the section on Flexibility in Development Standards. A Planned Development application is usually submitted along with a tentative map application to subdivide the property. In terms of permit processing, a Planned Development proceeds in two stages: a conceptual plan is reviewed by staff, and a master plan is submitted concurrently with a PD zone change (if the site is not already zoned PD) for Planning Commission recommendation and City Council approval. The City approves both residential and commercial Planned Developments. For residential development in areas that have PD zoning and a commercial designation on the General Plan land use map, a general plan amendment would be necessary. Following approval of a master plan, a detailed development plan is processed for development of all or portions of the site. The development plan is submitted for Planning Commission recommendation and City Council approval, typically concurrent with a tentative subdivision map. If approval of a zone change or general plan amendment is required for residential development, it may be processed concurrently or prior to either the master plan or the development plan. A Planned Development application also requires CEQA review, and is likely to require a negative declaration or environmental impact report; this review would be incorporated with the environmental review already typically required for a subdivision map.

Because of the complexities, the Planned Development process can take a year or longer to complete. However, since the tentative map processing can run concurrently with the planned development process, there is usually a high level of efficiency, since the designs of the master plan, development plan, and tentative map are all aligned. Therefore, the conditional use permit process does not result in a constraint on development. Each non-legislative approval process is subject to Permit Streamlining Act requirements. For a 50-lot subdivision without a Planned Development, the application fees would be \$5,815. For that same subdivision, the additional application fees for a Planned Development including rezone would be \$5,303, or about \$106 per house. The additional steps required under a Planned Development are not generally expected to affect lower-income housing, since most Planned Developments are single-family residential in nature.

There are two Planned Development remainder parcels (PD-16 and PD-19) that are targeted for medium and high-density residential development. The first stage of the Planned Development approval, including the re-zoning, is already complete on these sites, and the final master plan stage is the only remaining requirement. The master plan is comparable to the site plan that would be required for any development within R-3, so it will not result in additional effort that would constrain development of these sites.

Conclusion

Site plan and permit approvals include subjective standards that require personal interpretation to determine compliance with standards. This is a constraint to development. Program 6 has been added to this Housing Element to reduce and/or eliminate potential governmental constraints related to subjectivity within the review process.

Recommended Action

The City will implement Program 6 to revise the Zoning Code to remove subjective language.

B4.3.7 Permit Procedures and Processing Times

While permit processing and development review are necessary to ensure that development proceeds in an orderly manner, permit processing fees, the costs of studies, and implementation of conditions, as well as time consumed, can impact the cost of housing development.

The initiation of a development begins with the filing of an application with the City Community Development Department. The application is routed for review by the various City departments including the public works, engineering, and planning divisions. Typically, a three-week time frame is provided for these comments. This would apply to ministerial approvals, such as a house on a single lot, and assumes that no variance or special use request is being processed in conjunction with the permits. At the same time, the environmental review process begins. Assuming that there are no outstanding issues, a negative declaration is usually prepared. After City review, the project is publicly noticed and scheduled for hearing by the Community Development and Resources Commission. For a project that requires circulation of a negative declaration, the total typical processing time is about six to nine months. For a project that requires an environmental impact report, a year or more may be required. For projects requiring CEQA clearance but not requiring public review of environmental documents, a time frame of approximately two to three months is estimated from the initial application to a Community Development and Resources Commission hearing. Appeals to the City Council are typically scheduled for the next available meeting, which may vary from one to two weeks after the Community Development and Resources Commission hearing.

The City has not received any applications for multi-family development projects in recent years; therefore, processing and approval times for multi-family projects are not available. However, permit procedures and approval timeframes would be similar for both single-family and multi-family projects, assuming similar CEQA findings and requirements. Multi-family projects do not have to undergo additional discretionary approvals, such as a design review, that are in place in other jurisdictions and that add time to the approval process.

The time required to process a project varies greatly from one project to another and is directly related to the size and complexity of the proposal and the number of actions or approvals needed to complete the process. Table B4-12 identifies the typical processing time most common in the entitlement process. It should be noted that each project does not necessarily have to complete each step in the process (i.e., small scale projects consistent with General Plan and zoning designations do not generally require EIRs, General Plan Amendments, Rezones, or Variances).

Table B4-12 Timelines for Permit Procedures

Type of Approval or Permit	Typical Processing Time	Approval Body
Site Plan Review/Design Plan Review	1 – 2 months	Director
Conditional Use Permit	1-3 months	Planning Commission
Variance	1-3 months	Planning Commission
Zone Change	2-3 months	City Council
General Plan Amendment	2-3 months	City Council
Architectural/Design Review - Minor	1 month	Director
Architectural/Design Review - Major	1 month	Director
Tentative Subdivision Map	3 months	Planning Commission
Final Subdivision Map	7 months	City Council

Type of Approval or Permit	Typical Processing Time	Approval Body
Tentative Parcel Map	3 months	Planning Commission
Final Parcel Map	7 months	City Council
Negative Declaration	6 - 9 months	Planning Commission
Environmental Impact Report	8 months to 1 year or more	Planning Commission
Single-Family Unit/Bldg. Permit Review	2 – 6 weeks	Building Inspector

Source: City of Atwater, 2023.

Table B4-13 shows the typical processing procedures by project type for Atwater.

Table B4-13 Typical Processing Procedures by Project Type

One Single-Family Unit (Weeks)	Subdivision (Weeks)	Multi-Family Units (Weeks)	Planned Unit Development (Weeks)
Design Review (2-4)	Design Review (2-4)	Design Review (2-4)	Design Review (2-4)
Site Plan (6-8)	Site Plan (6-8)	Site Plan (6-8)	Site Plan (6-8)
	Tentative Map (6-9)	Conditional Use Permit (6-9)	Conditional Use Permit (6-9)
	Environmental Assessment (12)	Environmental Assessment (12)	Environmental Assessment (12)
	Final Map (10)		
Total 8-12 Weeks	36-43 Weeks	26-33 Weeks	26-33 Weeks

Source: City of Atwater, 2023.

Building Permits

Building permit review timelines for all projects are as follows depending on complexity and scope of work:

- First review: 1 to 20 working days
- Second review: 1 to 15 working days
- Third review: 1 to 15 working days
- Fourth review: 1 to 10 working days
- Fifth review: 1 to 10 working days

Conclusion

Permit procedures and processing times are not considered a constraint to development.

Recommended Action

None Required.

State Streamlining

Under the 5th Cycle Housing Element reporting period (2015-2023), the City of Atwater has made insufficient progress toward its lower-income RHNA and is subject to SB 35 streamlining provisions for projects that include at least 50 percent affordability. SB 35 requires that eligible projects be reviewed for compliance and consistency with the City’s objective standards and are not subject to

discretionary processes, such as CEQA environmental review and public hearings. Eligible projects with 150 units or fewer must be approved within 90 days and projects with more than 150 units must be approved within 180 days. In addition, AB 1397 requires that 5th cycle opportunity sites re-used in the 6th cycle and identified to accommodate lower-income units (very low-income and low-income) be subject to by-right approval if projects include 20 percent affordable units for lower-income households on-site. The City has not adopted procedures for processing SB 35 applications, nor have they created a checklist for SB 35 applications. There have not been any projects approved through SB 35 ministerial approval in Atwater.

The Housing Crisis Act of 2019 (SB 330 and amended by SB 8) establishes a statewide housing emergency and creates new state laws focused on the production and preservation of housing. SB 330 and SB 8 aim to expedite and increase certainty in the development process with changes to the Housing Accountability Act and Permit Streamlining Act that will be in effect from January 1, 2020, to January 1, 2030. SB 330 also addresses the statewide housing shortfall with new protections for existing housing and restrictions on certain zoning actions that reduce the availability of housing. The legislation creates a preliminary application process, and housing developments will only be subject to those ordinances, fees, and policies in effect when the completed preliminary application is submitted. Like SB 35, SB 330 limits jurisdictions from imposing subjective design standards on housing developments. Objective standards are limited to design standards that involve no personal or subjective judgment by a public official. They must be verifiable by reference to an external and uniform benchmark available to both the applicant and the public official prior to application submittal.

Conclusion

The City should amend the Zoning Code to address updates to SB 35 and SB 330 and create written procedures for the Streamlined Ministerial Approval Process.

Recommended Action

The City will implement Housing Plan Program 6 to amend the Zoning Code to address updates to SB 35 and create written procedures for the Streamlined Ministerial Approval Process.

B4.3.8 Transparency in the Development Review Process

To increase transparency in the development process, the City's website publishes resources that help developers and homeowners navigate the residential development and home improvement processes. The City's Community Development webpage (<https://www.atwater.org/community-development/>) provides links to planning and building permit resources, including the City's zoning and land use maps, permit application forms, rate and fee schedule, and staff contacts.

Conclusion

The City's website provides all the necessary information and resources required by the State and is therefore in compliance with state law.

Recommended Action

None required.

B4.3.9 Short-Term Housing Rentals

The City of Atwater does not currently have a short-term housing rental program that regulates short-term vacation rentals in the city.

Conclusion

Short-term rentals are not considered a constraint.

Recommended Action

None required.

B4.3.10 Code Enforcement

The City of Atwater implements the California Building Code (CBC), 2022 Edition, which is based on the 2021 International Building Code and is published by the California Building Standards Commission as Title 24 of the California Code of Regulations. The 2022 California Building Code is set forth to regulate and govern the conditions and maintenance of all property, buildings, and structures within the city by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use and providing for the condemnation and demolition of buildings and structures that are unfit for human occupancy and use.

The City has included three additions to the CBC:

1. Permits. No building or structure shall be used or occupied and no change in existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefore as provided in the 2022 Edition of the California Building Code, Division II Section 111. It shall be required to post the certificate of occupancy on the building or structure for which it was used.
2. Building Permits extensions. Notwithstanding the provisions of Section 105.5 Expiration, as contained in Division II, Scope and Administration of the 2022 Edition of the California Building Code the Building Official may grant in writing more than one extension to a building permit if it finds the delays due to economic conditions or other causes beyond the control of the applicant. Any request for extension must be received prior to the expiration of the original period or any extension thereof. If there has been a change in any City fees applicable to the project since the date of the original permit, the new fees shall be applicable to any extension.
3. Building permits fee refunds. As provided in Section 109.6 Refunds, of Division II Scope and Administration, of the 2022 Edition of the California Building Code, the Building Official is authorized to establish a refund policy provided no work has been done and the request for refund is filed prior to the expiration of the original permit period or any extension thereof. Additionally, the City Council may refund up to 100 percent of all other related fees, e.g., connection charges, park fee, etc.

The enforcement of building codes in the city starts with issuance of a warning notice from the Code Enforcement division. Additional noticing to the property owner follows, with incremental increases in fines per violation if compliance is not met.

Conclusion

The City has adopted the most recent (2022) California Building Code.

Recommended Action

None required.

B4.4 Environmental Constraints

A community's environmental setting affects the feasibility and cost of developing housing. Environmental issues range from the availability of water to the suitability of land for development due to potential exposure to seismic, flooding, wildfire, and other hazards. If not properly recognized and accommodated in residential design, these environmental features could potentially endanger lives and property. This section discusses potential environmental constraints to future housing development in Atwater.

B4.4.1 Agricultural Lands

Most of the undeveloped land surrounding the city is classified as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Agriculture is an important economic sector in the County. Any annexation of land to support needed residential development would result in the loss of agricultural land, leading to potential land use conflicts. While preserving agricultural land is a priority for the City and County, this focus may constrain housing development in the city. In identifying land for annexation, the City should focus primarily on areas immediately adjacent to the city, in order to limit the loss of agricultural land.

The Williamson Act was passed by the State Legislature with the intent of preserving agricultural lands. Participants in a Williamson Act program agree under contract to keep their properties in agricultural production for a period of 10 years, with an automatic renewal each year until terminated. In return, the participants have their properties assessed based on agricultural use rather than market value, resulting in a lower property tax assessment. There are a few properties adjacent to the city that are under Williamson Act contracts, all of which are relatively small in size. The one exception is the area northwest of Atwater, where there is a substantial amount of Williamson Act land. Outside of this area, however, there are few constraints to future housing development due to Williamson Act contracts. If the City focuses on annexing lands adjacent to the City, as recommended above, developments on Williamson Act lands or other parcels with agricultural preservation restrictions could be avoided.

B4.4.2 Seismic Zones

No known faults are located within the City's sphere of influence. The closest mapped faults are located 20 miles to the northeast in the Sierra Nevada Mountains and 30 miles to the southwest in the Diablo Range. The nearest Alquist-Priolo Special Studies Zone is the Ortigalita fault zone in southwest Merced County, which is approximately 38 miles from the City. According to the General Plan EIR, seismic ground shaking is the seismic hazard most likely to occur in the city. Structures in the City are likely to sustain damage due to major seismic events and new buildings in the city must be designed for Seismic Design Category D1. Compliance with the California Building Code requirements will ensure that seismic ground shaking will not present a constraint to the development of housing in Atwater.

B4.4.3 Flood

The city is located within the San Joaquin Valley, which contains few elevated features. According to the General Plan EIR, no natural watercourses are located within the city. Most of the City is located outside of the 100-year floodplain zones, with the exception of areas in the southeast corner of the city bounded by Bellevue Road to the north and Buhach Road to the west. Housing development within the 100-year floodplain must comply with the development requirements in place for flood hazard areas, and this will ensure that risk of flooding will not present a constraint to the development of housing in the city.

B4.4.4 Climate Change

HCD has developed guidelines for addressing climate change, which are to be incorporated into the Housing Element and/General Plan update process. This effort provides an opportunity for jurisdictions to adopt programs and/or strategies that benefit both housing and affordability, while including energy and climate objectives to address climate change concerns. The City, through the former Atwater Redevelopment Agency, adopted land-use policies and/or programs to encourage infill and mixed use within the City's former redevelopment areas. Continued promotion of higher density, in-fill housing along the City's transportation and transit corridors will contribute to the reduction of greenhouse gas emissions and promote energy conservation. Implementation of energy-conserving building designs will add initial cost to affordable housing but will over the long-term be cost effective by lowering monthly energy costs for residents.

B4.4.5 Site Contaminants

Most of the vacant sites in Atwater are already established as agricultural land and primarily low-density residential lots. No significant toxic contaminants are likely on vacant residential land. There is the potential for agricultural sites to have chemical contamination from pesticides. Remediation of this condition usually involves soil testing to identify locations above established standards, and removal of contaminated soils in those locations. This is typically done in conjunction with larger development proposals, such as subdivisions and Planned Developments, where larger agricultural sites are used, and the cost can be spread among a larger number of housing units. Some sites, which contain existing buildings, may have additional environmental hazards, including asbestos or lead which would require removal ahead of building demolition, or may have soils contamination from, primarily, petrochemical leaks.

B4.4.6 Wildland/Urban Fire Hazards

Fire hazard potential is largely dependent on the extent and type of vegetation, known as surface fuels, that exists within a region. Fire hazards are typically highest in heavily wooded, undeveloped areas as trees are a greater source of fuel than low-lying brush or grassland. Suburban, urban areas, or rocky barren areas have minimal surface fuels and therefore typically have the lowest fire hazard.

The California Department of Forestry and Fire Prevention (CAL FIRE) has designated most of Atwater as "Local Responsibility Area Unzoned" and small portions of the City designated as "Local Responsibility Area Moderate." None of the City or surrounding area is designated as a very high or high fire hazard severity zone.³

³ County of Merced. 2021. Multi-Jurisdictional Hazard Mitigation Plan. <https://web2.co.merced.ca.us/pdfs/oes/MercedCounty-MJHMP-2021-2016.pdf>

Conclusion

There are few environmental constraints on future development of lands for housing in the Atwater area. The greatest constraint is loss of agricultural land. The topography of the area is level, with no steep slopes or deep ravines. There are no identified sensitive natural communities in the vicinity, including wetland areas or other significant areas of protected habitat. Since most of the land identified for potential future housing is undeveloped or used for agriculture, there are no significant sites of hazardous materials contamination.

Recommended Action

None required.

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