

# CA Density Bonus Law

*November 17, 2020 City Council meeting*



**COMMUNITY  
DEVELOPMENT**



# Why Are We Here?



# What is the CA Density Bonus Law (DB)?

- State zoning tool made available to developers.
  - Intended to facilitate affordable and senior housing, as well as childcare facilities as part of private development.
- “*Carrot on a Stick*” approach
  - In exchange for affordable housing, developers can certain incentives, concessions, or waivers.  
Examples:
    - Additional density
    - Modified parking requirements
    - Deviations from other regulatory requirements



# “Carrot on a Stick” Approach

## Additional Density - also known as “Density Bonus”

- *Sliding Scale*: the more affordable units provided as part of the project, the higher the Density Bonus.
  - Mixed income projects = up to a 35% Density Bonus (*increases to 50% on January 2021*)
  - 100% affordable housing projects = 80% Density Bonus
  - Senior Housing = 20% Density Bonus
  - Childcare facilities, foster youth, disabled veterans, homeless, and college students.



# “Carrot on a Stick” Approach

## State-mandated Parking Requirements

- Establishes maximum parking requirements
- Parking requirements further reduced within  $\frac{1}{2}$  a mile of a major transit stop.
- Allows parking to be tandem or uncovered.



# “Carrot on a Stick” Approach

## Deviations from local regulations

Developers can request deviations via either:

- **Incentive/Concession** – a deviation from general regulatory requirements **in order to make the affordable housing project economically feasible.**
- *Waiver* – a deviation from a development standard that **physically prevents the build out of the project at the State-mandated density.**



# Existing Density Bonus Regulations

- Burbank last adopted Density Bonus regulations in 2006.
  - Established Implementing Regulations that outlined City processes for:
    - A Density Bonus Request;
    - Incentives/Concessions Requests
  - Changes to the State Density Bonus Law are automatically incorporated in the BMC.
- Current Density Bonus Implementing Regulations have not been updated since 2006.



# Policy Questions

1. How should the City review request for incentives, concessions and/or waivers?
2. What should the appeals process look like for these “by-right” projects?
3. How should the City implement State Density Bonus Law’s replacement housing provisions?



# Policy Question #1

How should the City review requests for incentives, concessions and/or waivers?



# Policy Question #1

## Factors to Consider:

- Current regulations do not provide a specific review process for waiver requests
- Currently have a three-tiered review of incentives and concessions
- State law requires cities to grant requested incentives, concessions and/or waivers when the applicable objective criteria is met



# Policy Question #1

Recommendation: direct staff to maintain a modified tiered approach for incentives, concessions and waivers requests as follows:

- **Tier 1** would include a list of pre-established deviations. **Decision made at staff level**
- **Tier 2** would include other requests not included in Tier 1. **Decision made by the Planning Board**



# Policy Question #2

What should the appeals process look like for these “by-right” projects?



# Policy Question #2

## Factors to Consider:

- Currently by-right, code compliant, Density Bonus projects are appealable to the Planning Board, and to the City Council
- A city's review of a by-right Density Bonus project is limited to the project's compliance with objective standards
- City is limited to applying only objective standards regardless of the level of review and/or appeal.



# Policy Question #2

Recommendation: direct staff to facilitate the streamlined review of **by-right, code-complaint, Density Bonus projects** by having the Planning Board be the final appeal body.

- o Key factor is establishing objective standards that are vetted ahead of time by the public and decision makers (zone code amendments, specific plans, etc.)



# Policy Question #3

How should the City implement State Density Bonus Law's replacement housing provisions?



# Policy Question #3

## Factors to Consider:

- Vacancy of existing rental units
- Household Income information can be requested but compliance is voluntary
- Cities can access local databases (e.g. Section 8) to help establish household income
- Not all household income's can be established
- Seek out best practices from other cities



# Policy Question #3

Recommendation: direct staff to update the City's existing Implementation Regulations to include:

- City Council approved process for gathering household income information



# Summary of Staff Recommendations

- Update Density Bonus Regulations to make progress on housing production & affordability goals by ensuring regulations help, not hinders this effort
- Maintain a tailored review process that establishes expectations, and allows for a clear and transparent review of Density Bonus Projects
- Ensure consistency with the CA State Density Bonus Law (State Legislation)



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