



**CITY OF GLENDALE, CALIFORNIA
REPORT TO THE JOINT MEETING: GLENDALE CITY COUNCIL AND GLENDALE
HOUSING AUTHORITY**

AGENDA ITEM

Report: Density Bonus Study Session

1. Motion to initiate preparation of amendments to Chapter 30.36 of the Zoning Code related to Density Bonus Incentives.

COUNCIL ACTION

Item Type: Public Hearing

Approved for July 13, 2021 **calendar**

ADMINISTRATIVE ACTION

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RECOMMENDATION

Community Development Department staff respectfully recommends that the City Council initiate amendments to Chapter 30.36 (Density Bonus Incentives) of the Glendale Municipal Code (GMC) to bring the City's Code in compliance with recent state law amendments to California Government Code Sections 65915, *et seq.* (Density Bonus Law). Staff also requests direction from the City Council regarding other optional amendments to alter the review process for density bonus projects seeking incentives under Chapter 30.36.

BACKGROUND/ANALYSIS

Brief Background on State Density Bonus Law

California's Density Bonus Law was first enacted in 1979; the law was substantially amended in 2005 by SB1818, and has been amended multiple times since 2005. Density Bonus Law is intended to support the construction of affordable housing by offering developers the ability to construct additional housing units above a City's otherwise maximum allowable density. The ability to construct additional units is offered to help off-set a developer's costs to subsidize affordable housing units in a project. Generally, Density Bonus Law operates as an incentive to provide affordable housing units.

Recent 2020 & 2021 Amendments to State Density Bonus Law

Density Bonus Law was substantively amended in 2019 by Assembly Bill (AB) 1763, effective January 1, 2020. AB1763 added new affordability categories and substantially increased density bonuses for certain projects. The following is a brief description of the most significant provisions of Government Code Section 65915, including the 2019 amendments which became effective in January 2020:

- State law delineates specific levels of density bonus which are applicable to a housing development project which includes affordable housing units. In accordance with Government Code Section 65915, a housing development project which includes affordable units is eligible for a sliding scale of percentage bonus based on the number of affordable units proposed in the development and the level of affordability (from moderate to extremely low income). Until January of 2020, the maximum percentage of density bonus which could be achieved by a proposed project was a 35% bonus. However, AB 1763, substantially increased the maximum bonus which could be achieved by certain affordable projects.
- In accordance with AB 1763, a project proposed as a 100% affordable project with at least 80% of the units reserved for lower income households and 20% of the total units reserved for moderate-income households is entitled to a density bonus of 80%. If the development is located within one-half mile of a major transit stop, as defined in Public Resources Code §21155(b), the proposed project is entitled to an unlimited density bonus subject to some limitations.
- Moreover, in accordance with AB 1763, any such 100% affordable project is entitled to four incentives or concessions, and those which are located within one-half mile of

a major transit stop are eligible to receive a height increase of up to three additional stories, or 33 feet. However, where a developer proposes such a project, the project is not eligible for waivers other than the additional height increase noted above, unless the City allows additional waivers.

Density Bonus Law was once more substantively amended in 2020 by Assembly Bill (AB) 2345, effective January 1, 2021. AB 2345 enhanced several existing incentives and made it easier for developers to obtain them.

- First, AB 2345 reduced the percentage of units that must be devoted to low income units for the developer to receive two or three concessions. Previously, projects needed to devote 20% of the base units to low income households to receive two concessions, and 30% to receive three concessions. Under the amended law, projects need to devote only 17% of the base units to low income households to receive two concessions, and only 24% to receive three concessions.
- Second, AB 2345 increased the maximum density bonus available from 35% to 50%. Under this change, if a project provides 15% very low income units, 24% low income units, or 44% moderate income units in a common interest development, the project may receive a density bonus of up to 50% above the otherwise maximum allowable density.
- Third, AB 2345 further relaxed parking standards applicable to density bonus projects. All projects can now take advantage of a reduction in the required vehicular parking ratio for 2 and 3 bedroom units (previously 2 and now 1.5 per 2 or 3 bedroom unit). Also, if a project provides at least 20% low income or 11% very low income housing and is within half a mile of a major transit stop, a city may not require the developer to provide more than 0.5 parking spaces per unit. Further, a city may not impose any parking requirement if the project is only rental units dedicated to low income households if within half a mile of major transit stop or if it is a senior housing development with paratransit or half a mile from access to fixed bus route.

Glendale's Local Ordinance (Density Bonus Incentives) Requires Updating to Conform to 2020 & 2021 State Law Amendments

The above amendments to the Density Bonus Law were enacted in a short two-year time span, the most recent of which went into effect in January of 2021. The City's ordinance implementing Density Bonus Law, GMC Chapter 30.36 (Density Bonus Incentives), was last amended in 2017 and does not incorporate amendments to the Density Bonus Law pursuant to AB1763 or AB2345. California cities are required to follow state Density Bonus Law when processing housing development applications seeking such bonuses and incentives under the law, and, thus, staff has been applying the amendments enacted by AB 1763 and AB 2345 for applications received on or after January 1, 2021. Nevertheless, staff recommends that the City Council initiate amendments to the GMC to bring the Chapter 30.36 in conformity with California's Density Bonus Law.

City Council Direction Sought for Potential Amendments to Glendale's Review Process for Density Bonus Projects

Under the Density Bonus Law, local agencies must grant eligible density bonus applicants certain incentives or concessions based on the level of affordability as discussed above. Incentives and concessions include “a reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed . . . minimum building standards . . .” A local agency must grant a requested incentive or concession if the applicant meets the eligibility criteria, unless it can make written findings, based on substantial evidence, of any of the following:

- (A) The incentive or concession does not result in identifiable and actual cost reductions to provide for affordable housing costs or for rents for the targeted units (in other words, the City would be required to show that the incentives do not reduce the costs to build the affordable units with the density bonus being provided);
- (B) The incentive or concession would have a specific, adverse impact upon public health or safety, or the physical environment or any real property listed in the California Register of Historical Places and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households;
- (C) The incentive or concession would be contrary to state or federal law.

The City would have the burden to establish the evidence to make any of these findings. Additionally, a finding of a “specific, adverse impact upon public health or safety” cannot be based on generalized findings but must be a “significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” Gov’t Code §65589.5. These findings are, by legislative design, intended to be difficult to meet.

In addition to density bonuses and incentives/concessions, an applicant may request a waiver of a development standard if the applicant can establish that the particular development standard will physically preclude the development of the project with the density bonus and required incentives/concessions. The applicant has the burden to establish that the development standard will preclude the development with the requested density bonus and incentives/concessions, and a local agency may nevertheless deny a requested waiver if it can make the findings for denial of an incentive/concession as stated above.

Under GMC Section 30.36.040.A, the request for approval of a density bonus housing plan, including a density bonus, incentives or concessions, and/or parking concessions (*without a request for one or more waivers*) is reviewed by the Director of Community Development *without a public hearing*. At the time of the adoption of the City’s density bonus ordinance in 2006, it was determined that the above-stated denial criteria would

make it difficult, if not impossible in most cases, to deny requested incentives, and that the discretion of a hearing body would be substantially limited and unable to take into account traditional factors in discretionary review such as neighborhood compatibility, aesthetics, or generalized concerns of traffic, noise etc. Thus, at the time of adoption of the City's original density bonus ordinance, the Council decided to have requests for the incentives/concessions processed without a public hearing, as it concluded that having a hearing where the hearing officer body/officer has no discretion, or is severely restricted in its discretion, may lead to public confusion or frustration with the hearing process.

Pursuant to GMC Section 30.36.040.B, the request for approval of a density bonus housing plan, including a density bonus, incentives or concessions, and/or parking concessions *with a request for one or more waivers* must be reviewed by a hearing officer *with a public hearing*.

If a housing development is requesting waivers as well as a variance related to a use, the Director of Community Development may authorize the entitlement requests to be considered by the Planning Commission rather than both the Hearing Officer and the Planning Commission. Requests in a redevelopment project area, as adopted by the legislative body/Glendale Redevelopment Agency, must be reviewed by the Glendale City Council with a public hearing. Also, pursuant to a recently enacted urgency ordinance, requests for a density bonus, with or without incentives or waivers, for 100% affordable housing developments funded or initiated by the City or the Housing Authority, as well as requests for a density bonus above the maximum allowed under Density Bonus Law, must be heard by the City Council with a public hearing. Notice for this hearing is required to be the same as that given for a variance in Chapter 30.61.

Futhermore, the density bonus provisions of Chapter 30.36 do not modify the requirement that each housing development obtain design review approval under GMC Chapter 30.47 or the design review process for those projects in redevelopment project areas; provided, however, the review authority shall not, through the design review process, reverse, negate, or limit any density bonus, incentive or concession, waiver or reduction in development standards or parking concession granted pursuant to the GMC.

As outlined above, the GMC does not provide for a hearing when a density bonus project is only seeking incentives. As a result, there is no vehicle to provide notice to the public regarding the pending application for the mandatory density bonus and the requested incentives prior to rendering of the deicison. Recently, some members of the community have requested the City provide advance notice for such applications prior to the rendering of a decision, and per City Council direction or provide such notice, beginning in June of 2021, density bonus applications that do not require a hearing are and will continue to be noticed on the Community Development Department/Planning Division website. Projects that are requesting waivers or other project-related discretionary approvals will continue to be heard and decided at a duly noticed public

hearing, and the notices for those hearings will include information on the density bonus application, as per standard practice.

This new process will be implemented as follows:

- Similar to other administrative activities, a draft decision letter regarding the density bonus and/or incentives will be posted on the “Pending Decision” page (<https://www.glendaleca.gov/government/departments/community-development/planning/current-projects/pending-decisions>) for a period of 10 days prior to any decision on the density bonus application being rendered by the Director.
- A notice of the pending decision will also be posted on the “Community Development Department Notices” website (<https://www.glendaleca.gov/government/departments/community-development/planning/current-projects/public-notices>).
- At the conclusion of an initial 10-day period when such a pending decision becomes final, a second notice will be posted on the “Decisions Page” (<https://www.glendaleca.gov/government/departments/community-development/planning/current-projects/decision-letters>) which will coincide with the start of a 15-day appeal period.
- Staff informs all interested parties of the posted notices and pending decisions.
- The first project to follow this policy was noticed on May 28, 2021; that project is a density bonus project to construct a new 3-story, 14-unit, 6,263 square-foot, residential building, featuring two affordable units and 12 market rate units and a one-level subterranean parking garage, located at 306 East Harvard Street on a 12,000 square-foot lot, zoned DSP/EB (Downtown Specific Plan/East Broadway District).

Neighboring Jurisdictions’ Processes/Noticing for Density Bonus Housing Development Projects

City of Burbank

Projects seeking state density bonuses in the City of Burbank follow the same noticing/hearing procedures that apply to the underlying entitlement when an additional entitlement beyond a density bonus request is requested. For example: for a mixed use project in a commercial zone, where a conditional use permit (CUP) is required, the project must go before Burbank’s Planning Board at a public hearing concurrent with the request for a density bonus. The staff report and review of the project entitlements would incorporate and analyze any requested density bonus, incentives or waivers concurrently with any discretionary entitlement request. However, projects with no other entitlement other than a density bonus and incentives do not require a hearing. Similar to Glendale’s process, in Burbank a request for a density bonus and incentives (without waivers) is made administratively without a public hearing. Also similar to Glendale,

Burbank requires density bonus housing developments that also seek waivers to be decided by a hearing officer at a noticed public hearing.

City of Pasadena

In the City of Pasadena, density bonus projects that seek no incentives or only incentives from a set menu, do not require a land use entitlement other than design review. In those cases, the density and menu incentives are by-right and the project is reviewed only through Pasadena's building plan check process. If a project seeks an incentive that is "off-menu," only then does Pasadena require an entitlement process, called an "Affordable Housing Concession Permit," which requires a hearing before a hearing officer. That process is used to determine if the requested incentive(s) results in identifiable cost savings, as well as other findings, as required under state law. Once the Affordable Housing Concession Permit is approved, the project may then move on to Pasadena's design review process. Similar to Glendale, the design review hearing is limited to solely design-related issues. In Pasadena, if a housing development project requests one or more waivers in addition to a density bonus/incentives, Pasadena requires the applicant to submit a "Waiver of a Development Standards Permit," which requires a hearing before a hearing officer.

In sum, the City of Pasadena does not have a specific hearing or noticing requirement for a project seeking a density bonus and/or specified incentives contained on a menu. However, if the project requests one or more off-menu incentives or one or more waivers, Pasadena requires the application to be reviewed at a public hearing. In such cases, the noticing requirements are as follows: all property owners within 300' radius are noticed, and the notice is posted along public streets within 500' from the subject site's boundaries, and a sign is posted at the site.

A list of the City of Pasadena's menu of concessions is provided below for information:

- **Height.** Increase in maximum allowable height of each building by up to 12 feet beyond otherwise applicable standard over no more than 60% of the proposed footprint of the respective building. This concession shall not be applicable to any other development standards relating to building scale and massing, including but not limited to, encroachment plane and view corridor preservation standards.
 - **Height averaging.** In areas where height averaging is allowed, the project may utilize either the height increase in this concession, or the applicable height averaging standards, but not both. The additional height allowed under this concession shall apply to the average height, and not the maximum height indicated in the height averaging standards.

- **Floor area ratio.** Increase in maximum allowable floor area ratio by up to 0.5 beyond otherwise applicable standard. This increase shall apply to the floor area ratio itself, and not the resulting allowable gross floor area, as shown in the following examples:
- **Setbacks.** Reduction of side or rear setback requirements by up to 50% from otherwise applicable standards. This concession applies only to setbacks from property lines, and shall not be applicable to setbacks from required gardens or any development standards relating to building separation, including but not limited to light and air separation.
 - Exceptions.
 - This concession shall not apply to any setback that is adjacent to any RS Zoning District or a Historic Resource.
 - Setback reductions pursuant to this concession shall not result in the removal of a protected tree, nor shall they exempt a project from meeting the requirements of Chapter 8.52 - City Trees and Tree Protection Ordinance.
- **Loading.** Exemption from any of the requirements set forth in Section 17.46.260 - Number, Location, and Design of Off-Street Loading Spaces.
- **Parking.** Reduction of the minimum number of off-street automobile parking space requirements by up to 50% below otherwise applicable standards, provided that the project site is located within the Central District Transit Oriented Development area (Figure 3-5), or any portion of the project site is located within a one-half mile radius of any Metro Gold Line Station, with the exception of the Sierra Madre Villa Station. The 50% reduction shall be in addition to any other applicable parking reduction, including but not limited to those included in Section 17.43.090 - Alternative Parking Standards and Section 17.50.340 - Transit-Oriented Development (TOD).

Potential Code Amendments Affecting the Review Process for Density Bonus

Beyond change to Chapter 30.36 necessary to meet state requirements, Council may initiate Code amendments to alter the types of density bonus housing plan applications that require a hearing: for example, Council may amend the Code to require all applications that request incentives, not just those that request waivers, to be heard and decided at a noticed public hearing.

Council may also consider creating menu options for incentives to determine the level of review for density bonus incentive applications. The City of Pasadena uses this process to incentivize applicants to select specific incentives (which are smaller height, setback and FAR/parking allowances) that do not trigger the need for a hearing. If Council chooses to develop a menu staff will provide options during the

process for code amendments that will likely be similar to those offered in Pasadena, unless Council directs otherwise or provides specified incentives to offer on a menu.

FISCAL IMPACT

There is no anticipated fiscal impact associated with initiating amendments to the GMC or altering the review process for density bonus housing plan applications, other than increased staff costs for public hearings before a Planning Hearing Officer. Altering the review process will potentially increase applicant costs and add to the time it takes to process and approve density bonus housing plan applications that request only incentives.

ALTERNATIVES

Alternative 1: The City Council may initiate amendments to GMC Chapter 30.36 to bring the GMC into conformity with recent state Density Bonus Law amendments, as well as other optional amendments such as to require a public hearing for density bonus plan applications where a hearing is not currently required and/or an amendment to provide a menu of concessions that do not require a hearing.

Alternative 2: The City Council may initiate amendments to GMC Chapter 30.36 to bring the GMC in conformity with recent state Density Bonus Law amendments without changing any hearing process or provide a menu of concessions that do not require a hearing.

Alternative 3: The City Council may consider any other alternative proposed by staff.

CAMPAIGN DISCLOSURE

N/A

EXHIBITS

N/A