



LOS ANGELES CITY PLANNING COMMISSION

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www.lacity.org/PLN/index.htm

Determination Mailing Date: JAN 30 2007

City Council
Room 395 - City Hall
200 N. Spring Street
Los Angeles, CA 90012

RE: CITY PLANNING CASE NO. 2005-1101-CA (CF# 05-1345)
DENSITY BONUS - AFFORDABLE HOUSING INCENTIVE PROGRAM

Transmitted herewith are the recommendations of the City Planning Commission regarding implementation of the State density bonus program, known as SB 1818.

On April 4, 2006 the Planning and Land Use Management Committee (PLUM) considered a report and draft ordinance implementing SB 1818. The Committee recommended approval of the ordinance with several amendments (which were subsequently approved by the Housing, Community and Economic Development Committee) and requested the City Planning Commission and Affordable Housing Commission hold a joint meeting for the purpose of taking testimony and making recommendations regarding certain housing policy issues.

On August 21, 2006, the City Planning Commission and Affordable Housing Commission met. The Planning Department and the Housing Department made presentations regarding the density bonus law, the proposed ordinance approved by PLUM and the HCED Committees, and both departments made recommendations regarding specific housing policy issues.

During the public hearing community representatives, housing developers and affordable housing advocates raised a variety of issues and made recommendations. The Commissions further questioned Department staff and discussed policy issues.

The City Planning Commission, in accord with the Affordable Housing Commission, concurred with the action and draft ordinance approved by PLUM and HCED, with the following recommendations:

1. The Department of City Planning and the Housing Department will prepare one set of guidelines, known as the Affordable Housing Incentives Program Guidelines, which will include policies and procedures consistent with the final ordinance implementing Government Code Section 65915 and with the recommendations approved at this meeting. The Guidelines will be submitted to the City Planning Commission for approval.
2. Developers of for-sale housing that restrict 10% of the housing units, excluding the density bonus units, as affordable for Moderate Income Households will be eligible for a density bonus of 15%. The density bonus can be increased by 1% for each additional 1% restricted as affordable for Moderate Income Households to a maximum of 35%.

3. Resale restrictions and equity share provisions for for-sale units as follows:
- Lower Income and Very Low Income Units: All units will be required to have a resale-affordability restriction for a minimum of 30 years consistent with the requirements of Government Code Section 65915. An equity share provision will also be placed on all units. Restrictions will be noted on the Deed of Trust.
 - Moderate Income Units: All units will be required to have a resale-affordability restriction for a minimum of 10 years. An equity share provision consistent with the requirements of Government Code Section 65915 will be placed on all units. Restrictions will be noted on the Deed of Trust.
4. Funds recaptured by LAHD from the sale of Moderate Income Units will be reinvested within one year for the purpose of providing Moderate Income housing in the same Council District as the original development. If no qualifying development project can be identified within the Council District during that period, LAHD may invest the funds for Moderate Income housing anywhere in the City, with the highest priority given to a project near transit.
6. Developers of affordable units will be required to comply with a strict standard of comparability between the market rate and affordable units in the development.
7. LAHD will take Home Owner Association (HOA) fees into consideration when determining the price of for-sale affordable units.
8. Language will be incorporated in the final ordinance or guidelines, as appropriate, to prevent multiple requests for density bonus and/or incentives over time on the same parcel.

This action was taken by the following vote:

Moved: Usher
Seconded: Woo
Ayes: Cardoso, Freer, Kezios
Absent: Hughes, Irlando, Kay, Roschen
Vote: 5-0



Gabriele Williams, Commission Executive Assistant II
City Planning Commission

cc: Jeri Burge, Deputy City Attorney, Land Use Division
Affordable Housing Commission, attention: Carmen Chavez
Yolanda Chavez, Housing Dept.
Notification List

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August 4, 2006

TO: City Planning Commission
Affordable Housing Commission

FROM: S. Gail Goldberg, AICP
Director of Planning

A handwritten signature in black ink that reads "S. Gail Goldberg".

SUBJECT: STATE DENSITY BONUS PROGRAM (SB 1818)

BACKGROUND

On June 9, 2005, the former City Planning Commission approved a draft ordinance and related guidelines (Affordable Housing Incentives Guidelines, Attachment 1), which together implement SB 1818, the new State density bonus law. The Guidelines will likely require revisions to be in concert with the final ordinance that is ultimately approved by the City Council.

On April 4, 2006 the Planning and Land Use Management Committee (PLUM) approved the ordinance and recommended that it be adopted by the City Council with several modifications to the Commission's action. In addition, PLUM requested that your two commissions "hold a special joint meeting where public testimony and input may be given to consider Los Angeles Housing Department's (LAHD) final Implementing Guidelines for For-Sale and Rental Units for Moderate, Low and Very-Low Income Units and the 'Affordable Housing Incentives Guidelines' (adopted by the City Planning Commission in June 2005) and any other policy matters where affordable housing and land-use issues intersect."

On May 30, 2006, Planning and Housing department staff briefed subcommittees of the Affordable Housing Commission and the City Planning Commission on the draft ordinance. The subcommittees requested that staff set the matter for a public hearing and prepare a report, which summarizes the issues, as directed by the PLUM Committee. This report includes the issues relevant to the Planning Department. The Los Angeles Housing Department (LAHD) is responding with a separate report detailing additional housing policies.



On August 1, 2006 the Housing, Community, and Economic Development Committee (HCED) met to discuss the proposed ordinance and relevant housing policy issues. The Committee concurred with the PLUM action of April 4, 2006 and requested that the City Attorney draft an ordinance consistent with the amendments approved by PLUM.

OVERVIEW OF STATE LAW AND IMPLEMENTING ORDINANCE

Section 65915 of the State Government Code requires cities to permit increased density for market rate housing projects that include a percentage of the units "set aside" as affordable to certain income groups. In January 2005, SB 1818 took effect, which amended Section 65915 and significantly changed the State's existing density bonus program. Subsequent clean-up language in SB 435 became effective in January 2006. These laws require cities to adopt implementing ordinances for the new program.

The new law halves the number of units that are required to be set aside, or restricted as affordable, in order to qualify for a density bonus. Projects may now qualify for a base density bonus of 20% (rather than the previous 25%), and the bonus may be increased to a maximum of 35% if additional affordable units are included.

The new law also requires cities to grant up to three "incentives", depending upon the percentage of affordable units and the target income group. An incentive is defined in the law as a deviation from any zoning or development regulation, when requested by an applicant. The City must grant unless it can make one of three findings: 1) the incentive is not required in order to provide for affordable housing costs or rents; 2) the incentive has a specific adverse impact upon health, safety or the physical environment; 3) the incentive has an adverse impact on any real property that is listed in the California Register of Historical Resources.

In developing the draft ordinance, the Planning Department created a "Menu of Incentives" that includes deviations from the Zoning Code typically requested by housing developers. At the same time, the draft ordinance limits the extent of the deviation requests by steering project applicants to a defined menu. Applicants can request incentives not on the Menu, but the process and notice requirements are more extensive for these requests. The intent is to implement the law in a way that balances the need for affordable housing and the integrity of local planning and zoning in maintaining livable neighborhoods.

The focus of the land use discussion regarding the draft implementing ordinance has concerned the Menu of Incentives and the process by which cases will be reviewed. Since the effective date of the State law, and pending adoption of a final ordinance, density bonus projects have been approved by the Planning Department on a case-by-case basis.

REFERRAL TO PLUM AND HCED COMMITTEES

The PLUM Committee considered the draft density bonus ordinance at multiple meetings during winter and Spring 2006. On April 4, 2006, PLUM approved the ordinance, requested the City Attorney to draft a revised ordinance, and directed the Housing and Planning departments to report to you at your joint meeting on various housing policy issues. On August 1, 2006 HCED Committee concurred with the PLUM action. Following are the issues on which the departments were instructed to report:

1. Restricting the re-sale price of affordable ownership units to ensure that restricted units remain affordable to households at the same income or lower level as the initial buyer for at least 30 years and requiring the City to record a deed of trust against the property containing such restrictions on the re-sale price level;
2. Ensuring that any money recouped by the City through equity sharing, in-lieu fees or otherwise, be restricted so that it is spent on creating new units targeted to the income level of units lost or to a lower income level;
3. Ensuring the production of affordable for-sale units in light of high and/or increasing homeowner association (HOA) fees and the City's policy to require that affordable units be comparable to market rate units;
4. Procedures for filing appeals on Menu incentives, and the possibility of establishing a five-week process for appeals;
5. Land-use incentives, approved density bonuses and the set aside percentages targeting Moderate Income Households for three scenarios:
 - (1) As allowed under State Law (10% set aside for a density bonus of 5%);
 - (2) As recommended by the City Planning Commission (10% set aside for a density bonus of 20%); and
 - (3) As recommended by the Chair of the Planning and Land Use Management Committee (20% set aside for a density bonus of 20%)

LAHD is preparing a separate report on the first three items: restricting the resale price of moderate units, use of captured funds to create affordable housing, and production of affordable for-sale units. The Planning Department's report on the appeals procedures (#4 above) and Moderate Income Household regulations (#5) follows:

APPEALS PROCEDURES

State law encourages the development of affordable housing through the provision of incentives. At the PLUM hearings, there was testimony by affordable housing advocates and other developers to eliminate hearings and appeals for density bonus projects that include such incentives, citing the narrow findings that must be made to deny a request. The affordable housing advocates, in particular, also requested that the timeframe for a final decision be shortened, which would assist non-profit housing developers in accessing funds for affordable housing. At the same time, neighborhood representatives advocated for a wider notification and strengthened appeal procedures.

After much discussion and consultation with the City Attorney, the PLUM Committee approved the following procedures:

- In the case of an application for a density bonus with one or more incentives from the Menu of Incentives, there is no hearing unless the Director's Determination is appealed by the applicant or by abutting property owners. The matter is then set for hearing before the City Planning Commission, whose decision is final.
- In the case of an application for an incentive that is not on the "Menu", notice of a hearing is mailed to all property owners within 500' of the site and a Hearing Officer holds a public hearing. The City Planning Commission then hears the matter and makes a decision, which is final.

To accommodate the concerns of the PLUM Committee and the affordable housing development community, the Department committed that the Planning Commission will act and mail a decision within 35 days of the date of appeal in cases where the application is not accompanied by other discretionary requests. This provision was approved by PLUM to be incorporated in the draft ordinance.

MODERATE INCOME HOUSEHOLDS SET-ASIDE AND DENSITY BONUS

The PLUM Committee debated the set aside of restricted affordable units and density bonus provisions of the State law and proposed ordinance as it applies to Moderate Income for-sale housing. Following is a summary of the issues:

- State Law – The foundation of the density bonus program is to provide additional market-rate units as an incentive to a developer to include (or "set aside") affordable units in a proposed development. The law recognizes the many differences between for-sale housing and rental housing, and creates special bonus and set-aside provisions that are applicable only to for-sale projects. For condominiums (for-sale projects), the law permits the set-aside units to be sold to Moderate Income households (120% of Area Median Income), and allows a density bonus equal to one-half the number of

