



AGENDA REPORT

Meeting Date: June 4, 2013

Item Number: H-14

To: Honorable Mayor & City Council

From: Jonathan Lait, AICP, Assistant Director of Community Development

Subject: PLANNING COMMISSION REQUEST TO FUND A STUDY OF DENSITY BONUS INCENTIVES.

Attachments:

1. 9265-9269 Burton Way Density Explanation
2. Program 10.1 of the Housing Element

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to appropriate up to \$25,000.00 for the purpose of studying density bonus incentives that may be requested by developers in conjunction with the development of affordable housing units as allowed by State law.

REPORT SUMMARY

This report sets forth a request for funding by the Planning Commission to study the financial incentives and constraints associated with developing affordable housing units in accordance with a Density Bonus Permit. If authorized, the study would include two components:

- Analysis of specific incentives proposed by a developer to build a condominium project at 9265-9269 Burton Way, including additional building height that the developer maintains is needed to develop the project with two very low income units; and,
- Analysis of the financial benefits associated with a variety of development incentives that are currently being considered by the Planning Commission for inclusion in a menu-style list of preferred incentives for development of density bonus projects pursuant to State law.

BACKGROUND

The State of California has identified a regional need for affordable housing. In order to address this need, the State has adopted a statewide statute to encourage the development of affordable housing units. The statute is known as the State Density Bonus (SB1818), and provides developers with incentives to construct affordable housing, including increased density and relief from certain development standards that might otherwise discourage the development of affordable housing. Projects proposed pursuant to the State Density Bonus require discretionary review by the Planning Commission, but the Planning Commission's authority over the development incentives (e.g. increased height, reduced setbacks, reduced parking, etc.) is limited. Specifically, development incentives cannot be rejected by the Planning Commission unless the Planning Commission determines, based on substantial evidence, that the incentives are not required in order to facilitate the development of the affordable units, or that the incentives would result in specific adverse and unavoidable impacts. Without substantial evidence, the development incentives must be granted.

The Planning Commission is currently reviewing Density Bonus incentives relative to the specific development project located at 9265-9269 Burton Way, and is also studying other incentives relative to the City's broader efforts to implement affordable housing. In order to establish 'substantial evidence' relative to the financial necessity of development incentives associated with the construction of affordable housing units, a financial feasibility study is needed. The items that would be included in the study are detailed below.

9265-9269 Burton Way Density Bonus Project

The City is currently processing an application for a proposed 23-unit condominium development located at 9265-9269 Burton Way. The project includes two units designated for households qualifying as very low income, and is therefore eligible for additional density and other development incentives authorized pursuant to the State Density Bonus statute. The project includes the following:

- **Density:** The City's zoning standards allow up to 14 units. Approval of the density bonus permit, with the inclusion of two very low income units, allows for a maximum density of 23 units (see Attachment 1 for a detailed explanation of allowed density).
- **Height (applicant proposed incentive):** The City's zoning standards allow for a building height of 5 stories or 55 feet. The applicant requests a density bonus incentive to allow building height up to 6 stories and 72 feet.
- **Parking Screening (applicant proposed incentive):** The City's zoning standards require parking spaces to be fully enclosed. The applicant requests the ability to allow a portion of the surrounding walls on the east side of the ground floor parking level to be open in order to allow for natural ventilation, thus avoiding installation of a mechanical ventilation system and saving on construction costs.
- **Parking:** Standard parking requirements are based on the number of bedrooms in each unit. As designed, the project requires 62 parking spaces pursuant to the Zoning Code. However, the applicant may utilize a lower parking standard set forth in the State Density Bonus statute, which sets a maximum parking requirement of one space for studio and one-bedroom units, and two spaces for two- and three-bedroom units (inclusive of guest parking). The applicant proposes 46 total spaces, whereas the State Density Bonus statute requires a maximum of 40 spaces for the project.

The Planning Commission reviewed the proposed project and density bonus incentives at its May 9, 2013 meeting. At that meeting, the Planning Commission identified concerns regarding the extra building height requested as a development incentive. Based on the concerns raised, the Planning Commission directed staff to request funding from the City Council to study the financial necessity of the additional building height to the feasibility of the project. The purpose of the study would be to provide the Planning Commission with substantial evidence to either support or reject the additional building height requested by the applicant. Ordinarily, the cost of a project-specific financial analysis would be borne by the applicant; however, the State Density Bonus statute places the burden on the City to establish substantial evidence should there be a desire to either reject a specific incentive or require an alternative incentive. The applicant has provided a basic project pro forma outlining the need for the incentives, but a more in-depth analysis, inclusive of alternatives, would be developed by the City's consultant if funding is authorized.

Beverly Hills Density Bonus Program

Separate from the development project identified above, the Planning Commission is currently studying modifications to the City's local density bonus program that implements the provisions of the State Density Bonus. At its May 23, 2013 Study Session, the Planning Commission considered a list of preferred incentives to be included in the City's Density Bonus Program. Establishing a list of preferred incentives would accomplish Program 10.1 (Attachment 2) in the City's certified Housing Element and has been identified by the State as one of the actions needed to maintain certification in the future. The purpose of a preferred incentives list is to encourage developers to use incentives already identified by the community as more appropriate to facilitate the development of affordable housing units pursuant to State law. Developers would choose to use the preferred incentives because there would be more certainty that a project would have a more streamlined approval process since the City would have already reviewed and approved the preferred incentives.

At the May 23, 2013 Study Session, Planning Commissioners observed that it would be helpful to have information about the financial value that specific incentives add to a development project to assist the Commission in determining which development incentives should be included on a preferred list. The Chair noted that the Commission had already requested a fiscal analysis of density bonus incentives associated with the proposed new condominium project at 9265-9269 Burton Way. The Chair suggested expanding that fiscal analysis to include analysis of incentives identified by the Planning Commission for possible inclusion on a preferred incentives list.

FISCAL IMPACT

Staff has received a preliminary proposal from a financial consultant to conduct the fiscal analysis requested by the Planning Commission. The total cost to prepare both portions of the fiscal analysis would be a maximum of \$25,000.00. Because the State places the burden of 'substantial evidence' on the City, relative to the financial necessity of development incentives, and because studying the general application of Density Bonus incentives is a City-initiated effort, the entire cost would be borne by the City.

RECOMMENDED ACTION

Staff recommends that the City Council authorize the City Manager to appropriate up to \$25,000.00 in Fiscal Year 2012-13 from the City Manager's Contingency Fund for the purpose of studying density bonus incentives that may be requested by developers in conjunction with the development of affordable housing units.

Susan Healy Keene, AICP
Director of Community Development


Approved By

ATTACHMENT 1

9265-9269 BURTON WAY DENSITY EXPLANATION

Applicability of Density Requirements

State Density Bonus standards allow for a certain percentage increase in density, which is based on the percentage of “total units” (the maximum number of units allowed under General Plan density standards, without the inclusion of bonus units) that are designated for very low income households. In this case, the number of base units that could be built under the City’s General Plan is 17 units, and the number of very low income units is two. Therefore, 11.8% (two divided by 17) of the base units would be very low income. The Density Bonus standards state that whenever 11% or more of the “total units” are designated for very low income, a 35% increase in density shall be provided. Further, all density calculations are required to be rounded up to the next whole number. Therefore, approval of the Density Bonus Permit, with the inclusion of two very low income units, would allow for a maximum density of 23 units. This calculation is further explained as follows:

Density Calculations

<p>Total Units. This is the number of units allowed under General Plan density standards¹. The General Plan allows 50 units per acre on the project site, or 1 unit per 871.2 square feet of site area. The site area is 14,232 square feet.</p>	<p style="text-align: center;"> $14,232 \div 871.2$ $= 16.33$ (rounds to 17) $= 17$ total units </p>
<p>Percentage of Very Low Income Units. The percentage of very low income units is achieved by dividing the number of very low income units by the “total units.” In this case, 2 very low income units are provided.</p>	<p style="text-align: center;"> $2 \div 17$ $= 11.8\%$ </p>
<p>Density Bonus. The State Density Bonus provides for a 35% density bonus whenever 11% or more of the “total units” are very low income. In this case 11.8% of the “total units” are very low income, so the project is eligible for the 35% bonus.</p>	<p style="text-align: center;"> $17 \times 35\%$ $= 5.95$ (rounds to 6) $= 6$ bonus units </p>
<p>Maximum Density. This is the total number of units that can be built pursuant to State Density Bonus standards.</p>	<p style="text-align: center;"> $17 + 6$ $= 23$ units </p>

¹ State Density Bonus standards require that whenever there is a conflict between the densities set by the zoning code and General Plan, General Plan densities shall prevail. The zoning code would allow for the construction of 14 units, while the General Plan would allow for the construction of 17 units.

ATTACHMENT 2

PROGRAM 10.1 OF THE HOUSING ELEMENT

10.0 Provide New Housing Opportunities

Imp 10.1 Density Bonus

Beverly Hills updated its residential density bonus ordinance in 2005 consistent with current State requirements as specified under SB 1818. In summary, applicants of residential projects of five or more units may apply for a density bonus and additional incentive(s) if the project provides for one of the following, per State policy:

- *10% of the total units for lower income households; or*
- *5% of the total units for very low income households; or*
- *A senior citizen housing development that limits residency based on age requirements for housing for older persons; or*
- *10% of the total dwelling units in a condominium for moderate income households.*

The amount of density bonus varies according to the amount by which the percentage of affordable housing units exceeds the established minimum percentage, but generally ranges from 20-35% above the specified General Plan density. In addition to the density bonus, eligible projects may receive 1-3 additional development incentives, depending on the proportion of affordable units and level of income targeting.

The State requires the following incentives to be offered in conjunction with the density bonus:

- *A reduction in parcel development standards (coverage, setback, zero lot line and/or reduced parcel sizes)*
- *Approval of mixed use zoning in conjunction with the housing project*
- *Other regulatory incentives or concessions proposed by the applicant, or the City that would result in identifiable cost reductions*

By the City's ordinance, incentives offered are determined by the Planning Commission during the review process.

Pursuant to State requirements and at the request of the developer, the City will also permit a reduced parking ratio for density bonus projects. To the extent the density bonus cannot be accommodated due to the City's development standards, the City will waive or modify applicable standards to accommodate the bonus.

In order to provide greater certainty in the type of development incentives and concessions that could be requested, the City will modify the current ordinance to include specific lists of options.

Timeline: Modify the ordinance and promote the use of density bonus incentives through the City's Affordable Housing Brochure (Imp 10.5) by 2012.

Funding Sources: Department Budgets

Responsible City Section: City Manager's Office; Community Development Department
