

# Agenda Report

April 7, 2008

**TO:** City Council

**THROUGH:** Legislative Policy Committee (March 25, 2008)

**FROM:** City Manager

**SUBJECT:** Support for AB 2280 (Saldano) -- Density Bonus

## **RECOMMENDATION:**

It is recommended that City Council:

- 1) Support AB 2280 (Saldano) and authorize the Mayor to transmit correspondence to the appropriate authorities, and;
- 2) Direct staff to work with the City's legislative advocate to identify the appropriate vehicle to propose further amendments that would limit the application of State density bonus law to cities that do not produce affordable housing.

## **BACKGROUND:**

State density bonus law is a voluntary inclusionary housing ordinance, providing large incentives to developers who include modest amounts of affordable housing in their projects.

In 2004, SB 1818 reduced the proportion of affordable units needed to obtain a density bonus, increased the maximum bonus to 35 percent, and required local governments to grant additional concessions (exceptions from normally applicable zoning and other development standards). Density bonus law was amended again in 2005 by SB 435. While SB 435 clarified some issues, the law remains ambiguous and raises substantial public concerns regarding permitting density above the city zoned density and providing for relaxing development standards.

## **AB 2280 (Saldana) -- Density Bonus**

AB 2280 proposes significant amendments to density bonus law that seek to clarify ambiguities and respond to public concerns. Key points of the bill include:

- Clarifies that the density bonus applies only when the developer voluntarily includes affordable units (not when required by local inclusionary ordinance),

- Increases to the required number of affordable units by 10% across the board in order to qualify for "incentives and concessions" -- 20% affordable units for one concession; 30% for two, and 40% for three;
- Changes to the definition of a "senior housing project" qualifying for density bonus from a project containing 35 or more senior units, to projects that are 100% senior units;
- Deletes the requirement that an applicant for a waiver show that the waiver or modification is necessary to make proposed housing units economically feasible -- the developer must show only that the development standard physically precludes construction of the units;
- Requires that, as a condition for the granting of a density bonus to a developer in exchange for donating land to a city, for very low income housing, at its discretion the local agency identify and approve a source of funding for the very low income units;
- Adds a third category for possible denial of concessions and waivers -- finding of conflict with a state or federal law, and;
- Deletes the provision for attorney's fees and court costs for plaintiffs who prevail in a suit against a city for a concession or a waiver.

The League of California Cities has not yet taken a position on this bill. It is likely to receive strong opposition from affordable housing advocates. It is next scheduled for hearing before the Assembly Housing and Community Development Committee on April 16, 2008.

The provisions in the bill serve to partially alleviate public concern with density bonus law, however they do not remove the fact that the law severely impacts local control by overriding local development standards. In addition, they do not change the effect of the law imposing a one-size-fits-all solution to all cities within the State, regardless of the impacts of the law on that community. Further amendments could be made to override local control only when a city does not support affordable housing. For example, density bonus controls could be applied only when a city has not met performance goals for the production of affordable housing as outlined in a State-approved Housing Element of the General Plan. Staff recommends working with the City's legislative advocate to identify appropriate vehicles for further reform with the intention of applying State density bonus law only to cities that do not provide for the production of affordable housing.

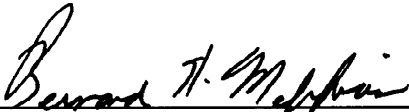
### **Los Angeles Density Bonus Ordinance**

A controversial new Los Angeles Density Bonus Ordinance has received considerable press recently and has raised questions about applicability of that ordinance in Pasadena. Staff does not recommend implementation of a similar methodology in Pasadena. A brief discussion of the ordinance is included as Attachment 1.


**FISCAL IMPACT:**

Neither support for AB2280 nor further work with the City's legislative advocate will result in fiscal impacts to the City.

Respectfully submitted by:

  
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Attachment 1: Los Angeles Density Bonus Ordinance

## Attachment 1

A new Los Angeles Density Bonus Ordinance has received considerable press recently and has raised questions about applicability of that ordinance in Pasadena. The intent of the City of Los Angeles ordinance is to increase the number of developers taking advantage of density bonus provisions by making the process of negotiating waivers and concessions less contentious. To achieve this goal the ordinance lays out a “menu” of what are considered reasonable “incentives” that will be approved by the Planning Director in an abbreviated process. Requests for waivers not listed on the menu require a more lengthy application, including documentation of how that the waiver is needed to make the project economically feasible, and will require a hearing before the Planning Commission. (Despite the more lengthy process, these incentives still must be approved if they meet the requirements of State law.)

To qualify for the menu, a project must meet minimum design standards and may not involve a historic structure or a hillside zone. The menu options are summarized briefly below:

- Yard/Setback: Up to 20% decrease in the required width or depth (unless abutting R1 or other more restrictive zoning)
- Lot Coverage: Up to 20% increase, provided landscaping meets specific criteria.
- Lot Width: Up to 20% decrease, provided landscaping meets specific criteria.
- FAR: A percentage increase equal to the percentage of density bonus for which the project is eligible.
- Height: A percentage increase in the height requirement in feet equal to the percentage of density bonus for which the project is eligible.
- Open Space: Up to 20% decrease, provided landscaping meets specific criteria.
- Density: The area of land required to be dedicated for street or alley purposes may be included as lot area for purposes of calculating maximum density.

Despite protection for residential areas, the ordinance has angered homeowners groups that don't want larger buildings in their neighborhoods. LA city staff contend, however that less than 2 percent of residential projects have used the density bonus and that impacts will be minimal.

Due to community concerns with density and height, staff does not recommend implementation of this methodology for review of incentives in Pasadena. It is more effective to review projects individually and work with the developer to find solutions that benefit the community to the extent possible under the law.