

Agenda Report

October 18, 2021

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
SUBJECT: STATE HOUSING LEGISLATION AND GENERAL PLAN IMPLEMENTATION

RECOMMENDATION:

It is recommended that the City Council receive this report on the relationship between State housing legislation and the City's ongoing efforts to implement the 2015 General Plan and provide further direction to the Planning and Community Development Department on carrying out key citywide goals and policies.

EXECUTIVE SUMMARY:

At the September 20, 2021 City Council meeting, staff presented the proposed Lincoln Avenue Specific Plan for the City Council's consideration. At the meeting, several Councilmembers praised the proposed plan but expressed concern over State legislation and how it may affect densities in the General Plan and Specific Plans. The Mayor and Councilmembers requested an update on recently signed housing legislation, including Senate Bill 9, and shared larger concerns about State law superseding the City's development standards as established in the General Plan. Councilmembers also expressed concern about how State density bonus law would be implemented with the proposed Specific Plans.

This report provides an overview of the State of California's housing affordability crisis, the State Legislature's efforts to address the crisis, and the impacts these efforts have on Pasadena's land use planning framework, including the General Plan and Specific Plans. Pasadena makes significant efforts toward encouraging affordable housing production, and staff has been working with the community to implement the General Plan through the creation and update of eight Specific Plans that seek to carefully balance new growth with community priorities. Nonetheless, the State continues to pass laws that limit the ability of agencies like Pasadena to plan for growth at the local level. The City Council is asked to provide direction to staff on a recommended approach toward implementing the General Plan that accounts for the State's ongoing efforts to mandate additional density beyond what was envisioned by the community during the planning process.

BACKGROUND:

California's Housing Crisis

Throughout California, there is broad consensus that the cost of housing is increasingly becoming too high relative to wages for working class residents, resulting in increased homelessness, housing insecurity, and many other negative outcomes. While there is some debate on the cause and solutions, many experts agree that a major contributor to this crisis is a lack of supply of housing units for all income levels caused by historically low production of housing units beginning in the early 1990's and continuing through the present day, combined with continued population and employment growth. Some estimate that the State must produce up to 3.5 million housing units within the next several years to meet the demand for housing.

The result of this lack of housing supply is an increase in the cost of housing, which has led to 81% of lower-income renter households being rent-burdened, which is defined as paying more than 30% of household income toward housing costs. Additionally, it is estimated that 51% of lower-income households are severely rent burdened, paying more than 50% of their household income toward housing costs. This precarious situation for many lower-income households has also contributed to a steady increase in the number of individuals and families experiencing homelessness in California.

Pasadena Is a Pro-Housing and Pro-Affordable Housing City

The City of Pasadena has recognized the need for affordable housing and has taken a broad based policy approach to address this issue. The City has consistently gone above and beyond State housing requirements in establishing rules and regulations to increase the production of affordable housing.

Local Affordable Housing Programs

The City of Pasadena administers numerous programs targeting individuals, families, and other groups that are in need of housing services. These include people experiencing homelessness, renters, homeowners, and home buyers. Within these groups are subpopulations that have more specific needs, including seniors, individuals experiencing chronic homelessness, students, and veterans. Some of the programs include the following:

- Emergency housing
 - Year round shelter (adults and families)
 - Bad weather shelter
 - Motel vouchers
- Rental assistance
 - Section 8 Homeless Preference and Project Based Vouchers
 - Emergency housing vouchers
 - Rapid Rehousing Program (short-term rental assistance)
- Permanent supportive housing for persons experiencing chronic homelessness

- Shared housing
- Inclusionary housing
- Funding Affordable Housing Projects
- Preserving Existing Affordable Housing
- Missing Middle Rental Housing
- Single family rehabilitation loans
- Accessory dwelling units

These and other initiatives work together to create, maintain, and provide access to supportive resources for people experiencing homelessness as well as a variety of affordable housing options.

Affordable Housing Units in the Pipeline

In addition to the programs and initiatives described above, there are currently over 1,000 affordable units in the development pipeline as follows:

- Under Construction: 227 units
- Under Development: 794 units
- Total Units: 1,021 units
- Under Conversion: 513 units
- Affordability Levels
 - 141 - Extremely Low Income
 - 375 - Very Low Income
 - 355 - Low Income
 - 108 - Moderate Income
 - 42 - Workforce

Inclusionary Housing Ordinance ("IHO")

The City of Pasadena first adopted its IHO in 2001, requiring that any new housing development project with 10 or more units set aside 15% of the total number of units to be rented or sold at affordable rates. In 2019, the City Council adopted an amendment to the IHO to increase the percentage from 15% to 20%. Among the 20% of units that are required to be affordable, 5% must be affordable to Very Low Income households, 5% to Low Income households, and 10% to Moderate Income households if the units are rental. For projects that build units for sale, all 20% may be affordable to Moderate Income households. The ordinance also provides various alternatives for compliance, including the option to provide the affordable units on the same site as the project; building the affordable units in a different location in the City; or paying an in-lieu fee. All fees collected as part of the in-lieu option are used to preserve existing affordable housing in the City, build new affordable housing projects in the City, or other various strategies to support housing affordability. Below are some highlights and successes of the program:

- Inclusionary Housing: The City requires all housing projects of 10 units or more set aside 20% of the units to be deed restricted as affordable. The current requirement is that 10% of the units be moderate, 5% be set aside for low-

income, and 5% for very-low income. The City's IHO was adopted in 2001 and has resulted in the construction of **590** affordable units to date.

- **In-lieu Fees:** As an alternative to providing affordable units on-site as specified above, a developer may choose to pay the City an in-lieu fee. The City has updated its in-lieu fee in 2019 and, since the inception of the program, has collected **\$26.3M.**
- **Funding Affordable Housing Projects:** The City uses in-lieu money as well as local Housing Successor, State and Federal dollars to assist in the production of affordable housing. From 2008 to present, **188 affordable units** (including 141 very low income units) were completed with City financial assistance totaling **\$17.14M.** Also, within the past year, the City committed approximately \$7M to assist the development of **134** permanent supportive housing units for homeless persons.
- **Establishment of Local Menu:** In an effort to streamline and further incentivize the production of affordable housing, the City recently adopted a menu of development incentives for projects with on-site affordable housing. If a project stays "on the menu" they are allowed to go straight to Design Review without another discretionary hearing.

State Legislation

Not every city shares the same policy ideals as Pasadena and not every city has responded to California's housing situation the same way. As a result, and in response to the growing concerns about the housing affordability crisis, the State Legislature has passed numerous laws in recent years aimed at all facets of housing affordability. These range from creating incentives to building more market-rate and affordable housing, imposing penalties for local agencies that do not make significant efforts to encourage housing production, placing limits on rent increases, and allocating billions of dollars towards various homelessness reduction and prevention programs. The following describes two areas of State legislation that the City Council has expressed particular concern about.

Senate Bill 9 ("SB 9")

SB 9 requires local agencies to approve duplexes and "urban lot splits" in single-family zones by-right, resulting in the ability to build at least four residential units on an existing single-family zoned property. While SB 9 does not prohibit the construction of accessory dwelling units ("ADUs") in addition to duplexes, it allows local agencies to prohibit an applicant from combining the provisions of SB 9 with State law relating to ADUs, provided that the local agency does not preclude the construction of at least four units.

Other major provisions of SB 9 include the following:

- Exempts historic landmark properties or sites within a designated historic district

- Prohibits demolition of existing affordable units, units under rent control, or development of a property where tenants have been evicted within three years
- Allows local agencies to impose objective standards, provided that they do not preclude the development of two units of at least 800 square feet in size on each lot
- Allows local agencies to impose up to 4-foot rear and side setbacks;
- Prohibits any units created to be used as short-term vacation rentals
- Allows local agencies to require up to 1 parking space per unit, unless the property is within a half-mile of transit, in which case no parking may be required
- Only one “urban lot split” is allowed and must result in two approximately equal-sized lots (with a 60/40 maximum split) with each resulting new lot at least 1,200 square feet in size (though cities can allow for smaller lots)
- Local agencies may require owner-occupancy for at least three years if an “urban lot split” is used
- Prohibits “urban lot splits” by the same owner or any person acting in concert with the owner on adjacent lots

In July 2021, the Turner Center for Housing Innovation at UC Berkeley published a study assessing the potential impact of SB 9 on new housing supply. To develop a better estimate researchers conducted an analysis of how many new homes would be both physically eligible and financially feasible as a result of SB 9, as well as what types of development would be most likely, taking into account construction costs, market demand, financing, land use policies, and individual parcel characteristics. Calculations incorporated data and assumptions about current rents, sales prices, construction costs, and investors’ expected return on investment rates. Taking into account the data and assumptions utilized in the study, the researchers estimated that 2,000 new housing units would be feasible in Pasadena under SB 9.

State Density Bonus Law (“SDBL”)

SDBL has been in place since 1979, and is based on the principle that absent incentives, requirements, or subsidies, the private market will not produce units at affordability levels below market-rate. In recent years, SDBL has been seen by State lawmakers as a tool for increasing both affordable and market-rate housing supply. As a result, the law has been updated through the passage of various bills to provide more generous incentives to developers while simultaneously limiting local governments’ ability to deny or curtail these incentives. SDBL is structured such that a project is entitled to additional density beyond local regulation based on the amount of affordable housing included in the project, as well as the level of affordability of those units. Prior to the passage of Assembly Bill 2345 in 2020, the maximum increase provided under current SDBL was 35%. However, as of January 1, 2021, that maximum has increased to 50%, and to achieve this maximum, a project must include at least 15% very low-income units, 24% low-income units, or 44% moderate-income units.

In addition to the increased density itself, SDBL also enables a developer to request concessions and incentives in order to offset the additional cost of providing the

affordable units. These concessions typically take the form of increased height or floor area ratio beyond existing development standards, and can also include deviations from setback, open space, and parking requirements. According to SDBL, in order for a local jurisdiction to deny a request for a concession, they must demonstrate that the requested concession does not result in identifiable cost savings for the project.

In response to growing interest by developers in Pasadena to seek concessions with larger increases to building heights and other standards, the City Council adopted an Affordable Housing Concession Menu ("Menu") in 2019, which incentivized developers to select from an established set of concessions in exchange for more streamlined review of projects. The Menu, however, was based on the assumption of a maximum 35% density bonus, which has since increased to 50%. Nonetheless, since the adoption of the Menu, the City has only received one new application for a new density bonus project seeking an off-Menu concession. Otherwise, density bonus projects have generally remained within the 35% density bonus range, and have requested concessions that have, on average, been limited to one additional story beyond what is otherwise allowed by the Zoning Code. To date, no project has sought a 50% density bonus in the City. However, on a case-by-case basis, it may make sense for a developer to propose this increase.

Pasadena's General Plan

In 2009, the City initiated a comprehensive process to update its General Plan. This update represented a multiyear collaborative effort among residents, business owners, property owners, neighborhood and business associations, community groups, an advisory committee, City commissions, and the City Council. During the preparation of the Land Use and Mobility Elements, the City also held various workshops, stakeholder interviews, and commission hearings that dealt with housing and land use planning between 2011 and 2013. These workshops focused on where the City should direct residential growth and the types of housing products desired. In total, this effort involved more than 100 community events over the course of 6 years, and a total cost of \$6.9 million. These strategies underpin the City's growth strategy and vision to maintain a socially and economically diverse community of homeowners, articulated in the adopted General Plan Guiding Principles.

In 2015, the City adopted comprehensive updates to the Land Use and Mobility Elements of the General Plan. The Land Use Element updated the Land Use Diagram, established new residential and nonresidential development caps for each of the Specific Plan areas, and modified several Specific Plan boundaries. The Land Use Element continues to focus new housing and employment opportunities with a mix of uses within Pasadena's Specific Plan areas, former redevelopment areas, and key commercial corridors. It further supports development within these focused areas by preserving single-family residential neighborhoods and historic districts. To achieve this, the Land Use Diagram established a framework of general land use density and intensity ranges throughout the City. Each land use designation is accompanied by a density range starting with 0 up to a maximum of 87 dwelling units per acre, and

development intensity range, expressed as a Floor Area Ratio, also starting with 0 and going up to a maximum of 3.0. The intent was that as the General Plan was to be implemented through Specific Plan and Zoning Code updates, the ranges expressed in the Land Use Diagram would be revised to reflect the densities and intensities established by those more focused planning efforts.

General Plan Implementation

The 2015 Land Use Element contains an implementation plan that establishes a process for reviewing and monitoring development projects as they occur over time. The Land Use Element also provides a list of actions or tools to carry out the City's key guiding principles. While there are numerous implementation measures in the Land Use Element, two significant items include the establishment of Specific Plan areas where the majority of new growth is focused, and the enforcement of development caps for these Specific Plan areas to regulate the timing and pace of development. Together, these measures seek to balance housing and employment growth, preservation of residential neighborhoods and historic resources, and environmental sustainability.

General Plan Monitoring and Development Caps

Development caps are the mechanism by which the City moderates growth along Pasadena's major transportation corridors and within Specific Plan areas. In 2015, the City Council established new development caps for each of the Specific Plan areas which set a cumulative number of residential units and nonresidential square footage permitted through the year 2035. The Planning and Community Development Department monitors new development and generates monthly reports documenting remaining capacity within each Specific Plan area. The development cap numbers are only considered utilized when building permits are issued (See Table 1 below).

Table 1. Residential and Nonresidential Development Cap by Specific Plan Area

Specific Plan Area	Residential Unit Cap ¹		Nonresidential Square Footage Cap		Residential Cap Remaining (Issued Permits)	Non-Residential Cap Remaining (Issued Permits)
	2004 General Plan	2015 General Plan	2004 General Plan	2015 General Plan	Since Adoption of 2015 General Plan	
Central District	3,395	4,272	4,817,000	2,112,000	2,551	1,319,243
East Colorado	750	300	800,000	300,000	297	295,311
East Pasadena	500	750	2,020,000	1,095,000	750	1,090,685
Fair Oaks/ Orange Grove	485	325	553,000	300,000	283	291,193
Lamanda Park	n/a ²	100	n/a ²	630,000	101	629,344
Lincoln Avenue	n/a	180	n/a	300,000	179	300,000
North Lake	487	250	145,000	250,000	250	250,201
South Fair Oaks	300	802	1,290,000	988,000	785	909,820
¹ Per 2015 General Plan, affordable housing units are not counted towards residential caps in any Specific Plan, except for the Fair Oaks/Orange Grove Specific Plan.						
² Prior to 2015 General Plan, Lamanda Park was included within East Colorado caps						

The Council has further adopted policies that allow for the conversion of residential units to commercial square feet, or vice versa, in the Specific Plan areas provided that:

- Such conversions are not precluded by the Specific Plans;
- The modified land use mix maintains the desired vision and character for the area defined by the Land Use Element's goals and policies and the adopted Specific Plans;
- The conversion results in community benefits that may have not otherwise been achieved; and
- The total square footage of residential or non-residential development under the adopted caps per Specific Plan is not exceeded.

The General Plan also contemplates that development caps would be reviewed every five years, and modified, as necessary, to reflect development that has occurred, its impacts, evolving market and economic conditions, and consistency with community values.

Specific Plan Update Program

In 2018, the City Council directed the Planning and Community Development Department to update the City's eight Specific Plans and the Zoning Code consistent with the adopted 2015 General Plan. The updates to the Specific Plans would establish context-specific development and design standards in accordance with the adopted Land Use Diagram and the General Plan Land Use and Mobility Elements. It is important to note that consistent with the General Plan's vision for focusing growth primarily in Specific Plan areas, single-family residential neighborhoods are not included within the Specific Plan areas, and as such, would not be impacted by any of the updated densities, heights, or other development regulations in the Specific Plans. Since the launch of the program, a growing number of community members have engaged in the process by viewing the program website, signing up for email updates, participating in a pop-up event or youth activity, attending a plan-area workshop, and/or participating in a virtual open house or live webinar. Staff has presented draft proposed standards including heights, densities, FAR, and land uses for each Specific Plan during a third round of presentations to the community and as maintained on the City's website. Consistent with Council direction, staff has begun presenting proposed updates to the Planning Commission for formal recommendation to the City Council. To date, the Planning Commission has recommended that the City Council adopt updates to the Lincoln Avenue Specific Plan and the East Colorado Specific Plan.

While the Specific Plan Update program would implement various changes to existing land use regulations, it is important to note that these changes are not limited only to residential or mixed-use development, but would also update land use permissions and development regulations for commercial and institutional projects. It is likely that there are numerous nonresidential projects that would potentially be important to the City's economic development goals, and that these projects may be anticipating the adoption of the Specific Plans in order to make their development possible. The City's desire to facilitate these types of projects through the adoption of updated Specific Plans should be considered and balanced with the concerns raised regarding residential density and building intensity.

OPTIONS FOR GENERAL PLAN IMPLEMENTATION

The proposed Specific Plan updates presented thus far have been recommended for approval by the Planning Commission and well received by the City Council. However, the proposed heights, densities and FAR of the proposed updates do not assume that every proposed residential project would take advantage of concessions allowed by SDBL. If a project were to utilize the SDBL, it is anticipated that the project would have one additional story and a 0.5 FAR increase beyond those proposed for the Specific Plan update. Based on the concerns raised by the City Council about the effect of

SDBL and other State housing legislation on the proposed plans, the following are options to move forward:

1. Given the requested information contained in this report regarding the interplay between State law and our local zoning and understanding that the impacts of SB 9 only affect single-family residential zones, and would not apply to any Specific Plan Area, continue as previously proposed;
2. Continue updating the Specific Plans by adjusting densities presented in the Round 3 draft Specific Plans to account for a potential density bonus, while also taking into consideration potential new commercial development. In order to address potential concerns over the maximum densities identified in the General Plan range, this option would also include a concurrent General Plan Amendment to match Specific Plan densities.

Respectfully submitted,



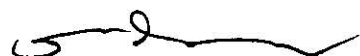
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