



City of Long Beach

Working Together to Serve

Office of the City Attorney

Memorandum

DATE: February 22, 2018

TO: Honorable Mayor and City Councilmembers

FROM: Michael J. Mais, Assistant City Attorney *km*

SUBJECT: March 6, 2018 Agenda Item related to the Land Use Element (LUE) of the City's General Plan

As the date approaches (Council Meeting March 6th) for a discussion of the City's Land Use Element (LUE), we thought it might be helpful to provide Council with some background material related to the LUE and the new State housing laws that are effective in 2018. There has been much discussion of some of the newly enacted laws in the various LUE community forums and "roundtables", as well as at the Planning Commission meeting on December 11, 2017.

Attached for your review are the following documents:

- League of California Cities: 2018 Guide to New Housing Law in California
- City Manager Memorandum: 2016 Density Bonus and Accessory Dwelling Units Legislation and Implications for Local Governments
- City Attorney Memorandum: Senate Bill 35 (Streamlined Approval Process for Certain Types of Housing Developments)

The League publication provides a good overview of twelve (12) of the most notable Housing Bills (including SB 35) passed in 2017, divided into the categories of: Funding Measures, Streamlining Measures, Accountability Measures, and Other Measures of Importance. The Publication also describes why the Legislature has been focused on housing supply and affordability issues, and how the new housing laws effectuate funding, streamlining of local project approvals, and more stringent local accountability measures.

The City Attorney Memorandum (originally provided to the Council on November 27, 2017) discusses SB 35 in depth. SB 35 is designed to streamline qualifying multifamily housing projects in certain instances where a City has failed to issue building permits for its share of the regional housing need by income category. If a project meets the rigorous standards for streamlining (as discussed in the attached City Attorney memo), approval is ministerial without CEQA review. Approved projects are eligible for reduced parking standards, and in certain circumstances are eligible for State mandated density bonus enhancements.

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It is important to note that to qualify for SB 35 streamlining, a proposed project would be required (subject to the discussion of Density Bonus below) to meet all objective zoning standards and objective design review standards that would be applicable in the particular zone where the project is to be located. For example, if the zoning regulations limit the height of a building to no more than four (4) stories as per the LUE maps, a project would not be eligible for streamlining if an applicant proposed to build six (6) stories instead. This would be true even if another area of the City allowed for a six (6) story height limit.

On April 4, 2017, the City Manager provided the Council with a detailed memorandum regarding the application of State Density Bonus and Accessory Dwelling Unit regulations, and their effect on current City housing regulations. This memorandum is being provided again in the context of the LUE discussion because SB 35 makes clear that qualifying affordable housing projects under SB 35 may also be eligible for density bonus enhancements.

Although application of State density bonus regulations can be complicated, its aim is fairly simple: When a developer agrees to construct a certain percentage of housing units that are affordable for low, or very low income households, or to construct senior housing, a city must grant the developer one or more zoning/building concessions or incentives and a density bonus which can allow the developer to increase the density of the development by a certain percentage above the maximum allowable limit under the City's zoning regulations. Incentives can include such things as reduced parking requirements, reduced setback and minimum square footage requirements, or in some cases an increase in the height of a project. Not all projects that qualify for a density bonus will necessarily require an increase to the height of the building because additional units can often be accommodated by allowing smaller unit sizes, or reducing set back or open space requirements.

As the City Manager's memorandum points out, the State's density bonus laws have been in effect since 1979. Since 1983, only eighteen (18) development projects in the City have been granted a density bonus accounting for a total of 204 density bonus units, or about six (6) units per year on average. Since 2005, only five (5) projects have been granted a density bonus for a total of 49 density bonus units, or about 3.5 units per year on average.

If you should have additional questions about any of the new 2017-2018 housing legislation (including SB 35) or the State laws regarding density bonus requirements, please feel free to contact us.

MJM:kjm

Attachments

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cc: Patrick H. West, City Manager
Tom Modica, Assistant City Manager/ Interim Director of Development Services
Diana Tang, Manager of Government Affairs