



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 20-572

Board Meeting Date: 8/4/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: An ordinance repealing Sections 7900 - 7911 of the San Mateo County Ordinance Code (*Zoning Regulations*) and adopting a new Chapter 22.6 of the Zoning Regulations to update the density bonus program, as required by State law, and a resolution directing staff to submit the ordinance to the California Coastal Commission for review and certification.

County File Number: PLN 2019-00363

RECOMMENDATION:

Recommendation to:

- A) Adopt an ordinance repealing Sections 7900 - 7911 of the County Ordinance Code (Zoning Regulations) and adopting a new Chapter 22.6 of the Zoning Regulations to update the density bonus program, as required by State law, previously introduced to the Planning Commission on June 10, 2020, and waive the reading of the ordinance in its entirety; and
- B) Adopt a resolution directing submittal of the updated density bonus ordinance, Chapter 22.6 of the County Zoning Regulations, to the California Coastal Commission for review and certification.

BACKGROUND:

San Mateo County's Density Bonus Ordinance, Sections 7900 - 7911 of the County Ordinance Code, implements California Density Bonus Law, Government Code Sections 65915 *et seq.* The purpose of both State law and the County's implementing ordinance is to incentivize the provision of affordable housing and housing for other specifically-targeted populations, by allowing greater residential density and other exceptions from applicable development standards in exchange for provision of such housing.

The County's Density Bonus Ordinance was first adopted in 1993, and has not been substantially amended since adoption. Since that time, however, State law has been amended a number of times,

most significantly in 2018, and the County ordinance must be amended to achieve consistency with the law.

In addition, at the time of adoption the County's ordinance implemented State law, but also offered a variety of supplemental incentives and waivers, in exchange for additional affordable and/or other housing units beyond those required by State law. However, the State's updated regulations now offer significantly more generous incentives than the maximum previously attainable under the County's ordinance.

The proposed ordinance would implement current California Government Code Section 65915 *et seq.*, without additional incentives, waivers, or other discretionary local provisions. The proposed updates bring the County's ordinance into compliance with State law, as specifically required by law, and are also intended to increase clarity and ease of implementation of the County's density bonus regulations.

DISCUSSION:

A. PROPOSED ORDINANCE:

State Density Bonus Law, and the County's implementing ordinance, provide proposed development projects with relief from various land use regulations, in exchange for provision of affordable housing units, and/or units dedicated to other specifically-targeted populations. The basic incentive, the density bonus, is an allowance of additional units beyond the maximum residential density permitted by General Plan land use and/or zoning regulations; relief from a specified number of other development standards, such as maximum heights, minimum parking ratios, and other standards is also provided.

Per State law, the density bonus is not discretionary on the part of the County. If the required number and type of affordable or other qualifying housing units are provided as part of a project, the County must allow the additional density, and in general must also automatically allow a certain number of exceptions from various other development standards, unless the County can conclusively demonstrate that a particular exception is harmful, or that it does not offer significant benefit to the project.

The basic provisions of the updated ordinance, implementing State law and establishing procedures to ensure that units built pursuant to the ordinance remain dedicated to their intended purpose, are addressed below.

1. Density Bonus Requirements and Bonus Amounts

The basic allowance of additional units beyond otherwise-allowed residential density is calculated on a sliding scale, based on the type and amount of units or other dedications provided in the relevant categories. Units provided in order to receive the density bonus and other incentives are known as "qualifying units."

Qualifying units fall in a number of categories, as shown in the table below. The basic categories are very low income, low-income, and moderate-income affordable housing; only one of these categories can be used to receive a density bonus, and, with the exception of bonuses available for 100 percent senior projects, all units provided must fall within a single selected affordability category. Within these basic affordable categories, additional density bonuses are available if the affordable units are also

dedicated to foster youth, disabled veterans, homeless residents, or low-income college students.

In addition to the affordability categories, State law and the proposed ordinance provide bonuses for a donation of land, and bonus for 100 percent senior housing projects, regardless of affordability restrictions. There is also a bonus for the provision of childcare space as part of a residential project. The childcare bonus can be combined with other bonuses if affordable units are also provided as part of the project.

As the table indicates, the number of additional units allowed increase in proportion to the percentage of qualifying units provided, typically up to a maximum of 35 percent, although there are various scenarios, including provision of childcare space, and 100 percent affordable projects, that can result in bonus amounts greater than 35 percent.

Qualifying Unit Percentage	Very Low Income Density Bonus	Low Income Density Bonus	Moderate Income Density Bonus	Land Donation Bonus	Foster Youth/Disabled Vets/Homeless Bonus ¹	Low-Income College Student Bonus ¹	Senior Bonus (for 100% senior projects) ²
5	20						20
6	22.5						20
7	25						20
8	27.5						20
9	30						20
10	32.5	20	5	15	20		20
11	35	21.5	6	16	20		20
12	35	23	7	17	20		20
13	35	24.5	8	18	20		20
14	35	26	9	19	20		20
15	35	27.5	10	20	20		20
16	35	29	11	21	20		20
17	35	30.5	12	22	20		20
18	35	32	13	23	20		20
19	35	33.5	14	24	20		20
20	35	35	15	25	20	35	20
21	35	35	16	26	20	35	20
22	35	35	17	27	20	35	20
23	35	35	18	28	20	35	20
24	35	35	19	29	20	35	20
25	35	35	20	30	20	35	20
26	35	35	21	31	20	35	20
27	35	35	22	32	20	35	20
28	35	35	23	33	20	35	20
29	35	35	24	34	20	35	20
30	35	35	25	35	20	35	20
31	35	35	26	35	20	35	20
32	35	35	27	35	20	35	20
33	35	35	28	35	20	35	20
34	35	35	29	35	20	35	20
35	35	35	30	35	20	35	20
36	35	35	31	35	20	35	20
37	35	35	32	35	20	35	20
38	35	35	33	35	20	35	20
39	35	35	34	35	20	35	20
40	35	35	35	35	20	35	20

1. For the Foster Youth, Disabled Veterans, Homeless, and Low-Income College Student Categories, the density bonus is a percentage of the qualifying units in those categories, rather than the total units in the proposed project.
2. Senior projects need not provide any restricted affordable housing, but must be 100 percent senior projects or senior mobile home projects.

2. Childcare Bonus

In exchange for the provision of childcare space, projects are eligible for an additional bonus that may be combined with the qualifying unit bonus. In general, the project may receive an additional density bonus of residential square footage equal to the square footage of childcare space provided.

3. Bonus for 100 Percent Affordable Projects

Projects that are 100 percent affordable are allowed an 80 percent density bonus, as well as an additional height allowance, and an additional parking reduction. Projects that are 100 percent affordable and within one quarter mile of various types of frequent transit service are excepted from density limits entirely, and may build as many units as feasible on the project site.

4. Incentives and Concessions

Exceptions beyond the basic density bonus, called incentives and concessions, are broadly but not exclusively defined to include exceptions to: building height; side and rear setbacks; floor area limits; required parking; architectural standards related to bulk or mass, minimum building separations, and other exceptions. These exceptions are also proportionally related to the qualifying units provided, as follows:

- a. One incentive or concession is allowed for projects with at least 5 percent of the total units for very low-income households, 10 percent for lower income households, or 10 percent for moderate income households.
- b. Two incentives or concessions are allowed for projects with at least 10 percent of the total units for very low-income households, 20 percent for lower income households, or 20 percent for moderate income households.
- c. Three incentives or concessions are allowed for projects with at least 15 percent of the total units for very low-income households, 30 percent for lower income households, or 30 percent for moderate income households.
- d. Four incentives or concessions are allowed for 100 percent affordable projects.
- e. One additional incentive or concession is allowed for projects providing childcare.

5. Parking Modifications

In addition to incentives and concessions, projects qualifying for a density bonus are subject to reduced parking requirements, of no more than: one on-site parking space

for studio and one-bedroom units; two on-site parking spaces for two and three-bedroom units; and 2.5 on-site parking spaces for units with four or more bedrooms. Projects in proximity to transit, projects that are 100 percent affordable, senior rental projects, and certain special needs housing developments are also eligible for further parking reductions. All required parking pursuant to these requirements may be tandem, and uncovered.

6. Waivers

Waivers are not necessarily different in kind from concessions and incentives, but the procedure and rationale for requesting and granting waivers are distinct. For any project receiving a density bonus, the project applicant may request a waiver of any development standard that would physically preclude the construction of the project, taking into account the density bonus and incentives to which the project is entitled, and the County must grant the waiver unless it can demonstrate that the waiver would have a specific adverse impact on the physical environment or on a historic resource, or prove that the waiver is unnecessary to build the project.

7. Standards for Qualifying Units

In general, the updated ordinance, like the prior ordinance, requires that qualifying units provided in order to receive a density bonus be of the same basic quality and type as the other units provided in the project, and that the units be distributed evenly throughout the project, rather than clustered in any specific area.

8. Continued Affordability and Monitoring

The units provided to obtain the density bonus must be rented or sold to households meeting the criteria of the qualifying unit category, for the full term required by State law. These requirements must be guaranteed by a development agreement and recorded deed restriction, and affordability, tenant or buyer selection, ongoing monitoring, and other provisions will be under the authority of the County Housing Department.

9. Relationship of the Density Bonus to the County's Inclusionary Housing Ordinance

The County has an existing Inclusionary Housing Ordinance, which requires that any project of five or more units provide at least 20 percent of units as dedicated affordable housing. If the units required by the Inclusionary Housing Ordinance are provided in the types and amounts required for a density bonus, the project is eligible for the density bonus, despite the fact that the units are also required by the Inclusionary Housing Ordinance. Units that meet the definition of qualifying units count toward the density bonus, even if they are also required by other regulations.

B. PLANNING COMMISSION ACTION

The San Mateo County Planning Commission reviewed the proposed ordinance at its regularly scheduled hearing on June 10, 2020, and recommended that the Board of Supervisors adopt the ordinance amending the County's Density Bonus Program.

C. COASTAL COMMISSION SUBMITTAL

Any ordinance that will be applicable in the County's Coastal Zone must be submitted to the California Coastal Commission for review and certification. If adopted by the Board of Supervisors, the proposed ordinance will take effect in the Bayside areas of the County thirty days after adoption, but will not be effective in the County's Coastal Zone until the Coastal Commission has certified the ordinance. The proposed resolution directs staff to submit the ordinance to the Coastal Commission for review and certification.

D. ENVIRONMENTAL REVIEW

Approval of this ordinance is exempt from environmental review under the general rule in California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. This ordinance provides a density bonus for the inclusion of affordable and other dedicated housing units within some residential development projects, pursuant to the County Zoning Regulations. Those projects will be the subject of independent environmental review, if required by CEQA. It can therefore be seen with certainty that there is no possibility that the adoption of the ordinance itself will have a significant effect on the environment. In addition, the ordinance is a local implementation of State laws that the County has no discretion to disregard or disapprove, and those laws are already in effect and applicable to projects in the unincorporated County regardless of the County's implementing ordinance.

The ordinance and resolution have been reviewed and approved by County Counsel as to form.

FISCAL IMPACT:

There is no fiscal impact to the County from adoption of the proposed amendments to the County's Density Bonus Program.

ATTACHMENTS:

- A. Updated Density Bonus Ordinance
- B. Resolution Directing Coastal Commission Submittal
- C. Prior Density Bonus Ordinance