DATE ISSUED: 12/5/2017
TO: City Council
FROM: Planning
SUBJECT: HousingSD: Amendments to the City's Affordable Housing Density Bonus Regulations

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Council District(s): Citywide

OVERVIEW:
This item is an amendment to the Affordable Housing Density Bonus Regulations.

PROPOSED ACTIONS:
- Adopt an ordinance amending the Municipal Code and the City’s Local Coastal Program amending the Affordable Housing Density Bonus Regulations.
- Adopt a resolution stating that the amendments were reviewed and found to be consistent with the certified Land Development Code PEIR, the General Plan PEIR, and the Climate Action Plan PEIR in accordance with Public Resources Code section 21166.

DISCUSSION OF ITEM:

The Mayor’s Housing Initiative:
Over the past decade, new housing development has not kept pace with job or population growth, resulting in housing costs that have increased at a much faster rate than income levels. With a growing population and a county median home purchase price exceeding $500,000 and an average home rental price exceeding $1,800 per month, more and more families are finding it increasingly difficult to find an affordable place to live in San Diego.

In response, the Mayor has developed a series of strategies and initiatives that will help increase housing production in the City. The plan is called Housing-SD and includes multiple regulatory reforms that are intended to improve housing affordability, improve review processes, facilitate more affordable housing and support the Climate Action Plan.

The proposed amendments to the City’s Affordable Housing Density Bonus Regulations is the third Housing-SD initiative plan being considered by the Planning Commission.

State and City Density Bonus Law
Affordable housing density bonus is a California state law (Government Code section 65915) that allows a developer to increase density above the maximum set under a city’s local land use plan (General Plan/Community Plan) when a certain percentage of the new homes are reserved for very low, low or moderate income households or for seniors.
In addition, developers of qualifying residential projects are entitled to receive certain benefits, including reduced parking standards, “incentives or concessions,” and waivers of certain development standards when said standards prevent the applicant from achieving the density authorized under the state law. The state law requires that each jurisdiction adopt an ordinance specifying how compliance with the State law will be implemented. The City’s Density Bonus Regulations were last updated in July 2016.

Overview of Proposed Changes

In January 2017, four Assembly Bills (AB 2501, AB 2556, AB 2442 & AB 2501) went into effect that amended the State’s mandatory density program, which requires that the City update its current regulations. In addition, staff is proposing additional modifications in an effort to further incentivize the use of this program to increase the production of more affordable units.

Below is a summary of the proposed code amendments resulting from the four state bills, along with additional regulatory improvements proposed by staff.

A. AB 2501 (Bloom Bill)

- Developers are eligible for an incentive even if they do not request a density bonus.
- Parking reductions provided for in state law do not count towards an incentive or concession.
- Cities must adopt procedures and timelines for processing a density bonus application.
- Clarification of the definition of incentives and concessions and grounds for denial.
- Reasonable documentation can be required by a city to establish an applicant’s eligibility for incentives, waivers and reduced parking.

B. AB 2442 (Holden Bill)

- Projects reserving 10% of the total dwelling units for very-low income transition-age foster youth, disabled veterans, or persons experiencing homelessness are eligible for a 20% density bonus. However, the bonus calculation is applied to the number of dwelling units reserved, not the base density. This amendment, as drafted in state law, is not expected to have much practical effect since the same project, if processed as a straightforward very low income housing project, would be eligible for a higher density bonus.

C. AB 2556 (Nazarian Bill)

- A cleanup bill to Assembly Member Mazarin’s AB 222, which went into effect January 2015. AB 222 required that density bonus projects replace each rental unit that was occupied in the past five years by households of low or very low income. However, obtaining the income of current/past tenants is often challenging.

- AB 2556 clarified that when former tenant income is not known, required percentage affordability is determined by HUD Comprehensive Housing Affordability Strategy database. Additionally, replacement units must be of equivalent size (bedroom count).

D. AB 1934 (Santiago Bill)

- A commercial developer may be granted a development bonus consistent with State law if the developer partners with an affordable housing developer to construct a mixed-used project with the housing located in the commercial development or within a one-mile radius of the commercial development.

E. Additional Regulatory Incentives
In addition to the mandatory changes above, the City is proposing the following additional incentives to help promote and encourage the use of this regulatory tool.

- Applicants not requesting a waiver/incentive to enlarge the building envelope are entitled to an additional 10% density bonus above maximum, provided the added density does not cause a need for a waiver or an incentive to enlarge the building envelope.

- Applicants proposing a project entirely comprised of micro-units (≤ 600 square foot overall average unit size; < 800 square foot maximum unit size) and located within a Transit Priority Area are entitled to a 100% density bonus, provided the additional density does not cause a need for a waiver or an incentive to enlarge the building envelope.

- Expand AB 2442 (housing for very-low income transition-age foster youth, disabled veterans, or persons experiencing homelessness) allowance so that projects reserving 10% of the total units receive a density bonus pursuant to the more generous calculation/sliding scale available to other very-low income affordable housing projects under the City’s Ordinance (not limited to a 20% density bonus).

- Currently, projects reserving 10% of the total units for senior housing (age restricted) receive a 20% density bonus. Clarify that senior housing that is reserved for very-low, low or moderate incomes receive a density bonus pursuant to the calculation/sliding scale available under the City’s Ordinance.

- Clarify what qualifies as a ‘waiver’ and ‘incentive’ and standardized reporting requirements.

- Staff recommends the regulations be renamed the “Affordable Housing Regulations” instead of “Affordable Housing Density Bonus Regulations” since developers are no longer required to request a density bonus (AB 2501) or achieve the maximum base zone density in order to request incentives, waivers or allowances provided in the regulations.

**Code Monitoring Team (CMT) Recommendation:** On September 13, 2017, the CMT unanimously voted (11-0-0) to recommend to TAC approval of staff’s proposed code changes with the following additions: Include definitions/examples of waivers, incentives and deviations and encourage ongoing training/education programs for industry and staff. An information bulletin is being created and will reflect CMT’s recommendations. Staff intends to perform regular staff trainings and public outreach to ensure consistent understanding and implementation of the new code.

**Technical Advisory Committee (TAC) Recommendation:** On September 13, 2017, the TAC considered CMT’s recommendations and after deliberations unanimously voted (11-0-0) to recommend that City Council approve staff’s proposed changes.

**Community Planning Committee (CPC) Recommendation:** On September 26, 2017, the Community Planners Committee voted 14-7-2 to recommended approval of the Affordable Housing Regulations with the recommendation that projects reserve 25% of the total units pursuant to the sliding scale, not the proposed 10%. However, staff recommends that the requirement remain at 10% to be consistent with state density bonus law and the City’s current regulations.

**Planning Commission:** On November 30, 2017 the Planning Commission recommended the City Council adopt the amendments to the Affordable Housing Density Bonus regulations, as proposed by staff, by a vote of 7-0. Commissioners expressed an interest in having clear guidance tools to assist staff and the public understand the program’s allowances.

**CONCLUSION**

The proposed amendments are intended to increase production of subsidized, as well as market-rate housing, citywide. As previously stated, San Diego County’s median home sales price exceeds $500,000 and the average home rental price exceeds $1,800 per month making it increasingly difficult for families and individuals to find an affordable place to live. Amending the Affordable Housing Density Bonus Regulations to further entice developers to include lower
cost housing is part of the Mayor’s HousingSD Initiative, which outlines a series of policies and programs aimed at providing new tools for developing additional housing at all levels of income.

Both the state law changes and staff recommendations remove processing barriers and expand the regulations in order to achieve maximum allowable density authorized under state and local law. The proposed changes also encourage the development of more micro units; an affordable market-rate housing unit product type.

The Planning Department recommends the City Council adopt the proposed amendments to the Affordable Housing Density Bonus Regulations as submitted.

City Strategic Plan Goal(s)/Objective(s):
Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods.
Objective #4: Foster services that improve quality of life.

Fiscal Considerations:
Costs associated with implementation of the regulations in the future will be borne by projects applicants through the existing project permitting process.

Environmental Impact:
The proposed Affordable Housing Regulation amendments were reviewed for consistency in accordance with Public Resources Code Section 21166 with the previously certified LDC EIR No. 96-0333/SCH No. 96081056 and associated environmental determinations; the General Plan PEIR No. 104495/SCH No. 2006091032 and associated Addendums; and the Climate Action Plan PEIR No. 416603/SCH No. 2015021053 and associated Addendum.
Based on this evaluation, it was determined that the amendments would not result in new impacts or changed circumstances that would require a new environmental document and that the previous environmental documents adequately cover the modifications to the LDC. Therefore, the amendments are consistent with the certified Land Development Code PEIR, General Plan PEIR, and the Climate Action Plan PEIR.

Equal Opportunity Contracting Information (if applicable):

Previous Council and/or Committee Actions:
This item will be heard at the Smart Growth and Land Use Committee prior to Council.

Key Stakeholders and Community Outreach Efforts:
Key stakeholders include the San Diego Housing Commission, the development community, community and neighborhood groups, and affordable housing providers.

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