



City of Brea

Planning Commission Communication

B. ZOTA No. 2025-01: Density Bonus Ordinance

An amendment to the Zoning Code to codify the State Density Bonus law

Meeting	Agenda Group
Tuesday, March 25, 2025, 6:00 PM	PUBLIC HEARINGS Item: 3B.
TO	FROM
Chair and Members of the Planning Commission	Joanne Hwang, City Planner

EXECUTIVE SUMMARY

The City has initiated a Zoning Code Text Amendment (ZOTA) No. 2025-01 to add a new chapter (Chapter 20.42) to the Title 20 of the Brea City Code (BCC), or the Zoning Code (Code), to codify the State Density Bonus law (State Law).

The above-mentioned entitlement herein is referred to as the "Project."

RECOMMENDATION

Staff recommends that the Planning Commission adopt a resolution (Attachment A) recommending the City Council take the following actions:

1. Find the Project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3); and
2. Adopt an ordinance approving ZOTA No. 2025-01, amending Title 20 of the BCC by adding a new Chapter 20.42, as outlined in Exhibit A of the Attachment A.

BACKGROUND

The State Law, codified under California Government Code Section 65915, was originally adopted in 1976 to help address affordable housing needs in the state. Generally, the State Law requires local jurisdictions to grant a density bonus over the otherwise maximum allowable residential density defined in the General Plan when an applicant for an eligible housing development requests a density bonus. The State Law also requires local jurisdictions to grant certain incentives/concessions (Incentives), parking reductions, and waivers to development standards to help offset the cost of providing affordable housing. Since its original adoption, the State Law continued to be updated to further incentivize creation of affordable housing. Even though the City has not adopted its own density bonus ordinance, the City has been implementing and applying the State Law when requested by the developers, as required by and in compliance with the State Law.

The City has a long history of encouraging various types of housing, which is evidenced by a different types of housing developments that have been approved and built in the City in previous years. In addition, in March 2024, the City was successful in receiving the Prohousing Jurisdiction Designation under the State Housing and Community Development (HCD)'s Prohousing Designation Program, a designation awarded to local jurisdictions with existing/proposed policies and program that encourage and facilitate development of housing. To date, the City remains as the only city with such designation in Orange County. In granting this designation, HCD required the City to adopt a local density bonus ordinance within a reasonable time period to further encourage housing developments in the City. The City's 6th Cycle Housing Element also includes an implementation program (Program #6 Density Bonus Incentives) that requires an update to the City's density bonus provisions.

DISCUSSION

The proposed amendment would codify the State Law in Title 20 of the BCC by introducing a new chapter, Chapter 20.42 (Density Bonus), which is provided as Attachment B to this report. The proposed density bonus provisions would implement the State Law, and the following are summary of the key provisions:

Applicability

A housing development with five or more units would qualify to utilize the density bonus provisions if it provides certain number of affordable units within the development.

Density Bonus

The City must grant a density bonus when requested by a qualifying housing development. The following table summarizes the allowable density bonus:

Table 1. General Density Bonus

Affordability Level or Types of Housing	Percentage of Affordable Units	Density Bonus Percentage
Very low income	5 to 15%	20% to 50%
Low income	10 to 24%	20% to 50%
Moderate income	10 to 44%	5 to 50%
Senior citizen housing & qualifying mobile home park	N/A	20%
Specialized housing with very low income units (i.e. foster youth, disabled veterans, homeless persons)	10%	20%
Student housing with lower income units	20 to 24%	35 to 50%

100% affordable housing with lower income units	100% (up to 20% can be moderate income)	80%
Land donation for very low income units	10% to 30%	15% to 35%
Condominium conversion	33% low or moderate income; 15% lower income	25%

In addition to the general density bonus described above, the City must also grant an additional density bonus if a qualifying housing development provides additional units affordable to very low or moderate income households and/or includes an on-site childcare facility. The following table summarizes the allowed additional density bonus:

Table 2. Additional Density Bonus

Affordability Level or Types of Housing	Percentage of Affordable Units	Density Bonus Percentage
*Very low income	5 to 10%	20 to 32.5%
*Moderate income	5 to 15%	20 to 50%
Housing development with childcare facility	N/A	In an amount of square feet or residential space that is equal to or greater than the square footage of the childcare facility
<i>* In order for a housing development to qualify for an additional density bonus, the housing development must also provide at least 15% very low, 24% lower, or 44% moderate income units, and cannot restrict more than 50% of total units as very low, lower or moderate income units.</i>		

It should be noted that housing development would not be eligible to utilize the density bonus provisions in general if such housing development includes the demolition or vacation of existing affordable rental housing units occupied by lower or very low-income households. This provision would apply to units that were subject to any recorded covenant, ordinance, law, or any form of rent/price control that restricts rents to lower or very low-income, persons and families, in the previous five-year period. In order for such housing developments to become eligible to utilize density bonus provision, they must provide the same amount of affordable units as the existing development.

Incentives and Waivers

The City must grant certain number of Incentives when requested by a qualifying housing development. Number of allowed Incentives are based on the level of affordability and number of affordable units provided within the qualifying housing developments. Incentives include, but not limited to, reduction in development standards, modification of zoning code requirements, approval of mixed-use zoning, and other regulatory incentives proposed by an applicant. In addition, the City must allow modification or waiver of a development standard that has an effect of physically precluding development of affordable housing (Waivers) when requested by a qualifying housing development. There is no limit on the number of Waivers that a qualifying housing development can request. The following table summarizes the allowable Incentives and Waivers:

Table 3. Allowable Incentives and Waivers

	Affordability Level or Types of Housing	Minimum Percentage of Affordable Units	Number of Incentives/Waivers
Incentives	Very low income	10%	1
		17%	2
		24%	3
		100%	5
	Lower income	5%	1
		10%	2
		15%	3
		16%	4
		100%	5
	Moderate income (for-sale unit only)	10%	1
		20%	2
		30%	3
		45%	4
	Student housing with lower income	20%	1
		30%	2
Waivers	Any project that qualifies to utilize the State Law		Unlimited
Notes:			
1. Additional Incentive related to height available for housing development located within ½ mile of a major transit stop			
2. One additional number of Incentive available for housing development that includes a childcare facility			

It is important to note that the qualifying housing developments are entitled to these Incentives and Waivers as a matter of right, unless the City finds, with substantial evidence, that the waivers or reduction of development standards would have a specific adverse impact upon health, or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or would be contrary to State or Federal law.

Parking Ratios

The City must allow, if requested by a qualifying housing development, a density bonus parking ratio as specified in the State Law. The following table provides the density bonus parking ratio compared to the BCC requirement:

Table 4. Density Bonus Parking Ratios

Total Number of Bedrooms	Minimum Number of Required Parking Per Unit		
	BCC		Density Bonus Law ³
	Single-Family ¹	Multi-Family ²	
Studio unit	2	1.5	1
1-bedroom		1.75	1
2-bedrooms		2	1.5
3-bedrooms		2.5	1.5
4 or more bedrooms			2.5
Guest parking	0.5	0.2	None
¹ spaces for units – must be covered; guest spaces – can be covered/uncovered ² spaces for units – a portion must be covered; guest spaces - can be covered/uncovered ³ can be either covered/uncovered			

In addition, certain types of housing developments would be eligible for additionally reduced density bonus parking ratios, as follows:

Table 5. Additionally Reduced Density Bonus Parking Ratio

Type of Density Bonus Housing Development	Minimum Number of Required Parking Spaces
Housing development with minimum 11% very low income or 20% lower income units	0.5 per unit

For-sale housing development with minimum 40% moderate income units	0.5 per bedroom
Housing development with 100% of units for lower income household	No minimum number of parking space required
Senior rental housing development with 100% of units for lower income individuals	No minimum number of parking space required
Special needs housing development with 100% of units for lower income household	No minimum number of parking space required
<i>Note: In general, to qualify for additional reduction in parking, the housing development must be located within ½ mile of major transit stop and have an unobstructed access to that major transit stop</i>	

General Standards

The proposed Density Bonus chapter would establish a number of general standards for the affordable units to be created within the housing developments that proposes to utilize the density bonus provisions. Summary of key standards are as follows:

Table 6. General Standards for Affordable Units

	Summary
Construction Timing	Affordable units must be built concurrently with rest of the housing development
Length of Affordability	<ul style="list-style-type: none"> Rental units: minimum 55 years For-sale units: equity-share
General Requirements	<ul style="list-style-type: none"> Affordable units must be: <ul style="list-style-type: none"> Built on-site Integrated/dispersed throughout the development Comparable in bedroom mix, design, and quality as the market-rate units Regulatory agreement required

PUBLIC NOTICE AND COMMENTS

This Project was noticed in accordance with the City's public noticing requirements, which involved publication in the Brea Star-Progress. The public hearing notice for this Project is provided as Attachment C. As of the writing of this report, staff has not received public comments.

ENVIRONMENTAL ASSESSMENT

The Project has been assessed in accordance with the California Environmental Quality Act (CEQA) Guidelines and the environmental regulations of the City. The Project is categorically exempt from the requirements to prepare additional environmental documentation per CEQA Guidelines Section 15061(b)(3) because the Project is limited to establishing a local density bonus ordinance, which would implement the State Law and therefore would not result in any physical changes to the environment. As such, the proposed amendments will not have a significant impact on the environment. Any future housing development would be subject to CEQA review.

CONCLUSION

The proposed Zoning Code Text Amendment is consistent with the State's Density Bonus Law, implements the Housing Element Program #6, and is required for the City to maintain its Prohousing Jurisdiction designation. As such, staff recommends that the Planning Commission recommend approval of the proposed Zoning Code Text Amendment to the City Council.

RESPECTFULLY SUBMITTED:

Joanne Hwang, AICP, City Planner

Attachments

[ATTACHMENT A - Draft PC Resolution.pdf](#)

[ATTACHMENT B - Exhibit A to PC Reso.pdf](#)

[ATTACHMENT C - Public Hearing Notice.pdf](#)