

**STAFF REPORT – PLANNING
CITY OF TEMECULA
PLANNING COMMISSION**

TO: Planning Commission Chairperson and members of the Planning Commission

FROM: Luke Watson, Director of Community Development

DATE OF MEETING: February 19, 2020

PREPARED BY: Dale West, Case Planner

PROJECT SUMMARY: Long Range Project Number LR19-1597, an Ordinance revising the Temecula Municipal Code to conform with Density Bonus Law under the California Government Code.

CEQA: The proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) as there is no possibility that this Ordinance would have a significant impact on the environment pursuant to State CEQA Guideline Section 15061(b)(3). More specifically, this Ordinance merely incorporates State law, allowing applicants to seek a density bonus pursuant to Government Code Section 65915.

RECOMMENDATION: That the Planning Commission of the City of Temecula adopt a Resolution recommending City Council adopt an Ordinance Amending the Temecula Municipal Code to conform with Density Bonus Law under the California Government Code Section 65915.

BACKGROUND

The California State Density Bonus Law (SDBL) was adopted in 1976 to address California's affordable housing needs. The SDBL has been amended multiple times since its adoption in response to evolving housing conditions, to provide clarification on the legislation, to respond to legal and implementation challenges, and to incorporate new or expanded provisions. The SDBL originally sought to address the affordable housing shortage by encouraging development of low- and moderate-income units; over time, the law was expanded to recognize the need for housing for households at a wider range of income levels and with specialized needs. The SDBL is intended to increase the production of affordable housing by requiring local agencies to grant an increase to the maximum allowable residential density for eligible projects, and to support the development of eligible projects at greater residential densities by granting incentives, concessions, waivers, and/or reductions to applicable development regulations. Cities are also required to adopt an ordinance specifying how compliance with the law will be implemented.

Previous SDBL allowed for an increase in the amount of additional density over the maximum allowable density as specified in the City's Development Code and General Plan, according to the

amount of affordable housing units proposed by an applicant. Assembly Bill 1763, signed into law in October 2019, and effective January 1, 2020, amends Government Code Section 65915, creating additional density bonuses for housing projects where 100 percent of the total units are dedicated for lower income households, and reducing the amount of parking for certain qualifying housing types.

ANALYSIS

Current SDBL specifies regulations allowing for density bonuses and development concessions for senior and affordable housing, reduced parking based on the proximity to transit, streamlined procedures for processing applications, and expansion of housing categories that qualify for a density bonus. The amount of additional density an applicant is entitled to, over the maximum allowable density as specified in the City's Development Code and General Plan, varies according to the amount of affordable housing units proposed by an applicant.

AB 1763 added a new category of housing projects that are now eligible for a density bonus. Developments with 100 percent of units dedicated for lower income households are eligible for a density bonus of at least 80 percent of the number of affordable units. A housing development that qualifies under this new provision may include up to 20 percent of units dedicated for moderate-income households. In other words, a development project consisting of a total of 100 income qualifying units, may receive a density bonus of 80 units. These projects are also entitled to receive up to four incentives/concessions or waivers, as previously allowed in SDBL.

In addition to the density bonus, AB 1763 reduces the parking ratio for special needs housing and qualifying supportive housing projects from 0.3 spaces per unit to zero spaces per unit, if the proposed housing development has either paratransit service or unobstructed access within one-half mile to a fixed route bus service that operates at least eight times per day.

The draft ordinance amends the City's existing Density Bonus Ordinance to clarify that the State standards will apply. In addition, the draft ordinance adds language providing that any development project that is granted a density bonus or other benefit, must construct the affordable units that qualify the project as eligible for a density bonus, concurrently with or prior to the construction of any market rate units. In addition, the affordable units must be integrated with the market rate units so that there is a mix of affordable and market rate units, if any, in each building of the development project. This language is being added to ensure that projects that benefit from a density bonus actually construct the affordable units and that the affordable units are not segregated from the housing project as a whole.

All other provision of the City's existing Density Bonus Ordinance will remain unchanged.

LEGAL NOTICING REQUIREMENTS

Notice of the public hearing was published in the *SD Union Tribune* on February 6, 2020.

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act Title 14, Chapter 3, California Code of Regulations (CEQA Guidelines), Section 15061(b)(3), the proposed project has been deemed to be categorically exempt from further environmental review as there is no possibility that this Ordinance would have a significant impact on the environment. More specifically, this Ordinance merely incorporates State law, allowing applicants to seek a density bonus pursuant to Government Code Section 65915. A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines.

FINDINGS

The Planning Commission of the City of Temecula in recommending the proposed Municipal Code amendment hereby makes the following findings as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code:

- A. This Ordinance is consistent with State Housing Law, the Temecula 2014-2021 Housing Element, and the Temecula General Plan. This Ordinance clarifies the City’s density bonus provisions to conform to the requirements of California Government Code Section 65915, as most recently amended by Assembly Bill 1763 during the 2019 legislative session.
- B. The proposed Ordinance amends portions of Title 17 of the Temecula Municipal Code to conform with State Density Bonus Law and with the goals, policies, programs, and guidelines of the City’s General Plan. Specifically, the Ordinance implements the following goals and policies contained in the City’s 2014-2021 Housing Element:

- 1. Policy 1.2 Encourage residential development that provides a range of housing types in terms of cost, density, and type, and presents the opportunity for local residents to live and work in the same community by balancing jobs and housing types.

The proposed Ordinance encourages and supports affordable housing by incorporating State Density Bonus Law, which allows for increased density and development incentives for qualifying residential development, increasing the range of housing types available for local residents in the community.

- 2. Policy 2.1 Promote a variety of housing opportunities that accommodate the needs of all income levels of the population, and provide opportunities to meet Temecula’s fair share of extremely low-, very low-, low- and moderate-income housing by promoting the City’s program of density bonuses and incentives.

The proposed Ordinance allows for an increase in density for certain qualifying affordable housing developments pursuant to State Density Bonus Law. Qualifying developments would be allowed an increase in density above the base density for lower income housing units to meet the City’s share of lower income households.

- 3. Policy 2.2 Support innovative public, private, and nonprofit efforts in the development of affordable housing, particularly for special needs groups.

The proposed Ordinance allows for an increase in density for certain qualifying residential development including units for households with specialized needs. The proposed Ordinance is intended to increase the production of affordable housing by granting an increase to the allowable density and by granting incentives, concessions, waivers, and/or reductions to applicable development regulations.

4. Policy 5.2 Support efforts to ensure that all income segments of the community have unrestricted access to appropriate housing.

The proposed Ordinance allows for an increase in density above the maximum allowable density for certain residential development projects and grants incentives, concessions, waivers, and/or reductions to applicable development regulations, which encourages affordable housing development for all income segments of the community.

- C. The housing developments that would be authorized by this Ordinance would be established and maintained in a manner consistent with the General Plan, specifically the policies described above, and all applicable provisions therein.

- ATTACHMENTS:**
1. Planning Commission Resolution
 2. Draft City Council Ordinance
 3. Notice of Public Hearing

PC RESOLUTION NO. 2020-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TEMECULA RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE ENTITLED, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 17 OF THE TEMECULA MUNICIPAL CODE TO REVISE REGULATIONS TO CONFORM WITH DENSITY BONUS LAW (CALIFORNIA GOVERNMENT CODE SECTION 65915), AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.”

Section 1. Procedural Findings. The Planning Commission of the City of Temecula does hereby find, determine and declare that:

A. Effective January 1, 2020, Assembly Bill 1763 (AB 1763) amended Government Code Section 65915 expanding existing State Density Bonus Law (SDBL) requiring local governments grant density bonus to housing projects that consist entirely of affordable housing and reducing parking requirements for special needs housing and qualifying supportive housing projects.

B. The Ordinance was processed including, but not limited to a public notice, in the time and manner prescribed by State and local law.

C. The Planning Commission, at a regular meeting, considered the Ordinance and environmental review on February 19, 2020, at a duly noticed public hearing as prescribed by law, at which time the City staff and interested persons had an opportunity to and did testify either in support or in opposition to this matter.

D. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission recommended approval of the Ordinance.

E. All legal preconditions to the adoption of the Resolution have occurred.

Section 2. Further Findings. The Planning Commission, in recommending that the City Council approve the Ordinance hereby finds, determines and declares as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code, that the Ordinance is consistent with the General Plan as follows:

A. This proposed Ordinance is consistent with State Housing Law, the Temecula 2014-2021 Housing Element, and the Temecula General Plan. This Ordinance clarifies the City's density bonus provisions to conform to the requirements of California Government Code Section 65915, as most recently amended by Assembly Bill 1763 during the 2019 legislative session.

B. The proposed Ordinance amends portions of Title 17 of the Temecula Municipal Code to conform with State Density Bonus Law and with the goals, policies,

programs, and guidelines of the City's General Plan. Specifically, the Ordinance implements the following goals and policies contained in the City's 2014-2021 Housing Element:

- a. Policy 1.2 Encourage residential development that provides a range of housing types in terms of cost, density, and type, and presents the opportunity for local residents to live and work in the same community by balancing jobs and housing types;
 - b. Policy 2.1 Promote a variety of housing opportunities that accommodate the needs of all income levels of the population, and provide opportunities to meet Temecula's fair share of extremely low-, very low-, low- and moderate-income housing by promoting the City's program of density bonuses and incentives;
 - c. Policy 2.2 Support innovative public, private, and nonprofit efforts in the development of affordable housing, particularly for special needs groups;
 - d. Policy 5.2 Support efforts to ensure that all income segments of the community have unrestricted access to appropriate housing.
- C. The housing developments that would be authorized by this Ordinance would be established and maintained in a manner consistent with the General Plan, specifically the policies described above, and all applicable provisions therein.

Section 3. CEQA. The Planning Commission determines that this Ordinance is exempt from environmental review under the California Environmental Quality Act, (California Public Resources Code §§ 21000, et seq., ("CEQA")) and the CEQA Guidelines (14 California Code of Regulations §§ 15000, et seq.) because there is no possibility that this Ordinance would have a significant impact on the environment. More specifically, this Ordinance merely incorporates State law, allowing applicants to seek a density bonus pursuant to Government Code Section 65915.

Section 4. Recommendation. The Planning Commission hereby recommends that the City Council adopt the Ordinance attached hereto as Exhibit "A."

PASSED, APPROVED AND ADOPTED by the City of Temecula Planning Commission
this 19th day of February, 2020.

Lanae Turley-Trejo, Chairperson

ATTEST:

Luke Watson
Secretary

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)ss
CITY OF TEMECULA)

I, Luke Watson, Secretary of the Temecula Planning Commission, do hereby certify that the
forgoing PC Resolution No. 2020- was duly and regularly adopted by the Planning Commission
of the City of Temecula at a regular meeting thereof held on the 19th day of February, 2020 by the
following vote:

AYES: PLANNING COMMISSIONERS:

NOES: PLANNING COMMISSIONERS:

ABSENT: PLANNING COMMISSIONERS:

ABSTAIN: PLANNING COMMISSIONERS:

Luke Watson
Secretary

ORDINANCE NO. 2020-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 17 OF THE TEMECULA MUNICIPAL CODE TO REVISE REGULATIONS TO CONFORM WITH DENSITY BONUS LAW (CALIFORNIA GOVERNMENT CODE SECTION 65915), AND FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the State Legislature has declared that the lack of housing, including providing for a variety of housing types for all income levels and special needs groups, is a critical problem that threatens the economic, environmental, and social quality of life in California.

WHEREAS, Government Code Section 65583 requires that the City's Housing Element address governmental constraints to the development of housing, including providing for a variety of housing types for all income levels.

WHEREAS, the City Council of the City of Temecula adopted the City's 2014-2021 Housing Element on January 28, 2014.

WHEREAS, Government Code Section 65915 requires that local governments adopt procedures for processing a density bonus application.

WHEREAS, the City's Development Code already allows for density bonuses and development concessions, but Program 4 of the City's 2014-2021 Housing Element provides that the City will establish a density bonus program that is consistent with updated versions of Density Bonus Law.

WHEREAS, the Legislature amended Government Code Section 65915 in 2019 to clarify certain provisions of Density Bonus Law, and the City wishes to update the Development Code to ensure consistency with State law and clarify how to implement the density bonus program.

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Procedural Findings. The City Council of the City of Temecula does hereby find, determine, and declare that:

A. The Planning Commission considered this Ordinance on February 19, 2020, at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support of or against this matter.

B. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2020-____, recommending approval of the Ordinance by the City Council.

C. The City Council, at a regular meeting, considered the Ordinance on ____, 2020, at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support or against this matter.

D. Following the public hearing, the City Council considered the entire record of information received at the public hearings before the Planning Commission and City Council.

SECTION 2. Findings. The City Council of the City of Temecula in approving the proposed Municipal Code amendment hereby makes the following findings as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code:

A. This Ordinance is consistent with State Housing Law, the Temecula 2014-2021 Housing Element, and the Temecula General Plan. This Ordinance clarifies the City’s density bonus provisions to conform to the requirements of California Government Code Section 65915, as most recently amended by Assembly Bill 1763 during the 2019 legislative session.

B. The proposed Ordinance amends portions of Title 17 of the Temecula Municipal Code to conform with State Density Bonus Law and with the goals, policies, programs, and guidelines of the City’s General Plan. Specifically, the Ordinance implements the following goals and policies contained in the City’s 2014-2021 Housing Element:

1. Policy 1.2 Encourage residential development that provides a range of housing types in terms of cost, density, and type, and presents the opportunity for local residents to live and work in the same community by balancing jobs and housing types;

2. Policy 2.1 Promote a variety of housing opportunities that accommodate the needs of all income levels of the population, and provide opportunities to meet Temecula’s fair share of extremely low-, very low-, low- and moderate-income housing by promoting the City’s program of density bonuses and incentives;

3. Policy 2.2 Support innovative public, private, and nonprofit efforts in the development of affordable housing, particularly for special needs groups;

4. Policy 5.2 Support efforts to ensure that all income segments of the community have unrestricted access to appropriate housing.

C. The housing developments that would be authorized by this Ordinance would be established and maintained in a manner consistent with the General Plan, specifically the policies described above, and all applicable provisions therein.

SECTION 3. Subsection “Q” of Section 17.10.020 (Supplemental development standards) of Chapter 17.10 (Supplemental Development Standards) of Title 17 (Zoning) of the Temecula Municipal Code is hereby amended in its entirety to read as follows, with all other subsections of Section 17.10.020 to remain the same:

“Q. Density Bonus Law.

1. In addition to any other review required for a proposed housing development, applications for a density bonus shall be filed with the planning director on a form approved by the director. The application shall be filed concurrently with an application for a development plan review or administrative approval. At the time the application is submitted, the applicant shall pay a density bonus application fee, established by resolution of the City Council.
2. City staff shall process the application for a density bonus in the same manner as, and concurrently with, the application for a development plan review or administrative approval that is required by this Code.
3. The applicant shall submit reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios.
4. For a housing development qualifying pursuant to the requirements of Government Code Section 65915, the City shall grant a density bonus in an amount specified by Government Code Section 65915. Except as otherwise required by Government Code Section 65915, the density bonus units shall not be included when calculating the total number of housing units that qualifies the housing development for a density bonus. Except as otherwise required by Government Code Section 65915, the amount of the density bonus shall not exceed 35 percent.
5. For the purpose of calculating the density bonus, the “maximum allowable residential density” shall be the maximum density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the maximum density allowed in the general plan shall prevail.
6. The City shall grant the applicant the number of incentives and concessions required by Government Code Section 65915. The City shall grant the specific concession(s) or incentive(s) requested by the applicant, unless it makes any of the relevant written findings stated in Government Code Section 65915(d). Senior citizen housing developments that qualify for a density bonus shall not receive any incentives or concessions, unless Government Code Section 65915 is amended to specifically require that local agencies grant incentives or concessions for senior citizen housing developments.
7. Except as restricted by Government Code Section 65915, the applicant for a density bonus may submit a proposal for the waiver or reduction of development standards that have the effect of physically precluding the construction of a housing development incorporating the density bonus and any incentives or concessions granted to the applicant. A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating that the waiver or reduction is physically necessary to construct the housing development with the additional density allowed pursuant to the density bonus and

incorporating any incentives or concessions required to be granted. The City shall approve a waiver or reduction of a development standard, unless it finds that:

- a. The application of the development standard does not have the effect of physically precluding the construction of a housing development at the density allowed by the density bonus and with the incentives or concessions granted to the applicant;
 - b. The waiver or reduction of the development standard would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
 - c. The waiver or reduction of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
 - d. The waiver or reduction of the development standard would be contrary to state or federal law.
8. The applicant may request, and the City shall grant, a reduction in parking requirements in accordance with Government Code Section 65915(p), as that section may be amended from time to time.
 9. The applicant shall comply with all requirements stated in Government Code Section 65915.
 10. The applicant shall enter into an agreement with the City to ensure the continued affordability of all affordable units or the continued reservation of such units for qualifying senior citizens. Prior to receiving a building permit for any project that receives a density bonus or any incentive, concession, waiver, or reduction of development standards pursuant to this section, such agreement shall be recorded as a covenant against the property.
 11. For any development project that is granted a density bonus or other benefit pursuant to this section, the affordable units that qualify the project as eligible for a density bonus, must be constructed concurrently with or prior to the construction of any market rate units. In addition, the affordable units must be integrated with the market rate units so that there is a mix of affordable and market rate units, if any, in each building of the development project.
 12. An applicant shall not receive a density bonus or any other incentive or concession if the housing development would be excluded under Government Code Section 65915.
 13. The provisions of this subdivision shall be interpreted to fulfill the requirements of Government Code Section 65915. Any changes to that Government Code Section 65915 shall be deemed to supersede and govern any conflicting provisions contained herein.”

SECTION 4. Environmental Findings. The City Council hereby finds, in the exercise of its independent judgment and analysis, that this Ordinance is exempt from the California Environmental Quality Act (CEQA) as there is no possibility that this Ordinance would have a significant impact on the environment pursuant to State CEQA Guideline Section 15061(b)(3). More specifically, this Ordinance merely incorporates State law, allowing applicants to seek a density bonus pursuant to Government Code Section 65915. A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines.

SECTION 5. Severability. If any section subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this Ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

SECTION 6. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

SECTION 7. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this ____ day of ____, 2020.

James Stewart, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)

COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Ordinance No. 2020- was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the ____ day of _____, 2020, and that thereafter, said Ordinance was duly adopted by the City Council of the City of Temecula at a meeting thereof held on the ____ day of _____, 2020, the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk



Notice of Public Hearing

A PUBLIC HEARING has been scheduled before the City of Temecula PLANNING COMMISSION to consider the matter described below:

- CASE NO:** LR19-1597 **APPLICANT:** City of Temecula
- PROPOSAL:** An amendment to Title 17 of the Temecula Municipal Code to conform with Density Bonus Law under the California Government Code.
- RECOMMENDATION:** Adopt a resolution of the Planning Commission of the City of Temecula recommending that the City Council adopt an ordinance entitled, "An Ordinance of the City Council of the City of Temecula amending Title 17 of the Temecula Municipal Code to revise regulations to conform with Density Bonus Law (California Government Code Section 65915), and finding the Ordinance to be exempt from the California Environmental Quality Act."
- ENVIRONMENTAL:** In accordance with the California Environmental Quality Act (CEQA), the proposed project has been deemed to be exempt from further environmental review pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. More specifically, this ordinance merely incorporates State law, allowing applicants to seek a density bonus pursuant to Government Code Section 65915.
- CASE PLANNER:** Dale West, (951) 693-3918
- PLACE OF HEARING:** 41000 Main St., Temecula, CA 92590, City of Temecula, Council Chambers
- DATE OF HEARING:** February 19, 2020 **TIME OF HEARING:** 6:00 p.m.

The complete agenda packet (including **any supplemental materials**) will be available for viewing in the Main Reception area at the Temecula Civic Center (41000 Main Street, Temecula) after 4:00 p.m. the Friday before the Planning Commission Meeting. At that time, the packet may also be accessed on the City's website – TemeculaCA.gov and will be available for public review at the respective meeting. Any writing distributed to a majority of the Commission regarding any item on the Agenda, after the posting of the Agenda, will be available for public review in the Main Reception area at the Temecula Civic Center (41000 Main Street, Temecula), 8:00 a.m. – 5:00 p.m. In addition, such material will be made available on the City's website – TemeculaCA.gov – and will be available for public review at the meeting.

Any petition for judicial review of a decision of the Planning Commission shall be filed within time required by, and controlled by, Sections 1094.5 and 1094.6 of the California Code of Civil Procedure. In any such action or proceeding seeking judicial review of, which attacks or seeks to set aside, or void any decision of the Planning Commission shall be limited to those issues raised at the hearing or in written correspondence delivered to the City Clerk at, or prior to, the public hearing described in this notice.

Questions? Please call the Community Development Department at (951) 694-6400.