



To: Councilmember Ed Reyes, Chair
Councilmember Jose Huizar, Vice Chair
Councilmember Jack Weiss

From: Beth Steckler, Policy Director, Livable Places

Date: February 2, 2006

Re: Proposed City Ordinance to Implement the State Density Bonus law
(CF 05-1345, CPC 2005-1101-CA)

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Beth Steckler

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On behalf of Livable Places, I am writing to express our concerns and offer suggestions for improving the proposed City ordinance to implement the State Density Bonus law (SB 1818) that was heard in PLUM today. Livable Places is a non-profit organization that both develops affordable housing and advocates for public policies that address the need for more affordable housing.

1. Spirit of the State Law

In response to the deepening housing crisis across the state, the Legislature passed SB 1818 to make the long-standing state density bonus more effective as a tool for building affordable housing. Even before SB 1818, state law prohibited cities and counties from applying "any development standard" that would interfere with a developer using the state density bonus [Gov. Code Section 65915(e)].

SB 1818 strengthened the law by requiring cities and counties to grant up to three other land use concessions to make projects economically feasible with the affordable housing. SB 1818 severely limits the city's authority to deny requested concessions to three circumstances: a) not needed by the development; b) would have "a specific adverse impact" on public health and safety or the physical environment which could not be mitigated; or c) would have "a specific adverse impact" on a property listed in the California Register of Historic Resources.

The spirit of SB 1818 is to increase the development potential parcels of land, above and beyond the current zoning whenever the developer includes the required affordable units.

2. Ministerial Actions vs. Public Hearings

Currently the density bonus, including parking reductions and transit zone bonus, are handed as ministerial actions. This means the Planning Department approves or denies the request for a density bonus without holding a public hearing. Between 1999 and 2003 the City approved density bonus applications for 88 projects with over 4,500 units, nearly 1,400 of them affordable. There was no public outcry about these particular developments or the density bonus

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at all until the City moved to implement SB 1818. We should not let the imagined fears of some move us to subvert a process we know works.

Given the City's long-standing experience with administering the density bonus as a ministerial procedure, we should not now move to a public hearing. A public hearing will not only be expensive for the City, but will also add time and delay only to those developments that will include the affordable units we so desperately need. It will also put the City in the unenviable position holding numerous public hearings when it doesn't really have the discretion to reject the applications. Community expectations will be raised at the public hearings but neither the Council office nor the Planning Commission will have the power to scale the projects back to because the allowed grounds for denying applications are so narrow. It would be better to use scarce Planning Department resources to work towards a consensus on how we will meet our housing needs across the city.

3. Make the Menu Work

For transparency for the community, clarity for developers and ease of administration for the City, we support having a menu of incentives. It is critical that the incentives on the menu work in terms of accommodating the density bonus. We do not believe the proposed incentives for FAR and height are sufficient. We support SCANPH's proposed amendments which are attached.

4. Steering Development to Transit Boulevards

We support the City's General Plan Framework that calls for directing new development to boulevards and districts that are well-served by public transit. Prior to the passage of SB 1818 the City's Affordable Housing Incentives Ordinance included an addition 10% density bonus, for a total of 35%, on transit corridors. Because SB 1818 makes 35% density bonuses by-right it effectively erased our local transit-oriented incentive. We do not believe the current proposal adequately directs new developments to transit boulevards. We do not support the proposed 10% (up to 35%) only because it would result in so few affordable homes. We do support the proposed 3:1 FAR for developments in commercial zones near rail stations, but believe it should be expanded to Rapid Bus stops and other areas well-served by buses.

We urge you to take this opportunity to make the density bonus a powerful tool for creating of affordable housing in the City by amending the proposed ordinance, as described above. Thank you.