

Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2372 (Gloria) – As Amended April 30, 2018

**SUBJECT:** Planning and zoning: density bonus: floor area ratio bonus.

**SUMMARY:** Allows a city or county to establish a procedure by ordinance to grant a developer of an eligible housing development, upon the request of the developer, a floor area ratio (FAR) bonus, in lieu of a density bonus. Specifically, **this bill:**

- 1) Allows a city council, including a charter city council or the board of supervisors of a city and county, or county board of supervisors, to establish a procedure by ordinance to grant a developer of an eligible housing development, upon request of the developer, a floor area ratio bonus, calculated as provided in 2), below, in lieu of a density bonus awarded on the basis of dwelling units per acre.
- 2) Provides, in calculating the floor area ratio pursuant to 1), above, the allowable gross residential floor area in square feet shall be the product of all of the following amounts:
  - a) The allowable residential base density in dwelling units per acre;
  - b) The site area in square feet, divided by 43,560; and,
  - c) 2,250.
- 3) Prohibits the city council or county board of supervisors from imposing any parking requirement on an eligible housing development in excess of 0.1 parking spaces per unit that is affordable to persons and families with a household income equal to or less than 120 % of the area median income and 0.5 parking spaces per unit that is offered at market rate.
- 4) Specifies that a city or county that adopts a floor area ratio bonus ordinance to allow an applicant seeking to develop an eligible residential development to calculate impact fees based on square feet, instead of on a per unit basis.
- 5) Provides, in the case of an eligible housing development that is zoned for mixed-use purposes, any floor area ratio requirement under a zoning ordinance or land use element of the general plan of the city or county applicable to the nonresidential portion of the eligible housing development shall continue to apply notwithstanding the award of a floor area ratio bonus.
- 6) Allows an applicant for a floor area ratio bonus to also submit to the city, county, or city and county a proposal for specific incentives or concessions pursuant to density bonus law.
- 7) Defines the following terms:
  - a) “Eligible housing development” to mean a development that satisfies all of the following criteria:

- i) The development is a multifamily housing development that contains five or more residential units, exclusive of any other floor area ratio bonus or incentive or concession awarded;
  - ii) The development is located within one of the following:
    - (1) An urban infill site that is within a transit priority area; or,
    - (2) One-half mile of a major transit stop.
  - iii) The site of the development is zoned to allow residential use with a minimum planned density of at least 20 dwelling units per acre and does not include any land zoned for low density residential use or for nonresidential use;
  - iv) The applicant and the development satisfy the replacement requirements specified in density bonus law;
  - v) The development includes at least 20% of the units, excluding any additional units allowed under a floor area ratio bonus or other incentives or concessions provided, with an affordable housing cost or affordable rent to, and occupied by, persons with a household income equal to or less than 50% of the area median income, as determined pursuant to Section 50093 of the Health and Safety Code, and subject to an affordability restriction for a minimum of 55 years; and,
  - vi) The development complies with the height requirements applicable to the underlying zone. A development shall not be eligible to use a floor area ratio bonus or other incentives or concessions to relieve the development from a maximum height limitation.
- b) “Floor area ratio” to mean the ratio of gross building area of the eligible housing development, excluding structured parking areas, proposed for the project divided by the net lot area. For purposes of this paragraph, “gross building area” means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.
- c) “Floor area ratio bonus” means an allowance for an eligible housing development to utilize a floor area ratio over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of the city or county.
- d) “Major transit stop” to mean the same as defined in Public Resources Code Section 21064.3, except that, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25% of their area farther than one-half mile from the stop or corridor and if not more than 10% of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

- e) “Transit priority area” to mean an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.

**EXISTING LAW:**

- 1) Defines “density bonus” as a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the local government.
- 2) Requires all local governments to adopt an ordinance that specifies how they will implement state density bonus law.
- 3) Provides that when an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a local government, that local government shall comply with state density bonus law.
- 4) Requires local governments to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least any one of the following:
  - a) Ten percent of the total units for lower-income households;
  - b) Five percent of the total units of a housing for very low-income households;
  - c) A senior citizen housing development or mobilehome park;
  - d) Ten percent of the units in a common-interest development (CID) for moderate-income households; or,
  - e) Ten percent of the total units of a housing development for transitional foster youth, disabled veterans, or homeless persons.
- 5) Requires local governments to provide an applicant for density bonus concessions and incentives based on the number of below market-rate units included in the project as follows:
  - a) One incentive or concession if the project includes at least 10% of the total units for low-income households, 5% for very low-income households, or 10% for moderate-income households in a CID;
  - b) Two incentives or concessions if the project includes at least 20% of the total units for low-income households, 10% for very low-income households, or 20% for moderate-income households in a CID; and
  - c) Three incentives or concessions if the project includes at least 30% of the total units for low-income households, 15% for very low-income households, or 30% for moderate-income households in a CID.

- 6) Provides that an applicant shall be ineligible for a density bonus or any other incentives or concessions if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower- or very low-income households, unless the proposed housing development replaces those units, as specified.
- 7) Provides that, upon the developer's request, the local government may not require parking standards greater than the following (the developer may, however, request additional parking incentives or concessions):
  - a) Zero to one bedrooms: one onsite parking space;
  - b) Two to three bedrooms: two onsite parking spaces; and,
  - c) Four or more bedrooms: two and one-half parking spaces.
- 8) Provides that if a development is 100% affordable to lower-income families, then upon the request of a developer, a local government shall reduce the minimum parking requirements for the development, as follows:
  - a) If the development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit;
  - b) If the development is a for-rent housing development for individuals who are 62 years of age or older, the ratio shall not exceed 0.5 spaces per unit. The development must have either paratransit service or have unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day; and,
  - c) If the development is a special needs housing development, the ratio shall not exceed 0.3 spaces per unit. The development must have either paratransit service or have unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- 9) Provides that when a developer agrees to include the maximum number of very low- or low-income units under density bonus law, and the development is within one-half mile of a major transit stop and with unobstructed access to the major transit stop from the development, then upon the request of the developer a local government shall not impose a parking ratio that exceeds 0.5 spaces per bedroom.

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **Bill Summary.** This bill allows a city council or a county board of supervisors to establish, via ordinance, a "floor area ratio" bonus, in lieu of a density bonus awarded on the basis of dwelling units per acre. The developer would need to request the floor area ratio bonus, and

the provisions of the bill would only apply to eligible housing developments that meet the following criteria:

- a) The development is a multifamily housing development that contains five or more residential units, exclusive of any other floor area ratio bonus or incentive or concession awarded;
  - i) The development is located within one of the following:
    - (1) An urban infill site that is within a transit priority area; or,
    - (2) One-half mile of a major transit stop.
  - ii) The site of the development is zoned to allow residential use with a minimum planned density of at least 20 dwelling units per acre and does not include any land zoned for low density residential use or for nonresidential use;
  - iii) The applicant and the development satisfy the replacement requirements specified in density bonus law;
  - iv) The development includes at least 20% of the units, excluding any additional units allowed under a floor area ratio bonus or other incentives or concessions provided, with an affordable housing cost or affordable rent to, and occupied by, persons with a household income equal to or less than 50% of the area median income, as determined pursuant to Section 50093 of the Health and Safety Code, and subject to an affordability restriction for a minimum of 55 years; and,
  - v) The development complies with the height requirements applicable to the underlying zone. A development shall not be eligible to use a floor area ratio bonus or other incentives or concessions to relieve the development from a maximum height limitation.

The bill would prohibit the city council or county board of supervisors from imposing any parking requirement on an eligible housing development in excess of specified ratios and would require the calculation of impact fees based on square feet, instead of on a per unit basis. The bill would also authorize an applicant for a floor area ratio bonus to submit a proposal for specified additional incentives or concessions, as provided.

This bill is sponsored by the City of San Diego.

- 2) **Author's Statement.** According to the author, "Our state's current housing production is nowhere near meeting demand. This shortage places severe pressure on working families trying to navigate California's housing crisis. AB 2372 will not only increase the number of affordable housing units, but will also create naturally affordable, workforce units for working families and low-income individuals. This new opt-in program increases housing affordability without publically funded dollars."
- 3) **Density Bonus Law.** In 1979, the Legislature enacted density bonus law to help address the affordable housing shortage and to encourage development of more low- and moderate-income housing units. Density bonus is a tool to encourage the production of affordable

housing that is used by both market rate and affordable housing developers. In return for inclusion of affordable units in a development, developers are given an increase in density over a city's zoned density and concessions and incentives. The increase in density and concessions and incentives are to offset the cost of the affordable units which will be offered at a lower rent, as low as 30% of AMI. Developers that seek a density bonus must agree to restrict very low- and low-income rental units to affordable levels for 55 years.

State law specifies concessions and incentives that a local government may include in its density bonus ordinance including a reduction in site development standards, or a modification of zoning code requirements, or architectural design requirements that exceed the minimum building standards, and approval of mixed-use zoning in conjunction with the housing project, if commercial, office, industrial, or other land uses will reduce the cost of the housing development and are compatible with the project and the surrounding area. A developer or city can also propose other regulatory incentives or concessions, subject to limitations specified in state law.

- 4) **Density vs. FAR:** Density is the allowable number of dwelling units that are allowed per unit of lot area – for example, 20 dwelling units (du)/acre. It is a commonly used metric for residential development. FAR, on the other hand, measures building intensity. It is the ratio of a building or a project's floor area to its lot area, and is typically used to measure the intensity of commercial, office, industrial, and mixed-use projects. To calculate FAR, the gross square footage of a building is divided by the total area of its lot. A FAR of 1.0 means that floor area may equal lot area. A one-story building that covers an entire lot has a FAR of 1.0. A FAR of 2.0 means that the floor area may be up to twice as large as the lot area – for example, a 20,000 square foot building on a 10,000 square foot lot has a FAR of 2.0, regardless of the number of stories.
- 4) **Necessary?** As local governments may already choose to exceed state density bonus law, there is nothing under existing law that would prevent a local government from proactively developing a FAR bonus program.
- 5) **Arguments in Support.** Supporters argue that creating the right conditions to increase housing near transit is critical and a minimal expectation of local government, and that this bill will spur production by authorizing the use of a floor area ratio based calculation system for the development of new residential units, relaxing parking requirements, and allowing impact fees to be calculated based on square feet rather than on a per-unit basis.
- 6) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

City of San Diego [SPONSOR]  
Building Industry Association of San Diego County  
California Apartment Association  
California Building Industry Association  
California Housing Alliance  
California Housing Consortium  
Climate Action Campaign  
Georgette Gomez, Council Member, City of San Diego  
San Diego Apartment Association  
San Diego Housing Federation  
San Diego Regional Chamber of Commerce

**Opposition**

None on file

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