



Legislation Text

File #: 21-0953, **Version:** 2

Recommendation to declare ordinance amending Long Beach Municipal Code Subsections 18.15.110.A.2.e, 18.16.110.A.2.e, 18.17.130.B.5, and 18.18.120.E, all relating to exemptions to the payment of Impact Fees for moderate income housing projects, read and adopt as read. (Citywide)

The State of California (State) Density Bonus Law was originally enacted in 1979 to help address affordable housing shortage by encouraging the development of more low- and moderate-income housing units. To help financially offset the cost of including a percentage of deed-restricted affordable units in a market-rate development, the State Density Bonus Law provides an increase in density over the density permitted by the City of Long Beach (City), in addition to development standard concessions and incentives to help financially offset the cost of affordable units.

Over 40 years later, the City, region, and State face even greater affordable housing challenges. The most recent update to the State's Density Bonus laws, Assembly Bill (AB) 2345 became effective January 2021. AB 2345 increased the density bonus from 35 percent to 50 percent, lowered the concession threshold when low income units are included, and amended parking requirements.

The proposed City Enhanced Density Bonus (EDB) involves amendments to the Long Beach Municipal Code (LBMC), primarily to Title 21 (Zoning Ordinance) to establish regulations to allow a "bonus" of increased density, development standard concessions, and other incentives in exchange for increased levels of affordable housing and other desired amenities, such as onsite childcare. The purpose of the EDB is to facilitate the development of mixed-income, multifamily housing to help address the need for more market-rate and affordable housing throughout Long Beach. It is called an "enhanced" density bonus because it would allow bonuses in excess of those permitted by the State Density Bonus Law (Government Code Section 65915), since State Density Bonus Law has not proven to be an effective mechanism for spurring the development of affordable housing in Long Beach over the past few decades.

The City Council has adopted policy direction over the past few years related to facilitating the production of affordable housing units in response to the well-documented housing shortage in Long Beach, across the region, and State. In May 2017, the City Council adopted 29 policy recommendations to support the production of affordable and workforce housing. The proposed EDB Ordinance will help implement Policy 1.4, which directs staff to promote the City's Density Bonus Program to all multifamily housing developers, as well Recommendation 2e of the "Everyone Home" Long Beach Report, which calls for expanding the number of rent-stabilized units through options such as production, policy, and

preservation. The proposed EDB helps increase the City's deed-restricted affordable housing stock and implement the Long Beach General Plan Land Use Element (LUE) goals, policies, and land use strategies for accommodating the City's projected housing need by focusing new development near high-quality transit and jobs, to help reduce greenhouse gas emissions while increasing household access to needed resources such as jobs and shopping. The LUE sets the blueprint for where projects would be eligible for the EDB. The EDB is designed to incentivize development projects to include affordable housing units as part of market-rate development projects in areas where multifamily residential and mixed-use development is contemplated by the LUE.

The proposed EDB Ordinance is a voluntary option to facilitate inclusion of affordable housing units in otherwise market-rate development projects. It focuses the greatest density bonuses and incentives in the most transit-accessible areas of Long Beach, as defined by State law (Attachment A - Transit Priority Areas). Affordable housing requirements can range from 15 percent (Very Low Income) to 24 percent (Moderate Income) of the base units of a project, depending on the project location and affordability level provided. An overview of some of the key components of the proposed EDB Ordinance is provided below:

- **Eligibility:** The EDB Ordinance would only be available for development projects proposed on properties in Long Beach that allow residential uses per the underlying zoning or the PlaceType and where five or more housing units could be built without a bonus, based on the allowable densities and site size. The EDB Ordinance does not change existing zoning nor does it increase allowable density to five units per lot. The five-unit baseline is an eligibility criterion. Properties zoned R1 and R2, or with the Founding Contemporary Neighborhood (FCN) PlaceType, would not be eligible as five units cannot be achieved in such areas.
- **Density Bonus:** The number of bonuses a project could achieve depends on how much affordable housing is provided as part of the project and the location of the project. Bonuses are tiered based on the three geographic areas in the EDB Ordinance --the Base Area, and two types of Transit Priority Areas defined by State law, which are High Quality Transit Corridors, and Major Transit Stops. In the Base Area, which are areas in Long Beach that do not meet the definition of Transit Priority Area, the maximum density bonus is 70 percent. Along High-Quality Transit Corridors (HQTCs), the maximum density bonus is 90 percent, and in Major Transit Stop areas, the maximum density bonus is 100 percent.
- **Development Concessions:** Concessions offer relief from certain development standards that could otherwise preclude the construction of a mixed-income multifamily housing project. The number of concessions an EDB project could seek is based on the percent density bonus a project qualifies for, which is based on the number and type of affordable units proposed for a project. The maximum number of concessions an EDB project may be eligible for is nine. Concessions are categorized into on-menu

concessions or incentives, which are provided “by-right,” while off-menu concessions would require review by the Planning Commission. On-menu concessions include Floor Area Ratio (FAR) increases, reductions in non-residential parking requirements, and relief from other requirements such as open space, transitional height, and individual setback requirements. On-menu concessions also include height concessions that would allow an additional story of height per incentive and a maximum two-story increase in the Base Area, and three stories in the Transit Priority Areas. Height increases would be subject to transitional height requirements. Off-menu incentives potentially include relief from other Zoning Code requirements not included on the “on-menu” list that an applicant demonstrates are needed to provide the affordable units. Requests for off-menu concessions would require approval by the Planning Commission and could only be approved upon the determination of the physical necessity of the incentive to provide the affordable units.

- **Transitional height requirements:** Height incentives for EDB projects are also subject to transitional height requirements to ensure context sensitivity and to minimize, to the extent feasible, impacts on adjacent properties. The proposed EDB Ordinance requires projects with height increases that share a lot line with or are across an alley from an R1 or R2 zone that is occupied by a single-family home or duplex, to step-back any height increase over 12 feet at least 10 feet from the exterior face of the ground floor of the building face.
- **Projects subject to Inclusionary Housing Requirements:** The Inclusionary Housing Ordinance, adopted by the City Council in February 2021, generally requires that residential development projects, located in the Midtown or Downtown areas of Long Beach and that propose ten or more dwelling units, must include a percentage of the total dwelling units as onsite affordable units. Such projects may also take advantage of the density bonuses, incentives, and concessions of the EDB Ordinance, but are only eligible for a maximum number of six concessions based on the total percent density bonus a project qualifies for.
- **Parking:** EDB projects are eligible for parking requirement reductions and may avail themselves of either the reductions offered by State regulations or the parking reductions offered through the proposed EDB Ordinance. Some aspects of the State regulations are more permissive, while some aspects of the proposed EDB parking ratios are more permissive, depending on the number of units and unit sizes of a proposed development project and the proximity of the projects to transit. Although the parking ratios are slightly lower in the proposed EDB Ordinance (for example, EDB proposes 1 parking space for a 2-bedroom unit, while State law requires 1.5 spaces), the proposed EDB Ordinance requires additional guest parking (1 space per 8 units), whereas the State parking rates are inclusive of guest parking and parking for persons with a disability. Additionally, State law further reduces the parking requirement to 0.5 parking spaces per unit for projects with at least 11 percent very-low income or at least 20 percent low-income units and that are located within one-half mile to a major transit

stop. State law relieves developers entirely from onsite parking requirements for projects comprised of 100 percent affordable rental units and that are located within one-half mile from an accessible major transit stop. The proposed EDB eliminates parking requirements for 100 percent affordable projects regardless of location. The parking requirements of each of the sets of regulations are not directly comparable; as such, some projects would benefit from State parking requirements more than the proposed EDB parking requirements, and vice versa. Per the proposed EDB Ordinance, projects may choose to use either the State parking reductions or the EDB parking reductions but may not mix and match nor use the reductions of both regulations. Despite potential parking reductions for projects incorporating affordable units, development trends show that many projects, even 100 percent affordable projects, tend to provide parking in excess of minimum requirements to qualify for conventional funding and to improve the marketability of projects.

- **No-Net-Loss:** Under new no-net-loss provisions in the California Housing Crisis Act of 2019 (SB 330), which were adopted into the LBMC in February 2021 for compliance with State law, all housing development projects are subject to no-net-loss requirements to ensure that existing affordable units on a development site are replaced on a one-for-one basis and proposed projects don't result in a net loss of affordable units. The proposed EDB not only creates incentives for market-rate housing developments to include affordable units, but it also includes even stronger no-net-loss provisions than those required by State law. The EDB requires the replacement of affordable housing units that are both occupied by low-income households or are rented at affordable rates, regardless of whether the household is low-income, in addition to the affordable housing units required to receive the Density Bonus. Additionally, as part of this Zoning Code Amendment, new findings will be added to LBMC 21.25.506 (Findings Required) to address no-net-loss, consistent with LBMC Chapter 21.11 (No-Net-Loss) and recent State legislation to ensure that the construction of any housing development project does not result in a net loss of affordable residential housing units in Long Beach.
- **Impact Fees:** As part of this project, four sections of Title 18 of the LBMC would be amended to make moderate-income units eligible for Impact Fee exemptions. Currently, lower income and very low-income units are exempt from development Impact Fees by Title 18 to incentivize the production of such units. In the City's 5th cycle of the Regional Housing Needs Assessment (RHNA), the City performed the worst in producing moderate income units out of any income category, having met only 3 percent of the moderate income RHNA category target of 1,170 units. This 6th cycle's moderate income RHNA target (4,158 units) is about 3.5 times that number. This proposed change to waive development Impact Fees for moderate-income units seeks to incentivize the production of moderate-income units in future mixed-use and residential projects.

There are many factors affecting housing development including construction and land costs, and demographic shifts, that are outside the City's control. Land use regulations, such as the proposed EDB Ordinance, are the primary tool for the City to address its housing crisis.

The proposed EDB Ordinance is a tool to increase the number of housing units produced in Long Beach for all income levels and to address the City's well-documented housing shortage. The proposed EDB Ordinance would apply citywide, but projects would only be eligible for EDB bonuses and incentives if the zoning or LUE already allows at least five housing units to be built on a site. Therefore, the EDB does not apply to single-family or low-density residential zones. Likewise, the proposed EDB Ordinance does not apply to areas planned solely for commercial use, where no residential uses are permitted.

Consistency with Local and State Policies

The proposed EDB Ordinance helps implement the LUE goals, policies, and land use strategies for accommodating the City's projected housing need by focusing new development near high quality transit and jobs, to create a more sustainable future, improve mobility choices, expand transit access, reduce greenhouse gas emissions, and improve air quality. The LUE sets the blueprint for the EDB. Eligible projects are most likely to be located on major corridors, centers, and transit stops where the LUE PlaceTypes already planned for development to occur, largely in the form of mixed-use projects (Attachment B - Eligible Zones Map and Attachment C - Eligible PlaceType Map).

The proposed EDB Ordinance is also complementary legislation to the City's recent adoption of the Inclusionary Housing Policy. The Inclusionary Housing Policy requires a percentage of affordable units in all new housing developments, but the requirement only applies to projects in Downtown and Midtown (Inclusionary Housing Policy Subarea 1). Market studies conducted to explore a citywide inclusionary housing policy concluded that mandatory inclusionary housing requirements could not be supported by development in other parts of Long Beach due in part to the restrictive development regulations. The proposed EDB Ordinance addresses this gap and provides a more viable, voluntary inclusionary housing option by establishing greater bonuses and incentives than State Density Bonus regulations. This approach is intended encourage mixed-income projects outside of Downtown and Midtown areas, which have not seen new residential development in recent decades due in part to the restrictive zoning. Creating opportunity for affordable housing in additional areas outside of Downtown and Midtown, including in "high opportunity" areas with quality schools, clean air and access to greenspace, helps implement various State and local policies, including the City's Framework for Reconciliation, Assessment of Fair Housing, and the draft Housing Element Update, which is designed to comply with AB 686 for Affirmatively Furthering Fair Housing.

The proposed EDB Ordinance is an early implementation action of the 2021 Housing Element Update. The City is currently updating the Housing Element of the General Plan (the

6th Cycle of the Housing Element for 2021-2029), as required by State law. The Housing Element provides the City with a roadmap for accommodating the projected number of housing units needed to house existing and future City residents and guides future decisions that impact housing. The State mandates that each city accommodate its share of the region's housing needs as established by RHNA, which is set by the California Department of Housing and Community Development (HCD).

The RHNA for the upcoming 6th Cycle of the Housing Element is 26,502, which is more than three times larger than the 5th RHNA cycle allocation of 7,048 units. As of December 2020, with only six months left in the eight-year cycle, the City had only achieved 59 percent of its RHNA, and only 17 percent of its affordable RHNA units. For the 2021-2029 cycle, the projected need for affordable housing is more than twice the total RHNA allocation for all income levels in the current cycle, which again the City is not on track to meet. For the upcoming cycle, cities are subject to a growing number of financial and legal penalties for lack of compliance with RHNA and Housing Element Law due to worsening housing shortage across the state.

In addition to housing production trends, which show that not enough affordable housing is being built in Long Beach, recent market and economic analysis has shown that it is financially infeasible to build housing in many locations identified for housing by the LUE, based on ground truthing undertaken as part of UPLAN using the EDB framework. Infeasibility is due to both zoning restrictions and physical site constraints, such as the preponderance of small and shallow lots, so development is still unlikely in many locations. The proposed EDB Ordinance aims to provide a level of bonuses and incentives that improve the feasibility of mixed-income multifamily projects throughout Long Beach. While the State adopted amendments to the State Density Bonus Law that went into effect January 2021, the increase in density bonuses in some instances increased to 50 percent (from 35 percent) and are still insufficient to encourage privately-developed, mixed-income projects; with the greater density bonuses and other incentives, the proposed EDB aims to remedy this condition. Therefore, since many sites contemplated by the LUE for housing are not likely to develop, to meet the RHNA and housing needs of the Long Beach community, larger projects would be needed since fewer sites are likely to be developed than anticipated.

The proposed EDB Ordinance offers bonuses and incentives that are tailored to the local context. Eligible projects will have opportunity to choose between either the local regulation (EDB) or the State bonus program (and will not be able to combine bonuses and incentives). Having both sets of regulations offers projects options that will make more projects feasible as they offer varying bonuses, required levels of affordability, and incentives. One or the other of the two sets of regulations, depending on the location and size of the projects, may improve the feasibility of a project.

The proposed EDB Ordinance is temporary and will help the City meet a projected housing demand of 26,502 units through 2029, as required by the State in the upcoming Housing Element cycle. The EDB Ordinance will sunset, unless readopted by the City Council, either

when the City meets its affordable component of its RHNA allocation of 26,502 (58 percent or more than 15,000 units) or in 2030, whichever comes first. Measures to encourage housing production in Long Beach are critical to meeting housing targets.

This matter was reviewed by Assistant City Attorney Michael J. Mais on August 4, 2021 and by Budget Analysis Officer Rhutu Amin Gharib on August 24, 2021.

Environmental Review

Pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, an Initial Study/Negative Declaration (IS/ND) has been prepared for the project (the EDB Ordinance) and finds that the project will not result in significant effects to the environment (Attachment D - Negative Declaration ND-08-20), as the proposed EDB Ordinance does not change the underlying zoning of any properties, does not introduce uses that are materially different from those otherwise permitted in the respective zoning districts and is a tool to facilitate the levels of development already contemplated by the LUE Update and analyzed in the LUE Program Environmental Impact Report (PEIR). Individual projects will continue to be subject to project-level environmental review as required by CEQA. The major concepts of the proposed EDB Ordinance and the Negative Declaration were posted on the City website and notice was published in the Long Beach Press-Telegram on May 3, 2021. The IS/ND was circulated for a 30-day public review period between May 3, 2021 and June 3, 2021.

The LUE PEIR analyzed an anticipated buildout of 28,500 housing units, including an analysis of the environmental impacts to air quality, public services, recreation, transportation, and much more. The EDB is intended to implement the LUE and to help facilitate the housing concentrated in the areas identified by the LUE. The EDB sunset clause ensures that housing facilitated by the proposed ordinance does not exceed the levels of housing anticipated by the LUE nor the impacts identified in the LUE PEIR.

The LUE PEIR's anticipated buildout was 28,524 housing units, focused near transit. The LUE PEIR has already analyzed an anticipated buildout larger than the City's 6th Cycle Housing Element RHNA. The EDB is a zoning tool to help facilitate the levels of development anticipated by the LUE PEIR, which exceed the City's 26,502-unit RHNA allocation, which is less than the buildout contemplated by the LUE. Furthermore, such projects would be concentrated in those areas identified in the LUE, which are largely areas that are located within transit priority areas in which aesthetic and parking impacts will not be considered significant impacts in accordance with Public Resources Code Section 21099, which also established Vehicle Miles Traveled (VMT) rather than vehicular Level of Service (LOS) as the new metric for determining traffic impacts.

The LUE PEIR found less than significant impacts with adherence to standard conditions and prescribed mitigation measures for all but four impact areas: air quality, noise, climate change, and transportation. For air quality and noise, construction activity associated with this

buildout was found to be significant and unavoidable due to exact timing and amount of construction.

The PEIR was adopted pursuant to CEQA in 2019; all required environmental impacts have been considered and mitigation measures have been incorporated to reduce or minimize potential environmental effects to the maximum extent feasible. A Statement of Overriding Conditions for the four topics with significant and unavoidable impacts was also adopted as part of the PEIR.

A Resolution directing the Director of Development Services to submit a request to the California Coastal Commission to certify an amendment to the Certified Local Coastal Program has been prepared.

Public Hearing Notice

In accordance with public hearing notification requirements for a Zoning Code Amendment in Long Beach Municipal Code (LBMC) Section 21.21.302.C, notice of this public hearing was published in the Long Beach Press-Telegram on August 31, 2021. Notices were also provided to City libraries that are currently open, notice posting was provided at City Hall but not at multiple locations. A notice of the proposed Zoning Code amendment was distributed through the City's LinkLB e-mail blast system and to individual stakeholders who have requested notification on this item. No responses were received in response as of the date of preparation of this report. Any comments received prior to the City Council hearing will be provided at the hearing.

Summary of Community Engagement and Public Comment

Community outreach for the proposed EDB Ordinance was conducted as part of the Housing Element Update outreach process, since the proposed EDB is an early implementing action of the Housing Element Update. The Ordinance framework was presented at outreach meetings on August 12, 2020, April 28, 2021, and May 1, 2021, as well as at focus group meetings earlier this year. Inquiries and comments at the meetings spanned a wide range of housing-related topics, as well as comments on the need for more affordable housing and the quality of housing. Some concerns were raised regarding parking included (or excluded) with affordable housing; concerns regarding the difficulty in finding affordable housing in the City; challenges in securing housing for families; and, concerns expressed about not having enough parking or infrastructure to support new housing. Some participants underscored the need for more housing, particularly affordable housing citywide, while others expressed concerns over whether and where new housing should be built. Feedback on the proposed EDB Ordinance consisted of a concern that the 100 percent bonus may induce displacement and is also high in relation to the affordability requirement; another comment received was that the goal of EDB should be to increase the proportion of affordable units by stimulating market-rate housing.

Information on the proposed EDB Ordinance has also been included in the virtual open house for the Housing Element Update that has been available for people to review and provide feedback at any time via the Housing Element Update website. The virtual open house has been available since December 2020.

Staff has received three letters of support on the Ordinance, ten comments of concern, and five letters regarding the Negative Declaration but two were received after the deadline (Attachment E - Public Comment). Generally, the letters of concern cited concerns over infrastructure capacity and parking, insufficient noticing, concerns over density, concerns over the height incentive, concerns that the Ordinance will have negative impacts on air quality, aesthetics, land use planning, public services, recreation, water and other utilities, energy, greenhouse gas emissions, noise, population/housing, and transportation. As discussed above, in the Environmental Compliance section of the report, the LUE PEIR found less than significant impacts with adherence to standard conditions and prescribed mitigation measures for all but four impact areas: air quality, noise, climate change and transportation. For air quality and noise, construction activity associated with this buildout was found to be significant and unavoidable due to exact timing and amount of construction. A Statement of Overriding Conditions for the four topics with significant and unavoidable impacts was also adopted as part of the PEIR.

Planning Commission Review

The proposed EDB Ordinance was first presented at a Planning Commission study session on July 16, 2020, as part of a suite of housing ordinances that would serve as early implementation measures of the Housing Element Update.

At the regularly scheduled June 17, 2021 Planning Commission hearing, the Planning Commission unanimously recommended that the City Council adopt the proposed EDB Ordinance consistent with adopted policies and plans (Attachment F - Planning Commission Report and Attachment G - Findings).

City Council action is requested on September 14, 2021. Pursuant to Section 21.25.103 of the Zoning Code, this request should be presented to the City Council within 60 days of the Planning Commission hearing, which took place on June 17, 2021. The September 14, 2021 public hearing date was the first available opportunity for the item to be reviewed by the City Council. Adoption of the proposed EDB Ordinance is a necessary precursor to adoption of the Housing Element, which is expected to be before the City Council by the end of the calendar year.

Approval of this recommendation and the proposed EDB Ordinance will have a fiscal impact. The proposed EDB Ordinance will reduce impact fee revenues for newly developed moderate-income housing units while encouraging the construction of new market rate housing units. Impact Fees are collected for transportation improvements and police, fire, and park facilities. Exemptions in this fee category are already in place for very-low-income and low-income

housing units. The extent of the revenue loss due to the Impact Fee waiver cannot be quantified at this time due to the speculative nature of estimating the number of new affordable housing units that will be constructed by private developers. Because this Ordinance is intended to facilitate construction of additional housing units in Long Beach, the City's property tax revenue is expected to increase. This recommendation has no staffing impact beyond the budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

Approve recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING LONG BEACH MUNICIPAL CODE SUBSECTIONS 18.15.110.A.2.e, 18.16.110.A.2.e, 18.17.130.B.5, AND 18.18.120.E, ALL RELATING TO EXEMPTIONS TO THE PAYMENT OF IMPACT FEES FOR MODERATE INCOME HOUSING PROJECTS

OSCAR W. ORCI
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

THOMAS B. MODICA
CITY MANAGER