



LINDA MAIO
Councilmember
District 1

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Councilmember Linda Maio

SUBJECT: Zoning Standards for Projects Exceeding State Mandated Density Bonuses

RECOMMENDATION:

Refer to the Planning Commission the development of criteria and zoning standards for those features in a project that go beyond the State Density Bonus requirements.

BACKGROUND:

Council has approved projects, in the past, that have features (# of units, height, reduced setbacks, etc.) that go beyond what the State Density Bonus legislation requires of us. Normally these features would be subject to variances, but we have not been requested to approve variances. That is because legal staff has interpreted the State Density Bonus law to say that we needn't apply our normal zoning standards. Staff has based its opinion on this feature in the State Density Bonus law:

65915.n "Nothing in this (law) shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what id described in this section for a development that meets the requirements of this section..."

Clearly we are able to exceed our own zoning beyond the State requirement, but the way we exceed our own zoning in a density bonus project should be guided by clear policy in our Zoning Ordinance and not by an arbitrary determination. The Planning Commission should recommend language on the circumstances under which we can exceed our own zoning, and establish guidelines through a public process that everyone can participate in and understand. The State does not prohibit us from exceeding state density requirements, certainly. However, it is our responsibility to determine City of Berkeley guidelines for exceeding those requirements.

This is a referral to the Planning Commission to undertake developing these guidelines for going beyond the State-mandated density bonuses so that we can embody clear policies and guidance into our zoning ordinance.

FINANCIAL IMPLICATIONS:

None at this time save staff time.

CONTACT PERSONS:

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