STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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November 13, 2025

Okina Dor, Director of Community Development
14403 E. Pacific Avenue
Baldwin Park, CA 91706

Dear Okina Dor:

RE: City of Baldwin Park – AB 2011 Mixed-Use, Mixed-Income Project – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) received a request for technical assistance from the City of Baldwin Park (City) regarding a vertical mixed-use housing development project that intends to utilize provisions of the State Density Bonus Law (SDBL) in conjunction with Assembly Bill (AB) 2011 streamlined approval. The purpose of this letter is to provide technical assistance regarding the implementation of AB 2011 with the SDBL for a mixed-income housing development project containing both residential and commercial uses.

Background

AB 2011 (Chapter 647, Statutes of 2022) went into effect on January 1, 2023. The law facilitates and streamlines the approval process for qualifying residential housing developments on sites that allow commercial uses (office, retail, and parking), including on sites where the general plan land use designations and zoning districts do not otherwise permit residential use.[1] Eligible projects are evaluated solely based on compliance with the requirements of AB 2011 and are exempt from the California Environmental Quality Act (CEQA).[2]

Analysis

The City and project applicant presented several questions, which HCD addresses below.

[1] Gov. Code, §§ 65912.100-65912.140.
[2] Gov. Code, § 65912.101, subd. (u).

1. Can a conditional or unpermitted use qualify for streamlined approval under AB 2011?

If a mixed-use residential project meets all AB 2011 criteria – including site criteria,[3] affordability requirements,[4] development requirements,[5] and additional conditions of development[6] – then the local government must review and approve the project "by right," without discretionary review.

However, the nonresidential component of an AB 2011 mixed-use project may be subject to local standards and permitting requirements. In other words, for a non-residential component, the City may require discretionary review for a conditional use or deny a use that is not permitted.

2. Can an applicant request a concession or waiver to modify AB 2011 eligibility criteria?

No, an applicant cannot utilize the SDBL to modify or waive AB 2011 eligibility requirements except for the objective standards that the statute expressly permits in Government Code section 65912.124 subdivision (f)(2). For example, an applicant may request a concession or waiver to modify objective height and side and rear setback standards[7] but cannot request a concession or waiver to modify AB 2011 site eligibility[8] or affordability requirements.[9]

3. Does the City have to grant a concession or waiver of a commercial development standard (e.g., reduce or eliminate minimum commercial parking requirement) in a vertical mixed use residential development?

Yes, if the requested concession facilitates development of the lower-income units, or the waiver is requested because the commercial development standard would physically preclude the construction of the allowable density bonus units, unless the City makes the appropriate findings.

While an applicant may only request a concession or waiver of certain objective standards required for AB 2011 eligibility (see Question 2 above), the statute makes clear that a development proposed under AB 2011 "shall be eligible for a density bonus, incentives or concessions, waivers or reductions of development standards,

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[3] Gov. Code, § 65912.121.
[4] Gov. Code, § 65912.122.
[5] Gov. Code, §§ 65912.103; 65912.123, subds. (b)-(e), (g), (i), (j); 65589.5, subd. (f)(6)(F)(i).
[6] Gov. Code, §§ 65912.123, subds. (f), (h); 65912.124, subds. (h), (k).
[7] Gov. Code, § 65912.123, subds. (c), (d)(2)-(3).
[8] Gov. Code, § 65912.121.
[9] Gov. Code, § 65912.122.

and parking ratios pursuant to Section 65915 [the SDBL]."[10] This includes *local* development standards and parking ratios, and the SDBL defines incentives, concessions, and waivers as applying to locally adopted ordinances, conditions, laws, policies, resolutions, and regulations.[11]

Concession. The SDBL states that a city shall grant a requested concession or incentive unless the city makes one of three findings,[12] including that the concession does not "result in identifiable and actual cost reductions…to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c)."[13] If the City concludes that the concession would directly facilitate the affordable housing, the SDBL compels the City to approve the request. Alternatively, to deny the requested concession, the burden of proof is on the City to make written findings based on substantial evidence that the concession would (1) not result in a cost reduction, (2) have a specific adverse impact on health and safety, or (3) be contrary to state or federal law.[14]

Waiver. The SDBL states that "in no case" may a city "apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section."[15] Similarly, if a locally adopted development standard would physically preclude the project from achieving its maximum density as allowed under AB 2011 and the SDBL, then the law compels the City to grant the requested waiver. Otherwise, to deny the requested waiver, the City must conclude that waiving the development standard would result in specific, adverse impacts, unmitigable health and safety impacts, or is contrary to state or federal law.[16]

4. Can the City require an applicant to identify the development standards they are requesting waivers from, and submit evidence to justify the requested waiver?

Yes, the City may require an applicant to identify all requested waivers as part of their project application but cannot require an applicant to submit evidence to justify the requested waiver beyond what is required in state law.

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[10] Gov. Code, § 65912.124, subd. (f)(1).
[11] Gov. Code, § 65915, subds. (k)(1)-(3), (o)(2).
[12] Gov. Code, § 65915, subd. (d)(1).
[13] Gov. Code, § 65915, subd. (d)(1)(A).
[14] Gov. Code, § 65915, subds. (d)(1), (d)(4).
[15] Gov. Code, § 65915, subd. (e)(1).
[16] Id.

Identification. If specified on the City's application submittal requirements checklist,[17] an applicant must identify all requested waivers in each application submittal and resubmittal. Applications that do not identify all requested waivers cannot be fully evaluated by the City for compliance and consistency with AB 2011 and applicable local requirements. The requested waivers may change upon each resubmittal of the application; the SDBL does not limit the number or timing of the applicant's request for a waiver under Government Code section 65915, subdivision (e).

Justification. As part of processing a density bonus application, the SDBL requires the City to notify the applicant of whether the applicant has provided adequate information for the City to make a determination regarding the requested waivers.[18] Therefore, if identified in the submittal requirements checklist, the City may require an applicant to identify all waiver(s) sought and provide an adequate explanation of why the development standard for which any waiver is sought would have the effect of physically precluding the construction of the housing development at the proposed density and with any concession(s) or parking ratio reduction sought. The SDBL does not allow a city to require or condition any additional reports or studies beyond what is otherwise required by state law.[19] As mentioned above, to deny the requested waiver, the City must conclude that waiving the development standard would result in specific, adverse impacts, unmitigable health and safety impacts, or is contrary to state or federal law.[20]

5. Can a rental project proposing at least 15 percent of units for very low-income households and at least 15 percent of units for moderate-income households achieve a 100 percent density bonus?

Yes, a mixed-income project can achieve 100 percent density bonus under the SDBL. A project with at least 15 percent of the total units restricted to very low-income households is entitled to a 50-percent density bonus.[21] In addition, the City must grant an additional 50-percent density bonus if the project includes at least 15 percent of the total units restricted to for-sale or for-rent housing units that are affordable to moderate-income households.[22] Stacking density bonuses were made by possible by AB 1287 (Chapter 755, Statutes of 2023), which went into effect on January 1, 2024. Note, the SDBL defines "total units" as the number of units calculated prior to any additional units awarded under the SDBL or a local density bonus ordinance.[23]

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[17] Gov. Code, § 65943, subd. (a).
[18] Gov. Code, § 65915, subd. (a)(3)(D)(i)(III).
[19] Gov. Code, § 65915, subd. (a)(2).
[20] Gov. Code, § 65915, subd. (e)(1).
[21] Gov. Code, § 65915, subd. (f)(2).
[22] Gov. Code, § 65915, subd. (v)(2).
[23] Gov. Code, § 65915, subd. (o)(9).

6. Does the 30-day Permit Streamlining Act (PSA) completeness check deadline apply to all AB 2011 applications?

Yes, an AB 2011 application is subject to the application completeness provisions of the PSA, including the 30-calendar day completeness determination.[24] While AB 2011 does not expressly reference the PSA or address the timeline for completeness review, the statute also does not include any language that would exempt an application from the PSA.

Likewise, Government Code section 65943, subdivision (a) describes the timeline for a completeness check for "an application for a development project" as defined in subdivision (g) (which references Government Code section 65905.5, subdivision (b)). An AB 2011 project meets this definition and is therefore subject to the PSA's 30-day completeness check deadline.

Note, AB 2011 specifies a 60- or 90-day initial consistency review timeframe depending on whether a project contains 150 housing units or less or more than 150 units.[25] A city may opt to:

- *Concurrently review* an application for PSA completeness and AB 2011 consistency within 30 calendar days of application submittal or resubmittal, or
- *Stagger the review* by issuing a PSA completeness determination within 30 calendar days of application submittal and then follow up with the initial consistency determination within 60 or 90 calendar days of application submittal.

7. Does the applicant have a deadline to resubmit following receipt of an incompleteness or inconsistency letter?

AB 2011 and the PSA do not contain any statutory deadlines for the resubmittal of an application following receipt of a city's determination of incompleteness or inconsistency. However, to retain vesting rights under the HAA[26] for a complete preliminary application submitted per Government Code section 65941.1, an applicant must resubmit a full application within 90 days of receiving an incompleteness letter or the preliminary application "shall expire and have no further force or effect."[27]

HCD notes that, regardless of whether or not an applicant has submitted a complete formal application under the PSA, the City must still adhere to the consistency review and approval timelines under AB 2011, including:

[24] Gov. Code, § 65943, subd. (a).
[25] Gov. Code, § 65912.124, subds. (a)(1)(A)-(B).
[26] Gov. Code, § 65589.5, subd. (o)(1).
[27] Gov. Code, § 65941.1, subd. (e)(1).

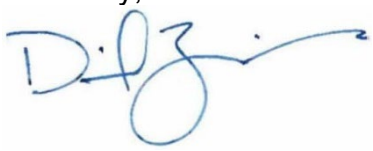
- *Resubmittal Timeline.* The City must determine whether the project is consistent or inconsistent with objective planning standards within 30 days of any resubmittal,[28] and
- *Approval Timeline.* The City must approve the development within 60 days of determining the project is consistent with objective standards for projects with 150 or fewer units, or within 90 days for projects with more than 150 units.[29]

Conclusion

A mixed-use, mixed-income housing development project meeting the site eligibility, affordability levels, and development-specific requirements under AB 2011 is allowed by-right under state law and is eligible for additional provisions under the SDBL. In addition, AB 2011 project applications are subject to the PSA and its review timelines.

HCD understands the intricacies of implementing ever-changing state housing laws and is committed to supporting local agencies in the successful implementation of these laws, including AB 2011 and SDBL. If you have any questions or need additional information, please contact Grace Wu at grace.wu@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

[28] Gov. Code, § 65912.124, subd. (a)(1)(C).
[29] Gov. Code, § 65912.124, subd. (a)(3).