STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

June 1, 2021

Bill Rose, Acting Deputy Director of Planning
Planning and Economic Department
City of Santa Rosa
100 Santa Rosa Avenue
Santa Rosa, CA 95404

RE: Santa Rosa Density Bonus Ordinance – Letter of Technical Assistance

Dear Bill Rose:

Thank you for reaching out to the California Department of Housing and Community Development (HCD) for technical assistance. HCD provides this response to the City of Santa Rosa's (City) request for technical assistance regarding its Supplemental Density Bonus (SR-SDB) program. Specifically, the City seeks HCD's guidance as to whether the SR-SDB program satisfies the requirements of Government Code section 65915, subdivision (s). That subdivision provides an exemption to certain changes made to State Density Bonus Law (SDBL) pursuant to Assembly Bill (AB) 2345 (Chapter 197, Statutes of 2020). Ordinances that satisfy the provisions of subdivision (s) need not be amended to comply with, and are exempt from, certain changes made to SDBL pursuant to AB 2345. For the reasons explained below, the City's ordinance does not satisfy the requirements of Government Code section 65915, subdivision (s).

AB 2345 and Its Exemption

In general, AB 2345 amends SDBL to expand and enhance development incentives for projects with affordable housing components. SDBL encourages affordable housing by offering a multi-pronged incentive package in the form of density bonuses as well as concessions and incentives, waivers, and reduced parking requirements. (See Gov. Code, § 65915, subds. (d), (e), (f), (p).) AB 2345 amended SDBL to increase the maximum density bonus from 35% to 50%, to lower the threshold for accessing concessions and incentives, and to further reduce the parking requirements for certain projects. Overall, it adopted a sizeable package of actions to encourage reliance on SDBL and development of affordable housing.

AB 2345 provides an exemption to these new mandates in certain circumstances. For context, subdivision (s) reads as follows:

> Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (C) and (D) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f). (Gov. Code, § 65915, subd. (s).)

Santa Rosa's Supplemental Density Bonus Provisions

The City's Municipal Code includes Chapter 20-31, "Density Bonus and Other Developer Incentives." Subdivision 20-31.060 contains SDBL requirements and subdivision 20-31.070 contains SR-SDB provisions and outlines eligibility requirements for Supplemental Density Bouses in excess of SDBL.

Under the provisions of the SR-SDB, development projects must be located within either the Downtown Station Area Specific Plan or North Santa Rosa Station Area Specific Plan on a site within specified General Plan Land Use Designations. The maximum level of supplemental bonus ranges from 25 percent to 65 percent. When coupled with the 35 percent bonus allowed under SDBL, a project could potentially receive a total bonus ranging from 60 percent to 100 percent.[1]

HCD's Determination and the City's Path Forward

While all areas in the City are eligible for SDBL, not all areas of the City are eligible for SR- SDB. Very few areas, in fact, are eligible. Some portions of the Specific Plan Areas are ineligible for SR-SDB. Much of the City's area designated as Priority Development Areas is ineligible for the SR-SDB. Indeed, most of the area within City limits is ineligible for SR-SDB.

Therefore, due to its location requirements and overall limited application, the City's existing SR-SDB does not sufficiently incentivize the development of affordable housing to qualify for the exemptions cited within subdivision (s). HCD offers two potential options for the City to consider:

[1] Criteria for calculating the project-specific percentage of supplemental bonus units are outlined in Chapter 20-31.070, paragraphs D-M.

(1) The City could leave its current SR-SDB in place and amend Municipal Code Chapter 20-31 so that all land within City limits that is ineligible for SR-SDB comply with the requirements of current SDBL as amended by AB 2345.

(2) The City could amend Municipal Code Chapter 20-31 so that all land within City limits comply with the requirements of current SDBL as amended by AB 2345.

In either case, all land within City limits must be subject to incentives and density bonuses greater than required by the version of SDBL in effect through December 31, 2020.

If the City has any addition questions or requires further technical assistance, please contact Robin Huntley at Robin.Huntley@hcd.ca.gov.

Sincerely,



Shannan West
Land Use and Planning Unit Chief