

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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July 31, 2024

Jane Choi, AICP
Principal City Planner, Central Project Planning
City of Los Angeles
200 North Spring Street, Room 621
Los Angeles, CA 90012

Dear Jane Choi:

RE: City of Los Angeles Density Bonus Law Implementation – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) Housing Accountability Unit (HAU) received a request for technical assistance regarding the applicability of the State Density Bonus Law (SDBL) to the property located at 1719 Whitley Avenue (Property). The request pertains to the applicability of the City's Qualified Classification (Q Condition), a prefix to zone classifications, in the calculation of SDBL base density¹ for the Property and other Q Condition properties with similar use restrictions.

The Q Condition acts as a zoning overlay that imposes specific site designations and restrictions on individual or groups of properties. These conditions can limit allowable uses, size of buildings, and add additional development standards beyond those permitted within the zoning class. This letter provides technical assistance on the proper calculation of base density pursuant to the SDBL for properties with a Q Condition.

Background

HCD understands that the Property is located in the R5 Multiple Dwelling Zone (R5), Height District 2, with a Q Condition. The property has a general plan land use designation of High Density Residential in the Hollywood Community Plan, which allows for up to 80 dwelling units per acre. The Q Condition varies citywide and imposes specific site limitations on designated areas. The Q Condition applied to this Property in the Hollywood Ocean View Tract limits the allowed residential *land uses* to those permitted in the R4 zone, such as apartment hotels, apartment houses, dormitories, etc.

¹ HCD has authority to enforce SDBL pursuant to Government Code section 65585, subdivision (j)(3).

However, HCD also understands that the City has long interpreted the Q Condition to also limit *density* to the R4 density, thereby reducing the allowable density of sites falling under the Q Condition requirement in the R5 zone. The R4 zoning district allows for half the density of the R5 district. In the R5 district, one dwelling unit is permitted per 200 square feet of lot area, whereas the R4 district only allows one unit per 400 square feet. Therefore, the requestor has asked which density specifically applies to the subject Property site under the SDBL.

Question: What is the applicable base density for 1719 Whitley Avenue?

Response: For purposes of applying the SDBL, the maximum allowable density (base density) for the site is the density under the R5, or one unit per 200 square feet of lot area.

SDBL Provisions for Maximum Allowable Base Density

Base density is determined under the SDBL by looking at “the maximum allowable residential density.”² The language of the SDBL instructs that the highest density available in any of the competing documents, including zoning overlays similar to the Q Condition, is the one that applies and provides no automatic deference to a specific document. For the purposes of the SDBL, any hierarchy between planning documents is flattened.

To clarify the SDBL requirements for maximum allowable density, HCD offers a summary of recent legislation that amended the SDBL’s definition of “maximum allowable residential density” in Government Code section 65915, subdivision (o)(6), below.

- AB 2234 (Chapter 651, Statutes of 2022, effective January 1, 2023) clarified the definition of the maximum allowable residential density, or base density, under SDBL to mean, “...the maximum number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, it means the maximum number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project.”³
- In addition, AB 1287 (Chapter 755, Statutes of 2023, effective January 1, 2024) further clarified that any inconsistency between planning documents is irrelevant by removing the sentence that read, “If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general or specific plan, the greater shall prevail”⁴.

² Gov. Code, § 65915, subd. (o)(6).

³ Gov. Code, § 65915, subd. (o)(6).

⁴ Gov. Code, § 65915, subd. (o)(6).

These amendments to the SDBL statute acknowledge and address the frequency and severity of inconsistencies among planning documents across the state. HCD understands it is the City's position that the Q Condition means R4 density applies to the property; however, HCD finds that the Q Condition only addresses permitted *land uses* and does not refer to *density*. Therefore, the R4 density does not apply, but even if it did apply, it is not the maximum allowable density under SDBL. The maximum allowable density for the Property is the density allowed under the R5 land use designation, rendering one unit per 200 square feet of lot area.

Conclusion

HCD understands the challenges of implementing ever-changing state housing laws and are committed to supporting the City of Los Angeles in achieving its planning objectives. HCD would like to remind the City that HCD has enforcement authority over the SDBL, among other state housing laws. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If you have any questions or need additional information, please contact Troy Andres, of our staff, at troy.andres@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief