



Legislation Text

File #: 25-0532, **Version:** 1

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Talyn Mirzakhanian, City Manager

FROM:

Masa Alkire, Community Development Director
Adam Finestone, Planning Manager

SUBJECT:

Discussion of the City's Courtesy Noticing Policy for State Density Bonus and Residential Overlay District (ROD) Projects (Potential Budget Impact) (Community Development Director Alkire).

(Estimated Time: 30 Mins.)

DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that the City Council receive a presentation and provide direction regarding public noticing policies for State Density Bonus projects, including those in the City's Residential Overlay District.

FISCAL IMPLICATIONS:

There are no fiscal implications associated with the recommended action. However, should the City Council direct staff to modify the existing public noticing procedures, staff time and resources (including mailing costs) may be expended to implement such modifications.

BACKGROUND:

In 2022, the City Council adopted the State-mandated 6th Cycle Housing Element. In order to gain certification of the adopted, State-mandated Housing Element from the California Department of Housing and Community Development (HCD), the City established a Residential Overlay District (ROD) in March 2023 through adoption of [Ordinance No. 23-0006](#) https://library.municode.com/ca/manhattan_beach/ordinances/code_of_ordinances?nodeId=1206711>. The ROD allows development of qualifying multifamily residential and mixed-use projects on commercial properties by right (without a public hearing). Properties included in the ROD are shown on the City's zoning map <https://www.manhattanbeach.gov/home/showpublisheddocument/76/638174928611470000>>, with most of the sites located along Sepulveda Boulevard and Rosecrans Avenue. The ROD is codified in [Section 10.50](#) https://library.municode.com/ca/manhattan_beach/codes/code_of_ordinances?nodeId=TIT10PLZO_PTIIIRDIRE_CH10.50REOVDI> of the Manhattan Beach Municipal Code (MBMC), and additional information on it can be found on the City's [ROD webpage](#)

<https://www.manhattanbeach.gov/departments/community-development/planning-and-zoning/zoning-development-regulations/residential-overlay-district>.

There is no formal requirement in the MBMC or State law that requires public notices to be provided for projects in the ROD because these projects are required to be “by right” by law. However, given the City’s commitment to keep the public informed of projects and other activities that may be located in their neighborhoods, the City has established a process to provide courtesy notices to property owners in the vicinity of ROD projects at the time when building plans have been submitted, as described later in this report. Two such courtesy notices have been provided to date.

At its April 1, 2025, meeting, then-Mayor Pro Tem Lesser and Councilmember Tarnay requested that a discussion of noticing procedures for density bonus projects be placed on a future City Council agenda. Then-Mayor Pro Tem Lesser requested that staff review and revise the courtesy notices to better explain the nature of density bonus projects and the City’s limited ability to require modifications to said projects. At its April 15, 2025, meeting, Councilmember Charelian provided the third vote necessary to agendize the matter.

DISCUSSION:

To meet the requirements of State housing laws, the City is required to process qualifying multifamily residential and/or mixed-use projects by right. “By right” (or ministerial) processing means that qualifying projects must be reviewed strictly for compliance with objective development standards, and that they must be approved if they meet said standards. In the context of the ROD, a qualifying project is one that provides at least 20 percent of its units as affordable housing units for low- or very low-income households. Based on the requirements established by State Housing Element law, all residential or mixed-use projects in the ROD must provide 20 percent of their residential units as affordable housing units and thus must be processed ministerially. The City has no discretion over whether to approve or deny a ministerial project provided it complies with established objective development standards.

State Density Bonus Law

State Density Bonus Law (SDBL) is intended to facilitate production of housing, including deed-restricted affordable housing units, without the need for public subsidies. To do this, SDBL includes provisions that allow for projects to increase their overall allowable density in exchange for restricting a certain percentage of the units as affordable housing units. In addition to allowing additional density on a property, SDBL also allows a developer to request relief from the city’s objective development standards by requesting waivers or concessions). The City has adopted a local density bonus ordinance that is consistent with SDBL.

SDBL is applicable to properties in any zone that allows multi-family residential development provided the properties can accommodate at least five dwelling units prior to any bonus units being added. It has been in effect since 1979 but has been strengthened significantly over the last decade to encourage additional housing production. Courts have almost unilaterally upheld developers’ rights under DBL, including the *Bankers Hill 150 v. City of San Diego* case. The appellate court in *Bankers Hill* held that the density bonus project in that case was entitled to waivers of development standards.

Relationship between State Density Bonus Law and the ROD

While the ROD does establish objective development standards, including those related to height and setbacks, it is important to note that all ROD projects are eligible to take advantage of SDBL

because they require at least 20% of their units to be income-restricted. As such, they are entitled to request waivers and concessions, as described above. City staff works with developers to encourage project designs that respect the character and scale of the community. However, staff cannot require changes to projects; it is up to the developer as to whether they incorporate staff's recommendations into their design. Absent a "specific, adverse impact", which is very narrowly defined in the California Government Code, or one of the other limited findings for denial, the City is unable to deny a requested waiver or concession. Information on what constitutes a specific, adverse impact can be found in the Frequently Asked Questions section on the City's ROD webpage.

Noticing Procedures

ROD Projects: As noted above, there is no requirement in either the MBMC or State law that public notices be provided for ROD projects. However, because the City recognizes and takes seriously its responsibility to keep the public informed of projects and activities that may impact them, the City has established a process to provide courtesy notices to property owners in the vicinity of ROD projects. While the courtesy notices differ from legally-required public notices, the purpose of legally-required public notices has helped inform staff's preparation of the courtesy notices, as the intent of both types of notices is to draw the public's attention to a specific project or policy. The two differ, however, in that legally-required public notices typically afford an opportunity for the public to provide input on an item prior to a decision being made, whereas the courtesy notice is intended to make people aware that the City has received a building permit submittal for a ministerial project.

Non-ROD SDBL Projects: Precise Development Plans (PDPs) are administrative, non-discretionary entitlements that are processed for projects requesting density bonuses outside of the ROD. Notices of Decision sent related to PDPs are official notices because they are required to be sent pursuant to Section 10.84.065 of the MBMC; however, similar to courtesy notices for ROD projects, they do not provide an opportunity to influence the decision on the project. Qualified PDPs are approved by the Community Development Director, whose decision is final and not appealable. These notices are required to be mailed out to property owners and residents within 500 feet of a project site.

Legally-required Public Notices

In the context of planning and land use, legally-required public notices are required for a variety of projects. The most common public notices issued by the Planning Division are notices of public hearings, the requirements of which are detailed in [Chapter 10.84](#) <https://www.manhattanbeach.gov/home/showpublisheddocument/57761/638973333956030000> of the MBMC. Public hearing notices generally include the location and a description of the project; the time, place, and purpose of the public hearing; a reference to where application materials and detailed project information can be found; and a statement inviting public testimony. Public hearing notices are required to be mailed to property owners within a certain distance of a project site (if the project is site-specific), posted at City Hall, and published in a newspaper of general circulation, at least 10 days prior to the hearing date. Standard practice in Manhattan Beach is to mail notices on Thursdays, which coincides with the publication date for The Beach Reporter, and is typically 12 or 13 days prior to the public hearing (depending on whether the hearing is in front of the City Council or Planning Commission). While not required by the MBMC, the City also sends public hearing notices to individuals who have expressed interest in projects, and to other agencies and organizations that may be impacted by a project. Additionally, social media is used to make the public aware of upcoming public hearings on projects that may be of concern to a wider audience.

Other types of official public notices issued by the Planning Division include notices of intended

decisions and notices related to the preparation and availability of environmental review documents prepared pursuant to the California Environmental Quality Act (CEQA). The mailing radius for public notices is dependent on what type of project the notice is for, with certain project types having mailing radii of 100, 300, or 500 feet from the exterior boundaries of the project site.

ROD Courtesy Notices - Radius and Timing

Courtesy notices for ROD projects are mailed out when a ROD project has been submitted to the City for building permit plan check. As noted above, the intent of a courtesy notice is to inform the public about a specific project or policy. As they relate to ROD projects, even though courtesy notices do not provide an opportunity to influence the decision on the project, the City finds it is important that the public be made aware of projects that have been proposed in the vicinity of their property. In order to reach the broadest audience, courtesy notices for ROD projects are posted on the City's ROD webpage and mailed to property owners and residents within 500 feet of a project site. This is consistent with the largest mailing radius required for legally-required public notices, including those for Use Permit public hearings or notices of decisions on Precise Development Plans (PDPs).

Prior to a building permit plan check submittal, it is common for potential applicants to request that the City conduct a preliminary planning review of a potential ROD project. The preliminary planning review process involves various departments reviewing conceptual plans for a potential project, though it does not constitute a formal application and no approval or denial is issued. It is likely that plans and project details will change, potentially significantly, because of feedback provided to the applicant as part of the preliminary planning review. It is also possible that potential applicants will decide not to move forward with a project after the preliminary planning review is completed.

In order to avoid sending out notices for projects that may change significantly, and/or may not come to fruition, staff has identified building plan submittal as the appropriate time to send out courtesy notices. While there is no standard timeframe for how long it takes to have a permit issued once building plans are submitted, it is likely that the scope and scale of ROD projects will require at least three rounds of review. Even assuming a rapid turn-around on an applicant's side once comments are provided, it is highly unlikely that a project would be permit-ready in anything less than six months from the time of building plan submittal. As such, even though courtesy notices are not sent out until building plans are received, the timing of the notices still provides significant lead time prior to the start of construction.

To date, the City has received building plans and sent out courtesy notices for two projects in the ROD. The first was sent in January for a 40-unit project at 2301 N. Sepulveda Boulevard, and the second was sent in October for a 273-unit project at 3600 N. Sepulveda Boulevard (former Fry's site). Building permits have not been issued for either project. Both notices are included as an attachment to this staff report.

ROD Courtesy Notices - Contents

The courtesy notice starts by providing recipients with information as to why they are receiving the notices, specifically that their property is within 500 feet of a proposed multifamily residential development project in the ROD. It then provides information on why the ROD was established, pointing to the provisions contained in the City's State-mandated 6th Cycle Housing Element, and notes that ROD projects must be reviewed for conformance with strictly objective development standards without public hearings or discretionary review because of State housing law. The notice also states that provisions of State Density Bonus law also apply to ROD projects and significantly

limit the City's ability to exercise discretion over new housing projects. This introductory information concludes with a reference to the City's ROD webpage.

Following the introductory information, project-specific information is provided in table format. The information includes the location, size, and existing use of the subject property, the permit number, and details of the proposed project. Proposed project details include:

- Proposed use of the site (number of stories and square footage of structures, as well as how many levels of parking and whether the parking is at-grade or subterranean)
- Number of units proposed, broken down by the number of market-rate units and number of units reserved for low- and very low-income households
- Unit mix (number of studios, 1-bedroom, 2-bedroom, etc., units)
- Height of the structure above existing average grade
- Number of parking spaces provided
- A list of waivers and concessions from development standards requested by the applicant pursuant to SDBL

The notice concludes by stating that project details may change as it moves through the building and safety plan check process and notes that no permit has been issued and no timeframe for construction has been determined. Finally, contact information for a representative from the City's Planning Division is provided.

Potential Changes to Courtesy Noticing Procedures

Staff is seeking input from the City Council on its goals for courtesy notices and will revise the language in future notices to incorporate that input, if directed to do so. For example, City Council may be interested in strengthening Density Bonus law language, providing additional information on the law or the project, etc.

Staff also seeks City Council input on whether any changes in the distribution process for courtesy notices should be considered. As noted above, the current process is to post online and mail notices to property owners and residents within a 500-foot radius of a project site at the time building plans are submitted. For reasons stated above, Staff finds that the timing of courtesy notices is appropriate and does not recommend any changes to said timing. Additionally, staff has established the mailing radius to be consistent with the broadest noticing requirements for other application types.

Using the ROD project at 2301 N. Sepulveda Boulevard as an example, there are 119 properties within a 500-foot radius of the project site. The project site is mid-block, and the 500-foot radius extends just across Marine Avenue to the north and 19th Street to the south. To the west, it brings in all properties on Oak Avenue and on the east side of Elm Avenue, and a vast majority of properties on the west side of Elm Avenue, between Marine Avenue and 19th Street. On the east, the radius extends to a few properties on the east side of Cedar Avenue. If a larger radius were established, the number of properties would grow exponentially. For example, doubling the radius to 1,000 feet would bring in nearly four times as many properties (472 versus 119) and would incorporate properties from halfway between 27th and 30th streets to the north down to 17th Street to the south, almost to Meadows Avenue to the east, and to the west side of Walnut Avenue to the west. It would even include a few properties within the Manhattan Village residential development behind the Manhattan Village Shopping Center. Images identifying the properties within both a 500-foot and 1,000-foot

radius of the project site have been attached to this report for reference.

PUBLIC OUTREACH:

This item is intended to identify procedures for public notification related to density bonus and ROD projects. The input received from the City Council at this meeting will inform the contents of, and procedures for, future courtesy notices for ROD projects and PDP decision notices for non-ROD SDBL projects.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Courtesy Notices for ROD Projects
2. Radius Maps
3. PowerPoint Presentation