

(O-84-197)

ORDINANCE NUMBER O- 16191 (New Series)

Adopted on APR 23 1984

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 101.0307.3, 101.0307.4 AND 101.0307.5 AND ADDING SECTION 101.0307.6 ALL RELATING TO AFFORDABLE HOUSING DENSITY BONUS AND TRANSFER OF DENSITY AND PUBLIC HEARING REQUIREMENTS.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter X, Article 1, Division 3 of the San Diego Municipal Code be and it is hereby amended by amending Sections 101.0307.3, 101.0307.4 and 101.0307.5 to read as follows:

SEC. 101.0307.3 DENSITY BONUS PROVISIONS

A. through C. - No change.

D. Where the project consists of two or more specifically identified noncontiguous properties, the maximum number of dwelling units permitted on each separate property shall be calculated as if the project consisted of contiguous properties lying within two or more zones or districts. Within the project, the permitted number of dwelling units may be distributed without regard to the underlying density regulations, subject to the requirements of Section 101.0307.4 and Section 101.0307.5 below.

SEC. 101.0307.4 PROVISION OF AFFORDABLE HOUSING

A. The number of dwelling units reserved for purchase

or rent at prices affordable by persons and families of low or moderate incomes shall not be less than the number of bonus units constructed within the project.

B. - No change.

SEC. 101.0307.5 NOTICED PUBLIC HEARING REQUIREMENTS
AND FINDINGS RELATING TO A TRANSFER
OF DENSITY PERMIT

A. In every instance where it is proposed to transfer density rights between either contiguous or noncontiguous properties, which transfer would result in a development on any parcel exceeding 125 percent of the units permitted by the density regulations of the underlying zone or planned district, there shall be a noticed public hearing to approve the transfer as set forth below.

B. A noticed public hearing shall be held before the Planning Director or his assigned representative and shall be conducted as follows:

1. Notice of the public hearing shall be published in the City's official newspaper once at least ten (10) days prior to the hearing date. The notice shall specify the time and place of the hearing, the findings proposed to be made, and shall identify the property or properties involved by relating to both a subdivision or parcel map as well as a street address if available. The notice shall indicate that any member of the public has a right to appear at the hearing or to present written communications to the Planning Director prior to the hearing to address the proposed findings.

2. Notice of the hearing with the above information shall also be sent to the owners of record of all properties lying within 300 feet of the property proposed for development.

C. At the hearing the Planning Director or his designated representative may allow the development of a property with units exceeding 125 percent of the units permitted by the density regulations of the applicable underlying zone or planned district only when it shall appear from the evidence presented that all of the following facts exist:

1. That the project as proposed will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.

2. That the project would not lead to over concentration of persons and families of low or very low income within any given community.

3. That granting the increased density will not adversely affect the Progress Guide and General Plan for The City of San Diego, the community plan for the area in which the project is located, cause significant adverse effects upon the environment, adversely affect solar access to neighboring property, or violate the relevant regulations of the Municipal Code.

D. An appeal from any decision of the Planning Director may be taken to the Planning Commission by any

resident of the City.

1. An appeal shall be in writing and shall be filed with the Secretary of the Planning Commission within ten (10) days after the decision of the Planning Director. Any appeal so filed shall automatically stay proceedings in the matter. The appeal shall state reasons as to why the decision of the Planning Director is incorrect, relating to the findings required.

2. Upon the filing of an appeal as above described, the Planning Commission shall cause the notice as described above of a new public hearing and at the hearing the same rules as applicable to the Planning Director's hearing shall apply. At the end of the hearing the Planning Commission shall approve the proposed development only if, on the basis of substantial evidence presented, the development meets the above three findings.

3. The decision of the Planning Commission shall be final on the eighth (8th) day following action by the Planning Commission unless a request to be heard on appeal is filed in the office of the City Clerk.

When a request to be heard on appeal is filed with the City Clerk, it shall be placed on the Council docket for the limited purpose of determining whether the City Council will hear the appeal. The City Council will accept an appeal for hearing when either of the following situations are found to exist:

a. The appellant was denied the opportunity to make a full and complete presentation to the Planning Commission.

b. The Planning Commission decision was arbitrary because no evidence was presented to the Planning Commission that supports the decision.

The City Council shall rely upon the record of the proceedings before the Planning Commission and the written appeal. No oral presentations shall be made to the City Council by proponents or opponents of the project. A vote on a motion to set the appeal for hearing shall not constitute a vote on the merits of the appeal. If at least five (5) members of the Council vote in favor of hearing the appeal, the City Clerk shall set the appeal for hearing before the City Council and give notice of the appeal in the manner required by the Municipal Code.

E. In the event that a hearing results in denial of the transfer of density to a particular parcel and a building permit has already been issued on its companion parcel, the density of which is being reduced, applicant shall, for a period of 12 months from the date of said hearing, be entitled to submit one or more substitute parcels to the hearing process to complete the project for purposes of density bonus transfer to said substitute parcel.

Section 2. That Chapter X, Article 1, Division 3 of the San Diego Municipal Code be and it is hereby amended by adding Section 101.0307.6 to read as follows:

SEC. 101.0307.6 DEVIATIONS FROM DENSITY BONUS AND AFFORDABLE HOUSING PROVISIONS

A. The Planning Director shall have the authority under the conditions herein provided to permit deviations from the Density Bonus provisions of Section 101.0307.3, and the Affordable Housing provisions of Section 101.0307.4. Deviations shall only be permitted pursuant to the provisions of Division 9 of this Article (Planned Residential Developments).

B. Deviations from the requirements of Section 101.0307.3 and Section 101.0307.4 may be granted by the Planning Director as follows:

1. An increase in the Density Bonus provisions of Section 101.0307.3, and/or decrease in the Affordable Housing provisions of Section 101.0307.4, may be granted where the project provides for the inclusion of dwelling units affordable by persons of very low income. The total Density Bonus shall not provide for a total project containing more than 150 percent of the units permitted by the density regulations of the underlying zone or district, nor shall the Affordable Housing requirement provide that less than ten percent of the total project be affordable by persons and families of low or moderate income.

2. An increase in the Density Bonus provisions of Section 101.0307.3, and/or decrease in the Affordable Housing provisions of Section 101.0307.4, may be granted where the project is located within a census tract, the median household income of which exceeds 120 percent of the City-wide median household income as measured by the most recent U.S. Bureau of Census survey, and the project provides for the inclusion of dwelling units affordable by persons of low income. The total Density Bonus shall not provide for a total project containing more than 150 percent of the units permitted by the density regulations of the underlying zone or district, nor shall the Affordable Housing requirement provide that less than 10 percent of the total project be affordable by persons and families of low income.

C. The Planning Director, Planning Commission, or the City Council on appeal may grant a deviation only when it shall appear from the evidence presented that all of the following facts exist:

1. That the project as proposed will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.

2. That the project would not lead to over concentration of persons and families of low or very low income within any given community.

3. Because of special circumstances applicable

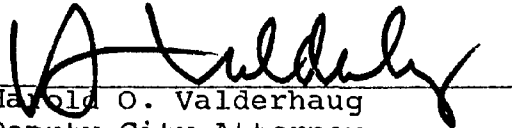
to the project, including property characteristics, economic constraints, location or surroundings, the strict application of the provisions of Section 101.0307.3 and Section 101.0307.4 would cause failure of the project.

4. That granting the deviations will not adversely affect the Progress Guide and General Plan for The City of San Diego, the community plan for the area in which the project is located, cause significant adverse effects upon the environment, adversely affect solar access to neighboring property, or violate the relevant regulations of the Municipal Code.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By


Harold O. Valderhaug
Deputy City Attorney

HOV:ps
3/29/84
Or.Dept:Prop.
Form=r.none

APR 23 1984

Passed and adopted by the Council of The City of San Diego on _____, by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *June A. Blackwell*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 9 1984

APR 23 1984

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *June A. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16191

Adopted APR 23 1984

RECEIVED
CITY CLERK'S OFFICE
1984 MAY -9 AM 11:24
CERTIFICATE OF PUBLICATION
SAN DIEGO, CALIF.
gar

CITY OF SAN DIEGO
ATTN: JUNE A. BLACKNELL
202 C St., 12th Floor
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

ORDINANCE NO. O-16191

ORDINANCE NO. O-16191
(New Series)
CHAPTER X, ARTICLE 1
SECTION 101.0307.3, 101.0307.4 AND
101.0307.5 AND ADDING SECTION 101.0307.6 ALL
RELATIVE TO AFFORDABLE HOUSING DENSITY BONUS
FOR TRANSFER OF DENSITY AND PUBLIC HEARING
REQUIREMENTS.
This ordinance modifies the density bonus provisions relating
to affordable housing projects and adds a public hearing require-
ment to the Municipal Code provision allowing a transfer of density
bonus and lot to another in connection with projects providing
housing units for purchase or rent at prices affordable by persons
with incomes of low or moderate income.
Enacted on APRIL 8, 1984.
Passed and adopted by the Council of The City of San Diego
on APRIL 22, 1984.
AUTHENTICATED BY:
KOSAR HEDGECOCK,
Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.
WITNESSED BY JUNE A. BLACKNELL, Deputy.
Published May 7, 1984. 80-4884

I, Carrie Gedeon, am a citizen
of the United States and a resident of the County aforesaid; I am over the
age of eighteen years, and not a party to or interested in the above-entitled
matter. I am the principal clerk of the San Diego Daily Transcript, a
newspaper of general circulation, printed and published daily, except
Saturdays and Sundays, in the City of San Diego, County of San Diego, and
which newspaper has been adjudged a newspaper of general circulation by
the Superior Court of the County of San Diego, State of California, under
the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. O-16191
(New Series)

is a true and correct copy of which the annexed is a printed copy and was
published in said newspaper on the following date(s), to wit:

May 7, 1984

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 7th day of May, 1984.

Carrie Gedeon

00781

(Signature)