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THE CITY OF SAN DIEGO

DEVELOPMENT SERVICES DEPARTMENT

Date of Notice: May 16, 2007

PUBLIC NOTICE OF A

DRAFT SUPPLEMENT TO AN ENVIRONMENTAL IMPACT REPORT

JO: 6090

PUBLIC NOTICE: The City of San Diego Land Development Review Division has prepared a draft Supplement to an Environmental Impact Report (EIR) for the following project and is inviting your comments regarding the adequacy of the document. **Your comments must be received by June 30, 2007 to be included in the final document considered by the decision-making authorities.** Please send your written comments to the following address: Marilyn Mirrasoul, Environmental Planner, City of San Diego Development Services Center, 1222 First Avenue, MS 501, San Diego, CA 92101 or e-mail your comments to mmirrasoul@sandiego.gov with the Project Number in the subject line.

General Project Information:

- Project No. **63422**, Supplement to EIR No. 96-0333, SCH No. 96081056
- Community Plan Area: **All**
- Council District: **All**

Subject: LAND DEVELOPMENT CODE REVISIONS: Affordable Housing Density Bonus Regulations: Amendments to Chapter 14, Article 3, Division 7, Sections §143.0710 through §143.075, and Chapter 12, Article 6, Division 7 of the Municipal Code, Section §126.0708, and Section 141.0310. The regulations are intended to apply city-wide; however, until unconditionally certified by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Applicant: City of San Diego

Recommended Finding: The recommended finding that the project may have a significant effect on the environment beyond those previously disclosed in EIR No. 96-0333 is based on an Initial Study and a review of the previously prepared EIR. The draft Supplement concluded that the proposed revisions have the potential to result in significant impacts to visual quality and transportation/parking, as well as cumulative impacts to visual quality and parking.

Availability in Alternative Format: To request this Notice, the Supplement EIR, EIR No. 96-0333 and/or supporting documents in alternative format, call the Development Services Department at 619-446-5460 or (800) 735-2929 (TEXT TELEPHONE).

Additional Information: For environmental review information, contact Marilyn Mirrasoul at (619) 446-5380. The draft Supplement EIR, EIR, and supporting documents may be reviewed, or purchased for the cost of reproduction, at the fifth floor of the Development Services Center. For information regarding public meetings/hearings on this project, contact Project Manager Dan Joyce at (619) 446-5388. This notice was published in the SAN DIEGO UNION and SAN DIEGO DAILY TRANSCRIPT. In addition, this notice and the draft Supplement were placed on the City of San Diego website (see below) and distributed on May 16, 2007.

<http://clerkdoc.sannet.gov/Website/publicnotice/pubnotceqa.html>

Deputy Director Robert J. Manis
Development Services Department

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Land Development
Review Division
(619) 446-5460

SUPPLEMENT to an ENVIRONMENTAL IMPACT REPORT

Project No. 63422
Supplement to EIR No. 96-0333
SCH No. 96081056

SUBJECT: LAND DEVELOPMENT CODE REVISIONS: Affordable Housing Density Bonus Regulations: Amendments to Chapter 14, Article 3, Division 7, Sections §143.0710 through §143.075, and Chapter 12, Article 6, Division 7 of the Municipal Code, Section §126.0708, and Section 141.0310. The regulations are intended to apply city-wide; however, until unconditionally certified by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Applicant: City of San Diego City Planning and Community Investment Department.

May 2007 Update

This revised and recirculated environmental document reflects recent changes to the previously proposed Land Development Code amendments and provides additional clarification regarding the implementation of these amendments.

I. PROJECT DESCRIPTION

The existing and revised density bonus regulations apply to any residential development of five or more pre-density bonus dwelling units where an applicant proposes density beyond that permitted by the existing zone. The applicant must either reserve a portion of the units for moderate, low, or very-low income households, or senior citizens or donate land.

The majority of the proposed Land Development Code (LDC) revisions are intended to implement requirements mandated by State Assembly Bill (AB) 1866, State Senate Bills (SB)1818 (January 2005) and SB 435, and facilitate the development of affordable housing for very-low and low-income renters, seniors, and moderate income residents within the City of San Diego.

In general, recently adopted state law requires the City to provide up to three regulatory incentives or benefits to applicants for a traditional density bonus based on the percentage of affordable units included as part of the development proposal; it provides additional incentives or concessions to qualifying projects that include on-site day care facilities; it expands the density bonus entitlement option to all common interest developments (condominium, condominium conversions, and planned unit developments) which provide for-sale units restricted to moderate income residents; it adds a density bonus category for projects that include the donation of land to the City; it increases the maximum density bonus from 25 percent to 35 percent with a sliding scale of density bonus from 5 percent to 35 percent depending upon the proportion of affordable units; it limits the parking standards required for density bonus projects and allows the use of tandem parking; it changes the length of the affordability requirements; it clarifies that the density bonus for senior development also applies to senior mobilehome parks; and it clarifies that the applicant may only receive one density bonus per project.

In addition to the new provisions included within state law, the City would offer up to a 10 percent ministerial density bonus to projects that build inclusionary units (required for residential projects pursuant to the Inclusionary Housing Ordinance) on-site rather than paying an in-lieu affordable housing fee, and offer a 20 percent increased density bonus (rather than the five percent minimum offered per state law) for projects that provide ten percent of the units as moderate income ownership units.

In summary, the goal of the density bonus ordinance is to increase the supply of the City's affordable housing by bringing the City's density bonus ordinance into compliance with state law and enacting two additional provisions specific to San Diego. A copy of the draft Density Bonus Regulations has been included with this document as Attachment B.

II. ENVIRONMENTAL SETTING: See EIR.

III. DISCUSSION

The City's density bonus regulations were originally adopted in 1981 and were last amended in 1999. The City's existing density bonus regulations were never approved by the Coastal Commission, so by default state regulations apply in the Coastal Zone. State law supersedes the City's current density bonus ordinance, and staff has been using both current state law and the existing City regulations to review density bonus applications. State law provisions take precedence in the event of a conflict.

Approximately 1000 density bonus units have been produced over the last 20 years within the City of San Diego. With the ordinance revisions, it is anticipated that approximately 50 to 100 density bonus units could be provided per year. As is currently the case, applicants may request additional incentives or community plan amendments for the provision of an increased number of units as well.

The proposed amendments to the LDC would define the parameters for density bonus projects specific to the City of San Diego for developments of five or more dwelling units. As is currently the case for all discretionary projects, all new discretionary developments which take advantage of the ordinance provisions would be required to comply with applicable environmental regulations.

Maximum Density

For projects providing inclusionary units on-site, the maximum ministerial density bonus granted would be ten percent. An applicant could seek an additional 25 percent density bonus, up to a maximum density bonus of 35%, if the state law density bonus regulations are utilized.

For senior citizen housing projects of at least 35 units or a mobilehome park that limits residency based on age requirements for older persons the density bonus would be 20 percent.

For projects providing a donation of land, the density bonus would be granted for a donation of land that could accommodate at least 10 percent of the pre-density bonus units of the proposed development (approximately one acre or of sufficient size to permit the development of at least 40 very low income affordable units). The land must be zoned and have a general plan designation appropriate for residential development, and must be adequately served by public facilities and infrastructure. In addition, the land must be within the boundary of the proposed development or

within ¼ mile of the boundary of the proposed development with City approval. The density bonus, for projects providing a land donation, would start at a minimum of 15 percent pre-density bonus units or 15 percent of the maximum FAR allowed for projects within Centre City Planned District. The density bonus would increase on a sliding scale up to 35 percent for land that could accommodate 30 dwelling units.

For other qualifying projects the new density bonus regulations mandated by state law allow a maximum pre-density bonus of 35 percent (either of units or the maximum FAR allowed for projects within Centre City consistent with LDC Section 151.0310(e)) rather than the 25 percent previously allowed. This increased density could be higher than the density allowed by the underlying zone, community plan, and/or planned district ordinance.

Additional Development Incentives (Section 143.0740)

New state law requires that the City grant an applicant's request for up to three incentives. These incentives may include a deviation from development regulations, the approval of a mixed use development in conjunction with a residential development, or any other regulatory deviation proposed by the applicant or the City which would result in an identifiable, financially sufficient, and actual cost reduction. A mixed-use development of residential and commercial, office, or industrial uses must reduce the cost of the residential development and be compatible with the residential development and the applicable land use plan.

For further clarification regarding potential incentives, the proposed amendments (See pages 5 & 6 of Attachment B) specifically preclude the following from being considered as density bonus incentives:

- A waiver of a required permit
- A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5)
- A waiver of fees or dedication requirements
- A direct financial incentive
- A deviation from the requirements of the San Diego Building Regulations

In addition, incentives may not be granted if the City makes written findings that the incentive is not required in order to provide for affordable housing costs, or would have an adverse impact upon health and safety, or the physical environment, or on any property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. However, the granting of an incentive would not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. In addition, and according to state law, CEQA only applies to discretionary projects.

Qualified projects that include child care centers under certain conditions would be entitled to either an additional density bonus (of up to a maximum density bonus of 35 percent) or an additional regulatory incentive.

The applicant may also request a reduction of the parking requirement, inclusive of handicapped and guest parking, for certain projects not exceeding the ratios shown on Attachment C.

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The new density bonus regulations would allow up to three regulatory development incentives based on the number and the affordability of the units provided in a common interest development through a Process One action. *Additional incentives may be granted via deviation requests through a Process Three, Site Development Permit (SDP) action, provided that supplemental findings can be made.*

Supplemental Findings

The supplemental findings for SDP are:

1. The development assists in accomplishing the goal of providing affordable housing *opportunities in economically balanced communities throughout the City.*
2. The incentive would not have an adverse impact upon the public health, and safety, or upon environmentally sensitive lands.
3. The incentive would not have an adverse impact on historical resources.

Coastal Zone (Section 143.0750)

Affordable Housing Density Bonus projects within the Coastal Overlay Zone would be subject to the applicable certified land use plan and implementing ordinances, including the Coastal Development Permit. *Deviation requests from the Environmentally Sensitive Lands Regulations within the coastal zone would require that a Site Development Permit be obtained and supplemental findings be made.* Height within the Coastal Height Limitation Overlay Zone/Proposition D Area would continue to be subject to the current 30-foot height limit. As described earlier, deviations from the requirements of the Coastal Height Limit Overlay Zone could not be considered as incentives.

Supplemental Findings – Environmentally Sensitive Lands within the Coastal Overlay Zone (Section 126.0708)

The supplemental findings required for requests for deviations from Environmentally Sensitive Lands Regulations have been revised to require that a public hearing on the Coastal Development Permit address the economically viable use determination. (The economically viable use determination is that the use and project design, siting, and size are the minimum necessary to provide economically viable use.) In addition, findings must include that feasible alternatives to the requested incentive and the effects on coastal resources have been considered and the granting of the incentive or alternative will not adversely affect coastal resources.

It should be noted that the decision maker would not be precluded from denying the project for other reasons.

Projects Subject to the California Environmental Quality Act (CEQA)

Discretionary projects are subject to CEQA while ministerial projects are statutorily exempt. If a project would have been discretionary without the requested density bonus or incentive(s) it would continue to be discretionary and would be subject to CEQA. If a project would have been ministerial without the requested density bonus or incentive(s) it would continue to be ministerial and would not be subject to CEQA review. Additionally, projects requesting incentives that otherwise would require discretionary review (without a density bonus) now may become

Mitigation

Ministerial projects are not subject to CEQA, and such projects would not undergo environmental review or be required to provide mitigation. However, specific mitigation measures would be determined on a case-by-case basis for any future projects that go through the discretionary environmental review process. It is anticipated that impacts related to aesthetics may be mitigable through architectural treatments, such as façade articulation and building textures and colors. Substantial view blockages could not be mitigated. Severe contrast with community character resulting from increased height and bulk may be reduced through architectural treatments, but likely not to a level below significance in every case.

Significance of Impact

For discretionary projects, aesthetic impacts may be reduced to below a level of significance with appropriate mitigation. However, for ministerial projects the aesthetic impacts may not be mitigated. Direct and cumulative Visual Effects and Neighborhood Character would be considered significant and not mitigated.

Only adoption of the “No Project Alternative” would reduce visual quality impacts.

Transportation/ Parking

Significance Criteria - Traffic

As stated earlier, in analyzing a project’s potential environmental effects, staff is guided by the City’s Significance Determination Thresholds. The Traffic/Parking section of the Thresholds addresses direct traffic impacts which are projected to occur at the time a proposed development or associated developments become operational, and cumulative traffic which is projected to occur at some point after the development or associated developments become operational in the future. According to the Thresholds, intersections and roadway segments affected by a project with a current level of service (LOS) D or better are considered acceptable under both direct and cumulative conditions. For undeveloped locations the goal is to achieve a LOS of C. If any intersection, roadway segment, or freeway segment affected by a project would operate at LOS E or F under direct or cumulative conditions, the impact would be significant if the project exceeds LOS thresholds for freeways, roadway segments, intersections or ramp metering.

Significance Criteria – Parking

In addition, the City’s Significance Determination Thresholds address parking deficiencies that may constitute a significant impact. Parking deficiencies of more than ten percent would also need to substantially impact an adjacent residential area or severely impede the accessibility of a public facility to be determined significant.

Impact Conclusion of the LDC EIR

The LDC EIR anticipated that there might be increased development due to the reduced complexity of the land development regulations. This development could be accompanied by a corresponding increase in traffic on already overcrowded streets and potential reductions in LOS at existing intersections. Therefore, the EIR concluded that the adoption of the LDC could result

in future development that could incrementally increase the potential for cumulatively significant traffic impacts.

The LDC EIR anticipated a reduction in parking in transit areas and for very low income housing projects but concluded that the patterns and intensity of growth were not proposed to be changed and, therefore, overall parking demand would not be significantly increased by the implementation of the LDC. The LDC EIR concluded that the project would not have a significant adverse impact on the amount of parking required in the city nor on the area required to meet parking demands.

Impact - Proposed Density Bonus Ordinance Revisions

The increased density resulting from the proposed revisions to the City's Density Bonus Ordinance could result in maximum densities of 35 percent over the existing zoning for qualified projects; and, if requested by the applicant, reduced parking standards with options to include tandem or uncovered parking (Please see Attachment C). In addition, projects within the Transit Area Overlay Zone currently receive 10 to 20 percent parking reductions (LDC Section §142.0525), and those projects providing very low income housing already receive reductions of 10 to 20 percent of the required parking or 50 percent for very low income single room occupancy hotels (LDC Section §142.0530). The implementation of the ordinance could exacerbate existing transportation congestion.

Significance of Impact

The density achieved with the implementation of this ordinance could result in new potentially significant direct and cumulative parking impacts. In addition, the project could result in new direct transportation impacts and would add to the cumulative impacts already identified in the LDC EIR.

Only the adoption of the "No Project Alternative" would reduce parking and transportation impacts.

Health and Safety

In general, the City's community plans incorporate elements that specify or plan for adequate public services and facilities to accommodate the specific densities within each community. However, the proposed ordinance revisions would allow individual project densities over and above the current zoning and community plans. While density bonus projects would be assessed facilities benefit or impact fees to pay for their share of the required facilities, it is possible that the adoption of the proposed ordinance could contribute to current or future public service deficiencies. The ordinance includes language that states that any proposed additional development incentives or concessions (deviations) would not be granted if they could result in a threat to public health and safety. This provision is a necessary finding for denying the development incentive (deviation).

Public Services and Facilities

According to State Senate Bill 435, "It is the intent of the Legislature that local governments encourage, to the maximum extent practicable, the location of housing development pursuant in

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urban areas with adequate infrastructure to serve the housing per Section 65915 of the California Government Code.”

Impacts to public services and facilities are evaluated in light of whether or not the deficiency in facilities would result in a physical change in the environment related to the construction or alteration of the facility. CEQA specifically addresses physical impacts to the environment (CEQA Sections 15126 (a) and 15382). If a project does not include the construction of public facilities which cause a physical impact to the environment then a significant environmental impact would not result. It is not anticipated that substantial changes in development or growth patterns, density or type of allowable residential developments would occur as a result of the adoption of this ordinance. This is due to the limited historical use of the existing state density bonus ordinance (which comprises a majority of the proposed ordinance) and the built-in limits to the density increases that would be allowed.

Other Potential Impacts

Future density bonus units are not expected to exceed the cumulative impacts to Soils/Erosion Hazard, Air Quality, Hydrology/Water Quality, Biological Resources, Land Use, Transportation/Circulation, Landform Alteration, Historical Resources, and Paleontological Resources that were already analyzed and disclosed in the Land Development Code EIR.

Conclusion

The proposed revisions could result in new direct and cumulative significant environmental impacts requiring that the decisionmaker adopt Findings and a Statement of Overriding Considerations.

IV. ALTERNATIVES

No Project Alternative: This alternative would not bring the City’s ordinance into compliance with State law. It would not end the current process in which staff evaluates individual projects using the existing ordinance with State regulations superceding when there is a conflict. This alternative would not include the City’s proposed 10 percent on-site ministerial inclusionary density bonus incentive or the City’s proposed 20 percent density bonus for moderate income ownership units. Since the State law is already in effect, this alternative would not result in any additional environmental impacts. The no project alternative is considered to be infeasible because it does not meet the project goal of increasing the supply of affordable housing by bringing the City’s ordinance into compliance with state law and providing two additional provisions specific to San Diego.

Elimination of the City’s On-Site Inclusionary Unit Density Bonus: This alternative would eliminate the City’s suggested density bonus which would provide a 10 percent ministerial density bonus for projects that build inclusionary units on-site rather than paying their in-lieu inclusionary housing fee. This on-site inclusionary provision has been added to the LDC to enhance the efforts of the inclusionary housing program by helping to assure that inclusionary units were built, and since the payment of in-lieu fees has not resulted in the development of equivalent housing at alternative sites. The removal of this density bonus could reduce potential impacts to visual quality, transportation and parking since fewer units may be built at the proposed sites. The incorporation of this provision is anticipated to have a minor impact because of the size of the

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density bonus (10 percent) and because no additional density bonus or incentives would be offered to projects within this category.

This alternative may result in fewer unmitigated direct visual quality and transportation/parking impacts and is therefore considered environmentally preferred. Cumulative impacts would remain significant. This alternative is considered to be infeasible because it does not meet the project goal of increasing the supply of affordable housing by enacting an on-site inclusionary bonus provision.

Elimination of the City's 20 Percent Density Bonus for Moderate Income Ownership Units:

This alternative would eliminate the City's proposed minimum 20 percent density bonus for common interest moderate income ownership units. The elimination of this incentive would reduce the number of affordable moderate income ownership housing units built because it is anticipated that the five percent density bonus proposed by state law would not be sufficient to attract such development in San Diego's high land cost market. The elimination of this incentive would reduce but not eliminate potential impacts to visual quality and transportation/parking since the other regulatory incentives or concessions would still be available. This alternative may result in direct impacts which may not be reduced to below a level of significance in every case. Cumulative impacts would remain significant. This alternative is considered to be infeasible because it does not meet the project goal of increasing the supply of affordable housing by enacting a 20 percent density bonus provision for moderate income ownership units.

V. DETERMINATION:

The City of San Diego previously prepared an Environmental Impact Report (EIR) No. 96-0333 for revisions to the Land Development Code. Based upon a review of the current project, it has been determined that the revisions to the Density Bonus Ordinance may result in significant effects not discussed in the previous EIR.

Therefore, in accordance with Sections 15163 and 15164 of the State CEQA Guidelines, this Supplement EIR has been prepared.

VI. MITIGATION, MONITORING AND REPORTING PROGRAM INCORPORATED INTO THE PROJECT:

No mitigation is required for these proposed revisions to the Land Development Code. As development occurs, individual discretionary projects would be subject to environmental review, impact analysis, and identification of project-specific mitigation measures.

VII. SIGNIFICANT UNMITIGATED IMPACTS:

The final EIR for the original project identified significant unmitigated impacts in the following areas: Land Use, Biological Resources, Landform Alteration, Historical Resources, Paleontological Resources, and Human Health and Public Safety. Cumulative impacts were also identified to Soils/Erosion Hazard, Air Quality, Hydrology/Water Quality, Biological Resources, Land Use, Transportation/Circulation, Landform Alteration, Historical Resources, and Paleontological Resources. Significant effects previously examined would not be substantially more severe than shown in the previous EIR. However, the proposed revisions to the Density

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PUBLIC REVIEW:

The following individuals, organizations, and agencies received a copy and/or public notice of the draft Supplement and were invited to comment on its accuracy and sufficiency. The public notice contains a link to the Development Services Department website to a copy of the notice and the environmental document.

Federal Government

US Marine Corps (3) & (13)
Naval Facilities Engineering Command (12)
US Environmental Protection Agency (19)
U.S. Fish and Wildlife Service (23)
U.S Army Corps of Engineers (26)

State of California

Caltrans, District 11 (33)
Department of Fish and Game (32)
Department of Parks and Recreation (40)
Department of Parks and Recreation, Office of Historic Preservation (41)
State Clearinghouse (46A)
Resources Agency (43)
California Coastal Commission (47)
California State Coastal Conservancy (54)
Native American Heritage Commission (56)

San Diego County

Department of Planning and Land Use (68)
County Water Authority (73)
Department of Environmental Health (75)

City of San Diego

Elected Officials

Mayor Sanders
Council President Peters, District 1
Councilmember Faulconer, District 2
Councilmember Atkins, District 3
Councilmember Young, District 4
Councilmember Maienschein, District 5
Councilmember Frye, District 6
Councilmember Madaffer, District 7
Councilmember Hueso, District 8
City Attorney Aguirre, Shirley Edwards

Departments

Development Services Department
LDR Engineering (MS 501) – Don Weston
LDR EAS (MS 501) – Marilyn Mirrasoul
Code Monitoring Team – Dan Joyce
LDR Transportation (MS 501) – Labib Qasem, Ann Gonsalves

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City Planning & Community Investment Department (MS 5A)
Park & Recreation Department (89)
Wetland Advisory Board (91A)

City Agencies

San Diego Housing Commission (MS 49N)
City of San Diego Redevelopment Agency (MS 904)
Centre City Development Corporation (MS 51D), Brad Richter and Dale Royale
Southeastern Economic Development Corporation (448)

Commissions

Planning Commission (MS 401)

Advisory Boards

Small Business Advisory Board (MS 904)
Historical Resources Board (87)

Libraries

Balboa Branch Library (81B)
Beckwourth Branch Library (81C)
Benjamin Branch Library (81D)
Carmel Mountain Ranch Branch (81E)
Carmel Valley Branch Library (81F)
City Heights/Weingart Branch Library (81G)
Clairemont Branch Library (81H)
College-Rolando Branch Library (81I)
Kensington-Normal Heights Branch Library (81K)
La Jolla/Riford branch Library (81L)
Linda Vista Branch Library (81M)
Logan Heights Branch Library (81N)
Malcolm X Library & Performing Arts Center (81O)
Mira Mesa Branch Library (81P)
Mission Hills Branch Library (81Q)
Mission Valley Branch Library (81R)
North Clairemont Branch Library (81S)
North Park Branch Library (81T)
Oak Park Branch Library (81U)
Ocean Beach Branch Library (81V)
Otay Mesa-Nestor Branch Library (81W)
Pacific Beach/Taylor Branch Library (81V)
Paradise Hills Branch Library (81Y)
Point Loma/Hervey Branch Library (81Z)
Rancho Bernardo Branch Library (81AA)
Rancho Peñasquitos Branch Library (81BB)
San Carlos Branch Library (81DD)
San Ysidro Branch Library (81EE)
Scripps Miramar Ranch Branch Library (81FF)
Serra Mesa Branch Library (81GG)
Skyline Hills Branch Library (81HH)
Tierrasanta Branch Library (81II)
University Community Branch Library (81JJ)
University Heights Branch Library (81KK)
Malcolm A. Love Library (457)

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Community Service Centers

Clairemont (274)
Navajo (337)
Peninsula (389)
Rancho Bernardo (399)
San Ysidro (435)
Scripps Ranch (442)

Other Agencies

San Diego Association of Governments (108)
San Diego Transit (12)
Semptra (114)
MTDB (115)
San Diego County Regional Airport Authority (110)

Community Groups, Associations, Boards, Committees and Councils

Community Planners Committee (194)

Community Planning Groups

Centre City Advisory Committee (243)
Otay Mesa - Nestor Planning Committee (228)
Otay Mesa Planning Committee (235)
Clairemont Mesa Planning Committee (248)
Greater Golden Hill Planning Committee (259)
Serra Mesa Planning Group (263A)
Kearny Mesa Community Planning Group (265)
Linda Vista Community Planning Committee (267)
La Jolla Community Planning Association (275)
City Heights Area Planning Committee (287)
Kensington-Talmadge Planning Committee (290)
Normal Heights Community Planning Committee (291)
Eastern Area Planning Committee (302)
Midway Community Planning Advisory Committee (307)
Mira Mesa Community Planning Group (310)
Mission Beach Precise Planning Board (325)
Mission Valley Unified Planning Organization (331)
Navajo Community Planners Inc. (336)
Carmel Mountain Ranch Community Council (344)
Carmel Valley Community Planning Board (350)
Del Mar Mesa Community Planning Board (361)
Greater North Park Planning Committee (363)
Ocean Beach Planning Board (367)
Old Town Community Planning Committee (368)
Pacific Beach Community Planning Committee (375)
Rancho Peñasquitos Planning Board (380)
Peninsula Community Planning Board (390)
Rancho Bernardo Community Planning Board (400)
Sabre Springs Community Planning Group (407)
San Pasqual - Lake Hodges Planning Group (426)
San Ysidro Planning and Development Group (433)
Scripps Ranch Community Planning Group (437)
Miramar Ranch North Planning Committee (439)
Skyline - Paradise Hills Planning Committee (443)
Torrey Hills Community Planning Board (444A)

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Southeastern San Diego Planning Committee (449)
Encanto Neighborhoods Community Planning Group (449A)
College Area Community Council (456)
Tierrasanta Community Council (462)
Torrey Pines Community Planning Group (469)
University City Community Planning Group (480)
Uptown Planners (498)

*Town/Community Councils *(Public Notice Only)*

Clairemont Town Council (257)
Serra Mesa Community Council (264)
Rolando Community Council (288)
Oak Park Community Council (298)
Webster Community Council (301)
Darnell Community Council (306)
La Jolla Town Council (273)
Mission Beach Town Council (326)
Mission Valley Community Council (328 C)
San Carlos Area Council (338)
Ocean Beach Town Council, Inc. (376 A)
Pacific Beach Town Council (374)
Rancho Penasquitos Community Council (378)
Rancho Bernardo Community Council, Inc. (398)
Rancho Penasquitos Town Council (383)
United Border Community Town Council (434)
San Dieguito Planning Group (412)
Murphy Canyon Community Council (463)

*Community Associations/Committees *(Public Notice Only)*

North Park Community Association (366)
Normal Heights Community Center (293)
Normal Heights Community Association (292)
La Jollans for Responsible Planning (282)
Mission Hills Association (327)
La Jolla Shores Association (272)
Southeastern San Diego Development Committee (449)
Arroyo Sorrento Homeowners Association (356)
Burlingame Homeowners Association (364)
Crown Point Association (376)
Torrey Pines Association (379)
The San Dieguito Lagoon Committee (409)
Scripps Ranch Civic Association (440)
Torrey Pines Association (472)
Crest Canyon Citizens Advisory Committee (475)
University City Community Association (486)
Hillside Protection Association (501)
Allen Canyon Committee (504)

*Other Interested Parties *(Public Notice Only)*

San Diego Apartment Association (152)
San Diego Chamber of Commerce (157)
Building Industry Association/Federation (158)
San Diego River Park Foundation (163)
Sierra Club (165)

San Diego Natural History Museum (166)
San Diego Audubon Society (167, 167A)
California Native Plant Society (170)
Center for Biological Diversity (176)
San Diego River Conservancy (168)
Environmental Health Coalition (169)
Endangered Habitats League (182 & 182A)
Carmel Mountain Conservancy (184)
Torrey Pines Association (186)
AIA (190)
League of Women Voters (192)
Carmen Lucas (206)
Dr. Jerry Schaefer (208A)
South Coastal Information Center (210)
San Diego Historical Society (211)
San Diego Archaeological Center (212)
Save Our Heritage Organization (214)
San Diego County Archaeological Society Inc. (218)
La Jolla Historical Society (221)
Tecolote Canyon Citizens Advisory Committee (254)
Friends of Tecolote Canyon (255)
Tecolote Canyon Rim Owner's Protection Association (256)
Marian Bear Natural Park Recreation Council (267 A)
UCSD Natural Reserve System (284)
Friends of the Mission Valley Preserve (330)
Mission Trails Regional Park Citizens Advisory Committee (341)
Los Peñasquitos Canyon Preserve Citizens Advisory Committee (360)
Friends of Rose Canyon (386)
Pacific Beach Historical Society (377)
Sunset Cliffs Natural Park Recreation Council (388)
San Dieguito River Park CAC (415)
San Dieguito River Valley Conservancy (421)
RVR PARC (423)
Mission Trails Regional Park (465)
Friends of Los Peñasquitos Canyon Preserve, Inc., (313)
Tijuana River National Estuarine Reserve (229)
Tijuana's Municipal Planning Institute
San Dieguito River Park (116)
San Diego Regulatory Alert (174)
League of Conservation Voters (322)
Citizens Coordinate for Century III (324 A)
River Valley Preservation Project (334)
Friends of Adobe Falls (335)
Carmel Valley Trail Riders Coalition (351)
Carmel Mountain Conservancy (354)
Friends of San Dieguito River Valley (419)
Beeler Canyon Conservancy (436)
San Diego Board of Realtors (155)
San Diego Convention and Visitors Bureau (159)
CalPIRG (154)
San Diego Baykeeper (173)
San Diego Civic Solutions (*Canyonlands*)

Supplemental E-mail Distribution List

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The public notice was e-mailed to the City of San Diego Planning Department Housing Issues Interest List with a link to the City's website copy of the public notice and addendum.

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Attachment A: Conclusions of Final EIR No. 96-0333

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City of San Diego
Development
Services
Department



Environmental Impact Report

Land Development
Review Division
(619) 238-6460

DEP No. 96-0333
SCH No. 96061056

SUBJECT: Land Development Code. Various CITY COUNCIL actions including the ADOPTION of the proposed Land Development Code to be incorporated as Chapters 12, 13 and 14 of the Municipal Code; AMENDMENT and RE-ADOPTION of previously adopted Chapter 11; REPEAL and AMENDMENT of certain chapters of the Municipal Code, including Chapter 10 and portions of Chapters 2, 5, 6 and 9; AMENDMENT of the non-conforming use and premises regulations and renaming to "previously conforming" uses and premises; AMENDMENT of the Local Coastal Program implementing ordinances and other documents in the Local Coastal Program; ADOPTION of categorical exclusions within the Coastal Zone; MODIFICATION of existing planning and zoning support documents and ADOPTION of new support documents; AMENDMENT of zone regulations; and READOPTION of the Uniform Building Code, the National Electrical Code, the Uniform Mechanical Code and the Uniform Plumbing Code.

Applicant: City of San Diego.

CONCLUSIONS:

Subsequent to preparation of the Draft EIR and distribution of the Final EIR, revisions to the proposed Land Development Code and Land Development Manual have been made. A summary of the revisions is provided in the Preface to the Final EIR following these conclusions. In addition, several comment letters received on the Draft EIR contained accepted revisions which resulted in changes to the Final EIR text. The revision to the project and Final EIR do not include significant new information and would not result in a new significant environmental impact or a substantial increase in the severity of an environmental impact and do not include a new feasible project alternative that would lessen the environmental impacts of the project. Therefore, recirculation of the EIR is not required consistent with CEQA (Public Resources Code section 21092.1) and section 15088.5 of the State CEQA Guidelines.

The Municipal Code is an important tool for implementation of the City's Progress Guide and General Plan. Currently the planning, zoning, engineering and building regulations are located throughout Chapters 2, 5, 6, 9, 10, and 11 of the Municipal Code. The proposed Land Development Code is the location within the Municipal Code for definitions, procedures, zones, and regulations which are used in the development of property other than within the planned districts.

The Municipal Code was revised in 1991 to add Chapter 11 as Phase I of a comprehensive update. The first phase streamlined and reduced the processing

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procedures for development actions and standardized the application and noticing requirements. The current proposed project is the second phase of the comprehensive update and includes revisions and reformat of several chapters of the Municipal Code relative to the development process.

The proposed Land Development Code consolidates all development regulations into a sequence of four chapters of the Municipal Code. Technical manuals, standards and guidelines are being consolidated into a Land Development Manual. The Planned Districts have not been substantively revised as part of the proposed project and remain in Chapter 10 of the Municipal Code.

In reports to the City Council, the City Manager identified the overall goals of the Code update project:

Clarity

To write land development regulations which are easy to understand.

Objectivity:

To write land development regulations that mean the same thing to everyone.

Consistency:

To eliminate contradictions among all land development regulations.

Predictability:

To make it clear what land development regulations apply to a project and what to expect from following them.

Simplicity:

To reduce the complexity of land development regulations.

Adaptability:

To allow for tailoring of land development regulations to fit unique features of the City.

Progressiveness:

To use new ideas while retaining the best of existing land development regulations.

Integrity:

To develop a code framework which is standardized but which is flexible enough to accommodate future changes.

The proposed Code includes changes to existing citywide zones: name changes; changes to permitted uses; and changes to development regulations. There are several new zones that are created to implement existing land use policy; however these new zones would not be applied until: requested by a property owner; proposed as part of a land use plan adoption process; or proposed as part of land use plan consistency rezoning.

There are several proposed procedural changes. The revisions to use regulations include revisions to accessory use regulations. There are proposed revisions to Decision Process 2 which include making it a discretionary review and approval process. Proposed revisions to permit types include reducing the number from more than 80 to 14; variance procedures remain unchanged. The project proposes changes to the regulations for previously conforming uses and premises.

The proposed project includes changes to the development regulations as part of the zone changes. In addition, the project proposes changes to resource protection regulations; there are new Environmentally Sensitive Lands Regulations

which protect sensitive biological resources and hillsides, coastal bluffs and beaches and wetlands. The project includes proposed Historical Resource Regulations, revisions to the Parking Regulations, and revisions to the Landscape regulations.

This EIR analyzes the potential effects to existing on-the-ground conditions if the proposed project were to be implemented. The analysis does not include a comparison between the existing regulations and the effects of implementation of the proposed regulations (plan-to-plan analysis). Descriptions of the existing regulations are included in both Chapter II, Environmental Setting, and Chapter III, Project Description of the attached EIR.

Natural Communities Conservation Plan

On March 25, 1993, the U.S. Fish & Wildlife Service listed the California gnatcatcher as a threatened species under the federal Endangered Species Act (ESA). On December 10, 1993, the federal ESA Section 4(d) rule became effective, affecting projects at all stages of the development process. Where future projects include take of California gnatcatcher and/or its habitat, a permit will be required: either from the USFWS (pursuant to ESA section 7 or 10(a)), or from the City (pursuant to ESA section 4(d)). The Section 4(d) permit process is tied to the state's Natural Communities Conservation Program (NCCP).

The City is enrolled as a participating agency in the state's NCCP, which requires tracking of impacts on coastal sage scrub habitat. (The City's Multiple Species Conservation Program has been accepted by the state as an equivalent to the NCCP.) The NCCP allows the City to approve the loss of up to five percent of existing coastal sage scrub habitat. Approval must also comply with the state NCCP Process Guidelines, which require findings relative to the affect on regional preserve planning, and require that mitigation be adopted. The NCCP Conservation Guidelines have indicated that a five percent loss of coastal sage scrub habitat is acceptable within any individual subregion during the preparation of a subregional NCCP or its equivalent (e.g. MSCP Subarea Plan). Within the City of San Diego, the five percent cumulative loss allowed is 1186 acres of coastal sage scrub.

Total loss allowed:	1186.00 acres
Cumulative actual loss to date:	488.85 acres
Loss due to this project:	0.00 acres
Total cumulative loss:	488.85 acres
Remaining loss allowed:	697.15 acres

Note: Planned loss to date (i.e. approved projects for which grading permits have not yet been obtained) is 530.57 acres.

Approval of the proposed project does not constitute approval of an actual specific development project whereby there would be known loss of coastal sage scrub. Future development in accordance with the proposed regulations would require a permit, either through the City or through the USFWS if loss of coastal sage scrub would result from the proposed activities.

Multiple Species Conservation Program

The Draft Multiple Species Conservation Program (MSCP) is a comprehensive habitat conservation planning program which addresses the habitat needs for 87 covered species and the preservation of natural communities for a 900-square mile area in southwestern San Diego County. The proposed preserve system would replace the currently fragmented, project-by-project biological mitigation areas, which by themselves do not contribute adequately to the continued existence of sensitive species or the maintenance of natural biodiversity. The program creates a process for the issuance of federal and state permits and other authorizations according to the state and federal Endangered Species Acts and the NCCP Act of 1991.

Several of the elements of the proposed project are designed to implement the MSCP. The Environmentally Sensitive Lands Regulations, the Biology Guidelines, and the OR-1-2 zone contain regulations for the protection of sensitive biological resources as identified in the City's Subarea Plan for the MSCP.

The issue of the proposal's effect on long-term conservation of biological resources is analyzed in terms of meeting the goals and objectives of the Multiple Species Conservation Program. Thus, only target species are considered with regard to long-term adverse effects on conservation. This EIR provides no independent analysis whether the design of the MSCP preserve will achieve long-term conservation. The analysis of that issue is provided in the EIR for the MSCP. This EIR uses as a baseline assumption the conclusion of the MSCP EIR that the preserve design and the associated implementation program is adequate for long-term conservation of the covered species. Thus there are two parts of the analysis in this EIR with regard to long-term conservation of biological resources: (1) whether the proposed project adequately achieves the goals and objectives of the MSCP for long-term conservation of covered species and (2) how non-covered species will be affected by the proposed regulations.

Alternatives

There are four alternatives analyzed in the EIR. Alternative 1 is the No Project alternative. Alternatives 2 and 3 concern resource protection regulations and Alternative 4 describes language alternative to the proposed regulations, which, if adopted would avoid or lessen impacts of the proposed project. Therefore, Alternative 4 is environmentally superior to the proposed project. The project alternatives are described more fully below and in Chapter VIII of the EIR.

SIGNIFICANT IMPACTS

Implementation of the proposed Land Development Code would result in unavoidable impacts: those effects which would result from implementation of a project as proposed in spite of the best efforts to minimize environmental effects. Since the proposed project is limited to ordinance language, guidelines and standards, there are no conditions of approval upon which to attach mitigation measures. The only way to avoid the potentially significant effects, as identified in the attached EIR, is through the adoption of one or more alternatives. The following have been identified as potentially significant effects of implementation of the proposed project.

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Land Use: inconsistency with environmental goals of adopted land use plans relative to the protection of important and sensitive resources; loss of important agricultural land and mineral resources due to regulations for implementation of the Multiple Species Conservation Program preserve.

Biological Resources: lack of wetland buffer regulations; potentially significant losses of populations of species not covered by the MSCP preserve design and the City's Subarea Plan; potential preclusion of adequate wildlife corridors for species not covered by the MSCP preserve design and the City's Subarea Plan.

Landform Alteration: loss of existing natural landforms, which are considered sensitive resources, through future grading consistent with the regulations of the proposed Code.

Historical Resources: loss of archaeological resources and historical buildings, structures, objects and landscapes consistent with regulations of the proposed Code.

Paleontological Resources: the proposed regulatory scheme does not provide for detection, investigation, collection or preservation of paleontological resources; therefore, there could be a significant loss of resources where projects are not subject to environmental review.

Human Health and Public Safety: potential impacts related to mosquito-borne diseases as mosquito breeding may increase due to drainage/sediment control structures required by the proposed regulations.

In addition to the effects directly attributable the project (project-specific impacts), the project would result in effects on an incremental basis, which when added to other past, present, and reasonably foreseeable future projects would be cumulatively significant. The following are effects of the project which would incrementally contribute to an impact that would, in combination with other effects, be cumulatively significant.

Soils/Erosion Hazard: New development anticipated to occur in accordance with the proposed project would result in increased erosion from exposed soil areas; the resulting sediment ultimately affects downstream wetland and lagoon areas.

Air Quality: There would be new development in accordance with the proposed regulations which would result in increased emissions from traffic and commercial and industrial activities.

Hydrology/ Water Quality: The proposed regulations do not include provisions to control volume or pollutant tolerance levels of runoff from urban areas. With a greater amount of impervious area, there is increased runoff and increased volume of pollutants carried by the runoff.

Biological Resources: There would be losses of species currently identified as sensitive, as well as loss of populations not currently identified as sensitive;

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increased pressure to develop outside the MSCP preserve would have cumulatively significant effects on biodiversity and population levels.

Land Use: With development pressure shifted to areas not within the MSCP preserve, there may be increased urbanization or intensification of land use not presently subject to these kinds of development pressures. This pressure could result in potentially significant secondary and cumulative impacts on historical, biological and landform resources.

Transportation/Circulation: New development in accordance with the proposed regulations would increase traffic volumes in the City; the incremental increases in traffic as a result of future projects would be cumulatively significant.

Landform Alteration: The proposed regulations would result in loss of landforms including hillsides; the incremental loss of these unique landscape features would be cumulatively significant.

Historical Resources: Development pressure from implementation of biological conservation programs may result in development of areas with significant historical resources that may otherwise have been left undisturbed; the incremental losses of historical resources would be cumulatively significant.

Paleontological Resources: Since the proposed project contains no regulations to protect paleontological resources, fossil resources would only be detected and researched when development projects are subject to environmental review. There would be incremental losses of fossil resources both because there are no regulatory protections, and due to development that is likely to occur in accordance with the proposed regulations.

ALTERNATIVES FOR SIGNIFICANT IMPACTS:

There are four project alternatives that would avoid or lessen the significant impacts identified above. These alternatives are described in greater detail in Chapter VIII of the attached EIR.

1. No Project

According to this alternative, the City Council could reject in full the proposed Land Development Code and not take the associated actions. This alternative would result in a continuation of existing zoning and regulations.

If this alternative is adopted, the goals of the zoning code update project would not be met. The proposed changes to the Code which would make it easier to understand and use would not be effected and the benefit of a more uniform organization of regulations would not be realized.

2. Alternative Biological Resource Protection

According to this alternative, the specific elements of the proposed project which would implement the Draft MSCP would not be adopted; however, all the other elements of the proposed resource protection regulations would be retained and adopted. That is, the following proposed regulations would remain: the hillside regulations; the landscaping regulations; the historical resource regulations; regulations for development in floodplains and sensitive coastal resource areas;

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and coastal beaches and bluffs regulations. As proposed, the protection for wetland buffers would be eliminated.

This alternative includes elimination of the distinction between lands within the MSCP preserve and outside the preserve boundary. This alternative would most closely approximate the biological resource protection regulations that exist currently. Protection of sensitive biological resources would be achieved by applying citywide biological resource protections that are proposed to apply only in the MSCP preserve.

Adoption of this alternative would mean that the MSCP would not be implemented. Protection of biological resources would continue to be effected in a piecemeal fashion, rather than being directed toward a large contiguous landholding as a preserve.

3. Retain Existing Resource Protection Regulations

With this alternative, all of the proposed resource regulations would be rejected, including the Environmentally Sensitive Lands Regulations, the Historical Resource Regulations, the CR-1-2 Zone, and portions of the Biological Guidelines. The existing regulations would be retained, including Resource Protection Ordinance, the Sensitive Coastal Resource Overlay Zone, and the Hillside Review Overlay Zone. The protection of wetland buffers would be retained.

This alternative would avoid impacts to sensitive biological, hillside and historical resources that would occur with implementation of the proposed project.

4. Alternative Language for Specific Sections of the Proposed Project

Since the project is primarily changes to ordinances, guidelines and standards, there are no conditions of approval upon which to attach mitigation measures. Thus, avoidance of significant impacts of the proposed regulatory scheme can be achieved by revising the regulatory language such that significant effects would not result. This alternative provides, in concept, regulatory language that would avoid the impacts in the areas of paleontological resources, historical resources, biological resources (wetlands and wetland buffers), and human health/public safety.

Unless project alternatives are adopted, project approval will require the decision-maker to make Findings, substantiated in the record, which state that: a) project alternatives are infeasible, and b) the overall project is acceptable despite significant impacts because of specific overriding considerations.

Lawrence C. Monserrate
Lawrence C. Monserrate
Principal Planner
Development Services Department

December 6, 1996
Date of Draft Report

April 8, 1997
Date of Final Report

Analyst: Baker

September 12, 1997
Date of Revised Final Report

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PUBLIC REVIEW:

The following individuals, organizations, and agencies received a copy or notice of the draft EIR and were invited to comment on its accuracy and sufficiency:

City of San Diego

Mayor Susan Golding (MS 11A)
Councilmember Mathis, District 1 (MS 10A)
Councilmember Wear, District 2
Councilmember Kehoe, District 3
Councilmember Stevens, District 4
Councilmember Warden, District 5
Councilmember Stallings, District 6
Councilmember McCarty, District 7
Councilmember Vargas, District 8
Community and Neighborhood Services Bus. Ctr. - Setsy McCoullough (MS 4A)
Community and Neighborhood Services Bus. Ctr. - Nancy Acevedo (MS 37)
Public Works Bus. Ctr. - Frank Belock (MS 9B)
Public Works Bus. Ctr. - Richard Hayes (MS 1102-A)
Public Works Bus. Ctr. - Mike Steffen (MS 51A)
Community & Economic Development - Kurt Chilcott (MS 9A)
Park & Recreation - Marcia McLatchy (MS 9A)
Assistant City Manager - Penelope Culbreth-Graft (MS 9A)
Deputy City Attorney Prescilla Dugard (MS 59)
Development Services - Tina Christiansen (MS 9A)
Wetlands Advisory Board - Robin Stribley (MS 37C)
Public Works Bus. Ctr. - Cruz Gonzales (MS 9B)
Public Works Bus. Ctr. - Susan Hamilton (MS 905)

Federal Agencies

SW Division, Naval Facilities Engineering Command (12)
NAS Miramar (14)
USMC - Col. Pender, Marine Air Base, El Toro
Army Corps of Engineers (26)
Border Patrol, William Pink (22)
Fish and Wildlife Service (23)
Department of Agriculture (25)
Bureau of Land Management, 6221 Box Springs Boulevard, Riverside, CA 92507
EPA Region 9
Marc Ebbib, Dept. Interior, Asst. to Secretary
600 Harrison Street #545, San Francisco, CA 94107

Vicki Kingslien, Director, Resource Management Division,
425 "I" Street NW #2060, Washington D.C. 20536
Tom Stahl, Asst. U.S. Attorney, 880 Front Street #6293, San Diego 92101
Pete Stine, National Biological Survey, 1920 20th Street
Sacramento, CA 95514
Lynn Cox, Office of the Solicitor, Dept. Interior, 2800 Cottage Way #2753
Sacramento, CA 95628

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State of California

California Coastal Commission (47, 48)
State Clearinghouse (46)
CALTRANS (31)
Fish and Game (32)
Park and Recreation (40)
Regional Water Quality Control Board (44)
Native American Heritage Commission (56)
Department of Conservation (61)
Lands Commission (62)
Forestry
Office of Historic Preservation

County of San Diego

Board of Supervisors, Chair, 1700 Pacific Highway, San Diego 92101
DPLU- Tom Oberbauer (MS-065)
Public Works - Tom Garibay (MS 0336)
Parks and Recreation - Mike Kemp (MS -065)
Agriculture (MS -01)
Environmental Services Unit - Anna Noah (MS -0385)
County Health Department

Cities

Chula Vista (94)
Del Mar (96)
El Cajon (98)
Escondido (98)
Imperial Beach (99)
La Mesa (100)
Lemon Grove (101)
National City (102)
Poway (103)
Santee (104)
Solana Beach (105)
Carlsbad, 1200 Carlsbad Village, 92008
Encinitas, 505 S. Vulcan, 92024
Oceanside, 300 N. Hill St. 92054
San Marcos, 1 Civic Ctr. Dr., 92-69
Vista, P.O. Box 1988, 92085
Coronado (95)

The Public Notice and/or Draft EIR is also distributed to the:

MSCP Working Group
Zoning Code Update Citizens' Advisory Committee
Zoning Code Update Mailing List
Recognized Community Planning Groups
Main and Branch City Libraries

Other Interested Parties

County Water Authority (73)
San Diego Association of Governments (108)
San Diego Gas & Electric (114)

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San Dieguito River Park JPA (116)
UCSD Library (134)
Sierra Club (165)
S. D. Natural History Museum (166)
San Diego Audubon Society (167)
California Native Plant Society (170)
Ellen Bauder (175)
SW Center for Biological Diversity (176)
Citizens Coordinate for Century III (179)
Endangered Habitats League (182)
San Diego Historical Society (211)
San Diego Museum of Man (212)
Save Our Heritage Organization (214)
San Diego County Archaeological Society (218)
California Indian Legal Services (225)
San Diego City Schools, Mel Roop, 4100 Normal St., San Diego, CA 92103
Opal Trueblood, 13014 Caminito del Rocío, Del Mar, CA 92014
La Jolla Town Council, 1055 Wall Street, Suite 110, La Jolla, CA 92036

Copies of the draft EIR, the Mitigation Monitoring and Reporting Program and any technical appendices may be reviewed in the office of the Land Development Review Division, or purchased for the cost of reproduction.

RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but the comments do not address the accuracy or completeness of the environmental report. No response is necessary and the letters are attached at the end of the EIR.
- (X) Comments addressing the accuracy or completeness of the EIR were received during the public input period. The letters and responses follow.

PREFACE TO THE FINAL EIR FOR THE PROPOSED
LAND DEVELOPMENT CODE AND ASSOCIATED ACTIONS

Subsequent to preparation of the Draft EIR and distribution of the Final EIR, revisions to the proposed Land Development Code and Land Development Manual have been made. Strikeout/redline versions of the revised Code and Manual were prepared in April 1997 and the Final EIR was prepared based on those versions. The Final EIR, including a Preface describing the changes in the proposed project, was distributed in April 1997. Additional changes in the project have been made since that time as a result of public comments and direction from the Planning Commission and City Council Committee on Land Use and Housing. New strikeout/redline versions of the Land Development Code and Manual have been prepared (dated September 1997) and are available for public review. This Preface has been revised to describe all of the changes made to the project since preparation of the Draft EIR in December 1996. In addition, several comment letters on the Draft EIR contained acceptable revisions which resulted in changes in the Final EIR. The Responses to Comments indicate where revisions have been made. The Final EIR reflects revisions made in response to public comment and changes in the project. Major changes to the EIR and in the project are summarized below. The revisions to the project and Final EIR do not constitute significant new information and recirculation of the EIR is not required.

FINAL EIR

- The Biological Resources analysis was revised to delete the discussion regarding Biological Survey Reports. It was determined, subsequent to preparation of the Draft EIR, that the requirements for Biological Survey Reports would not have a significant impact on biological resources.
- Alternative 4 was expanded to include more specifics with regard to alternative regulatory language which, if adopted, would avoid or reduce the significant impacts identified with the proposed project language. The Final EIR includes greater detail on alternative language in the areas of biological resources, brush management, and landform alteration. The Final EIR does not include alternative language relating to marine industrial uses because the regulations were revised since preparation of the Draft EIR.

LAND DEVELOPMENT CODE

Chapter 11

- The Board of Zoning Appeals would consider general relief variances but would not consider Process Two appeals. The Historical Resources Board has the authority to identify specific areas that would be exempt from the requirement for a historical resources survey.
- Diagram 112-05A (Decision Processes With Notices) has been revised to reflect that community planning groups receive notice, to reformat the key for clarification, and to delete the State Coastal Commission processes. The Planning Commission would hear Process Two appeals rather than the Board of Zoning Appeals.
- Various defined terms have been added, deleted, and modified. The term Archaeological Site has been deleted. The definition of Coastal Bluff Edge has been modified to be more consistent

with the existing Municipal Code by including reference to changing downward gradient. The terms Designated Historical Resource, Historical Building, Historical District, Historical Landscape, Historical Object, Historical Structure, and Important Archaeological Site have been modified for clarity and to be consistent with the revised Historical Resources Regulations. MHPA has been added as a defined term to replace MSCP Preserve and means the multiple habitat planning areas as identified by the City of San Diego MSCP Subarea Plan. The MHPA includes areas to be preserved and areas where development may occur. MSCP Preserve was deleted as a defined term. MSCP Subarea Plan was added to describe the plan. The Sensitive Biological Resources definition was modified to delete habitat of species of special concern and California fully protected species. The term Significant Archaeological Site has been deleted. SRO Hotel Room was revised so that it may not contain a kitchen and may have shared sanitary facilities. The Wetlands definition has been revised to reflect agreements made in development of the MSCP and to add wetlands depicted on Map C-713 (coastal wetlands) to the definition.

- Various Rules for Calculation and Measurement have been modified. Bluff rounding and erosional processes were added in determining the coastal bluff edge which is consistent with the existing Municipal Code. In determining existing grade, added grade that existed on March 4, 1972 will be considered existing grade, when a premises is disturbed. The grading proposed with a tentative map will be used as existing grade when the map is approved. In determining proposed grade, the highest floor of a multi-floor basement will be used. Limitations were added to the calculation of gross floor area for enclosed space built over open, at-grade space. Clarification of regulations for measuring structure height when a basement is proposed.

Chapter 12

- Language was added to specify that a Historical Resources Board designation decision may be appealed by an applicant or interested person.
- Revisions to Neighborhood Use, Conditional Use, Neighborhood Development and Site Development procedures and permit thresholds to be consistent with changes in Chapters 13 and 14 were made. Findings for Neighborhood Use, Neighborhood Development, and Site Development permits were modified so that granting of the permit would not adversely affect the applicable land use plan. The CUP regulations were modified so that the decision maker cannot allow less restrictive regulations except through a variance process. A finding for environmentally sensitive lands was added which requires consistency with the MSCP Subarea Plan. Findings for alternative compliance for steep hillside development area regulations were added. A new finding was added for those developments that are requesting deviations as part of the Planned Development Permit. Thresholds and findings for disturbance of Class II historical resources have been deleted. The remaining supplemental findings for historical resources were revised to be consistent with revised regulations.
- Categorical Exclusions from a Coastal Development permit were deleted. An exemption was added for demolition and alteration of a structure within the coastal zone if it is not a historical resource. An exemption was added for single dwelling unit development in the coastal zone if it does not exceed 80 percent of the allowable floor area ratio and height. The decision process for Coastal Development permits was changed to Process Two in the non-appealable area and remains a Process Three in the appealable area.

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- Language was added to clarify the loss of previously conforming rights when a premises or use is brought into conformance. References to previously conforming parking and landscape regulations that are contained in Chapter 14 were added. Regulations were revised so that a previously conforming use cannot change to a use that is separately regulated.

Chapter 13

- Revisions were made to the use categories and subcategories for base zones and minor revisions were made to the use regulations tables. Amusement parks were deleted as separately regulated uses and only larger outdoor facilities are included in the scope of privately operated recreation facilities. Clarifications were made to the mobile home park, multiple dwelling unit, and single dwelling unit use subcategories to better link the definition to the lot or premises. Repair, distribution and assembly were deleted from the retail sales use category. Photographic services was added to the business support use subcategory. New commercial services subcategories were added for funeral and mortuary services and radio and television studios. The public assembly and entertainment subcategory was revised for clarity. The light manufacturing subcategory was revised to exclude any uses that utilize explosive, petroleum, or radioactive materials.
- Child care centers and private recreational facilities were added as conditional uses in the OP-1-1 zone and park maintenance facilities were added as permitted uses in the OP-2-1 zone. Minor telecommunication facilities are a limited use in those zones where they are allowed. The purpose of the OR zones was clarified. Golf course driving ranges are limited within the MHPA. Revisions to the regulations for development area were made to clarify that all of the area outside of the MHPA can be developed unless otherwise limited. Clarifications were added explaining when the additional 5 percent development area may be utilized.
- *Interpretive centers were added as a permitted use in the AG zones and energy generation and distribution facilities were added as a conditional use in the AR zones. Minor telecommunication facilities are a limited use in the AG, AR and all residential zones. Privately operated outdoor recreation facilities were added as a separately regulated use requiring a CUP in the AR zones. Housing for senior citizens and exhibit halls and convention facilities were deleted as a separately regulated use in the AR zones.*
- The maximum floor area ratio was increased from 0.30 to 0.35 in the RE-1-3 zone and in other RE zones when the setbacks are increased. Allowable structure height was increased from 30 feet to 35 feet and the exclusion of up to 400 square feet of garage area in the calculation of floor area ratio was added in the RS-1-8 through RS-1-14 and RT zones. The standard and minimum setback requirements were reduced for narrow lots.
- Development regulations for parking lot orientation were clarified. Many uses that were previously shown as permitted or conditionally permitted are no longer permitted when they are not consistent with other uses allowed in the particular zone or may now require a conditional use permit. Marine industry was deleted as a permitted use in the CR, CV and CC-5 zones. Funeral and mortuary services and radio and television studios have been added as permitted uses in all CR, CC, IL-2-1, IL-3-1, and IH-2-1 zones.

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- Radio and television studios have been added as permitted uses in all industrial zones except the IP-1-1 and IH-1-1 zones. Sports arenas and stadiums have been added as conditional uses in the IP-2-1, IL-2-1, IL-3-1, and IH-2-1 zones. Regional and corporate headquarters are allowed in the IH-2-1 zone consistent with the existing Municipal Code (i.e., one per parcel). Camping parks have been deleted as a conditional use from all industrial zones. Impound storage yards have been revised from a conditional use to a permitted use in the IL-2-1, IL-3-1, and IS-1-1 zones and deleted from the IP-1-1 and IP-2-1 zones. Marine industry and marine related uses have been added as a permitted use in the IL-2-1 zone.

Chapter 14

- Parking standards for uses not covered in the Parking Regulations were added. Employee housing and communication antenna regulations were revised. Regulations prohibiting companion units when the vacancy rate exceeds 5 percent and within the Coastal Zone and the agricultural zones of the FUA were added. Revised restrictions on uses within the FUA to be consistent with the existing Municipal Code. Deleted amusement parks as a separately regulated use; it will be permitted under the subcategory of privately operated recreation facilities over 40,000 square feet. The decision process for automobile service stations was changed from Process Two to Process Three. Processing and packaging of plant and animal products was moved from agricultural use category to industrial use category.
- The applicability table for Landscape Regulations was clarified. The plant point schedule increased and plant material, irrigation, and area requirements were clarified. Yard planting area and point requirements were revised to include the existing Municipal Code planting point reduction. Overall plant point requirements were reduced. Revegetation requirements were revised to reflect requirements from the Landscape Technical Manual. Minor clarifications to brush management and water conservation requirements were added.
- Text was added to clarify parking requirements for previously conforming premises and to provide for a Neighborhood Development permit for uses that have been discontinued for more than two years. Parking requirements were added for transitional housing, botanical gardens, exhibit halls, convention facilities, funeral parlors and mortuaries, and vehicle sales and rentals.
- The threshold for development area regulations on steep hillsides for single dwelling unit lots was reduced to 15,000 square feet. The Site Development Permit exemption for interior or exterior modifications was revised to require a 40-foot setback from the coastal bluff edge for any second-plus story addition to a structure on a sensitive coastal bluff. Site Development Permit exemptions were added for zone two brush management and minor improvements for existing structures on steep hillsides, consistent with the existing Municipal Code. A Site Development Permit exemption was added for habitat restoration projects. The development area exemption for mining and extractive industries with the MHPA was deleted. An exemption from the development area limitations for sensitive biological resources for zone two brush management was added. Code enforcement regulations have been added for unlawful development in environmentally sensitive lands. Revisions were made to the emergency permit regulations to acknowledge that only authorization is necessary to impact environmentally sensitive lands in the event of an emergency and that a subsequent Site Development Permit will

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only be required if the impacts are permanent. The requirement for consultation with the wildlife agencies was revised to require that the applicant confer with the agencies. The regulations for unavoidable impacts to wetlands were revised to reference impacts associated with a deviation instead, since a deviation is the only way impacts to wetlands can be considered. Regulations requiring wetland buffers were added. Regulation that limits impacts to sensitive biological resources outside the MHPA for specified conditions was added. The requirement to avoid impacts to narrow endemic species was revised to only apply inside the MHPA. Measures for protection of narrow endemic species outside the MHPA were added and specific mitigation requirements were deleted. A regulation requiring consistency with the City of San Diego MSCP Subarea Plan was added. Regulations for grading during wildlife breeding seasons were added. A clarification was added that the setbacks from the coastal bluff edge apply to all development. Regulations requiring a visual corridor were revised. New regulations for alternative compliance for additional steep hillside encroachment were added.

- Regulations for Class II historical resources were deleted and regulations for remaining historical resources were reorganized. Minor modifications were made to the applicability text and table for clarification and consistency with revisions to regulations. Minor modifications were made to site-specific survey requirements to clarify language and allow areas to be exempted by the City Manager or Historical Resources Board. An exemption was added which provides for substantial alteration of a non-contributing structure located in a historic district. The exemption for an important archaeological site was modified to require a 100-foot setback with no discretion. Minor modifications were made to the general development regulations for clarification and to reference the Historical Resources Guidelines of the Land Development Manual. The requirement for Covenants of Easements was deleted. Regulations have been added requiring approval of new development on a premises when a deviation for demolition or removal of designated historical building or structure has been granted.
- A Neighborhood Development Permit was added to the regulations applicability table for previously conforming parking for a discontinued use. In the regulations applicability table, the Site Development Permits for the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, and the Clairemont Mesa Height Limit Overlay Zone were corrected to indicate a Process Three rather than a Process Five decision.
- The title and applicability of the general development regulations for Planned Development Permits (Section 143.0410) were revised so that they do not apply to those Planned Development Permits within Land Use Plans that require the permit in conjunction with another discretionary action. If deviations from any base zone development regulations are proposed, a requirement for compliance with the general development regulations was added; deviations to residential density are not permitted. Some of the regulations in the general development regulations section were revised to state that they "should" be complied with, rather than "shall" be complied with, in order to provide flexibility in how a development can achieve compliance. The maximum permitted building coverage for residential projects was increased to 60 percent. Open space requirements were revised or deleted. Other minor revisions for clarification were made to other Planned Development Permit regulations.
- The purpose and applicability of the SRO hotel regulations was revised to include rehabilitation of existing SRO hotels and rooms. The housing replacement requirement for new SRO hotel

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rooms to contain a sink and screened toilet was deleted in favor of revisions to the definition of SRO hotel room. Other minor revisions for clarification were made to other SRO hotel regulations.

LAND DEVELOPMENT MANUAL

Biology Guidelines

- The Development Regulations for development in the MHPA were revised to incorporate the special conditions of coverage including impact avoidance areas within specified distances of nesting sites of certain raptors, known locations of southwestern pond turtles, and occupied burrowing owl burrows. Regulations were added for protection of narrow endemic species outside the MHPA. Regulations were added for wetland buffers and the definition of wetlands was revised. Restrictions were added with regard to grading activities during the breeding seasons of several bird species as identified by the conditions of coverage.
- The procedures for impact analysis and mitigation were modified to clarify that a biological survey report is required for all proposed development subject to the ESL regulations or where a CEQA initial study has resulted in the determination that there may be a significant impact on biological resources considered sensitive pursuant to CEQA. Further, the guidelines were revised to clarify that the survey report must identify impacts to Sensitive Biological Resources and to other significant biological resources as determined pursuant to the CEQA process. The guidelines were revised to state that mitigation may be required for sensitive species not covered by the MSCP, pursuant to CEQA.

Coastal Bluffs and Beaches Guidelines

- The Guidelines were revised to reflect the revisions made to the definitions of coastal bluff edge and reference to the geology and rounding of the bluff edge was added to the explanation of this definition. The explanation of the definition of coastal bluff face was revised to include reference to a rounded bluff edge. New diagrams were added for the definitions of coastal bluff edge and coastal bluff face. The description of the bluff edge setback regulations were revised to clarify that the basic 40-foot setback is a minimum and that a setback of more than 40 feet could be required. A statement was added that the rate of retreat of the bluff shall be considered in determining the bluff stability. A statement was added that future erosion control measures may be precluded if a reduced bluff edge setback is utilized. The regulations for view corridors and access easements were separated. In the Bluff Measurement Guidelines section, the interpretation of the coastal bluff edge definition was deleted since this information was included in the explanation of the definitions section. A clarification of the bluff edge examples was added. The bluff edge regulations for sea caves, gullies, and coastal canyons were revised and explanations of each of these land forms was added.

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Historical Resources Guidelines

- The sections on San Diego History and Consultant Qualifications were made appendices to the Guidelines and other appendices were added. Revisions to clarify and better organize the text and incorporate public review comments were made. The Introduction and Development Review Process sections were modified to reflect the changes to the Code. Regulations for Class II historical resources were deleted. Areas to be exempted from the requirement for a site specific survey for the identification of a potential historical building or historical structure were added. Requirements for notification and consultation with the Native American Community were added. Requirements for curation of historical materials were added.

Landscape Guidelines

- Modifications to the revegetation requirements were made to be consistent with changes to the Code. Tree planting and maintenance requirements in the public right-of-way were added.

Steep Hillside Guidelines

- Clarification was added as to what is included as existing development area for a premises. The Findings and Deviations section was renamed and revised to address the revisions that were made to the Site Development Permit and alternative compliance and deviation findings. Other minor revisions were made to terms for clarification.

Article 3: Supplemental Development Regulations**Division 7: Affordable Housing Density Bonus Regulations****§143.0710 Purpose of Affordable Housing Density Bonus Regulations**

The purpose of these regulations is to provide increased residential *density* to developers who guarantee that a portion of their residential *development* will be available to *moderate income, low income, very low income, or senior households*. The regulations are intended to materially assist the housing industry in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities for *moderate income, low income, very low income, and senior households* throughout the City. It is intended that the affordable housing *density* bonus and any additional *development* incentive be available for use in all residential *development* of five or more units, using criteria and standards provided in the Progress Guide and General Plan, as defined by the San Diego Housing Commission; that requests be processed by the City of San Diego, and that they be implemented by the President and Chief Executive Officer of the San Diego Housing Commission. It is also intended that these regulations implement the provisions of California Government Code Sections 65915 through 65918.

§143.0715 When Affordable Housing Density Bonus Regulations Apply

This division applies to any residential *development*, located on land where current zoning allows for five or more pre-*density* bonus *dwelling units*, where an *applicant* proposes *density* beyond that permitted by the applicable zone in exchange for either of the following as set forth in this division:

- (a) A portion of the total *dwelling units* in the *development* being reserved for *moderate, low, or very low income* households or for senior citizens through a written agreement with the San Diego Housing Commission; or
- (b) The donation of land, in accordance with California Government Code Section 65915.

§143.0720 Density Bonus in Exchange for Affordable Housing Units

- (a) A *development* shall be entitled to a *density* bonus and incentives as described in this division, for any residential *development* for which a written agreement, and a deed of trust securing the agreement, is entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission. The agreement and deed of trust in favor of the San Diego Housing Commission are to be recorded in the Office of the Recorder of the County of San Diego as an encumbrance against the *development*.

- (b) The density bonus units authorized by this division shall be exempt from the Inclusionary Housing Regulations set forth in Chapter 14, Article 2, Division 13.
- (c) A rental affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- (1) Housing for senior citizens - The *development* consists of housing for senior citizens or qualifying residents as defined under California Civil Code Section 51.3 and 51.12, where at least 35 *dwelling units* are provided; or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Section 798.76 or 799.5.
 - (2) Affordable housing units -
 - (A) *Low income* - At least 10 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of area median income, as adjusted for assumed household size; or
 - (B) *Very low income* - At least 5 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for assumed household size.
 - (C) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
 - (3) The *dwelling units* shall remain available and affordable for a period of at least 30 years or longer as may be required by other laws.
- (d) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- (1) For-sale density bonus shall only be available to common interest *development*, as defined by California Civil Code Section 1351, where at least 10 percent of the pre-*density* bonus units in the *development* shall be initially sold and affordable to *moderate*

income households at a price that is affordable to families earning 110 percent of the area median income as adjusted or assumed household size, as determined by the San Diego Housing Commission, and where all of the *dwelling units* are offered to the public for purchase.

- (2) Prior to, or concurrent with, the sale of each *density* bonus affordable unit, the *applicant* shall require the buyer to execute and deliver a promissory note in favor of the San Diego Housing Commission so that the repayment of any initial subsidy is ensured.
- (3) Each for-sale unit shall be occupied by the initial owner at all times until the resale of the unit.
- (4) Upon the first resale of a unit the seller shall comply with all conditions regarding the sale of a unit, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).
- (5) The *affordable units* shall be *designated units*, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
- (e) The *density* bonus units shall have recorded against them a Declaration of Covenants, Conditions and Restrictions in favor of the San Diego Housing Commission that shall enjoy first lien position and shall be secured by a deed of trust that may be recorded against the project or unit, as applicable, prior to construction or permanent financing.
- (f) Provision shall be made by the San Diego Housing Commission for certification of eligible tenants and purchasers, annual certification of property owner compliance, payment of a monitoring fee to the San Diego Housing Commission, as adjusted from time to time, for monitoring of affordable unit requirements, and any other terms that the San Diego Housing Commission determines are needed to implement the provisions and intent of this division and State law.

§143.0725 Density Bonus Provisions

A *development* proposal requesting an affordable housing *density* bonus is subject to the following:

- (a) For senior citizen housing meeting the criteria of Section 143.0720(c)(1), the *density* bonus shall be 20 percent.

- (b) For *development* that includes affordable housing, pursuant to the Inclusionary Housing Regulations in Chapter 14, Article 2, Division 13, and that affordable housing is located onsite, that *development* shall be entitled to a *density* bonus, equal to the number of affordable units provided onsite, up to a maximum of 10 percent of the pre-*density* bonus units. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent.
- (c) For *development* meeting the criteria for *low income* in Section 143.0720(c)(2)(A), the *density* bonus shall be calculated as set forth in Table 143-07A. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable *floor area ratio* applicable to the *development* consistent with Section 151.0310(e).
- (d) For *development* meeting the criteria for *very low income* in Section 143.0720(c)(2)(B), the *density* bonus shall be calculated as set forth in Table 143-07B. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable floor area ratio applicable to the *development* consistent with Section 151.0310(e).
- (e) For *development* meeting the criteria for *moderate income* in Section 143.0720(d), the *density* bonus shall be calculated as set forth in Table 143-07C. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable floor area ratio applicable to the *development* consistent with Section 151.0310(e).
- (f) If the *premises* is located in two or more zones, the number of *dwelling units* permitted in the *development* is the sum of the *dwelling units* permitted in each of the zones. Within the *development*, the permitted number of *dwelling units* may be distributed without regard to the zone boundaries.
- (g) Where the *development* consists of two or more specifically identified parcels, whether contiguous or noncontiguous, the maximum number of *dwelling units* permitted on each parcel is calculated based on the area of that parcel.

- (h) Where the *development* consists of two or more noncontiguous parcels lying within two or more community planning areas, the *dwelling units* reserved at levels affordable by *moderate income*, *low income* or *very low income* households shall be distributed among community planning areas in the same proportion as the total number of *dwelling units* constructed within the *development*.

§143.0730 Density Bonus in Exchange for Donation of Land

An *applicant* for a *tentative map*, *parcel map*, or residential *development* permit, may donate and transfer land to the City for *development* with affordable housing units, in exchange for a *density* bonus, in accordance with California Government Code Section 65915.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

The City shall process an incentive requested by an *applicant*, consistent with State law and as set forth in this Section.

- (a) The applicant shall demonstrate that the incentive is necessary to make the housing units economically feasible.
- (b) An incentive means any of the following:
- (1) A deviation to a *development* regulation;
 - (2) Approval of mixed use zoning in conjunction with a residential *development* provided that the commercial, office, or industrial uses:
 - (A) Reduce the cost of the residential *development*; and
 - (B) Are compatible with the proposed residential *development*; and
 - (C) Are compatible with existing or planned *development* in the area where the proposed residential *development* will be located.
 - (3) Any other incentive proposed by the applicant, other than those identified in Section 143.0740(c), that results in identifiable, financially sufficient, actual cost reductions.
- (c) Items not considered incentives by the City of San Diego include, but are not limited to the following:
- (1) A waiver of a required permit;

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- (2) A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5);
 - (3) A waiver of fees or dedication requirements;
 - (4) A direct financial incentive;
 - (5) A deviation from the requirements of the City of San Diego Building Regulations.
- (d) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(c)(2) or 143.0720(d) shall be processed according to the following:
- (1) Upon an *applicant's* request, *development* meeting the applicable requirements of Sections 143.0720 and 143.0725 shall be entitled to incentives pursuant to Section 143.0740 unless the City makes a written finding of denial based upon substantial evidence, of either of the following:
 - (A) The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053.
 - (B) The incentive would have a specific adverse impact upon health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the *development* unaffordable to *low* and *moderate income* households.
 - (2) Granting an incentive shall not require a General Plan amendment, zoning change, or other discretionary approval.
 - (3) The decision process for a *development* requesting an incentive shall be the same decision process that would be required if the incentive were not a part of the project proposal.
 - (4) The *development* permit requirement for a *development* requesting an incentive shall be the same *development permit* that would be required if the incentive were not a part of the project proposal.
- (e) The number of incentives available are identified in Table 143-07A for *low income*, Table 143-07B for *very low income*, and Table 143-07C for

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moderate income consistent with the percentage of pre-density bonus units identified in column one of each table.

Table 143-07A
Low Income Density Bonus
Rental Housing

Percent <i>Low Income</i> units	Percent <i>Density Bonus</i>	Number of Incentives
10	20	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
16	29	1
17	30.5	1
18	32	1
19	33.5	1
20 – 29	35	2
≥ 30	35	3

Table 143-07B
Very Low Income Density Bonus
Rental Housing

Percent <i>Very</i> <i>Low Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5	2
11 – 14	35	2
≥ 15	35	3

**Table 143-07C
Moderate Income Density Bonus
For-Sale Housing**

Percent Moderate Income Units	Percent Density Bonus	Number of Incentives
10	20	1
11	21	1
12	22	1
13	23	1
14	24	1
15	25	1
16	26	1
17	27	1
18	28	1
19	29	1
20	30	2
21	31	2
22	32	2
23	33	2
24	34	2
25 – 29	35	2
≥ 30	35	3

- (f) Child Care Center: *Development* that meets the criteria in 143.0720 and includes a child care center as defined in Section 141.0606(a)(2) as part of, or adjacent to, such *development* shall be entitled to an additional *density* bonus or incentive provided that:
- (1) The child care center remains in operation for the greater of 30 years, or the period of time established by Section 143.0720(c)(3);
 - (2) The percentage of children from *low, very low, or moderate income* households attending the child care center is equal to or greater than the percentage of those same households required in the residential *development*;
 - (3) The additional *density* bonus or incentive requested is either:
 - (A) An additional *density* bonus in an amount equal to the amount of square feet in the child care center up to a maximum combined *density* increase of 35 percent; or

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- (B) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care center; and
- (4) The City finds, based upon substantial evidence, that the community is inadequately served by child care centers.
- (g) Parking: In addition to any other incentive, and upon the request of an *applicant* that proposes a *development* meeting the criteria of Section 143.0720(c) or (d) the City shall apply the following vehicular parking ratio, inclusive of handicapped and guest parking:
- (1) Zero to one bedroom: one onsite parking space
 - (2) Two to three bedrooms: two onsite parking spaces
 - (3) Four and more bedrooms: two and one-quarter parking spaces
 - (4) Additional reductions to the parking ratios shall be granted for projects within a *transit area*, and for *very low income* households as follows:
 - (i) *Development* that is at least partially within a *transit area* as described in Chapter 13, Article 2, Division 10 (Transit Area Overlay Zone) or that is subject to Chapter 13, Article 2, Division 11 (Urban Village Overlay Zone), shall receive a 0.25 space per *dwelling unit* reduction in the parking ratio for the entire *development*.
 - (ii) *Development* that includes *dwelling units* limited to occupancy by *very low income* households shall receive a 0.25 space reduction in the parking ratio for each *dwelling unit* that is limited to occupancy by a *very low income* household.
 - (iii) *Development* that includes *dwelling units* limited to occupancy by *very low income* households, and is at least partially within a *transit area*, shall receive the combined reductions in sections 143.0740(d)(4)(i) and (ii).
 - (5) For purposes of this division, a *development* may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking or parking within a required front yard setback.

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§143.0750 Development in the Coastal Overlay Zone

- (a) *Development* within the Coastal Overlay Zone that proposes to use the regulations of this division shall be subject to the applicable certified land use plan and implementing ordinances, including a Coastal Development Permit (Chapter 12, Article 6, Division 7), as described in Chapter 13, Article 2, Division 4.
- (b) The City may consider deviations from the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1 when requested by an *applicant* as an incentive for providing affordable housing consistent with this division, provided that the supplemental *findings* in Section 126.0708(b)(2) can be made.

126.0708 Findings for Coastal Development Permit Approval

An application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are applicable to the proposed *development*.

- (a) [no change]
- (b) Supplemental Findings - Environmentally Sensitive Lands Within the Coastal Overlay Zone
 - (1) When a deviation is requested from the Environmentally Sensitive Lands Regulations because the *applicant* contends that application of the regulations would result in denial of all economically viable use, the following shall apply:
 - (A) Any *development permit* in the Coastal Overlay Zone, required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested in accordance with Section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* and the supplemental *findings* for deviations from the Environmentally Sensitive Lands Regulations in addition to the *findings* for the applicable *development permit(s)*:
 - (i) Based on the economic information provided by the *applicant*, as well as any other relevant evidence, each use provided for in the Environmentally Sensitive Lands Regulations would not provide any economically viable use of the *applicant's* property;
 - (ii) Application of the Environmentally Sensitive Lands Regulations would interfere with the *applicant's* reasonable investment-backed expectations;
 - (iii) The use proposed by the *applicant* is consistent with the applicable zoning;
 - (iv) The use and project design, siting, and size are the minimum necessary to provide the *applicant* with an economically viable use of the *premises*; and
 - (v) The project is the least environmentally damaging alternative and is consistent with all provisions of

the certified Local Coastal Program with the exception of the provision for which the deviation is requested.

- (B) The Coastal Development Permit shall include a determination of economically viable use.
 - (C) The public hearing on the Coastal Development Permit shall address the economically viable use determination.
 - (D) The *findings* adopted by the decision making authority shall identify the evidence supporting the *findings*.
- (2) A deviation from the Environmentally Sensitive Lands Regulations when requested as an incentive for providing affordable housing pursuant to the Affordable Housing Density Bonus Regulations in Chapter 14, Article 3, Division 7, may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0708(a)(1) through (4):
- (A) Feasible alternatives to the requested incentive and the effect of such alternatives on coastal resources have been considered;
 - (B) Granting the incentive or alternative will not adversely affect coastal resources.

§141.0310 Housing for Senior Citizens

Housing for senior citizens may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) [no change]
- (b) Housing for senior citizens may be permitted a *density* bonus as provided in Chapter 14, Article 3, Division 7 (Affordable Housing *Density* Bonus Regulations).
- (c) through (e) [no change]

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**Parking Ratios for Projects Utilizing
Affordable Housing Density Bonus**

Unit Size	Proposed Density Bonus ¹	Citywide Requirement for Multi-family	Difference
Studio	1.00	1.25 ²	-0.25
1 bdrm.	1.00	1.50 ²	-0.50
2 bdrms.	2.00	2.00	0
3 bdrms.	2.00	2.25	-0.25
4+ bdrms.	2.25 ³	2.25	0

¹ Additional decreases allowed in the Land Development Code for very-low income and Transit and Urban Village Overlay Zone would be in addition to these reductions. Also the state regulations require that tandem parking be permitted and counted toward meeting the ratios.

² Senior Housing (maximum 1 bedroom) – 1 space/unit, or 0.7 space/unit plus 1 space/employee at peak hours.

³ The state requirement is for 2.5 spaces; however it has been reduced to the citywide requirement of 2.25.

HEARINGS1 - Protect Propostion D!

From: <PETERIETH@aol.com>
To: <kevinfaulconer@sandiego.gov>
Date: 3/27/2007 8:13 AM
Subject: Protect Propostion D!
CC: <Hearings1@sandiego.gov>

4767 Ocean Blvd #1204
 San Diego, CA 92109
 619.813.2005
 PeteRieth@aol.com

March 27, 2007

To: Kevin Faulconer
 City Councilman, City of San Diego
 kevinfaulconer@sandiego.gov

Subject: Protect Proposition "D"
 The 30 foot Height Limit

We have lived in Pacific Beach since 1985. Proposition "D" was passed overwhelmingly by the citizens of San Diego 30 years ago. The 30-foot height limit has prevented our beautiful beach communities from becoming another overcrowded and congested Miami Beach or Honolulu.

We are deeply concerned that the passage of AB1449 by the state may result in the city allowing developers to circumvent the height limit by passage of the required implementing ordinance which includes "Option 1".

The City Council must include language in the ordinance that protects the choices of the citizens of this city to limit population density and determine our own destiny. I understand the "Option 2" may accomplish that objective.

We realize that campaign money comes from developers, but our elected officials also must realize that it is the voters of this city that actually put them in office. You must honor the mandate of Proposition "D" by including language in the ordinance that protects the rights and choices of the citizens of this city.

Violating the wishes of the residents of San Diego will most certainly result in court action and possible recalls. I will personally support any actions required to protect the rights and previous choices of the electorate.

I would appreciate hearing directly from your office regarding your position on this matter and why you are (or are not) supporting a version of the ordinance that might allow violation of

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the 30-foot height limit.

Sincerely, Joseph C. Rieth

Cc: City Clerk
Hearings1@sandiego.gov

AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.

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J.C. Rieth
4767 Ocean Blvd #1204
San Diego, CA 92109
619.813.2005
PeteRieth@aol.com
March 27, 2007

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City Councilman, City of San Diego
kevinfaulconer@sandiego.gov

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I would appreciate hearing directly from your office regarding your position on this matter and why you are (or are not) supporting a version of the ordinance that might allow violation of the 30-foot height limit.


Sincerely, Joseph C. Rieth

Cc: City Clerk
Hearings1@sandiego.gov

*We ARE adamantly opposed to high rise,
high density, low income development
along city & county coastline!*



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Date March 26, 2007

Number of pages 2 (including cover page)

To:

From:

Name City Clerk of San Diego

Name Joseph W. Joy

Company _____

Company -NA-

Telephone _____

Telephone (858) 488-5680

Fax (619) 533-4045

Comments

RE: City Council Meeting of March 27, 2007,

Subject: opposition to Mayor's Option 1 Ordinance,

March 26, 2007

000870

A meeting was held on March 15, 2007 at 4761 Cass Street in Pacific Beach regarding the roles of the City Council, Mayor and City Attorney in implementing the "State Density Bonus Law", which I attended. Please act to ensure that building height limits are protected with governmental oversight in all of Pacific Beach. I can only hope that this view is held by the majority. It is they who need the "Bonus" — the people who already live here, not those who may, nor the builders. The City has other means of increasing revenues in more up-front ways.

In 1955 I arrived in San Diego as a student at the Scripps Institution of Oceanography before it became a part of UCSD. Over time many changes have occurred, most of them positive and I consider myself lucky to have spent most of my working life here. But two negative developments, in my view, have been: the increasing number of tall structures, spoiling views and increasing traffic and the elimination of diversity both environmental and structural. Besides the many cultural and educational opportunities here, it is our area's natural beauty and diversity that brings people here and makes them want to stay, as I have. I oppose the Mayor's "Option 1 Ordinance."

Joseph W. Jay
1210 Agate Street
San Diego, CA 92109

HD000871 RINGS1 - Re: City Council Mtg, March 27,2007 on Affordable Housing Density Bonus

From: "Sylvia Boulware" <sylviagb@earthlink.net>
To: <jerrysanders@sandiego.gov>
Date: 3/25/2007 2:35 PM
Subject: Re: City Council Mtg, March 27,2007 on Affordable Housing Density Bonus
CC: <cityattorney@sandiego.gov>

March 25, 2007

Dear Mayor Sanders:

As a long-time resident of San Diego and a believer in our quality of life, I strongly urge you to protect the coastal 30' height limit that the citizens of San Diego voted for 30 yrs. ago!

San Diego must not become another LA or Miami! You must keep the 30' height safe. Keep Donald Trump out of San Diego! Protect our 30' limit! No re-zoning of city neighborhoods to double density!

The Affordable Housing Density Bonus hearing on March 27, 2007 at the City Council must address and close the loopholes in this "bonus density ordinance/law" to ensure that height limits, public process and oversight are protected. I oppose the Mayor's Option 1 Ordinance and support a Modified City Attorney's Option 2 Ordinance.

Thank you,

Sylvia Boulware
San Diego, CA

000872

HEARINGS1 HEARINGS1

From: "Tom and Susan Stuber" <tomstuber@msn.com>
To: <kevinfaulconer@sandiego.gov>
Date: 3/25/2007 9:03 AM
CC: <Hearings1@sandiego.gov>

Tom and Susan Stuber
4767 Ocean Blvd #505
San Diego, CA 92109
858-483-6619
tomstuber@hotmail.com

March 25, 2007

To: Kevin Faulconer
City Councilor,
City of San Diego
kevinfaulconer@sandiego.gov

Subject: Protect Proposition "D"
The 30 foot Height Limit

Our family has owned a condominium in Pacific Beach since 1980 and we are very concerned about the impact that AB1449 may have on the nature of our area. The beaches and their surroundings are among the great attractions of San Diego. It gives us a feeling of community that doesn't exist in cities like Miami or San Diego.

We urge you to preserve the community nature of San Diego by rejecting efforts to build high rise projects near the beaches.

Sincerely,

Tom and Susan Stuber

Cc: City Clerk
Hearings1@sandiego.gov

From: <nsuserid@turing.sannet.gov>
To: 000873 <cityclerk@sandiego.gov>
Date: 3/22/07 5:16PM
Subject: San Diego City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form
Submitted on Thursday, March 22, 2007 at 17:15:51

name: Jeanne Culkin

e-mail: robjpcp@yahoo.com

address: 5115 Castle Hills Dr

city: San Diego

state: CA

zip: 92109

source: San Diego City Council Meeting Agenda Comment Form at
<http://www.sandiego.gov/city-council/docket-comment.shtml>

agendaitem: Density Bonus Proposal March 27

comments: *Having lived in Pacific Beach for 25 years, my family, along with all of our neighbors are deeply concerned about the proposed change in Height restrictions. The Height Limit of 30 ft should be protected at all costs. Please say no to developers and DO NOT approve the amendments for "affordable housing". We will be closely monitoring your votes on item.*

REMOTE_ADDR: 75.55.176.35

HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; .NET CLR 1.0.3705; .NET CLR 1.1.4322; Media Center PC 4.0)

HEARINGS1 HEARINGS1 - AB1449

From: "Sdcondo" <r.jones4767@sbcglobal.net>
To: <kevinfaulconer@sandiego.gov>
Date: 3/22/2007 3:05:51 PM
Subject: AB1449
CC: <Hearings1@sandiego.gov>

To: Kevin Faulconer-Councilman
City of San Diego

Subject: Protect Proposition "D"
The 30 foot Height Limit

We have lived in Pacific Beach since 1988. Proposition "D" was passed overwhelmingly by the citizens of San Diego 30 years ago. The 30-foot height limit has prevented our beautiful beach communities from becoming another overcrowded and congested Miami Beach or Honolulu.

We are deeply concerned that the passage of AB1449 by the state may result in the city allowing developers to circumvent the height limit by passage of the required implementing ordinance which includes "Option 1".

The City Council must include language in the ordinance that protects the choices of the citizens of this city to limit population density and determine our own destiny. I understand the "Option 2" may accomplish that objective.

We realize that campaign money comes from developers, but our elected officials also must realize that it is the voters of this city that actually put them in office. You must honor the mandate of Proposition "D" by including language in the ordinance that protects the rights and choices of the citizens of this city.

Violating the wishes of the residents of San Diego will most certainly result in court action and possible recalls. I will personally support any actions required to protect the rights and previous choices of the electorate.

I would appreciate hearing directly from your office regarding your position on this matter and why you are (or are not) supporting a version of the ordinance that might allow violation of the 30-foot height limit.

Sincerely,

Roy & Mary Jones
4767 Ocean Blvd # 1108
San Diego, CA 92109
858-272-2965
rjonesmci@yahoo.com
March 21, 2007

000876

HEARINGS1 HEARINGS1 - Fw: Prop D- coastal community

From: "Linda McAndrew" <oshunbrz@san.rr.com>
To: <Hearings1@sandiego.gov>
Date: 3/20/2007 4:17:06 PM
Subject: Fw: Prop D- coastal community

Please see email below - for public record.
thanks.

----- Original Message -----

From: Linda McAndrew
To: Kevinfalconer@sandiego.gov
Sent: Tuesday, March 20, 2007 4:14 PM
Subject: Prop D- coastal community

Mr. Falulconer,

Please tell me, as councilman for Pacific Beach why are you not placing more emphasis on raising awareness in the community regarding the amendment to the Prop D issue?

Many members of the Pacific Beach community are unaware of the potential threat of new development exceeding the 30' height limit and the possible negative consequences.

*Why haven't you, or your staff, made an effort to notify our community on such an important issue?
Are you undermining the rights of others to participate in city decisions and community planning?*

Sincerely,
Linda McAndrew

000877
HEARINGS1 HEARINGS1 - Bonus Density Ordinance

From: "Linda Watt" <lwatt@san.rr.com>
To: <Hearings1@sandiego.gov>
Date: 3/20/2007 1:00:56 PM
Subject: Bonus Density Ordinance
CC: <jerrysanders@sandiego.gov>, <cityattorney@sandiego.gov>, <ScottPeters@sandiego.gov>, <KevinFaulconer@sandiego.gov>, <toniatkins@sandiego.gov>, <anthonyyoung@sandiego.gov>, <bmaienschein@sandiego.gov>, <donnafrye@sandiego.gov>, <jmadaffer@sandiego.gov>, <benhueso@sandiego.gov>, <Senator.Kehoe@sen.ca.gov>

I have been a resident of Pacific Beach for 45 years; I love this community. I want to preserve what we have left of it.

Please: Retain the 30' height limit; do not change the zoning to allow more units; do not change the parking requirements; and
please keep the community planning organization.

I would also like to see an alcohol ban on the beaches and boardwalk. Additionally, I will never understand the proliferation of liquor licenses in this community. The prevalence of alcohol on the beaches and in the business district has had a very negative impact on the area.

Linda Watt

000079
HEARINGS1 HEARINGS1 - Bonus density ordinance

From: "Elmer Thomsen" <thomsen5@pacbell.net>
To: <jerrysanders@sandiego.gov>
Date: 3/20/2007 12:59:17 PM
Subject: Bonus density ordinance
CC: <Hearings1@sandiego.gov>

Elmer Thomsen

5234 Vickie Drive
San Diego, CA 92109
858/488-2943
thomsen5@pacbell.net

March 20, 2007

To: Honorable Jerry Sanders
Mayor, City of San Diego
jerrysanders@sandiego.gov

Subject: Protect Proposition "D"
The 30 foot Height Limit

We have lived in Pacific Beach since 1968. Proposition "D" was passed overwhelmingly by the citizens of San Diego 30 years ago. The 30-foot height limit has prevented our beautiful beach communities from becoming another overcrowded and congested Miami Beach or Honolulu.

We are deeply concerned that the passage of AB1449 by the state may result in the city allowing developers to circumvent the height limit by passage of the required implementing ordinance which includes "Option 1".

The City Council must include language in the ordinance that protects the choices of the citizens of this city to limit population density and determine our own destiny. I understand the "Option 2" may accomplish that objective.

We realize that campaign money comes from developers, but our elected officials also must realize that it is the voters of this city that actually put them in office. You must honor the mandate of Proposition "D" by including language in the ordinance that protects the rights and choices of the citizens of this city.

Violating the wishes of the residents of San Diego will most certainly result in court action and possible recalls. I will personally support any actions required to protect the rights and previous choices of the electorate.

I would appreciate hearing directly from your office regarding your position on this matter and why you are (or are not) supporting a version of the ordinance that might allow violation of the 30-foot height limit.

Sincerely, Elmer C. Thomsen

000880

Kathryn E. Thomsen

Cc: City Clerk

Hearings1@sandiego.gov

000881

James Vavrina
4627 Ocean Blvd #216
San Diego, CA 92109-2412
zulu9000@sdccu.net
March 19, 2007

To: Honorable Jerry Saunders
Mayor, City of San Diego
jerrysaunders@sandiego.gov

Subject: Protect Proposition "D"
The 30 foot Height Limit

We have lived in Pacific Beach since 1957. Proposition "D" was passed overwhelmingly by the citizens of San Diego 30 years ago. The 30-foot height limit has prevented our beautiful beach communities from becoming another overcrowded and congested Miami Beach or Honolulu.

We are deeply concerned that the passage of AB1449 by the state may result in the city allowing developers to circumvent the height limit by passage of the required implementing ordinance which includes "Option 1".

The City Council must include language in the ordinance that protects the choices of the citizens of this city to limit population density and determine our own destiny. I understand the "Option 2" may accomplish that objective.

We realize that campaign money comes from developers, but our elected officials also must realize that it is the voters of this city that actually put them in office. You must honor the mandate of Proposition "D" by including language in the ordinance that protects the rights and choices of the citizens of this city.

Violating the wishes of the residents of San Diego will most certainly result in court action and possible recalls. I will personally support any actions required to protect the rights and previous choices of the electorate.

I would appreciate hearing directly from your office regarding your position on this matter and why you are (or are not) supporting a version of the ordinance that might allow violation of the 30-foot height limit.

Sincerely, James Vavrina

Cc: City Clerk
Hearings1@sandiego.gov

000883

Mr. & Mrs. Don Giegler
6375 Avenida Cresta
La Jolla, CA 92037
858-459-1511
d.giegler@ieee.org
March 19, 2007

To: Honorable Jerry Sanders
Mayor of San Diego
jerrysanders@sandiego.gov

Subject: Protect Proposition "D"
The 30 foot Height Limit

We have lived in La Jolla since 1961. Proposition "D" was passed overwhelmingly by the citizens of San Diego 30 years ago. The 30-foot height limit has prevented our beautiful beach communities from becoming another overcrowded and congested Miami Beach or Honolulu.

We are deeply concerned that the passage of AB1449 by the state may result in the city allowing developers to circumvent the height limit by passage of the required implementing ordinance which includes "Option 1".

The City Council must include language in the ordinance that protects the choices of the citizens of this city to limit population density and determine our own destiny. We understand the "Option 2" may accomplish that objective.

We realize that campaign money comes from developers, but our elected officials also must realize that it is the voters of this city that actually put them in office. *You must honor the mandate of Proposition "D" by including language in the ordinance that protects the rights and choices of the citizens of this city.*

Violating the wishes of the residents of San Diego will most certainly result in court action and possible recalls. We will personally support any actions required to protect the rights and previous choices of the electorate.

We would appreciate hearing directly from your office regarding your position on this matter and why you are (or are not) supporting a version of the ordinance that might allow violation of the 30-foot height limit.

Sincerely,

Don & LuAnn Giegler

Cc: City Clerk

000884

Hearings1@sandiego.gov

Mike Aguirre
cityattorney@sandiego.gov

Scott Peters
ScottPeters@sandiego.gov

000885

HEARINGS1 HEARINGS1 - Protecting Prop D - 30' Limit

From: "Gene Myers" <gene1142@sbcglobal.net>
To: <kevinfaulconer@sandiego.gov>
Date: 3/19/2007 3:44:27 PM
Subject: Protecting Prop D - 30' Limit
CC: <Hearings1@sandiego.gov>

Gene and Janice Myers
1142 Agate Street
San Diego, CA 92109
619-972-5848
E-mail gene1142@sbcglobal.net
March 19, 2007

To: Mr. Kevin Faulconer
District 2, City of San Diego
KevinFaulconer@sandiego.gov

Subject: Protect Proposition "D"
The 30 foot Height Limit

We have lived in Pacific Beach since 1960. We live in District 2. Proposition "D" was passed overwhelmingly by the citizens of San Diego 30 years ago. The 30-foot height limit has prevented our beautiful beach communities from becoming another overcrowded and congested Miami Beach or Honolulu.

We are deeply concerned that the passage of AB1449 by the state may result in the city allowing developers to circumvent the height limit by passage of the required implementing ordinance which includes "Option 1".

The City Council must include language in the ordinance that protects the choices of the citizens of this city to limit population density and determine our own destiny. I understand the "Option 2" may accomplish that objective.

We realize that campaign money comes from developers, but our elected officials also must realize that it is the voters of this city that actually put them in office. You must honor the mandate of Proposition "D" by including language in the ordinance that protects the rights and choices of the citizens of this city.

Violating the wishes of the residents of San Diego will most certainly result in court action and possible recalls. I will personally support any actions required to protect the rights and previous choices of the electorate.

I would appreciate hearing directly from your office regarding your position on this matter and why you appear to be supporting a version of the ordinance that might allow violation of the 30-foot height limit.

Sincerely, Gene and Jan Myers

000887

From: "SUZANNE ALIOTO" <windowdressinteriors@prodigy.net>
To: <hearings1@sandiego.gov>
Date: Mon, Mar 19, 2007 2:04 PM
Subject: supporting item #201

To: City council members and Mayor:

Wanted to contact you about my position on item #201

I SUPPORT THE ORIGINAL ORDINANCE (ITEM #201) AND
OPPOSE THE COMPRISE LANGUAGE (ITEM #200)

Please count my position in ristricting the height
limit in Pacific Beach.

Thank You,
Suzanne Alioto
1738 Malden St.
San Diego, Ca
92109

FROM :

FAX NO. :

5128 RM
Mar. 17 2007 04:28PM P1

000889

RECEIVED
CITY CLERK'S OFFICE

07 MAR 19 AM 8:28

SAN DIEGO, CALIF.

March 17, 2007

City Clerk
Fax No. (619)533-4045

Re: Affordable Housing Density Bonus

Dear Sir:

Accompanying this cover letter is a letter sent to our
councillady, Donna Frye, and we are faxing it to you
so that it may become a part of the public record.

Very truly yours,

Harold Lichterman

HAROLD LICHTERMAN

000890

RECEIVED
CITY CLERK'S OFFICE

07 MAR 19 AM 8:28

SAN DIEGO, CALIF.

To: Donna Frye, Councilwoman
Fax no. (619) 236-7329
From: Harold and Edith Lichterman
1157 Van Nuys St.
San Diego, CA 92109

Re: Affordable Housing Density Bonus

We endorse all views you expressed at the meeting March 15th, held at Christ Lutheran Church. We request that you vote to disallow any density bonus or change in the now existing height limitation for San Diego.

Thank you for representing us. We own and reside in the home at 1157 Van Nuys Street, San Diego, CA 92109.

Dated: March 17, 2007

Harold Lichterman
Harold Lichterman
FAX (619) 50-6362

Edith Lichterman
Edith Lichterman

HEARINGS1 HEARINGS1 - 3/23/07 Hearing re Density Bonus

From: "Jeanne Morrison" <morrisonljsd@sbcglobal.net>
To: <KevinFalconer@sandiego.gov>
Date: 3/17/2007 2:15 PM
Subject: 3/23/07 Hearing re Density Bonus
CC: <jerrysanders@sandiego.gov>, <cityattorney@sandiego.gov>, <Hearings1@sandiego.gov>

Dear Councilman Falconer:

As our councilman, I hope you are supporting the City Attorney's Option 2 Ordinance. We do not want to see the density bonus for affordable housing abused in Pacific Beach, where we have been residents for 18 years. The Mayor's option needs to be strongly opposed.

I believe that if you poll our neighborhood in North Pacific Beach, you will find the same sentiment.

Jeanne and Lee Morrison
5351 Van Nuys Ct
San Diego, CA 92109

000892

From: <vinewman@UCSD.Edu>
To: <KevinFaulconer@sandiego.gov>
Date: Sat, Mar 17, 2007 4:53 PM
Subject: Affordable Housing Density--Height Limitation Issues

Dear City Councilman Faulconer:

I am writing to urge you to close the loopholes in the "bonus density ordinance/law" to ensure that height limits, public process and oversight are protected.

Please support a modified City Attorney's Option 2 Ordinance and oppose the Mayor's Option 1 Ordinance.

I've lived in Pacific Beach for 30 years and was here during the original 30-foot height limitation public action. Do not allow all the work to insure access be undone!! The 30-foot height limitation in the coastal zone deserve your support. We San Diegans do not want our coastline bordered by structures taller than 30-feet, which would obstruct our views and access to our city beaches.

Thank you for your consideration.

Sincerely,

Vicky Newman
1133 Van Nuys Street
San Diego, CA 92109-1253

CC: <Hearings1@sandiego.gov>, <vinewman@UCSD.Edu>

000893
HEARINGS1 HEARINGS1 - Fw: Prop D 30' height limit

From: "Linda McAndrew" <oshunbrz@san.rr.com>
To: <Hearings1@sandiego.gov>
Date: 3/16/2007 4:00 PM
Subject: Fw: Prop D 30' height limit

Please file below email as public record.
thank you.

----- Original Message -----

From: Linda McAndrew
To: KevinFaulconer@sandiego.gov
Sent: Friday, March 16, 2007 3:56 PM
Subject: Prop D 30' height limit

Mr. Faulconer,

Please make certain that the option 2 ordinance includes public review protection, and proposition D- 30 foot height limit protection, and to only implement state law requirements! I am very concerned about the future of Pacific Beach, I have been a resident for over 30 years and I'm 100% against hi rise development in my community which would block ocean views, lower property values, create traffic gridlock - its problematic now, and the list goes on, and on.

Clearly, any plan that creates more density in the beach areas is an ill conceived plan and only benefits greedy developers.

I am also upset that an elected official would consider taking away "our rights" by eliminating "public review and public notice!"

Respectfully,
Linda McAndrew

000894

HEARINGS1 HEARINGS1 - Fw: Coastal protection.

From: "Linda McAndrew" <oshunbrz@san.rr.com>
To: <Hearings1@sandiego.gov>
Date: 3/16/2007 1:31 PM
Subject: Fw: Coastal protection.

----- Original Message -----

From: Linda McAndrew
To: cityattorney@sandiego.gov
Sent: Friday, March 16, 2007 12:59 PM
Subject: Coastal protection.

Mr. Aguirre,

I strongly urge you to improve your alternative option 2 ordinance, and to include public review protection, and proposition D- 30 foot height limit protection, and to only implement state law requirements!

I am very concerned about the future of Pacific Beach, I have been a resident for over 30 years and I'm 100% against hi rise development in my community which would block ocean views, lower property values, create traffic gridlock - its problematic now, and the list goes on, and on.

Clearly, any plan that creates more density in the beach areas is an ill conceived plan and only benefits greedy developers.

I am angry an elected official would consider taking away "our rights" by eliminating "public review and public notice!"

Respectfully,
Linda McAndrew

000895

HEARINGS1 HEARINGS1 - Fw: Coastal protection

From: "Linda McAndrew" <oshunbrz@san.rr.com>
To: <Hearings1@sandiego.gov>
Date: 3/16/2007 12:01 PM
Subject: Fw: Coastal protection

----- Original Message -----

From: Linda McAndrew
To: jerrysanders@sandiego.gov
Sent: Friday, March 16, 2007 11:59 AM
Subject: Coastal protection

Major Sanders,

I am speaking out against the option 1 ordinance, and strongly support a modified city Attorney's option 2 ordinance that would only implement state law requirements and have the protection for the 30 foot height limit that was overwhelmingly voted upon 30 years ago by San Diegans.

I've been a resident of Pacific Beach for over 30 years and have witnessed it's astounding growth & have experienced many inconveniences because of it, therefore, I am 100% against your approving developers to build over the 30 ft limit within my community.

Because coastal land is prime real estate it's ridiculous to build low - moderate housing in this community, this plan is primarily to benefit the developers. Any plan that creates more density in the beach areas is ill conceived, it would over load the communities fire department, police department, worsen traffic congestion and parking problems, and the list goes on.

Major Sanders are you pulling a Bush Junior on San Diegans??
I did not vote you into office to front high rise developers into my neighborhood to ruin this community, my beautiful ocean view, or quality of life, nor to take my rights away by eliminating public review and public notice!!
Shame on you!!

Sincerely,
Linda McAndrew

000896

From: <nsuserid@turing.sannet.gov>
To: <cityclerk@sandiego.gov>
Date: 2/27/07 12:27PM
Subject: San Diego City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form
Submitted on Tuesday, February 27, 2007 at 12:26:33

name: Ernestine Bonn

e-mail: uhcdc@netzero.net

address: 4452 Park Blvd., Suite 104

city: San Diego

state: CA

zip: 92116

areacode: 619

telephone: 297-3166

source: San Diego City Council Meeting Agenda Comment Form at
<http://www.sandiego.gov/city-council/docket-comment.shtml>

agendaitem: 335 - February 27, 2007

comments: Please continue this item so that Planning Groups and other interested organizations and individuals throughout the City have a chance to fully review the proposed options that will be heard today. Developers have already been provided an incentive to pay in lieu fees and almost all opted to do so in order to provide only market rate units. Developers have stated to Planning Committee members that it is difficult to sell the higher priced units when buyers know there are low income units in the project. Interpreting this State law to further the developers' interests, erode community plans, and further impact our failing infrastructure is not the way to make important land use regulations that benefit one group at the expense of another. This all smacks of a "Strong Developers' Form of Government that excludes the interests of the communities.

REMOTE_ADDR: 67.150.0.165

HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; .NET CLR 1.1.4322)

000897

From: <nsuserid@turing.sannet.gov>
To: <cityclerk@sandiego.gov>
Date: 2/26/07 5:48PM
Subject: San Diego City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form
Submitted on Monday, February 26, 2007 at 17:47:59

name: Elizabeth B Bluhm

e-mail: ebbluhm@redcapitalgroup.com

address: 655 West Broadway, Suite 800

city: San Diego

state: CA

zip: 92101

areacode: 619

telephone: 471-0111

source: San Diego City Council Meeting Agenda Comment Form at
<http://www.sandiego.gov/city-council/docket-comment.shtml>

agendaitem: Item No. 335 Meeting 2/27/07

comments: I am writing in support of the Amendments to the Affordable Housing Density Bonus Ordinance, as proposed by City staff.

My firm, Red Capital Group, is a national mortgage lender and investor in affordable and market-rate multifamily housing. A subsidiary of National City Corporation (NYSE: NCC), a bank holding company headquartered in Cleveland, Ohio, Red Capital has a local office in downtown San Diego. Red has provided over \$150,000,000 in debt and equity capital to affordable multifamily projects in the San Diego area in the past few years. In addition to heading Red's San Diego office, I serve on the Board of Directors of the California Housing Consortium, a statewide advocacy organization for affordable housing, and am a member of the San Diego Regional Chamber of Commerce Housing Committee.

As a local employer, it is clear to me that for San Diego to sustain its economic vitality, we must *create more housing affordable to low and moderate income workers. I believe that only a combination of public and private sector resources can solve our affordable housing crisis. The density bonus ordinance is a good example, providing public-sector incentives to encourage the private sector to develop and finance affordable housing. The City Council has acknowledged we have a housing crisis; here is a concrete step Council can take to begin creating more affordable units and more housing units generally.*

I urge the Council to approve the amendments as originally proposed by staff. Thank you.

Respectfully,

Elizabeth B. Bluhm
Senior Managing Director
Red Capital Group
655 West Broadway, Suite 800

000898

Request in writing to be noticed

of Coastal Commission Hearing on the issue
contained in item [#]335 on the S.D. City

Council Docket, 2pm Tues. February 27, 2007
(Re: "Affordable Housing Density Bonus" Amendments)

Attention: Dan Joyce, Senior Planner,

Development Services Dept., City of
San Diego, Calif.

1222 First Ave. MS 501

San Diego CA 92101

Please send notice by regular mail of the above
(paper copy) to me:

Kathleen Evans-Caldexwood,
City Heights Area Planning Committee PAC-rep
5186 Landis St.
San Diego, Calif. 92105

phone # (619) 283-1729

(No current email)

Thank you.

Also: I would also like to request a
Draft copy of the amendment. Thank you.
(or information on how to review it,
not requiring a computer.)

000899

BRIGGS LAW CORPORATION

San Diego Office:
5663 Balboa Avenue, No. 376
San Diego, CA 92111-2705

Telephone: 858-495-9082
Facsimile: 858-495-9138

Please respond to: Inland Empire Office

Inland Empire Office:
99 East "C" Street, Suite 111
Upland, CA 91786

Telephone: 909-949-7115
Facsimile: 909-949-7121

BLC File(s): 1196.01

27 February 2007

Members of the City Council
City of San Diego
202 C Street
San Diego, CA 92101

Re: Opposition to Today's Agenda Item-335: Housing Density Bonus Regulations

Dear City Council:

On behalf of the Affordable Housing Coalition of San Diego County, Environmental Housing Advocates, and San Diego Coastkeeper, I am writing to express opposition to the above-referenced item.

My clients' objections are as follows (with supporting evidence provided electronically on the accompanying disk):

1. The public has been misled about whether the city is preparing a subsequent environmental impact report, a supplemental environmental impact report, or an addendum to an environmental impact report. The city notified the State Clearinghouse that it was preparing a subsequent environmental impact report (*see* Ex. 1, p. 1), even though the city is relying on what purports to be a supplemental environmental impact report or an addendum to an environmental impact report. What is worse, the report isn't even clear about what sort of CEQA document it is, for it says that it was prepared "in accordance with Sections 15163 [supplement to an EIR] and 15164 [addendum to an EIR] of the State CEQA Guidelines." (*See* Ex. 2, p. 9.) Is the current environmental impact report an addendum, a supplement, or a subsequent environmental impact report?
2. Furthermore, the notice that was given to the public regarding the preparation of the supplemental (or addendum to the previous) environmental impact report is defective. By way of example and not limitation:
 - A. The notice says that it is an "Addendum to the City of Villages-Strategic Framework Element Environmental Impact Report," which is EIR no. 40-1027. Elsewhere in the notice, however, it describes the report being drafted as a "Supplement to EIR no. 96-0333, SCH no. 96081056." A similar flip-flop appears later in the notice. (*See* Ex. 3, pp. 81-82; and Ex. 4.) This is confusing and misleading, and it prevented the public from fully understanding the nature of the



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proposed project being reviewed and from meaningfully participating in the environmental-review process.

3. If this is a supplemental (and not an addendum to the previous) environmental impact report, the city has not satisfied the requirements of Section 15163(c) of the CEQA Guidelines. By way of example and not limitation:
 - A. The notice that was given to the public regarding the preparation of the supplemental environmental impact report violated Section 15087(c)(4) of the CEQA Guidelines by not listing the significant environmental effects anticipated as a result of the proposed ordinances (at least the first option) to the extent such effects were known to the city at the time of the notice. The city knew that there will be such effects because the draft supplemental environmental impact report concluded back on July 14, 2006, that "the Density Bonus Ordinance may result in significant effects not discussed in the previous EIR." (See Ex. 2, p. 9.) Had my clients known that the city expected there to be significant effects, they would have attempted to provide comments and other information on the report's adequacy earlier in the process; the defective notice mislead my clients into believing that the proposed ordinances would not have any significant effect.
 - B. The notice may have also violated Section 15087(d) of the CEQA Guidelines. An over-the-counter review of the county clerk's CEQA notices for July 2006 did not turn up a copy of the notice. Additionally, if the notice was filed less than 45 days before the deadline for comments set forth in the notice, then the notice was inadequate under Sections 15087(a) and 15105(a) of the Guidelines.
4. You must prepare a subsequent environmental impact report rather than relying on a supplemental (or an addendum to the previous) environmental impact report. The conditions requiring further environmental review under Public Resources Code Section 21166 and CEQA Guidelines Section 15162 are satisfied, but the proposed ordinances involve more than minor additions or changes to the previous environmental impact report in order to make that report apply to the proposed ordinances. By way of example and not limitation:
 - A. There has been no analysis of a reasonable range of alternatives to the proposed ordinances. In fact, only the first option (the Mayor's proposal) has been subjected to further review; the second option (the City Attorney's proposal) has received no environmental review. Furthermore, the analysis of alternatives is inadequate insofar as it relates to parking because the city could analyze the impacts of smaller parking-ratio reductions (e.g., 0.10 instead of 0.25 or 0.50); no law prescribes the parking ratios that you have proposed. If adopted in San Diego, the reductions proposed by the City of Los Angeles (see Ex. 5) provide an alternative that, depending on the type and size of units built, could result in a different amount of parking,

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- which demonstrates that a reasonable range of alternatives has not been considered here.
- B. The supplemental environmental impact report does not adequately analyze the impacts of development that deviates from the Environmentally Sensitive Lands Regulations. If deviation is to be permitted, then the supplemental environmental impact report must assume that there will be deviations and analyze the impacts from them.
 - C. The city has adopted the Housing Element 2005-2010 since the previous environmental impact report was prepared. The supplemental environmental impact report appears to be based on one or more prior housing elements and not on the current housing element.
 - D. The supplemental environmental impact report itself concludes that the proposed ordinance (*viz.*, the first option) may result in significant effects not discussed in the previous EIR. Meanwhile, nowhere does the report conclude that the proposed ordinance involves more than minor additions or changes to the previous environmental impact report. Donna Frye's memorandum last week and the staff's response to it demonstrate that the proposed ordinance involves much more than minor additions or changes. (*See generally* Exs. 6 & 7.)
5. The supplemental (or addendum to the previous) environmental impact report fails to identify and analyze the potential impacts of higher-density development allowed under the proposed ordinances. By way of example and not limitation:
- A. The report does not consider the additional demand for water attributable to the additional units built (or their occupants) as a result of an incentive or concession.
 - B. The report does not consider the additional demand for sewer and other infrastructure services attributable to the additional units built (or their occupants) as a result of an incentive or concession.
 - C. The report does not consider the additional demand for energy or the additional carbon emissions attributable to the additional units built (or their occupants) as a result of an incentive or concession.
 - D. The report does not consider the additional demand for public facilities such as schools, hospitals, parks, and waste-disposal facilities attributable to the additional units built (or their occupants) as a result of an incentive or concession.
 - E. The report does not consider the additional impacts on air quality or water quality attributable to the additional units built (or their occupants) as a result of an incentive or concession.

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- F. The report does not consider any cumulative impacts attributable to the additional units built (or their occupants) as a result of an incentive or concession.
6. The supplemental (or addendum to the previous) environmental impact report fails to impose adequate mitigation measures on development that takes place as a result of the adoption of the proposed ordinances (at least the first option). The report acknowledges that there will be significant effects not discussed in the previous EIR (*see* Ex. 2, p. 9), and yet it indicates that there will be mitigation measures imposed only on "discretionary" projects. (*See id.*) Since the first option of the proposed ordinances will convert a substantial amount of development projects to "ministerial" and thereby exclude them from CEQA review, there will be no future opportunity to mitigate for the acknowledged significant effects of those projects and the proposed ordinances.
7. Because the proposed ordinances will have significant effects, the city must consider all reasonable mitigation measures before taking action on any ordinance. Furthermore, no ordinance may be adopted unless the mitigation measures are found to be infeasible. There are feasible mitigation measures that have not been considered. By way of example and not limitation:
- A. The city could take steps to increase public transportation or require developers to provide funds to create more public-transportation opportunities in areas that will experience greater traffic and greater demand for parking.
- B. The city could require development projects that provide a certain minimum number of units (*e.g.*, more than 50) to provide on-site or coordinated errand/appointment services to their residents in order to minimize the amount of driving that the residents do. Residential developments have started to provide, among other things, on-site dry-cleaning services, on-site banking services, and group transportation to shopping centers and medical offices. These measures substantially reduce traffic in congested neighborhoods.
- C. The city could require the creation or preservation of open spaces (*e.g.*, parks) in or near neighborhoods where increased density is allowed.
- D. The city could increase the recycling and waste-minimization requirements applicable to developments with increased density.
- E. The city could impose requirements to ensure that development under the proposed ordinances is consistent with, maintains, and promotes community character, views, and aesthetics. For instance, the city could adopt neighborhood-based landscaping and building-design requirements.
8. The proposed ordinances use the term "common interest development" incorrectly. That term is specifically defined in Civil Code Section 1351.

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However, the italics used for the word "development" in the proposed ordinances indicates that the term will have a meaning different from its statutory meaning; the Municipal Code uses italics for words that are specially defined in it. Since Government Code Section 65915 applies to "common interest development[s] as defined in Section 1351 of the Civil Code," the proposed ordinances must be revised to remove the italics in order to comply with state law and avoid confusion. If the city intends to give "common interest development" a different meaning, then it would be creating a number of other developments in which persons could have a common interest (other than condominiums), but the impacts of such developments have not been considered in the environmental review of the proposed ordinances. In other words, the impacts may be even greater than anticipated because the proposed ordinances allow more development than anticipated due to the city's specialized definition of "common interest *development*."

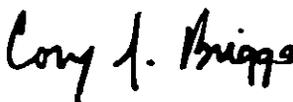
9. The proposed ordinances are inconsistent with the general plan, including the Housing Element 2005-2010. In particular, the proposed ordinances indicate that incentives will be based on criteria and standards set forth in the General Plan and the Progress Guide. (See Ex. 8, pp. 2-3; and Ex. 9, pp. 2-3.) The city's obligation is to satisfy the criteria and standards in the Housing Element, especially since the incentives are related to housing development.

My clients also rely on and join in any and all other comments, evidence, or objections offered in connection with the item to the extent they are not inconsistent with the substance of this letter.

Thank you very much for your consideration in this matter.

Sincerely,

BRIGGS LAW CORPORATION



Cory J. Briggs

Enclosure

cc: Shirley Edwards, Office of the City Attorney (via e-mail, without disk)
Jim Waring, Office of the Mayor (via e-mail, without disk)



SUPPORTING EVIDENCE ON ACCOMPANYING DISK

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1. CEQAnet Search Results, Feb. 26, 2007.
2. Supplement to an Environmental Impact Report, last revised Feb. 2007.
3. *San Diego Daily Transcript* Public Notices for City of San Diego, July 14, 2006.
4. City of San Diego Public Notice, July 14, 2006 (JO 6090).
5. Los Angeles City Planning Department Recommendation Report, June 9, 2005.
6. Memorandum by Donna Frye, Feb. 20, 2007.
7. City Planning & Community Investment and Development Services Responses to Council Member Frye's Questions (undated).
8. Proposed Ordinance Option 1.
9. Proposed Ordinance Option 2.
10. CEQAnet Search Results, Feb. 26, 2007.



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San Diego Chapter

Serving the Environment in San Diego and Imperial Counties

Mayor Jerry Sanders
San Diego City Council Members
February 27, 2007

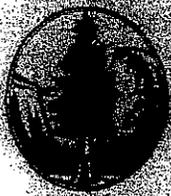
RE: AFFORDABLE HOUSING DENSITY BONUS

Dear Mayor Sanders and Council members:

As representative for the San Diego Sierra Club Coastal Committee and the City of San Diego Code Monitoring team, we ask that you not approve the item as submitted, but require a continuance to address the following concerns. Reasons for denial include:

1. La Jolla's affordable housing properties have been transferred for sale to Real Estates assets dept. without public notice or hearing. At a minimum, we believe such action should have triggered a public hearing and amendment to the 2004 La Jolla Local Coastal Program land Use Plan, which specifies the retention of the identified affordable housing sites. By chance, we discovered the City's action through internet photos of La Jolla properties slated to be sold by Real Estates Assets. The properties pictured constitute the sum total of La Jolla's affordable housing sites, which are located along the Fay Avenue Right-of-way, and which were designated for low income housing by the City Council and California Coastal Commission in the 2004 certified La Jolla LCP. To date, neither Mayor Sanders, Mr. Waring, nor Council President Peters has given any public statement or notice regarding the action.
2. Through Proposition D, the Coastal 30' height Limit was enacted into law by a vote of the people in 1972. Any current intention to breach that public vote would, in our view, be required to go before the public for another vote. Further, we can find no provisions in the current State Density Bonus proposals that would be invalidated or bypassed by the continued observance of the 1972 vote.
3. Regarding specifics:
 - A. We believe affordability should be enhanced by requiring it to be maintained for 50 years, not 30, to insure ongoing affordability beyond one inhabitant's lifetime.
 - B. Please consider the affordable entry key to be 4 units, not 5. There are so many more 4 plexes than 5!
 - C. Please consider placing further limitations on condominium conversions. Many communities are losing much of their low cost rental housing through the explosion of such conversions.
 - D. Most importantly, please limit the percentage of moderate income units to address the far greater need for low to very low income units.





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San Diego Chapter

Serving the Environment in San Diego and Imperial Counties

February 27, 2007

Affordable Housing Density Bonus

E. Section 30116 of the California Coastal Act identifies as "Sensitive Coastal Resource Areas" those areas which provide existing coastal housing or recreational opportunities for low and moderate income persons. In other words, retention of existing low cost coastal housing is a high priority under the California Coastal Act.

Thank you for your consideration of these important issues.

Joanne H. Pearson, Chair
San Diego Sierra Club Coastal Committee
Sierra Club Rep. to City of San Diego code Monitoring



The 1976 *La Jolla Community Plan* recommended that a plan be developed to enhance the existing Fay Avenue Bike Path. The Fay Avenue Bike Path is a varying width right-of-way between Nautilus Street and Mira Monte. The Fay Avenue right-of-way is a 24-acre linear area beginning at Genter Street to the north and ending at the intersection of Mira Monte and La Jolla Boulevard. Immediately east of the bike path are steep, sensitive slopes that contain native vegetation. These slopes are protected by the Environmentally Sensitive Lands regulations of the Land Development Code regulations. The Fay Avenue Plan, which was adopted by the City Council in 1980, contains the following recommendations which this plan incorporates:

- Develop Fay Avenue Right-of-Way as a paved recreational and pedestrian walkway.
- Develop neighborhood recreational areas in the corridor.
- Retain the right-of-way primarily as an open area and retain significant portions of the adjacent slopes and hillsides in a natural, undisturbed state.
- Maintain the affordable housing units along the Fay Avenue Right-of-Way and/or redevelop them to the maximum allowable density.

Since the adoption of the Fay Avenue Plan, the following improvements have taken place along this corridor:

- Two mini-parks (Starkey and Via del Norte) have been developed; and
- Four City-owned single dwelling unit homes are managed as affordable housing by the San Diego Housing Commission.

Fire Protection

La Jolla is served by Fire Station #9, located at Torrey Pines Road and Ardath Lane; Fire Station #13 at Fay Avenue and Nautilus Street; Fire Station #16, located at Via Casa Alta on Mount Soledad; and Fire Station #21, located on Mission Boulevard and Grand Avenue in Pacific Beach. Fire Station #9 provides protection to the La Jolla Shores portion of the community while Fire Station #13 provides service to the village and Muirlands area. Fire Stations #16 and #21 protect the Mount Soledad and La Jolla Alta areas.

Water Utilities

Two major water lines run in a north-south direction through the community. One line extends from La Jolla Shores southward to Pacific Beach under La Jolla Shores Drive and La Jolla Boulevard. The other line is located under Electric Avenue. In addition to these two lines, trunk line service is also extended along the east side of Mount Soledad which provides direct line service to the Bayview and Kearny Mesa pipelines. Along the north side of Mount Soledad, trunk line service also extends to the Soledad Valley and to the Miramar pipelines. All of these pipelines provide water to the community from the Alvarado Filtration plant.

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From: <rhodes@laplayaheritage.com>
To: <rhodes@laplayaheritage.com>
Date: Fri, Feb 9, 2007 4:09 PM
Subject: 30 Foot Coastal Height Limit and Ministerial Process One Review

Hello,

On Tuesday before the City Council, we thought the 30 foot coastal height limit was not in peril because of changes made to the Municipal Code by Development Services Department (DSD) after the item was postponed at City Council. However, upon further inspection and communication, we were wrong in our analysis. The 30 foot Coastal Height Limit, along with all height limits throughout the City, are still in peril.

We are working on solving this complicated problem with the wording of the Municipal Code. The City of San Diego DSD is interpreting State law for Senate Bill SB-1818 like no other City in the State of California. We are in contact with State Housing officials and other nearby cities which have already enacted Senate Bill SB-1818. Our limited research shows that DSD may be misinterpreting State law to benefit the development industry, in the name of the poor, and at the expense of the poor. They development industry tried this same tactic a few years back but were shut down at the Coastal Commission level.

The item will be back before the City Council on February 27, 2007. We are asking for time to review other city ordinances. We are asking that the item "Affordale Housing Density Bonus" be postponed from two weeks after the substantial questions are cleared, for up to two months, whichever is first.

Please take our suggestions and add:

1. In Section 143.0740 (a) (1) (A) add the following: "Nothing in this

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ordinance implies that the 30 foot coastal height limit will be violated without a two-thirds vote by the citizens of San Diego."

2. Senate Bill 1818 does not state that incentives need to be granted ministerially through the Process 1 review. Please delete all references to approval of deviations through the Process One, Ministerial review including, but not limited to Section 143.0740 (b).

If these two changes are made, we believe State law would be satisfied.

We

also have to review the new draft of both the Municipal Code and the draft Ordinance which are still being changed. Please ask DSD to make changes to

the draft Municipal Code so that unintended consequences do not occur, and

the matter can be heard in a timely matter.

Attached, please find a list of Cities who made changes to their Municipal Codes for conformance to State law and Senate Bill 1818. Also, please find the section of the cities of Solana Beach and South Pasadena's Municipal Code dealing with the state mandated Density Bonus. As written, the City of San Diego does not interpret the Density Bonus like other cities in California. Again, we are asking for time before this item comes before the City Council with many unanswered questions.

In addition, the Supplemental EIR needs to be changed to take out all reference to State Density Bonus law trumping the 30 foot coastal height limit. Also, if unlimited height is going to be allowed east of Interstate 5, then a new full Environmental Impact Report is required because the many environmental impacts will be significant and unmitigated.

Thank you in advance for rescheduling the issue before the City Council.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street
San Diego, California 92106
(619) 523-4350
rhodes@laplayaheritage.com

Union City	X		X					
Vacaville			X		X		X	
Ventura, County of			X			X		
Vista			X			X		
Weed			X	X				
West Sacramento	X	X						
Windsor					X	X		
Winters				X				
Yreka			X	X				
Yuba, City of			X	X				
Yuba, County of					X		X	Difficulty in obtaining financing.
Yucaipa				X	X			

Jurisdictions that have amended the density bonus ordinance in response to SB 1818 of 2004

Avenal	Imperial, County of	Oxnard	Sand City
Buellton	Kings, County of	Paso Robles	Santa Ana
Folsom	La Palma	Port Hueneme	Santa Rosa
Fremont	Lancaster	Rancho Mirage	Solana Beach
Gilroy	Marysville	Rancho Palos Verdes	Sonoma, County of
Goleta	Napa, County of	San Francisco	South Pasadena
Hermosa Beach	Ontario	San Rafael	Windsor
Humboldt, County of			

Jurisdictions that are currently amending the density bonus ordinance in response to SB 1818 of 2004

Anaheim	Grass Valley	Oakdale	Santa Barbara, City of
Arcata	Healdsburg	Ontario	Santa Clarita
Arroyo Grande	Hermosa Beach	Orinda	Santa Cruz, County of
Baldwin	Hughson	Oroville	Santa Monica
Bell Gardens	Imperial, County of	Palmdale	Sebastapol
Big Bear Lake	La Palma	Palo Alto	Shasta Lake
Brentwood	Lodi	Paramount	Simi Valley
Brisbane	Los Angeles, County of	Pasadena	Solvang
Burlingame	Maywood	Pittsburg	South El Monte
Calabasas	Mendocino, City of	Portola	Stanislaus, County of
Calistoga	Merced, City of	Poway	Tehama, County of
Camarillo	Mill Valley	Redding	Temecula
Chino	Mission Viejo	Redlands	Tuolumne, County of
Costa Mesa	Monrovia	Roseville	Tulare, County of
Cypress	Monte Sereno	San Bernardino, City of	Tustin
Del Mar	Monterey Park	San Clemente	Ukiah
Desert Hot Springs	Morgan Hill	San Diego, City of	Vacaville
El Dorado, County of	Napa, City of	San Francisco	West Sacramento
Elk Grove	National City		

Jurisdictions that HAVE NOT AMENDED or ARE NOT CURRENTLY AMENDING the density bonus ordinance in response to SB 1818 of 2004

Alameda, City of	Folsom	Monterey Park	Santa Ana
Alhambra	Fresno, City of	Monterey, City of	Santa Barbara, City of
Alturas	Fullerton	Morgan Hill	Santa Clara, City of
Anaheim	Gilroy	Napa, City of	Santa Clara, County of
Arcata	Glenn, County of	Napa, County of	Santa Clarita
Arroyo Grande	Goleta	National City	Santa Cruz, County of
Avenal	Gonzales	Newark	Santa Monica
Baldwin	Grass Valley	Oakdale	Sebastapol
Beaumont	Gridley	Ojai	Shasta Lake
Bell Gardens	Hawaiian Gardens	Orange, County of	Simi Valley
Bellflower	Hawthorne	Orinda	Solana Beach
Big Bear Lake	Healdsburg	Orland	Solvang
Biggs	Hercules	Oroville	Sonoma, County of
Blue Lake	Highland	Pacifica	South El Monte
Brawley	Hillsborough	Palmdale	South Lake Tahoe
Brea	Holtville	Palo Alto	Stanislaus, County of
Brentwood	Hughson	Palos Verdes	Tehama, City of
Brisbane	Humboldt, County of	Paramount	Tehama, County of
Buellton	La Quinta	Pasadena	Temecula
Buena Park	Laguna Woods	Petaluma	Tiburon
Butte	Lakewood	Pittsburg	Torrance
Calabasas	Larkspur	Pleasanton	Trinidad
Calaveras, County of	Lathrop	Plumas, County of	Tulare, City of
California, City of	Laverne	Port Hueneme	Tuolumne, County of
Calistoga	Lawndale	Porterville	Tulare, County of
Camarillo	Lincoln	Portola Valley	Turlock
Carpinteria	Lodi	Portola	Tustin
Chino	Lompoc	Poway	Ukiah
Colma	Los Angeles, County of	Rancho Mirage	Union City
Corning	Los Gatos	Rancho Santa Margarita	Vacaville
Corte Madera	Madera, City of	Redding	Ventura, County of
Costa Mesa	Maywood	Redlands	Vista
Cypress	Mendocino, City of	Roseville	Weed
Del Mar	Menlo Park	San Bernardino, City of	West Sacramento
Del Norte, County of	Merced, City of	San Carlos	Windsor
Delano	Mill Valley	San Clemente	Winters
Desert Hot Springs	Millbrae	San Juan Bautista	Yreka
Diamond Bar	Mission Viejo	San Juan Capistrano	Yuba, City of
El Dorado, County of	Monrovia	San Marino	Yuba, County of
Elk Grove	Monte Sereno	San Rafael	Yucaipa
Exeter			

SOLANA BEACH - Chapter 17.20

17.20.050 Density bonus.

A. Purpose and Intent. The purpose of this section is to provide Density Bonuses or Equivalent Financial Incentives for the provision of affordable housing pursuant to State Government Code Section 65915. As provided in the Solana Beach General Plan, it is further the intent of this section that such density bonus incentive apply to all housing developments of five dwelling units or more.

B. Definitions. Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

1. **Additional Incentives.** Such regulatory concessions as specified in California Government Code Subsections 65915(d) and (h) to include, but not be limited to, the reduction of zoning ordinance requirements, approval of mixed use development in conjunction with the multifamily residential project, or any other regulatory incentives or concessions proposed by the developer or the city which result in identifiable cost reductions, as discussed in subsection (E)(2) of this section.
2. **Density Bonus.** A density increase of 25 percent over the otherwise maximum residential density.
3. **Density Bonus Units.** Those residential units granted pursuant to the provisions of this chapter which exceed the otherwise maximum residential density for the development site.
4. **Equivalent Financial Incentive.** A monetary contribution, based upon a land cost per dwelling unit value, equal to one of the following:
 - a. A density bonus and an additional incentive(s); or
 - b. A density bonus, where an additional incentive(s) is not requested or is determined to be unnecessary.
5. **Housing Development.** Construction projects consisting of five or more residential units, including single-family, multifamily, and mobile homes for sale or rent, pursuant to this chapter.
6. **Lower Income Household.** Households whose income does not exceed the lower income limits applicable to San Diego County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.
7. **Maximum Residential Density.** The maximum number of residential units permitted by the city's general plan land use element and zoning ordinance at the time of application, excluding the provisions of this chapter.
8. **Qualifying Resident.** Senior citizens or other persons eligible to reside in senior citizen housing.
9. **Target Unit.** A dwelling unit within a housing development which will be reserved for sale or rent to, and affordable to, very low income or lower income households, or qualifying residents.
10. **Very Low Income Household.** Households whose income does not exceed the very low income limits applicable to San Diego County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

- 00004 Qualifying Developments.** State Government Code Section 65915 provides for the granting of a density bonus and an additional incentive(s) or an equivalent financial incentive when a developer of housing agrees to construct at least one of the following:
1. Twenty percent of the total units of a housing development for lower income households.
 2. Ten percent of the total units of a housing development for very low income households.
 3. Fifty percent of the total dwelling units of a housing development for qualifying residents.

D. Density Bonus Allowed. A request for a density bonus and additional incentive(s) shall require a development review permit pursuant to SBMC 17.68.040 and be subject to the following provisions:

1. For the purpose of this section, density bonus shall mean a density increase of 25 percent over the maximum residential density as determined by Table 17.20.030B. When calculating the number of permitted density bonus units, any fractions of units shall be rounded to the next larger integer. When determining the number of target units, the density bonus shall not be included. When calculating the required number of target units, any resulting decimal shall be rounded to the next larger integer.
2. In cases where a density increase of less than 25 percent is requested, no reduction will be allowed in the number of target units required. In cases where a density increase of more than 25 percent is requested, the requested density increase, if granted, shall be considered an additional incentive, as outlined in subsection (E) of this section.
3. The procedures for implementing this section are as follows:
 - a. The city shall, within 90 days of receipt of a written proposal, notify the developer in writing of the procedures governing these provisions.
 - b. The council may approve the density bonus and additional incentive(s) only if the proposed project is compatible with the purpose and intent of the general plan and this title.
4. The density bonus provision shall not apply to senior citizen and senior congregate care housing projects that utilize alternative density bonus provisions contained in this title.
5. All residential developments are subject to and must satisfy the city's inclusionary housing requirements (Chapter 17.70 SBMC), notwithstanding a developer's request to process a residential development under other program requirements, laws or regulations. Units reserved for very low income and/or lower income households to meet density bonus requirements may be used toward meeting inclusionary housing requirements.
6. Prior to the issuance of a building permit for any dwelling unit in a development for which density bonus units have been awarded or additional incentive(s) have been received, the developer shall submit documentation which identifies the target units and shall enter into a written agreement with the city to guarantee for 30 years their continued use and availability to very low income and lower income households or qualified residents as provided in Government Code Section 65915. The agreement shall extend more than 30 years if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. The terms and conditions of the agreement shall run with the land which is to be developed, shall be binding upon the successor in interest of the developer, and shall be recorded in the office of the San Diego County recorder. If the city does not grant at least one additional incentive the developer shall agree to and the city shall ensure continued affordability for 10 years of all very low and lower income housing units receiving a density bonus. The agreement shall include the following provisions:
 - a. The developer shall give the city the continuing right-of-first-refusal to purchase or lease any or all of the designated units at the fair market value;

- b. The deeds to the designated units shall contain a covenant stating that the developer or his/her successor in interest shall not sell, rent, lease, sublet, assign, or otherwise transfer any interests for same without the written approval of the city confirming that the sales price of the units is consistent with the limits established for very low- and lower income households, which shall be related to the Consumer Price Index;
- c. The city shall have the authority to enter into other agreements with the developer or purchasers of the dwelling units, as may be necessary to assure that the target units are continuously occupied by eligible households.
7. Target units shall be generally dispersed throughout a housing development and shall not differ in appearance from other units in the housing development.
8. The city council shall not approve any density bonus request in excess of 25 percent without the affirmative vote of at least four of its members. If disqualifications leave less than the required number of councilmembers, the legally required participation exception is triggered of the Civil Code.

E. Additional Incentive(s).

1. The city shall provide a density bonus and an additional incentive(s), for qualified housing developments, upon the written request of the developer, unless the city makes a written finding that the additional incentive(s) is not required to make the housing development economically feasible and to accommodate a density bonus.
2. The need for incentives will vary for different housing developments. Therefore, the allocation of additional incentive(s) shall be determined on a case-by-case basis. The additional incentive(s) to ensure that the housing development will be developed at a reduced cost may include, but is not limited to:
 - a. A reduction or modification of zoning ordinance requirements which exceed the minimum building standards approved by the State Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 123 of the Health and Safety Code including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required.
 - b. Approval of mixed use development in conjunction with the housing development if commercial, office, industrial, or other land uses will reduce the cost of the development and if the project will be compatible internally as well as with the existing or planned development in the area where the proposed housing project will be located.
 - c. Other regulatory incentives or concessions proposed by the developer or the city which result in identifiable cost reductions.
 - d. A density bonus in excess of 25 percent, if approved with the affirmative vote of at least four city council members. If disqualifications leave less than the required number of councilmembers, the legally required participation exception is triggered of the Civil Code.
3. The city may offer an equivalent financial incentive in lieu of granting a density bonus and an additional incentive(s). The value of the equivalent financial incentive shall equal at least the land cost per dwelling unit savings that would result from a density bonus and must contribute significantly to the economic feasibility of providing the target units pursuant to this chapter. (Ord. 285 § 1, 2002; Ord. 261 § 1, 2000; Ord. 185 § 2, 1993).

<http://www.qcode.us/codes/southpasadena/>

SOUTH PASADENA

Division 36.370. Affordable Housing Incentives

36.370.010 Purpose of Division.

This Division provides incentives for the development of housing that is affordable to the types of households and qualifying residents identified in Section 36.370.020 (Eligibility for Bonus and Incentives), below. This Division is intended to implement the requirements of State law (Government Code Sections 65302, 65913, and 65915, et seq. and the goals and policies of the City's General Plan. (Ord. No. 2108 § 1 (part).)

36.370.020 Eligibility for Bonus and Incentives.

In order to be eligible for a density bonus and other incentives as provided by this Division, a proposed residential project shall:

- A. Consist of five or more units;
- B. Be designed and constructed so that the development meets at least one of the following criteria:
 1. 20 percent of the total number of proposed units are for lower income households, as defined in California Health and Safety Code Section 50079.5; or
 2. 10 percent of the total number of proposed units are for very low income households, as defined in Health and Safety Code Section 50105; or
 3. 50 percent of the total number of proposed units are for qualifying residents (senior citizens) as defined by Civil Code Section 51.3 (senior citizens of any income level).
- C. Satisfy all other applicable provisions of this Zoning Code, except as provided by Section 36.370.030.B (Other Incentives); and
- D. Be subject to Conditional Use Permit approval.

(Ord. No. 2108 § 1 (part).)

36.370.030 Types of Bonuses and Incentives Allowed.

A residential project that satisfies all applicable provisions of this Division shall be entitled to the following density bonus and other incentives. If a density bonus and/or other incentives cannot be accommodated on a parcel due to strict compliance with the provisions of this Zoning Code, the review authority may waive or modify development standards as necessary (other than standards imposed by initiative) to accommodate bonus units and other incentives to which the development is entitled.

- A. Density bonus. The density bonus shall consist of a 25 percent increase in the maximum density allowed by the applicable General Plan designation and zoning district.
- B. Other incentives. A qualifying project shall be entitled to at least one of the following incentives identified by State law (Government Code Section 65915(b)):
 1. A reduction in the parcel development standards (e.g., coverage, setback, zero lot line and/or reduced parcel sizes, and/or parking requirements);
 2. Other regulatory incentives or concessions proposed by the developer and found acceptable by the City.

C. Limitations and exceptions.

1. If a requested density increase is less than 25 percent, the number of affordable units required shall not be reduced.
2. Where the developer agrees to construct more than 20 percent of the total units for low income households, and/or more than 10 percent of the total units for very low income households, the developer may be entitled to more than one density bonus and an additional incentive.
3. A developer who agrees to construct senior citizen housing with 20 or 10 percent of the units reserved for low or very low income households, respectively, may be entitled to more than one density bonus and an additional incentive. The City may grant multiple additional incentives to facilitate the inclusion of more affordable units than are required by this Division.

D. City's right to disapprove project. Nothing in this Division shall limit the City's right to disapprove an affordable housing project if the City finds, based on substantial evidence, any one of the following (consistent with Government Code Section 65589.5):

1. The City has adopted an adequate Housing Element, and the project is not needed for the City to meet its share of the regional housing needs of very low and low income housing;
2. The project as proposed would have a specific adverse impact upon public health and safety, which can not be satisfactorily mitigated without rendering it unaffordable to very low and low income households;
3. The disapproval of the project or imposition of conditions is required in order to comply with specific State or Federal law and there is no feasible method to comply without rendering the development unaffordable to very low and low income households; or
4. The project is inconsistent with the General Plan land use designation as it existed on the date the application was deemed complete, and the City has adopted a Housing Element in compliance with State law.

(Ord. No. 2108 § 1 (part).)

36.370.040 Continued Availability.

The entitlement application for the affordable residential project shall include the procedures proposed by the developer to maintain the continued affordability of the designated dwelling units as follows. These provisions shall apply to both rental and for-sale ownership units.

A. Projects receiving financial assistance. Projects receiving direct financial assistance or other financial incentives from a public source (including the City, Redevelopment Agency, the Department of Housing and Urban Development (HUD) or state tax credit program), or a density bonus and at least one other concession or incentive, shall maintain the availability of the lower income designated dwelling units for a minimum of 30 years, as required by State law (Government Code Sections 65915(c) and 65916); or

B. Private projects—Density bonus only. Privately-financed projects that receive a density bonus as the only incentive from the City shall maintain the availability of lower income designated dwelling units for a minimum of 10 years.

(Ord. No. 2108 § 1 (part).)

36.370.050 Location of Designated Dwelling Units.

000918

A. Location/dispersal of units. The location of the designated dwelling units within the qualifying project shall be at the discretion of the City with the goal to integrate the units into the overall project. However, the designated dwelling units shall be reasonably dispersed throughout the development where feasible, shall contain on average the same number of bedrooms as the non-density bonus units, and shall be compatible with the design or use of the remaining units in terms of appearance, materials, and finish quality.

B. Phasing. If a project is to be phased, the density bonus units shall be phased in the same proportion as the non-density bonus units, or phased in another sequence acceptable to the City.

C. Alternative development site. The review authority may authorize some or all of the designated dwelling units associated with one housing development to be produced and operated on an alternative development site, where it determines that the public interest would be more effectively served.

(Ord. No. 2108 § 1 (part).)

36.370.060 Processing of Bonus Request.

A. Conditional Use Permit required. A request for bonus units shall require the approval of a Conditional Use Permit in compliance with Section 36.410.060, which shall be reviewed and approved by the Commission, unless associated entitlements require both a Commission recommendation and Council approval.

B. Findings for approval. In addition to the findings required for the approval of a Conditional Use Permit in compliance with Section 36.410.060, the approval of a density bonus shall require that all of the following additional findings be made:

1. The project would be compatible with the purpose and intent of the General Plan and this Zoning Code;
2. The project would not be a hazard or nuisance to the City at large;
3. The number of dwellings can be accommodated by existing and planned infrastructure capacities;
4. Adequate evidence exists to ensure that the development of the property would result in the provision of affordable housing consistent with the purpose of this Division;
5. The City has either granted an appropriate density bonus or provided other incentives of equivalent financial value based on the land cost per dwelling unit, in compliance with State law (Government Code Section 65915.); and
6. There are sufficient provisions to guarantee that the designated dwelling units would remain affordable in the future.

(Ord. No. 2108 § 1 (part).)

36.370.070 Density Bonus Agreement.

A. Procedures. An owner/developer requesting a density bonus shall agree to enter into a density bonus agreement ("agreement") with the City. The terms of the draft agreement shall be reviewed and revised as appropriate by the City Manager, or authorized designee, and/or the City Attorney.

B. Execution of agreement.

1. Following execution of the density bonus agreement by all parties, the City shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the County Recorder's Office.

2. The approval and recordation shall take place at the same time as the final map or, where a map is not being processed, before issuance of Building Permits for the units.
3. The agreement shall be binding to all future owners, developers, and/or successors-in-interest.

C. Agreement contents. The density bonus agreement shall include at least the following information:

1. The total number of units approved for the housing development, including the number of designated dwelling units;
2. A description of the household income group to be accommodated by the housing development, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with HUD Guidelines;
3. The marketing plan for the affordable units;
4. The location, unit sizes (square feet), and number of bedrooms of the designated dwelling units;
5. Duration of the use restrictions for designated dwelling units, in compliance with Section 36.370.040 (Continued Availability);
6. A schedule for completion and occupancy of the designated dwelling units;
7. A description of the additional incentive(s) being provided by the City;
8. A description of the remedies for breach of the density bonus agreement by the owners, developers, and/or successor(s)-in-interest of the project; and
9. Other information as necessary for the City to verify the implementation of, and compliance with this Division.

D. Agreement provisions. The density bonus agreement shall include at least the following provisions:

1. The developer shall give the City the continuing right-of-first-refusal to lease or purchase any or all of the designated dwelling units at the appraised value;
2. The deeds to the designated dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for designated units without the written approval of the City;
3. When providing the written approval, the City shall confirm that the price (rent or sale) of the designated dwelling unit is consistent with the limits established for low- and very low-income households, as published by HUD;
4. The City shall have the authority to enter into other agreements with the developer, or purchasers of the designated dwelling units, to ensure that the required dwelling units are continuously occupied by eligible households;
5. Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance. Any default or failure to comply may result in foreclosure, specific performance, or withdrawal of the Certificate of Occupancy.
6. In any action taken to enforce compliance with deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the City's costs of action including legal services.

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Prior to offering an affordable housing unit for sale, the seller shall provide written notice of intent to sell to the City. The notice shall be provided by certified mail to the Director.

B. Home ownership affordable units constructed, offered for sale, or sold under the requirements of this Section shall be offered to the City or its assignee for a period of 90 days from the date of the notice of intent to sell is delivered to the City by the first purchaser or subsequent purchaser(s). Home ownership affordable units shall be sold and resold from the date of the original sale only to households as determined to be eligible for affordable units by the City according to the requirements of this Section. The seller shall not levy or charge any additional fees nor shall any "finders fee" or other consideration be allowed other than customary real estate commissions and closing costs.

C. The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions provided by the City, stating the restrictions imposed in compliance with this Section. The grant deed shall afford the grantor and the City the right to enforce the attached declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions as required by this Section.

D. The City shall monitor the resale of ownership affordable units. Any abuse in the resale provisions shall be referred to the City for appropriate action.

(Ord. No. 2108 § 1 (part).)

Housing, Land Use and Transportation

For more information, contact DeAnn Baker at 916/327-7500, ext. 509, or e-mail dbaker@counties.org.

Housing

SB 435 (Hollingsworth) – Oppose

SB 435, by Senator Dennis Hollingsworth, is scheduled to be heard before the Assembly Housing and Community Development Committee on June 15. CSAC remains opposed to this measure and is joined by the League of California Cities and American Planning Association.

Last year, SB 1818 (Hollingsworth) was signed into law despite the opposition of many cities and counties around the state. This measure was sponsored by the California Association of Realtors (CAR) and the California Rural Legal Assistance Foundation (CRLAF) as is SB 435. SB 1818 made significant changes to density bonus law, which took effect on January 1. The most troublesome changes included requiring communities to provide up to three concessions and 35 percent density bonuses to developers, while reducing the amount of affordable housing that a developer was required to provide under prior law.

The bill undercut those communities that had already done the most to increase densities and streamline development requirements. Local governments were also concerned that developers – through the bill's confusing ratio system, which required specified density bonuses and concessions to be provided to developers building only five percent of units at very low income – would attempt to use this law to evade local inclusionary zoning programs.

Since its enactment, SB 1818 has created much uncertainty and confusion among local planners and attorneys as to how to implement its provisions, and harmonize them with other state laws and local requirements. Some jurisdictions have even down-zoned areas of high-density zoning so that developers could not be in position to demand densities that exceeded existing infrastructure. Other communities – especially those that had made prior efforts to streamline development requirements – were forced to reconsider the effect of developers being arbitrarily entitled to three additional concessions.

This year's SB 435 (Hollingsworth), sponsored again by CAR and the CRLAF, compounds upon the flaws of the earlier measure by:

- 1) Requiring local governments to provide a fourth concession, when the developer uses less than 50 percent of the density bonus.
- 2) Removing the existing requirement for a developer to demonstrate that a requested waiver or reduction in development standards is necessary to make the units economically feasible.
- 3) Deleting some key language in the law that city attorneys were using as a defense against the law's applicability to local inclusionary zoning programs.

Although we have been meeting with the sponsor's representatives over several months to determine if a satisfactory solution could be reached with the language in both this bill, as well as problems created by existing law, there has been no significant progress. For these reasons, CSAC is opposed to the SB 435.

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000923

February 6, 2007

City of San Diego
202 West C Street
San Diego, California 92101

Subject: Affordable Housing Density Bonus Changes to the Municipal Code
Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR)
Categorical Exclusion for Single Family Homes in the Coastal Overlay Zone
Changing PDOs from Process 3 (Discretionary) to Process 1 (Ministerial)
San Diego, California

References: Report No. 07-021 to the City Council, January 24, 2007
<http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800f9881>
Draft Changes to the Municipal Code, Chapter 14, Article 3, Affordable Housing Density Bonus
<http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800f985e>
Summary of Revisions to State Density Bonus Law Under SB1818 and SB 435
<<http://www.laplayaheritage.com/Documents/CITY%20OF%20SAN%20DIEGO/densitybonussummary.pdf>>
Draft Changes to Municipal Code, Chapter 10, Planned Districts
<http://www.sandiego.gov/development-services/industry/pdo.shtml>

Dear City Council:

State Laws to benefit the homeless and the poor, are being misinterpreted to help rich developers. The Housing Element of the General Plan and the Affordable Housing Density Bonus are state law enacted mainly to help the homeless and poor find shelter and a place to live. Ministerial review of projects is not a part of these state mandated laws.

The Development Service Department (DSD), the Building Industry Association (BIA), and the Technical Advisory Committee (TAC) to DSD are twisting the meaning and intent of mandated state law enacted to help the poor, to create giant loopholes in quality of life issues in order to loosen development regulations and limit public participation in the development process.

They plan to do this by changing Discretionary (Process 2 through 5) projects into Ministerial (Process 1) over-the-counter review projects through "re-engineering" which would "streamline" the process. Ministerial (Process 1) over-the-counter review do not have to notify neighbors within 300 feet, community plans are not applicable, community planning groups are not consulted, and no public hearings are required at the Planning Commission or City Council. In addition, ministerial projects are exempt from CEQA, therefore no mitigation to development is required. City of San Diego CEQA mitigation measure that will not be analyzed or considered include: aesthetics, neighborhood character, natural resources, air quality, biology, energy, geology, soils, human health, public safety, hazardous materials, hydrology, water quality, land use, noise, paleontology, population, housing, public services, police, fire, sewer capacity, schools, parks, recreation resources, roads, transportation, circulation, utilities, and water conservation. Ministerially approved entitlements will make the City Council irrelevant, in that there will be nothing they can do when their constituent need help with unscrupulous adjacent developers. The check and balance of power between the City Council and the Mayor will be in jeopardy. The majority of items currently heard before the City Council will no longer come before the elected official body, but will be approved by clerks in DSD, with no recourse.

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DSD incorrectly states that state law is forcing them to lower the review process, and they have to follow the state law. Based on the false assumption that development constraints have to be removed in order to comply with the California Code, DSD is proposing planned policy and Municipal Code changed to limit public participation in development projects. No other city in California interprets Senate Bill 1818 this way.

We stopped the unintended consequences of the draft Housing Element at the Community Planners Group and the Planning Commission level. Due to the fact that DSD misinterpreted the law to benefit developers, DSD had to make major revisions in the Housing Element before it came before City Council.

Proposed changes to the Municipal Code for the Affordable Housing Density Bonus will result in unintended consequences in quality of life issues like breaking the 30 foot coastal height limit, unlimited height west of Interstate 5, no setback from property lines, lowered parking requirements, and not requiring normal mitigation measures under CEQA.

Solution to Ministerial Deviations to Height, Setback, Parking, and Floor-Area-Ratio (FAR) for Affordable Housing Density Bonus.

Attached is a portion of our letter to the City of San Diego regarding solutions in the proposed wording of the Municipal Code changes regarding the 30 foot coastal height limit, ministerial review, and the Affordable Housing Density Bonus.

References: Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR)
http://www.laplayaheritage.com/Documents/CITY%20OF%20SAN%20DIEGO/Density_Bonus_Height_&_Setback_Deviations.pdf

We have concerns regarding the wording of the proposed Amendments Related to Affordable Housing Density Bonus regulations as they relate to proposed ministerial approval of deviations to height, setback, parking, and Floor-Area-Ratio (FAR) regulations. As written, the open ended wording to the Amendments may be misused as a loophole to get around the 30-foot Coastal Height Limit law among other quality of life laws in the city's Municipal Code [see attachment]. We read the vague wording to construe any requested deviations will be granted ministerially in conformance with the Affordable Housing Density Bonus regulations. For example if a developer provided 10 percent affordable housing, then they will get any incentive that they request without limits. The city-wide implications to get rid of height and setback requirements not in the coastal zone would become effective in 30 days. East of Interstate 5, the lack of limits to the height deviation and setbacks would create high-rise communities were none were planned. Portions of the Supplemental EIR dated December 2006 is attached. The 30 foot coastal height limit is in peril. The issue will be reheard in late February 2007 at City Council. Please see for yourself, especially Page 2 and 4 of the Supplemental EIR. Excerpts from the Supplemental EIR include the following: *"In addition, and according to the City Attorney, the local Proposition D, limiting height in the coastal zone would have to yield to the state law mandating density bonuses and incentives... However, deviations requests for projects exceeding the 30-foot Proposition D height limit in the Coastal Zone would yield to the state law mandating density bonuses and incentives."*

For the record, Mr. Jim Waring of the Mayor's office has contact us by email and assured us that revisions will be made to the proposed ordinance to make sure, in no uncertain terms, the 30 foot coastal height limit will not be violated. As Mr. Waring wrote in his email *"It is not the intention of anyone here to defeat Proposition D... If the problem exists in the language and creates the loopholes you've identified, we need to change it before the vote."*

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We are delighted that this is the case and the City is acknowledging our concerns are valid and the proposed ordinance needs clarification of limits to height and setback deviations and ministerial approval. As a solution, we are proposing the following changes to the proposed ordinance.

1. In Section 143.0740 (a) (1) (A) add the following: **"Nothing in this ordinance implies that the 30 foot coastal height limit will be violated without a two-thirds vote by the citizens of San Diego."**
2. Senate Bill 1818 does not state that incentives need to be granted ministerially through the Process 1 review. **Please delete all references to approval of deviations through the Process 1 Ministerial review including all of Section 143.0740 (b). As an alternative, add the following: "All incentives, except deviations to height and setbacks, will be granted ministerially."**
3. Set limits on height and setback deviation consistent with the existing Municipal Code. For example, the existing deviation to setback where 50 percent of the building can be on the side property line after discretionary review.
4. As an example, outside the 30 foot height limit, the maximum height deviation is 10 feet.

We only learned about the loopholes from a subcommittee meeting of the Sierra Club this last Saturday. A few years back, citizens fought this same issue of changes to density bonuses for affordable housing which would have violated the 30 foot coastal height limit. As we heard, the case came before the California Coastal Commission and the citizens won their case and the 30 foot coastal height limit was saved. Community opposition to changing height restrictions is well documented in San Diego. Attached is portion of the EIR for the Affordable Housing Density Bonus in regards to the 30 foot coastal height limit. Excerpts include the following: "In addition, and according to the City Attorney, the local Proposition D, limiting height in the coastal zone would have to yield to the state law mandating density bonuses and incentives... However, deviations requests for projects exceeding the 30-foot Proposition D height limit in the Coastal Zone would yield to the state law mandating density bonuses and incentives."

Please note that besides these two little loopholes for height and setback deviations which have very large, unintended consequences, and the ministerial approval of deviations, we are very supportive of the new Affordable Housing Density Bonus changes to the Municipal Code. We do not want developers to use an incentive made in the name of the poor as loopholes that can change community character with ministerial approval. We hope you agree and make the changes in the proposed ordinance.

Categorical Exclusion for Single Family Residences in the Coastal Overlay Zone.

Attached is a portion of our letter to the City of San Diego regarding Categorical Exclusion for Single Family Homes in the Coastal Overlay Zone.

Subject: Categorical Exclusion Request to the Coastal Commission. Land Use and Housing Committee Meeting of March 29, 2006.

We have concerns regarding Item 4 – *Report from the Development Services Department on the Land Development Code Update Work Program*, which was presented at the Land Use & Housing Committee on March 29, 2006. Specifically, we have concerns regarding the Categorical Exclusion Request to the Coastal Commission in Report No. 06-032, *Land Development Code Update Work Program*, dated March 22, 2006, see Figure 1. The LU&H Committee discussion can be seen at http://granicus.sandiego.gov/ASX.php?view_id=12&clip_id=468&r=de9fe36f3cac30289ffc77a5ebcc9da8&xp=y&intro=1&sn=granicus.sandieg during the time from 34:45 to 35:34 minutes, and 51:00 to 57:00 minutes.

Kelly Broughton of the Development Services Department requested that the single-family residences in the Coastal Overlay Zone be Categorical Excluded from getting the required Coastal Development Permits. He said getting rid of the Coastal Development Permits for single family home will give more predictability to the process, eliminate workload, and save developers money and time. He said "incentives" will be given for staying under the Floor-Area Ratio and reducing the height to 24 feet. This will let developers remodel their homes in the way they see fit and stop the Blockbuster Monster Homes. The particulars of the "incentives" were not given in writing for review. He said that the ministerial - Process 1 exception for retaining 50 percent of the walls for remodels have given the DSD extra inspections in the field.

We do not agree with the Categorical Exclusion Request for single family residences due to the following reasons:

Figure 2 shows portions of the Zero-Based Management Report of the Development Services Department. The report concluded that the DSD can obtain efficiency by reducing the influences of Community Planning Boards and neighbors affected by new development. Reducing the influence of outside organizations can be achieved by eliminated regulations that include neighbors and Community Planning Boards. The DSD is trying to eliminate neighbors rights in the Coastal Overlay Zone by asking that single family residences be Categorical Excluded from going through the Discretionary Review (Process 2 through 5), and making them over-the-counter Ministerial (Process 1). The Coastal Overlay Zone was established as a quality of life issue, to protect single family neighborhoods near the ocean.

Ministerial Process 1 projects are reviewed over-the-counter at the DSD. Neighbors within 300 feet are not notified, conformance to the local Community Plan is not required, and the local Community Planning Boards are not consulted. Neighbors whose property values and coastal views are affected will not have input when the values of the homes go down so that one developer can build their out of scale mansion. The Categorical Exception will help Development Services Department because they will not have to answer questions from neighbors or the Community Planning Board members who are concerned that the property values and going to be lowered.

The definition of the 50 percent retained rule for remodels has been criticized because the rule had not been defined and put into writing until very recently. At the request of neighbors who views were destroyed by ministerial Process 1 "remodeling" project on Lucinda Street, Gary Halbert of DSD gave the Peninsula Community Planning Board the written definition of the 50 percent retained rule. Now neighbors will know if the rule has been violated by just looking at the "remodeling" project. Given a written definition of the 50 percent retained rule has been a burden for developers who knowing get their projects signed off by DSD field staff for the 50 percent retained walls and later take down additional walls illegally. All illegal activity is a burden. Neighbors can now demand that DSD make the developers go through the Discretionary Process 2 review.

Instead of deleting the 50 percent rule, it will be better to close the loophole. For instance by changing the percentage from 50 to 75. This way, more projects will have to conform to the local Community Plans, neighbors will be notified, and the local Community Planning Boards can vote on the projects in the Coastal Zone as intended.

Figure 3 shows a portion of Point Loma in the Coastal Overlay Zone. In the map the Coastal Overlay Zone is West of Catalina, South of Talbot, and East of Rosecrans. The Zone includes the neighborhoods of La Playa, The Wooded Area, Sunset Cliffs, and Ocean Beach Highlands all of which are zoned for single family neighborhoods (@ 95 percent).

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Figure 4 shows portions of La Jolla, Pacific Beach and Mission Beach in the Coastal Overlay Zone. In the map the Coastal Overlay Zone is north of Van Nuys, West of Rutgers, West of La Jolla Scenic Drive South, north of Mount Soledad, West of La Jolla Parkway, West of Torrey Pines Road. The yellow and white areas are zoned for single family homes.

Eliminating the Coastal Development Requirements for single family homes will take all these neighborhoods out of the hands of the community and put them into the hand of DSD and developers.

In conclusion, by granting a Categorical Exclusion for single-family residences in the Coastal Overlay Zone, the local community plan will not be complied, neighbors within 300 feet of the development will not be noticed, and the community planning group will not be consulted. Instead of training the employee to follow the Municipal Code, the Development Services Department is asking the City Council to get rid of the pesky regulations that protect existing homeowner in the name of "streamlining" the permit process. Getting rid of regulations will reduce the influence of the communities planning groups and adjacent neighbors affected by new development. "Streamlining" by getting rid of annoying Coastal regulations in approximately 90 percent of the Coastal Overlay Zone may be in the interest of the Development Services Department and outside developers, but it is not in the interest of the community or the existing homeowners in San Diego.

Reorganization for Planned District Ordinances (PDO) – Discretionary (Process 3) to Ministerial (Process 1) Review.

Plans to reorganize PDO regulations for consistent development regulations and predictable permit processes, is in the works. The first phase of changing the Chapters 10 and 15 of the Municipal Code will be made by ordinance on February 20, 2007. The main reason why the changes to the Municipal Code are proposed are not to make development regulations streamlined, but to change the review from Discretionary (Process 3) to Ministerial (Process 1). Ministerial (Process 1) over-the-counter review do not have to notify neighbors within 300 feet, community plans are not applicable, community planning groups are not consulted, and no public hearings are required at the Planning Commission or City Council. In addition, ministerial projects are exempt from CEQA, therefore no mitigation to development is required.

In conclusion, the Development Services Department is conducting a systematic lowering of development regulations as outlined in their Zero Based Management Report. DSD are proposing changes to the Municipal Code to reduce community involvement by changing development projects from Discretionary (Process 2 through 5 review) to Ministerial (Process 1) over-the-counter review. DSD changes to ministerial review (Process 1) is proposed for Affordable Housing Density Bonus, Categorical Exclusion for Single Family Residence in the Coastal Overlay Zone, and Planned District Ordinances.

Alexander Hamilton, (US, Scottish-born, lawyer & politician, 1755 - 1804, Federalist Paper, Federalist No. 15, once asked, "*Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraints.*" Our government is charged with the duty and responsibility of shepherding our resources and guarding our best interests while we are busy with our lives. <http://hamilton.thefreelibrary.com/Federalist-Papers-Authored-by-Alexander-Hamilton/1-8> Please do not change any section of the Municipal Code from Discretionary Review to Ministerial Review, because developers and the Development Services Department (DSD) need constraints imposed in the Codes to protect the existing citizens of San Diego. It is a quality of life issue.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street
San Diego, California 92106



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: March 22, 2006 REPORT NO: 06-032
ATTENTION: Committee of Land Use and Housing
Agenda of March 29, 2006
SUBJECT: Land Development Code Update Work Program
REFERENCE: CMR 04-048

REQUESTED ACTION:

This is an informational report of the items on the work program for the Land Development Code Update section for Fiscal Year 2006-2007. The LDC update work program is the vehicle for bringing code amendment issues forward related to land use regulations, policies, and procedures. No action is required by the Committee or the City Council at this time.

Categorical Exclusion Request to Coastal Commission

In an effort to simplify the development permit process, this item is a request to pursue a previous (1997) application submitted to the California Coastal Commission that would exempt single family residential from the Coastal Development Permit process under specified conditions. The City's existing CDP requirements seem to have associated unintended consequences in single dwelling unit zones. Due to the time and expense associated with processing a discretionary Coastal Development Permit, many applicants are remodeling existing structures in order to meet the exemptions offered under the current code and thereby avoid the discretionary review process, or where they apply for a CDP they are requesting to maximize the development on the site within the limits of the maximum height and floor area ratio standards. The result has been a drain of staff time to address proposed new development that is out of character in bulk and scale with existing neighborhoods, and to process and investigate controversial remodels based on complex valuation schedules.

The proposed code amendments would remove the existing disincentive for new development by reducing the permit process level from discretionary to ministerial, and would instead provide incentives for development that does not maximize bulk and scale for better compatibility with the surrounding neighborhood in the Coastal Overlay Zone. The amendments are anticipated to save the City money on administrative costs as well as to save applicants money on permit costs. Permit costs are often transferred onto home buyers in the purchase price, so this may also contribute to a reduction in housing costs. This amendment would only be applicable to the Coastal Overlay Zone and would require an amendment to the City's Local Coastal Program. Potential stakeholders would primarily include property owners, consultants, community groups, and land use professional associations in the coastal overlay zone, as well as the City and the Coastal Commission. Goal is to obtain Coastal Commission approval by December 2006.

EXECUTIVE SERVICE CORPS

A Division of



ZERO-BASED MANAGEMENT REVIEW

OF THE

CITY OF SAN DIEGO'S

**DEVELOPMENT SERVICES
DEPARTMENT**

August 12, 2004

A Report by

Nonprofit Management Solutions/Executive Service Corps

For the City Manager and

City Council Select Committee for

Government Efficiency and Fiscal Reform

Streamline Operations

1. *Implement Resubmittal Tracking Reason Code*
2. *Apply case study analysis to resolve regulation conflicts*
3. *Review Community Planning Group involvement with projects*
4. *Partner with City Manager Optimization Group*
5. *Reduce influence of outside organizations*

Figure 2 – Cover and Portion of Pages 2, 9, 13, 29, 30, 49, and 50 of Zero-Based Management Report of the Development Services Department (Page 1 of 3).

- The many Community Planning Committees can be a major impediment to fast service. For example, although Information Bulletin #620 specifies Community Planning Committees as advisory groups, the Planning Groups can be much more than just advisors to DSD. That Bulletin indicates that applicants are "referred to" and encouraged to make presentations to the Community Planning Committee in the area where the particular property is located. It appears that Community Planning Committees can take advantage of the relationship with DSD and can end up representing a serious detriment to efficient application processing.

Although Bulletin #620 generally specifies time limit requirements for Planning Committee decisions, those time limits can be vague and/or difficult to enforce. This can cause further project delays.

Also, a Community Planning Committee member is typically designated as part of the project team for the DSD. This means the Community Planning Committee is in effect a "partner" with the DSD. Even though Community Planning Committee members receive training on their role in the process, these procedures can cause serious deterrents to project efficiency. In contrast to this "partner" relationship, County Planning Groups are truly "advisors" to County staff. This creates a subtle but important distinction between the two types of planning organizations.

- = Regulations tend to cause delays in processing entitlements due to, a) sometimes conflicting ordinances and jurisdictions of public agencies, b) disputes regarding interpretation and application of regulations, c) mitigation efforts by staff and various boards and commissions, and d) regulations constantly changing and coordinating the implementation of the changes.
- = Community Planning Committees' public input often extends beyond the technical jurisdictions of the committees for some development applications, sometimes with political overtones.
- The application of regulations and timeliness of response to development applications tend to be impacted by the motivation, knowledge and experience of individual DSD staff members.

3. Review Community Planning Group involvement with projects

There are approximately 44 Community Planning Committees (CPC) in the City of

San Diego. Those groups can and do severely influence project efficiency and seem to potentially cast a lethal shadow on the overall planning and development process. As detailed in the Findings section of this report, the planning groups can be a major impediment to fast service. Their scope of authority and influence in large projects seem to be extreme.

The ZBMR Team feels that some degree of service dissatisfaction can result from those groups' involvement and we recommend the basic operating principles for planning groups be reviewed with the direct objective to simplify and contain their effect on the timeliness and quality of development projects. Consideration should be given to establish deadlines for CPC project review and automatic approvals. Also, CPCs should be made "advisors" to the planning process rather than "partners" in the process.

5. Reduce influence of outside organizations.

DSD has been inundated by outside groups investigating various aspects of department operations. In addition to those, a number of public interest groups continually place demands on the department for resources, special projects, and extra resources in general. The ZBMR Team, quite frankly, can't understand how the department can ever get any work done in the current environment.

We suggest the City Manager let the DSD absorb the vast amount of intelligence.

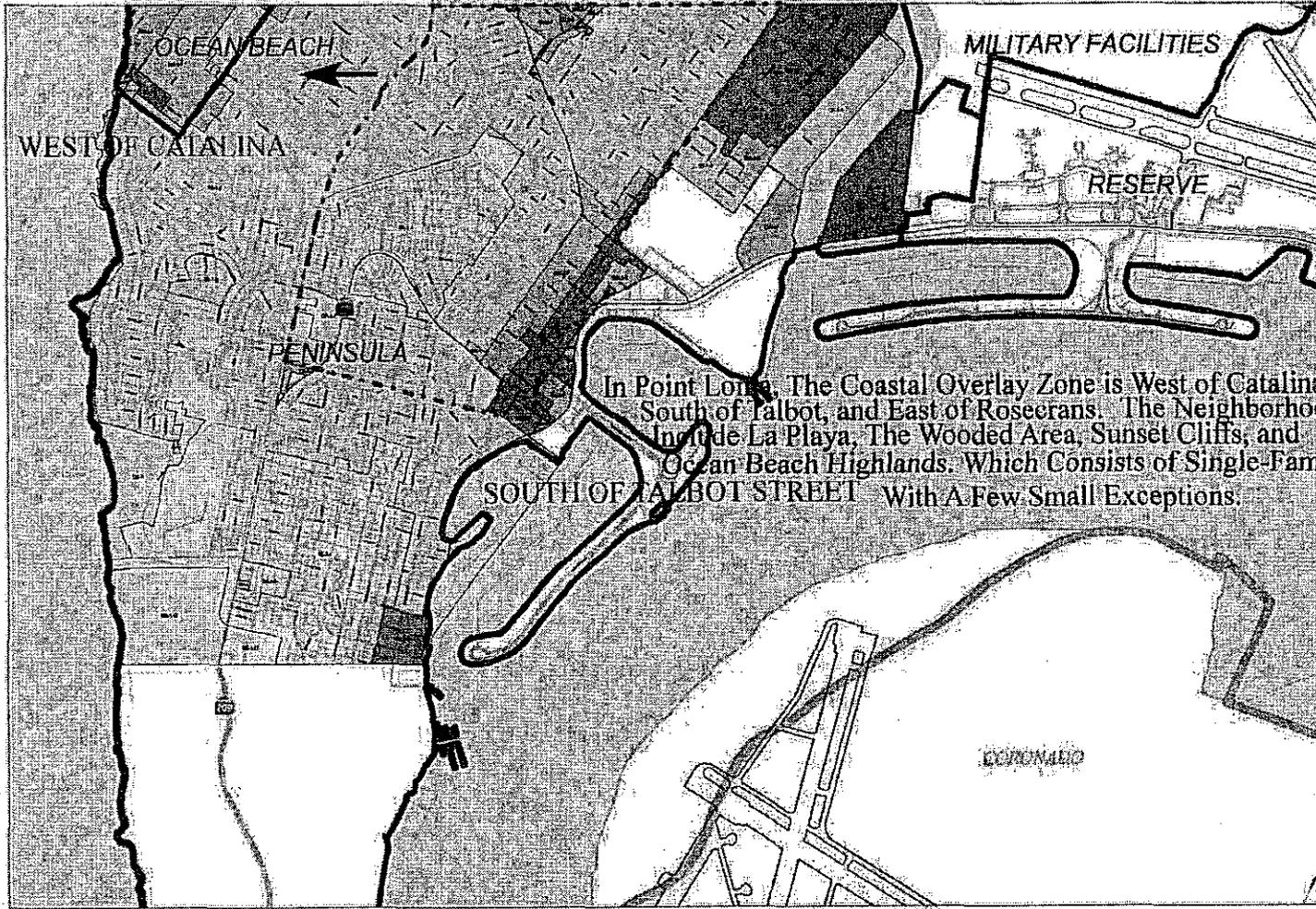
 RECOMMENDATIONS

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Following are some examples of Regulations including relief suggestions in small or medium sized projects that can cause disproportionate processing cost or time increases unique to San Diego.

2. Single Family Coastal Exemption: Allow a new single-family residence to be constructed in the coastal zone without a discretionary permit, unless it is located on a site that contains environmentally sensitive lands. (Note: this exemption was passed several years ago by council and has been pending before the coastal commission since 1997.) **[Categorical Exemption for Single Family Homes in the Coastal Overlay Zone will Lower Review from Discretionary to Ministerial].**
3. Allow for a change in use for small businesses of 5,000 sq. ft. or less without meeting new parking criteria, except for convenience stores with or without liquor sales.
4. Make tandem-parking allowances uniform throughout the city.
5. Increase density levels on commercial sites being proposed for mixed-use where residential density is limited to 1 du/1500 sq. ft. of lot area. Increasing density to 1 du/800 sq. ft. would make mixed-use more financially feasible. Require discretionary hearing and approval for this density increase. **[The Affordable Housing Density Bonus increase is granted Ministerial].**
6. Make projects subject to PDO's ministerial when they comply with the provisions of the PDO. Currently PDO's spell out detailed design requirements, and even when the project meets all of these specific requirements they must obtain a site development permit and go to a process 3 hearing. **[In general, Lower Review from Discretionary to Ministerial].**
7. Make certain limited uses permitted by right rather than through CUP/NUP (i.e., gas stations in commercial or industrial zones currently require a CUP). **[Lower Review from Discretionary to Ministerial].**
8. Exempt projects that fully comply with environmentally sensitive lands regulations (no deviations being requested) from site development permits. **[Lower Review from Discretionary to Ministerial].**
9. Modify the environmentally sensitive land regulations so that non-native grassland that is outside of the MSCP/MHPA area is no longer regulated.
10. Lower the buffer distances to environmentally sensitive lands for development to within 35 feet from the 100 feet currently required. This means, for example, on lots with a single-family dwelling, a person doing a room add in the front of their house on a lot which backs onto a canyon has to go to a discretionary hearing to do this because the room is within 100 feet of the edge of a canyon. Maybe swimming pools should be exempt from this requirement as well. New development that sets back forty feet from a canyon's edge would also be allowed without a hearing if this change is made. **[Lower Review from Discretionary to Ministerial].**

DRAFT Official Zoning Map



Legend

- City of San Diego Boundary
- Community Plan Area
- Parcel

Zoning

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In Point Loma, The Coastal Overlay Zone is West of Catalina, South of Talbot, and East of Rosecrans. The Neighborhoods Include La Playa, The Wooded Area, Sunset Cliffs, and Ocean Beach Highlands. Which Consists of Single-Family Residences With A Few Small Exceptions.

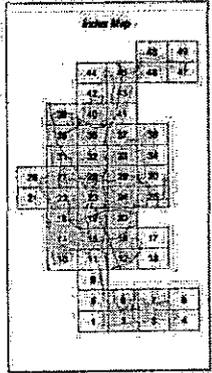


Figure 3 – Portions of Point Loma in the Coastal Overlay Zone are West of Catalina, South of Talbot, and East of Rosecrans. The Zone includes the neighborhoods of La Playa, The Wooded Area, Sunset Cliffs, and Ocean Beach Highlands. The yellow and white area are zoned for single family homes

000935

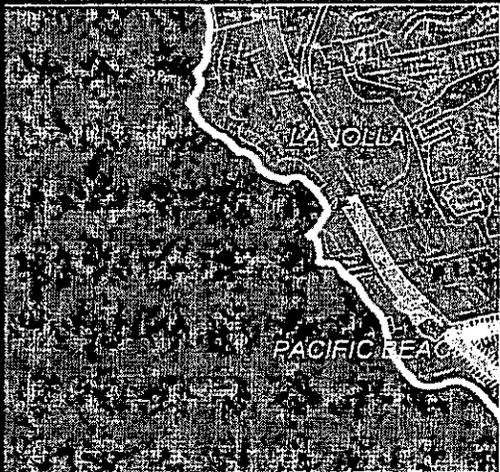


Figure 4 – Portions of La Jolla, Pacific Beach and Mission Beach in the Coastal Overlay Zone are north of Van Nuys, West of Rutgers, West of La Jolla Scenic Drive South, north of Mount Soledad, West of La Jolla Parkway, West of Torrey Pines Road. The yellow and white areas are zoned for single family homes.

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11/30



Land Development
Review Division
(619) 446-5460

SUPPLEMENT to an ENVIRONMENTAL IMPACT REPORT

Project No. 63422
Supplement to EIR No. 96-0333
SCH No. 96081056

SUBJECT: LAND DEVELOPMENT CODE REVISIONS: Affordable Housing Density Bonus Regulations: Amendments to Chapter 14, Article 3, Division 7, Sections §143.0710 through §143.07560, and Chapter 12, Article 6, Division 75 of the Municipal Code, Section §126.0708504 (1), and Section 141.0310. The regulations are intended to apply city-wide; however, until approved by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Applicant: City of San Diego Planning Department.

December 2006 Update:

Clarifications were made to the description of the "No Project Alternative;" however, these clarifications do not affect the analysis or conclusions of the document. The revisions are shown in bold italic strikeout/underline format.

November 2006 Update:

Additional changes were made to the draft Land Development Code (LDC) Revisions to provide further explanation of the parking incentives available for density bonus projects. These revisions are shown in standard double-strikeout/underline format, and the revisions do not affect the analysis or conclusions of the environmental document.

September 2006 Update:

Several changes were made to the draft Land Development Code (LDC) Revisions to provide further clarification. These changes are shaded in the attached revised ordinance. In addition, several LDC Sections were inadvertently cited incorrectly in the environmental document. These corrections are shown in standard strikeout/underline format, and the revisions do not affect the analysis or conclusions of the environmental document.

I. PROJECT DESCRIPTION

The existing and revised density bonus regulations apply to any residential development of five or more pre-density bonus dwelling units where an applicant proposes density beyond that permitted by the existing zone. The applicant must either reserve a portion of the units for moderate, low, or very-low income households, or senior citizens or donate land.

The majority of the proposed Land Development Code (LDC) revisions are intended to implement requirements mandated by State Assembly Bill (AB) 1866, State Senate Bills (SB) 1818 (January 2005) and SB 435, and facilitate the development of affordable housing for very-low and low-income renters, seniors, and moderate income residents within the City of San Diego.

In general, recently adopted state law requires the City to provide up to three regulatory incentives or benefits to applicants for a traditional density bonus based on the percentage of affordable units included as part of the development proposal; it provides additional incentives or concessions to qualifying projects that include on-site day care facilities; it expands the density bonus entitlement option to all common interest developments (condominium, condominium conversions, and planned unit developments) which provide for sale units restricted to moderate income residents; it adds a density bonus category for projects that include the donation of land to the City; it increases the maximum density bonus from 25 percent to 35 percent with a sliding scale of density bonus from 5 percent to 35 percent depending upon the proportion of affordable units; it limits the parking standards required for density bonus projects and allows the use of tandem parking; it changes the length of the affordability requirements; it clarifies that the density bonus for senior development also applies to senior mobilehome parks; and it clarifies that the applicant may only receive one density bonus per project. In addition, and according to the City Attorney, the local proposition, Proposition D, limiting height in the coastal zone would have to yield to the state law mandating density bonuses and incentives. California Government Code Section 65918 specifically states that the density bonus provisions apply to charter cities.

In addition to the new provisions included within state law, the City would offer up to a 10 percent ministerial density bonus to projects that build inclusionary units on-site rather than paying an in-lieu affordable housing fee, and offer an increased density bonus for projects that provide ten percent moderate income ownership units of 20 percent rather than the five percent minimum offered per state law. Please see Attachments 1 (Draft Revised Density Bonus Regulations) & Attachment 2 (Strikeout/Underline Version of the Draft Revised Density Bonus Regulations).

II. ENVIRONMENTAL SETTING: See EIR.

III. DISCUSSION

The City's density bonus regulations were originally adopted in 1981 and were last amended in 1999. The City's existing density bonus regulations were not approved by the Coastal Commission, so state regulations apply in the Coastal Zone. State law supersedes the City's current density bonus ordinance, and staff has been using both current state law and the existing City regulations to review density bonus applications. State law provisions take precedence in the event of a conflict.

Approximately 1000 density bonus units have been produced over the last 20 years within the City of San Diego. With the ordinance revisions, it is anticipated that approximately 50 to 100 density bonus units could be provided per year. As is currently the case, applicants may request additional incentives or community plan amendments for the provision of an increased number of units as well.

The proposed amendments to the LDC would define the parameters specific to the City of San Diego for projects of five or more dwelling units. As is currently the case for all discretionary projects, all new discretionary developments which take advantage of the ordinance provisions would be required to comply with applicable environmental regulations.

Maximum Density

For projects providing the inclusionary units on-site, the maximum ministerial density bonus granted would be ten percent. An applicant could seek an additional 25 percent density bonus, up to a maximum density bonus of 35%, if the state law density bonus regulations are utilized.

For senior citizen housing projects of at least 35 units or a mobilehome park that limits residency based on age requirements for older persons the density bonus would be 20 percent.

For projects providing a donation of land, the density bonus would be granted for a donation of land that could accommodate at least 10 percent of the pre-density bonus units of the proposed development (approximately one acre or of sufficient size to permit the development of at least 40 very low income affordable units). The land must be zoned and have a general plan designation appropriate for residential development, and must be adequately served by public facilities and infrastructure. In addition, the land must be within the boundary of the proposed development or within ¼ mile of the boundary of the proposed development with City approval. The density bonus would start at a minimum of 15 percent pre-density bonus units or 15 percent of the maximum FAR allowed for projects within Center City Planned District. The density bonus would increase on a sliding scale up to 35 percent for land that could accommodate 30 dwelling units.

For other qualifying projects the new density bonus regulations mandated by state law allow a maximum pre-density bonus of 35 percent (either of units or the maximum FAR allowed for projects within Centre City consistent with LDC Section 151.0310(e)) rather than the 25 percent previously allowed. This increased density could be higher than the density allowed by the underlying zone, community plan, and/or planned district ordinance.

Additional Development Incentives (Section 143.0740)

New state law requires that the City grant an applicant's request for up to three incentives. These incentives may include a deviation from development regulations, the approval of a mixed use development in conjunction with a residential development, or any other regulatory deviation proposed by the applicant or the City which would result in an identifiable, financially sufficient, and actual cost reduction. The mixed-use development of residential and commercial, office, or industrial uses must reduce the cost of the residential development and be compatible with the residential development and the applicable land use plan.

Incentives may not be granted if the City makes written findings that the incentive is not required in order to provide for affordable housing costs; or would have an adverse impact upon health and safety, or the physical environment, or on any property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. However, the granting of an incentive would not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. In addition, and according to state law, CEQA only applies to discretionary projects.

Qualified projects that include child care centers under certain conditions would be entitled to either an additional density bonus (of up to a maximum density bonus of 35 percent) or an additional regulatory incentive.

The applicant may also request that the City not require that the vehicular parking ratio, inclusive of handicapped and guest parking, for certain projects not exceeding the ratios shown on page 12 of the ~~strikeout/underline~~ Ordinance.

The new density bonus regulations would allow up to three regulatory development incentives based on the number and the affordability of the units provided in a common interest development through a Process One action. Additional incentives may be granted via deviation requests through a Process Three, Site Development Permit (SDP) action, provided that supplemental findings can be made.

Supplemental Findings (Section 126.0504 (f))

The supplemental findings for SDP have been revised to include findings that:

1. The development assist in the redevelopment of blighted areas consistent with an approved redevelopment plan or, as currently written, assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.
2. The incentive would not have an adverse impact upon the public health, and safety, or upon environmentally sensitive lands.
3. The incentive would not have an adverse impact on historical resources.

Coastal Zone (Section 143.0750)

Affordable Housing Density Bonus projects within the Coastal Overlay Zone would be subject to the applicable certified land use plan and implementing ordinances, including the Coastal Development Permit. However, deviation requests for projects exceeding the 30-foot Proposition D height limit in the Coastal Zone would yield to the state law mandating density bonuses and incentives. Deviation requests from the Environmentally Sensitive Lands Regulations within the coastal zone would require that supplemental findings be made.

Supplemental Findings – Environmentally Sensitive Lands within the Coastal Overlay Zone (Section 126.0708 (b))

The supplemental findings required for requests for deviations from Environmentally Sensitive Lands Regulations have been revised to require that a public hearing on the Coastal Development Permit address the economically viable use determination. (The economically viable use determination is that the use and project design, siting, and size are the minimum necessary to provide economically viable use.) In addition, findings must include that feasible alternatives to the requested incentive and that the effects on coastal resources have been considered and the granting of the incentive or alternative will not adversely affect coastal resources.

It should be noted that the decision maker would not be precluded from denying the project for other reasons.

000941

HEARINGS1 HEARINGS1 - Report to The City Council, 07-021, 'Affordable Housing'

From: <Seaportcynthia@aol.com>
To: <djoyce@sandiego.gov>, <hearings1@sandiego.gov>, <maguirre@sandiego.gov>
Date: 1/30/2007 12:35 AM
Subject: Report to The City Council, 07-021, 'Affordable Housing'

January 29, 2007

City Clerk AND Mr. Dan Joyce,
 Affordable Housing,
 City Attorney's Office
 City of San Diego
 202 C Street
 San Diego CA 92101

RE: Report to The City Council, 07-021, 'Affordable Housing'

As there are numerous 'meetings' tomorrow, I will not be able to attend in person, and sit for 6 hours before I 'get to speak' for 3 minutes. Let's see: Robert's & Peace's new 'waterfront' downtown, the Airport Authority's Technical Advisory Group meeting on Lindbergh Field's "Airport Land Use Compatibility Plan," NTC's Shoreline Plaza and yes, this 'Affordable Housing' Density 'Bonus' (all affecting the future of San Diego, on one day), **is there some reason why, Mr. Joyce didn't disclose that this 'Bonus' just might include or threaten the thirty foot Coastal height limit (now or in the future)?** Isn't it a 'pretty sure thing' that the **Developers would do anything, easily including 'moderate housing' in with the rest of their 'overpriced inventory,' if they can build skyscrapers with Ocean or Bay views?'** All in the name of 'profits?' Is San Diego planning to "pave over paradise" to turn into a 'parking lot, and block off public access to the ocean, in this manner, too?'

In our discussions over the last 2 days, I fully disclosed our concern, being from the Peninsula Planning Board (the Coastal Area), and you didn't think it 'important' to mention a potential 30-foot height limit caveat (for home builders in the Coastal areas) when I called to learn more about this? The parking is absurd in dense areas of downtown, and other city centers, but by the Coast, 70% of the year, it is insane. It's not just the 'parking' that this 'Coastal Amendment' affects, it is a **grossly, deceptive way to 'slide past' the 1972 Law, enacted by the people, that the City's Developer Services Dept. has not felt like 'enforcing' lately,** apparently. Is it because all of these 'hard reports' (ie. EIR's, traffic reports, environmental reports, etc.) are now being done and paid for by the developers or their 'people?' (as indicated in letter by McMillin, 'assisting the DSD and the City' with NTC in its 'update' to the Redevelopment Agency.)

I object to this 'proposed ammendment' in its entirety, until it is fully vetted and understood by the people of San Diego, the False Report that the 'parking is in check' simply because 'the in lieu fee' isn't included in the reduction of parking requirements"-so 'it's ok for the coastal area' and the method that is used by the city's DSD Dept.(and or 'friends of developers) to 'control by chaos' of planning multiple important meetings, keeping 'public input' to a minimum and the method of noticing is minimized by 'competing interests.' All the while people are writing me in droves, saying **'why do they always have these meetings (multiple) in the middle of the day?'**

Regardless of Sentate bill 619, Statute of 2003 or the State Density Bonus law, section 65915, this is not something that should see the light of day if it affects in any way the removal of a preexisting law, whether local or state or Coastal.

There is absolutely NO REASON to Remove Any Part of the 30 foot height limit along the coast. Period. This may also affect the "Public's View Corridors" in favor of Private Development Profit. You don't think that there would be "significant adverse impact" on coastal resources? We've already come up against this within the 30 foot height limit. It is Unacceptable, and totally illegal without a clearly presented argument to change this by a vote, for or against, of the people. Is corruption now 'on the loose, that the former Honorable Justice

000942

Lam has resigned? Or does government feel free to do whatever they wish, including 'changing the laws' when no one's looking? We will be closely watching the responses of All Council persons.

Sincerely,

Cynthia Conger,
(for myself, as the board hasn't had a moment to reflect on this new 'change')
Chair of Peninsula Community Planning Board

000543
From: <rhodes@laplayaheritage.com>
To: <hearings1@sandiego.gov>
Date: Tue, Jan 30, 2007 12:29 PM
Subject: Solution to Ministerial Height and Setback Deviations in the Density Bonus for Affordable Housing

Hello,

Please see the attached document regarding solutions to citizen concerns on Item-331 of Tuesday's, January 30, 2007 city council meeting.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.

000944

January 30, 2007

City Council, 202 C Street, San Diego, California 92101

Dan Joyce, Senior Planner, 1222 First Avenue, MS 501, San Diego, California 92101

Subject: Solution to Citizen Concerns Related to Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR)
Item-331 Amendments Related to Affordable Housing Density Bonus (Citywide)
City Council Meeting, Tuesday, January 30, 2007
<http://clerkdoc.sannet.gov/legtrain/Dockets/dkt20070130>

References: Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR)
http://www.laplayaheritage.com/Documents/CITY%20OF%20SAN%20DIEGO/Density_Bonus_Height_&_Setback_Deviations.pdf

Dear City Council and Mr. Dan Joyce

We have concerns regarding the wording of the proposed Amendments Related to Affordable Housing Density Bonus regulations as they relate to proposed ministerial approval of deviations to height, setback, parking, and Floor-Area-Ratio (FAR) regulations. As written, the open ended wording to the Amendments may be misused as a loophole to get around the 30-foot Coastal Height Limit law among other quality of life laws in the city's Municipal Code. We read the vague wording to construe any requested deviations will be granted ministerially in conformance with the Affordable Housing Density Bonus regulations. For example if a developer provided 10 percent affordable housing, then they will get any incentive that they request without limits. The city-wide implications to get rid of height and setback requirements not in the coastal zone would become effective in 30 days. East of Interstate 5, the lack of limits to the height deviation and setbacks would create high-rise communities were none were planned.

For the record, Mr. Jim Waring of the Mayor's office has contact us by email and assured us that revisions will be made to the proposed ordinance to make sure, in no uncertain terms, the 30 foot coastal height limit will not be violated. As Mr. Waring wrote in his email "*It is not the intention of anyone here to defeat Proposition D... If the problem exists in the language and creates the loopholes you've identified, we need to change it before the vote.*"

We are delighted that this is the case and the City is acknowledging our concerns are valid and the proposed ordinance needs clarification of limits to height and setback deviations and ministerial approval. As a solution, we are proposing the following changes to the proposed ordinance.

1. In Section 143.0740 (a) (1) (A) add the following: **"Nothing in this ordinance implies that the 30 foot coastal height limit will be violated without a two-thirds vote by the citizens of San Diego."**
2. Senate Bill 1818 does not state that incentives need to be granted ministerially through the Process 1 review. **Please delete all references to approval of deviations through the Process 1 Ministerial review including all of Section 143.0740 (b).**
3. Set limits on height and setback deviation consistent with the existing Municipal Code. For example, the existing deviation to setback where 50 percent of the building can be on the side property line after discretionary review.
4. As an example, outside the 30 foot height limit, the maximum height deviation is 10 feet.

000945

We only learned about the loopholes from a subcommittee meeting of the Sierra Club this last Saturday. A few years back, citizens fought this same issue of changes to density bonuses for affordable housing which would have violated the 30 foot coastal height limit. As we heard, the case came before the California Coastal Commission and the citizens won their case and the 30 foot coastal height limit was saved. Community opposition to changing height restrictions is well documented in San Diego.

Please note that besides these two little loopholes for height and setback deviations which have very large, unintended consequences, and the ministerial approval of deviations, we are very supportive of the new Affordable Housing Density Bonus changes to the Municipal Code. We do not want developers to use an incentive made in the name of the poor as loopholes that can change community character with ministerial approval. We hope you agree and make the changes in the proposed ordinance.

If you have any questions, please do not hesitate to contact us.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street
San Diego, California 92106
(619) 523-4350

January 30, 2007

000946

City Council, 202 C Street, San Diego, California 92101

Dan Joyce, Senior Planner, 1222 First Avenue, MS 501, San Diego, California 92101

Subject: Solution to Citizen Concerns Related to Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR)
Item-331 Amendments Related to Affordable Housing Density Bonus (Citywide)
City Council Meeting, Tuesday, January 30, 2007
<http://clerkdoc.sannet.gov/legtrain/Dockets/dkt20070130>

References: Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR)
[http://www.laplavaheritage.com/Documents/CITY%20OF%20SAN%20DIEGO/Density Bonus Height & Setback Deviations.pdf](http://www.laplavaheritage.com/Documents/CITY%20OF%20SAN%20DIEGO/Density%20Bonus%20Height%20&%20Setback%20Deviations.pdf)

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For the record, Mr. Jim Waring of the Mayor's office has contact us by email and assured us that revisions will be made to the proposed ordinance to make sure, in no uncertain terms, the 30 foot coastal height limit will not be violated. As Mr. Waring wrote in his email "*It is not the intention of anyone here to defeat Proposition D... If the problem exists in the language and creates the loopholes you've identified, we need to change it before the vote.*"

We are delighted that this is the case and the City is acknowledging our concerns are valid and the proposed ordinance needs clarification of limits to height and setback deviations and ministerial approval. As a solution, we are proposing the following changes to the proposed ordinance.

1. In Section 143.0740 (a) (1) (A) add the following: **"Nothing in this ordinance implies that the 30 foot coastal height limit will be violated without a two-thirds vote by the citizens of San Diego."**
2. Senate Bill 1818 does not state that incentives need to be granted ministerially through the Process 1 review. **Please delete all references to approval of deviations through the Process 1 Ministerial review including all of Section 143.0740 (b).**
3. Set limits on height and setback deviation consistent with the existing Municipal Code. For example, the existing deviation to setback where 50 percent of the building can be on the side property line after discretionary review.
4. As an example, outside the 30 foot height limit, the maximum height deviation is 10 feet.

000947

We only learned about the loopholes from a subcommittee meeting of the Sierra Club this last Saturday. A few years back, citizens fought this same issue of changes to density bonuses for affordable housing which would have violated the 30 foot coastal height limit. As we heard, the case came before the California Coastal Commission and the citizens won their case and the 30 foot coastal height limit was saved. Community opposition to changing height restrictions is well documented in San Diego.

Please note that besides these two little loopholes for height and setback deviations which have very large, unintended consequences, and the ministerial approval of deviations, we are very supportive of the new Affordable Housing Density Bonus changes to the Municipal Code. We do not want developers to use an incentive made in the name of the poor as loopholes that can change community character with ministerial approval. We hope you agree and make the changes in the proposed ordinance.

If you have any questions, please do not hesitate to contact us.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street
San Diego, California 92106
(619) 523-4350

FROM

(TUE) JAN 30 2007 11:04/ST. 11:03/No. 6818175315 P 1

000549

SYLVEN W. HASKINS*
ELENA L. HASKINS
CYRUS E. BERADJ*
MARGARET PITCHKOLAN*
CRAIG BANDERB*
JUSTIN DORR*

OF COUNSEL

STEVEN F. WINGFIELD
NEO ARDAGNA

*ALSO A LICENSED REAL ESTATE BROKER

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RANCHO SANTA FE, CALIFORNIA 92067
TELEPHONE (800) 869-1687

SENDER'S E-MAIL ADDRESS:

SteveH@HaskinsLaw.com

January 30, 2007

BY FIRST CLASS MAIL AND FACSIMILE

Development Services Department,
Attention: Dan Joyce, Senior Planner
1222 First Avenue, MS 501
San Diego, CA 92101

Facsimile: 533-4045

RECEIVED
CITY CLERK'S OFFICE
07 JAN 30 AM 11:02
SAN DIEGO, CALIF.

RE: Proposition D/ Item 331/ City Council Hearing of 1-30-07/ 30 Foot Height Limit

Dear Mr. Joyce:

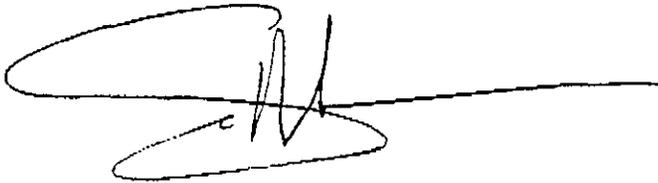
Please be advised that this firm represents certain residents of the City of San Diego and are making this protest as their representatives. This firm also represents Citizens for Clean Government, Inc., in that regard.

Proposition D, the 30 foot height limit incorporated into the San Diego Municipal Code, was passed by over 72% of the voters in 1972. Any attempt to override or otherwise repeal Prop. D without a vote of the people will subject the City to immediate legal action.

Please place this letter in the public record.

Very Truly Yours,

HASKINS & ASSOCIATES APC



Steven W. Haskins, Esq.

cc: Clients
City Attorney

000950

From: "Virginia Silverman" <VirginiaLA35@cox.net>
To: <scottpeters@sandiego.gov>, <kevinfaulconer@sandiego.gov>, <toniatkins@sandiego.gov>, <anthonyyoung@sandiego.gov>, <bmaienschein@sandiego.gov>, <donnafray@sandiego.gov>, <jmadaffer@sandiego.gov>, <benhueso@sandiego.gov>
Date: 1/30/07 9:27AM
Subject: Item 331, City Council Docket of Jan. 30, 2007

Dear Council Members:

I am writing to plead with you to REJECT the Density Bonus proposal as currently presented to you. If approved, your actions could permit developers to build tall highrises on our coastline to provide a few units of 'moderate income' housing. This action would be in violation of the 30 foot height limit, which was a voter initiative circulated strictly by volunteers and passed overwhelmingly by the citizens of San Diego from all areas!

All of us love San Diego for our beautiful coastline. Unfortunately, in the downtown area (where the height limit is not in effect), much of it is now blocked off to public view by walls of high rise buildings. It is literally impossible to see the harbor from Harbor Drive near the convention center. Only those who pay can see the bay!!

There is no doubt that more affordable housing is needed. However, destroying public access to and views of our most important asset -- the water -- is not the right way to achieve this goal. Furthermore, if the City Council approves this action it will further deepen the cynicism so many residents have about the honesty of City government.

This is just another sneak attack by Development Services/Planning & Community Investment bureaucrats to reward their developer friends, and the public be damned! Please do not let this happen!

Sincerely, Virginia Silverman.

--
Internal Virus Database is out-of-date.

Checked by AVG Free Edition.

Version: 7.5.432 / Virus Database: 268.17.2/641 - Release Date: 1/20/2007 10:24 AM

CC: <cityclerk@sandiego.gov>

000951

Judith A. Swink
2289 Caminito Pasada 106
San Diego CA 92107

January 30, 2007

TO: San Diego City Council

SUBJECT: Item 331 [1-30-07 Council Docket] : Amendments /Affordable Housing Density Bonus

I was amazed to read my email this morning and learn that a development code ordinance before you today, if approved by Council and by Coastal Commission as presented, would enable an override of San Diego's 1972 Proposition D, 30 foot height limit, where certain density bonuses are included in a coastal development project.

Worse, this purported loophole is "invisible" in the ordinance before you today which simply says that the amendments, once approved by Council, will take effect once ratified *unconditionally* by the California Coastal Commission. No mention is made in your published staff report, or in the report presented to the SD Planning Commission last October, of State Density Bonus Law trumping any and all [it would appear] local laws and regulations.

I question if that is true in regard to a regulation enacted by citizen initiative but, in any case, urge you to include a specific exception to preemption by State law and ask the Coastal Commission to include that condition in the final LCP amendment adoption.

Thank you.

000953

From: <rhodes@laplayaheritage.com>
To: <smcnally@sandiego.gov>
Date: Mon, Jan 29, 2007 5:31 PM
Subject: Item 331 - Density Bonus Height and Setback Deviations -
January 30, 2007

Hello,

Please see the attached document regarding citizen concerns on Item-331
of
Tuesday's, January 30, 2007 city council meeting.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.

CC: <emaland@sandiego.gov>, <anthonyyoung@sandiego.gov>, <cityattorney@sandiego.gov>, <benhueso@sandiego.gov>, <bmaienschein@sandiego.gov>, <hearings1@sandiego.gov>, <donnafrye@sandiego.gov>, <cqueen@sandiego.gov>, <jmadaffer@sandiego.gov>, <CouncilDistrict2@sandiego.gov>, <jerrysanders@sandiego.gov>, <WLevin@sandiego.gov>, <andersonw@sandiego.gov>, <ScottPeters@sandiego.gov>, <toniatkins@sandiego.gov>, <jwaring@sandiego.gov>

000955

January 29, 2007

Mr. Steve McNally of Councilmember Kevin Faulconer's Office
City Council, Mayor, City Attorney, and DSD
202 C Street
San Diego, California 92101

Subject: Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR) Item-331 Amendments Related to Affordable Housing Density Bonus (Citywide) City Council Meeting, Tuesday, January 30, 2007
<http://clerkdoc.sannet.gov/legtrain/Dockets/dkt20070130>

References: Report No. 07-021 to the City Council, January 24, 2007
http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800f9881
Draft Changes to the Municipal Code
http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800f985e
Summary of Revisions to State Density Bonus Law Under SB1818 and SB 435
<http://www.laplayaheritage.com/Documents/CITY%20OF%20SAN%20DIEGO/densitybonussummary.pdf>

Dear Mr. McNally,

Thank you for speaking to us regarding our concern that, as written, the Amendments to the Affordable Housing Density Bonus will be misused as a loophole to get around the 30-foot Coastal Height Limit law among other quality of life laws in the city's Municipal Code. The following are excerpts from the proposed changes to the Municipal Code.

- 143.0740 Development Incentives for Affordable Housing Density Bonus Projects*
- (a) The City shall grant an incentive request by an applicant, to the extent allowed by State law as set forth in this Section.*
- (1) An incentive means any of the following:*
- (A) A deviation to a development regulation.*
- (2) The granting of an incentive shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval, notwithstanding Planned Development Permit Procedures*
- (b) Incentives shall be granted through Process One.*

The Process 1, Ministerial Over-The-Counter Review has no requirements to notice neighbors within 300 feet, no appeal process to the Planning Commission or City Council, and no recourse regarding decisions made by clerks in the Development Services Department (DSD). Process 1, Ministerial Over-The-Counter Review will take decision making responsibilities away from communities and the City Council, and hand over power to developers in the name of "streamlining" the process. Ministerial versus Discretionary review of new development in the City of San Diego is a quality of life issue.

The above-referenced Summary of Senate Bill 1818 adopted as State Law on January 1, 2005 states "the revised state law clarifies that the regulatory incentives or benefits that are required to be provided to augment the basic density bonus include parking, height, FAR [Floor-Area-Ratio], and setbacks."

000956

Because of the limits included in the proposed ordinance, we do not have any problems with ministerial incentives for affordable housing to consist of lowering requirements for parking or the Floor-Area-Ratio (FAR). Section 143.0740 (d) provides for minimum standards and/or limits for parking requirements. The proposed code changes does not let an incentive consist of using street parking to count towards the on site parking requirements for affordable housing, as first envisioned and proposed by DSD in the seventh draft to the Housing Element.

We do however have a problem with incentives consisting of ministerial approval of deviations to **height** and **setback** requirements without limits written into the Municipal Code.

For example the new affordable housing density bonus regulation would have the following effect in the southeast end of La Playa which is zoned RM-3-9, 60 foot Maximum Height, 10 foot front and back setbacks, and 5 foot side setbacks. Development in this area is also restrained by the 30 foot coastal height limit. Only one studio of a ten unit complex would need to be affordable in order to get any incentive that the developer requests. As currently written, and after the new regulations gets approved by the Coastal Commission, the developer can request that the height limit be changed from the 30 foot coastal height limit to 100 plus feet (as an exaggeration). The only constraint as we see it would be parking. As we read it, the State Law would trump the city's Proposition D – 30 foot coastal height limit law after being approved by the Coastal Commission. This is what the San Diego Building Industry Association (BIA) wants. Just by City Council approval tomorrow, the city-wide implications to get rid of height and setback requirements not in the coastal zone would become effective immediately. East of Interstate 5, the lack of limits to the height deviation would immediately create high-rise communities were none were planned. This situation needs immediate attention.

MY SOLUTION

The situation of no limits to height and setback deviations needs clarification written into the Municipal Code. As an example, as a solution and to set limits, you may add that a ministerially approved height deviation is only for 10 additional feet instead of the no limit currently proposed. Or a ministerial approved setback deviation may be only a 1-foot or 5-foot setback, on one side only, instead of the open ended wording currently used.

As stated in the above-referenced staff Report No. 07-021, staff recommends that you ***“Approve the amendments to the Land Development Code and the City's Local Coastal Program... (Chapter 12, Article 6, Division 7).”*** Page 4 of the staff report states, ***“Implementation in areas within the Coastal Overlay Zone will become effective upon the unconditional certification of the regulations by the California Coastal Commission.”***

As mentioned on Page 33 of the docket, ***“The proposed amendments to the Land Development Code would apply to the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on the amendments to the Land Development Code and associated Local Coastal Program amendments will be with the California Coastal Commission. The City of San Diego must submit the amendments to the Land Development Code as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.”***

000957

Proposed changes to the Coastal Development Permit Procedures (Chapter 12, Article 6, Division 7) have not been included in the staff report. In addition, changes to the Local Coastal Program have not been included in the staff report for review by the city council or members of the public. Please have staff give you the proposed changes to both Chapter 12, Article 6, Division 7 of the Municipal Code, and the Local Coastal Program. This lack of candor on this sensitive topic is very disturbing.

<http://clerkdoc.sannet.gov/legtrain/mc/MuniCodeChapter12/Ch12Art06Division07>

Please know that some in the development community and DSD are counting on everyone to overlook these particular loopholes. We only learned about the loopholes from a subcommittee meeting of the Sierra Club this last Saturday. Only after reviewing all the documents did we see the slight of hand. The same Municipal Code changes to allow ministerial approval of deviations to height and setback requirements were proposed a few years back, but were voted down by the City Council as not a good land use planning tool and not in the best interest of the citizens of San Diego. Community opposition to changing height restrictions is well documented in San Diego.

Please note that besides these two little loopholes which have very large, unintended consequences, we are very supportive of the new Affordable Housing Density Bonus changes to the Municipal Code. We do not want developers to use an incentive made in the name of the poor to line their pockets and change community character with ministerial approval. It would not be right. We hope you and Councilmember Faulconer agree.

If you have any questions, please do not hesitate to contact us.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street
San Diego, California 92106
(619) 523-4350



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www.sdchamber.org

000559

October 9, 2006

Chairman Barry Schultz,
and Members, San Diego Planning Commission
City of San Diego
202 C Street
San Diego, CA 92101

**CITY PLANNING
COMMISSION**

OCT 12 2006

RECEIVED

**RE: Planning Commission Hearing, October 12, 2006: Item 7 -
Affordable Housing Density Bonus Ordinance Amendment (SUPPORT).**

Dear Chairman Schultz and Planning Commission Members:

The San Diego Regional Chamber of Commerce understands that the Planning Commission will consider proposed amendments to the City of San Diego's Affordable Housing Density Bonus Ordinance on Thursday, October 12, 2006 and that city staff is recommending approval of the proposed Density Bonus amendment. We urge the Planning Commission to approve the Affordable Housing Density Bonus Ordinance Amendment.

Housing has been the Chamber's top priority for the last two years. In response to the City Council's request, the Chamber created its Housing Action Plan (CHAP) in 2005. The CHAP lists fifteen housing policy recommendations, including the need for the city to amend its density bonus law so the city will be in compliance with state law and offer incentives to developers who want to produce affordable for-sale or rental units.

Currently, San Diego's Density Bonus Ordinance does not conform to the state's density bonus law. Several bills were enacted mandating that all cities offer density bonus minimums to developers as an incentive to build more affordable units, making San Diego's existing ordinance obsolete. If the proposed amendment were approved, San Diego's current ordinance would again comply with state law.

More importantly, the Affordable Housing Density Bonus Ordinance Amendment grants additional incentives to builders who want to produce more onsite affordable units. Density Bonuses may be offered to any builder who either donates land to the city for affordable housing or builds a project that would include onsite affordable units. The proposed amendment allows the builder to utilize bonuses for a greater variety of affordable units ranging from very low up to moderate-income as well as senior housing.

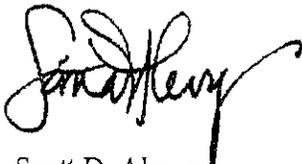
000960

Chairman Barry Schultz
and Members, San Diego Planning Commission
October 12, 2006
Page 2

Developers could qualify for a density bonus or a Floor Area Ratio (FAR) bonus up to 35% rather than paying for in-lieu fees.

On behalf of the Chamber's 3000 member businesses, we thank you for your careful consideration of this matter. I respectfully request that the Planning Commission approve the Affordable Housing Density Bonus Ordinance Amendment. Please contact me if you have additional questions.

Sincerely,



Scott D. Alevy
Vice-President, Communications & Public Policy

Cc: Mayor Jerry Sanders, City of San Diego.
Council President, Scott Peters, District 1
Vice-Chair, Kathleen Garcia, Planning Commission
Robert Griswold, Planning Commission
Gil Ontai, Planning Commission
Dennis Otsuji, Planning Commission
Eric Naslund, Planning Commission
Carolyn Chase, Planning Commission

SA:mn