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THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: October 17, 2007

REPORT NO.: 07-162

ATTENTION: Council President and City Council
Agenda of November 6, 2007

SUBJECT: Affordable Housing Density Bonus. Project Number 63422.
Citywide. Process Five.

REFERENCE: Manager's Report Nos. 03-237, 04-127, 05-028, 05-107.
Planning Commission Report No. PC 06-264.

REQUESTED ACTION:

Approval of amendments to the Land Development Code (LDC) and Local Coastal Program related to the Affordable Housing Density Bonus regulations.

STAFF RECOMMENDATION:

1. **CERTIFY** Supplement to Environmental Impact Report No. 96-0333 (Project 63422) and adopt the Findings and Statement of Overriding Considerations.
2. **APPROVE** the amendments to the Land Development Code and the City's Local Coastal Program related to the city's Affordable Housing Density Bonus regulations as recommended by the Mayor's Office (Chapter 14, Article 1, Division 3; and Chapter 14, Article 3, Division 7).

SUMMARY:

State law requires cities in California grant density bonuses and development incentives to residential projects when restrictions are implemented to maintain specified affordability levels.

The California State Legislature has amended the State Density Bonus Law three times since 2003, with the latest amendment being implemented in January 2006. The state's amended Density Bonus Law already applies in the City of San Diego. The purpose of this amendment to

the LDC and Local Coastal Program is to comply with the state requirement that the city adopt an ordinance that specifies how compliance with state law will be implemented, and to craft regulations that provide guidance and protections within the city's regulatory framework. Adoption of the Affordable Housing Density Bonus Regulations will provide applicants increased densities and incentives that encourage development of new affordable and senior housing throughout the city.

Planning Commission Recommendation:

On October 12, 2006 the Planning Commission voted 5-0-0 to recommend approval of the proposed amendments related to affordable housing density bonus with the following recommendations:

- Investigate the relationship between parking needs and affordable housing to determine if the parking standards should be reduced;
- Look at the relationship between the locations of projects using density bonus and transit to see if there can be a further reduction in parking requirements;
- Attempt to simplify the way the regulations are written to make them more user friendly;
- Track the use of the density bonus provisions to learn where they are being used, the incentives requested, and how existing zoning patterns in the city may be affecting its use;
- Consider allowing applicants that satisfy the affordable housing component of the regulations to request the incentive(s) provided in the regulations while forgoing the increase in density; and
- Remove the option of the in-lieu fee in the Inclusionary Housing Ordinance.

Background:

Since 2003 the California State Legislature has voted for three bills related to density bonus. The legislature intended that density bonus be an incentive program that would result in significant increases in the number of affordable housing units produced throughout the state. The regulations were designed to eliminate barriers to creating affordable housing that, over the years, have been implemented by local jurisdictions to avoid increases in residential density and prevent the perceived social ills of affordable housing. The draft Affordable Housing Density Bonus Regulations reflect the intent, and incorporate the requirements, of the State Density Bonus Law.

The City Planning and Community Investment Department has been working with the San Diego Housing Commission, the City Attorney's Office, and the Development Services Department to amend the city's Affordable Housing Density Bonus regulations since 2003. The amended regulations were docketed for City Council in January 2007 and continued to February in order

to address questions raised by council members. Between the January and February hearing the City Attorney's Office reconsidered the direction it had previously taken and determined that the State Density Bonus Law, as written, allowed for multiple interpretations. Prior to the February Council hearing the City Attorney's Office submitted a second, alternative ordinance for the City Council to consider. The City Council again continued the item for one month so that the differences in the ordinances could be worked out. The one month continuance was not sufficient to work out the differences and in March the item was returned to the Mayor's Office.

Since March the City Planning and Community Investment Department (CPCI), the San Diego Housing Commission, the City Attorney's Office, and Development Services Department have been working together toward the goal of providing either one ordinance that all agree with or, presenting an ordinance that represents the direction from the Mayor's Office but also presenting clearly delineated alternatives for the City Council to consider. In an effort to accomplish this CPCI eliminated two policy related components from its proposed regulations. This report supports the Mayor's recommended ordinance in Attachment 1A; however, an alternate version of the ordinance (Attachment 1B) which includes regulations to implement the policies favored by the City Attorney's Office, has been prepared for City Council consideration. With the exception of the language related to the policy issues, the two ordinances are identical. This report will address those differences in the report section titled "Mayor's Recommendations and Alternatives" (beginning on page 11 of this report).

The two policy related components of the regulations that CPCI removed from the proposed amendment relate to (1) the onsite building bonus for projects that satisfy their inclusionary housing requirement onsite and (2) added protections for environmentally sensitive lands (ESL) within the Coastal Overlay Zone. The two policy areas are unrelated. CPCI is comfortable removing these two components. It was revealed during the public review period that projects using the onsite building bonus in conjunction with State Density Bonus Law could achieve the maximum 35 percent density bonus without providing the minimum number of affordable units necessary to achieve the 35percent density bonus under State Density Bonus Law. Although removed from this proposal, the Housing Commission and CPCI will continue to research methods to encourage development of onsite inclusionary housing. Regarding removal of additional protections for ESL within the Coastal Overlay Zone, the city is required to submit the regulations to the California Coastal Commission for unconditional certification after City adoption of the regulations. Additional protections for environmentally sensitive lands within the Coastal Overlay Zone will be among the future discussions between City and California Coastal Commission staff.

Project Description:

Both drafts of the Affordable Housing Density Bonus Regulations (Attachments 1A and 1B) reflect the amendments made to State Density Bonus Law. The following is a summary of the significant changes to State Density Bonus Law that have been enacted.

- A new density bonus category was added for projects that donate land to the city to be developed with affordable housing.

- A new density bonus category was added for projects that include for-sale moderate income housing units in common interest developments.
- Upon resale of a moderate-income unit developed under the density bonus law, the local government shall recapture both the initial subsidy and a proportionate share of appreciation, unless there is a conflict with another funding source or law.
- All rental projects that receive a density bonus must maintain the affordable units at the required affordability level for 30 years.
- The maximum affordable housing density bonus was increased from 25 percent to 35 percent. A sliding scale of density bonus was created. The density bonus an applicant is granted is determined by the percentage of affordable units provided and the level of affordability (low income, very low income, or moderate income). Table 1 identifies the area median incomes for very low, low, and moderate income adjusted for household size.
- The senior housing density bonus is 20 percent and now also applies to senior mobilehome parks. The density bonus for senior housing is not restricted by income level.
- The city must grant up to three incentives to qualifying affordable housing projects that request incentives. The number of incentives a project is eligible for depends upon the percentage of affordable units provided and the level of affordability.
- Applicants choose the incentives and must demonstrate that the incentive(s) is necessary to make the housing units economically feasible. If the applicant demonstrates that the incentive is necessary to make the units economically feasible, the city must grant the requested incentive(s) unless a specific finding of denial is made.
- The findings to deny a requested incentive are that either the requested incentive is not necessary to provide the affordable units; or that the requested incentive would have an adverse impact on health, safety, the physical environment, or property listed on the California Register of Historical Resources.
- The city must offer an additional incentive to qualifying projects that include onsite day care facilities meeting specified conditions [see Section 143.0740(f) of the draft regulations in Attachments 1A and 1B].
- State Density Bonus Law provides specific parking ratios and standards for projects using the Affordable Housing Density Bonus Regulations. Attachment 2 compares the current city ratios to the proposed parking ratios. In addition to revised ratios, a development using density bonus may use tandem or uncovered parking to meet the parking standard. The city also proposes to restrict parking from the required front yard.

TABLE 1
Household Size and Income Level

Household Size	2007 Income Levels		
	Very Low ≤ 50% AMI	Low 50 – 80% AMI	Moderate 80 – 120% AMI
One	≤ \$ 24,550	\$ 24,550 – 39,300	\$ 39,300 - 58,300
Two	≤ \$ 28,100	\$ 28,100 - 44,900	\$ 44,900 - 66,700
Three	≤ \$ 31,600	\$ 31,600 - 50,555	\$ 50,555 - 75,000
Four	≤ \$ 35,100	\$ 35,100 - 56,150	\$ 56,150 - 83,300
Five	≤ \$ 37,900	\$ 37,900 - 60,650	\$ 60,650 - 90,000
Six	≤ \$ 40,700	\$ 40,700 - 65,150	\$ 65,150 - 96,700

Incentives

A major component of the state's amended Density Bonus Law is the incentive. The state amended law grants applicants up to three incentives when their project includes affordable housing units consistent with the requirements of the Density Bonus Law. The number of incentives to be granted is based upon the percentage of affordable units in the project and the level of affordability (very low-income, low-income, or moderate-income) as identified in Table 2. The incentives may take the form of deviations to development regulations.

TABLE 2
Number of Incentives
Fixed to Percent Density Bonus and Income Level

Number of Incentives	Percent Pre-Density Bonus Units		
	Very Low Income	Low Income	Moderate Income
1	5%	10%	10%
2	10%	20%	20%
3	15%	30%	30%

The State Density Bonus Law includes a "safety valve" (findings to deny an incentive) to address incentives that are not related to the provision of affordable housing, or that would result in an adverse impact. Recognizing that the overarching goal is to promote development of affordable housing, the state intended the findings to be required only to deny an incentive. If no action is taken the incentive is approved. There are two findings for denial of a requested incentive.

1. The first finding for denial is that there is no nexus between the requested incentive and the incentive being needed to make the units affordable. Specifically, the finding is that the incentive is not required to provide affordable housing.

2. The second finding for denial is that there are adverse impacts that cannot be mitigated without rendering the project unaffordable. The finding is that the incentive would have an adverse impact upon:
- Health and safety; or
 - The physical environment; or
 - On any real property listed on 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.

An additional "safety valve" is provided in Section 143.0740(c) of the draft Affordable Housing Density Bonus Regulations. This section of the ordinance identifies items that can not be requested as an incentive. Section 143.0740(c) of the draft Affordable Housing Density Bonus Regulations identifies six subject areas that will not be accepted by the City of San Diego as incentives. The section reads as follows:

- (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;
 - (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 San Diego Building Regulations; or
 - (6) For projects required to notice the Federal Aviation Administration, an increase in height that has not received a determination of No Hazard to Air Navigation.

Response to Planning Commission

Additional modifications and clarifications have been incorporated into the draft regulations in response to recommendations made by the Planning Commission on October 12, 2006. Regarding parking, the parking ratio for units of 4 or more bedrooms has been reduced from the state requirement of 2.50 spaces per unit to the current citywide standard of 2.25 spaces per unit. Clarifying language has also been added to make clear that projects may take advantage of reductions in parking currently permitted for projects within the Transit Area Overlay Zone and for units designated for very low income households. Regarding the Planning Commission's concerns about the complexity of the regulations, the draft regulations have been modified to provide more clarity. The Development Services Department will also develop an Affordable Housing Density Bonus information bulletin to assist the public. The Planning Commission's direction to track projects using the density bonus program is an administrative function that can be accomplished. Attachment 4, Density Bonus Projects by Planning Areas and by Council Districts, and Attachment 5, Income and Density Bonus Project Distribution (2006), have been included in this report to provide information on distribution of affordable housing throughout the city.

The Planning Commission also asked that consideration be given to modifying the regulations to allow applicants that provide the required percentage of affordable housing units to take advantage of the incentives in the regulations without accepting density bonus units. It is clear that the State Density Bonus Law was written to provide incentives only to projects that use the density bonus. However, there is no requirement in the legislation that requires an applicant to accept more than a single bonus unit. Regulations that provide incentives for applicants that provide a required percentage of affordable housing units, without the increased density, will be drafted as a separate ordinance for City Council consideration at a future date.

Issue Areas

A. Coastal Height Limit Overlay Zone

The proposed regulations do not permit a building to exceed the 30-foot Proposition 'D' height limit (codified in the Land Development Code as the Coastal Height Limit Overlay Zone). The Land Development Code is clear on this in two locations.

First, the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5) overrides all other regulations regarding height in the area regulated by Proposition 'D'. It states, "Notwithstanding any section to the contrary, no building or addition to a building shall be constructed with a height limit in excess of thirty feet within the Coastal Zone of the City of San Diego" (§132.0505). In layman terms this means, no matter what any other section of the Land Development Codes states with regard to permitted height, within the Coastal Height Limit Overlay Zone a building cannot be constructed if it exceeds the 30-foot height limit. An amendment to this section of the Land Development Code requires a majority vote of the voters of the City of San Diego, and no amendment is proposed.

Second, to provide additional clarity, Section 143.0740(c)(2) of the proposed ordinance states that a request to exceed the Coastal Height Limit Overlay Zone cannot be used as an incentive. Specifically, it states that "Items not considered incentives by the City of San Diego include, but are not limited to the following: ...A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5)." This provides a direct link to the regulations that codify the 30-foot Proposition 'D' height limit.

B. Height as Incentive (Outside the Coastal Height Limit Overlay Zone)

A request for an incentive that would result in an increase in height beyond the base zone limitation will first be reviewed as discussed in the section titled "Processing Incentives" beginning of page 11 of this report. After the determination of whether the project will be discretionary or ministerial has been made, the incentive for height will be reviewed. An increase in height beyond that permitted by the base zone may be requested as an incentive under the following conditions:

- **The applicant must first demonstrate that the project, without the additional density bonus unit(s), complies with the height limit of the base zone while providing the maximum allowable pre-density bonus units;**

- The applicant demonstrates that the additional height is necessary to make the housing units affordable;
- The height is analyzed for compliance with FAA rules;
- The additional height requested is to be only that which is needed to accommodate the additional density bonus units;
- The additional height is analyzed for adverse impacts on health & safety, the physical environment, or historical resources;
- If either of the findings for denying an incentive are made the height increase is disallowed; and
- If no finding of denial is made, then the project continues to move forward in either the discretionary or ministerial process.

C. Environmentally Sensitive Lands

All multi-family projects proposed on parcels containing environmentally sensitive lands, including those using the Affordable Housing Density Bonus Regulations, are required to apply for a Process Three Site Development Permit (appealable to the City Planning Commission) and are subject to CEQA review. Projects using the Affordable Housing Density Bonus would also be analyzed against the findings to deny a requested incentive, which include the finding related to adverse impacts to the physical environment. A project proposal on a site containing environmentally sensitive lands and using the Affordable Housing Density Bonus Regulations cannot be approved if the decisionmaker(s) cannot make the required permit findings for a Site Development Permit (Attachment 6) or if the decisionmaker(s) can make one of the findings to deny the incentive(s).

D. Waivers and Fees

The proposed regulations do not allow a waiver of required permits, dedications, or fees as an incentive. **All residential units constructed using the Affordable Housing Density Bonus regulations are required to pay all applicable fees including but not limited to FBA and DIF fees.** Section 143.0740(c) of the proposed ordinance removes from consideration as an incentive, waivers of permit requirements, waivers of fees or dedication requirements, and any request for a direct financial incentive.

E. For-Sale Moderate Income – Equity Sharing versus Deed-Restricted

State Density Bonus Law provides a density bonus and incentive(s) to applicants with projects that provide for-sale housing that is affordable to families earning a moderate income of 110 percent AMI. The proposed Affordable Housing Density Bonus

Regulations for moderate for-sale housing comply with State Density Bonus Law. Table 4 identifies the restricted sales price and associated monthly payments for moderate income for-sale housing at 110 percent AMI according to household size and unit size. The issue is how to most effectively administer the moderate income for-sale affordable housing. Should the for-sale program be administered as an equity sharing program where the first income-restricted family that purchases the home shares equity with the Housing Commission, or should the program be administered to require that the first family that purchases the home and all subsequent families must be income-restricted for a period of 55 years? The recommendation is that equity sharing should continue to be used to administrate the moderate income for-sale housing.

TABLE 4
Moderate Income For-Sale
110 Percent Area Median Income and Restricted Sale Price (2007)

Household Size	Unit Size	Income	Restricted Sale Price	Monthly Payment
One	Studio	\$ 53,450	\$ 189,313	\$ 1,137
Two	1 Bedroom	\$ 61,100	\$ 213,883	\$ 1,284
Three	2 Bedroom	\$ 68,700	\$ 238,245	\$ 1,431
Four	3 Bedroom	\$ 76,350	\$ 266,363	\$ 1,599

The San Diego Housing Commission proposes to administer the for-sale moderate-income affordable housing as is currently required in Section 142.1309 of the Inclusionary Housing Ordinance. That section provides for equity-sharing programs that share equity between the first income-restricted family that purchases the home and the San Diego Housing Commission. Administering the program in this fashion provides an incentive for a family to continue to live in the home by increasing the percentage of equity the homeowner earns over a fifteen year equity sharing timeline. Table 5 provides an example of how the equity sharing program works during year one, year seven, and year fifteen using the median condominium sales price in San Diego in May of this year. Additional benefits of equity sharing include:

- Providing additional funding to the San Diego Housing Commission to be used to help other income-restricted families;
- Generating equity that can help families with future financial needs, including funding college education;
- Creating an incentive to maintain and make improvements to the home; and
- Establishing a family's financial stability.

TABLE 5
Equity Sharing For-Sale Moderate Income*

Year One		Year Seven		Year Fifteen	
Housing Commission	Owner	Housing Commission	Owner	Housing Commission	Owner
\$ 129,255 + 85% Equity	15% Equity	\$ 129,255 + 49% Equity	51% Equity	\$ 129,255	100% Equity

* \$ 367,500 Market Price
 - \$ 238,245 Restricted Price (100% AMI)
 \$ 129,255 Housing Commission Subsidy

An alternative to the equity sharing program is to deed restrict ownership of the moderate-income for-sale units for a period of 55 years. This alternative requires that the first income-restricted family to purchase a unit and any subsequent family that purchases the same unit over a 55 year period, to sell the home only to another income-restricted family earning no more than 110% of the AMI. The benefit of deed restricting units is that it guarantees long term affordability of the unit regardless of when or if a family should relocate. At the end of the first 55 year period this program will have resulted in more housing units available to moderate-income families earning 110 percent AMI. However, there are difficulties associated with deed restricting units for a long period of time that outweigh the benefit. The following difficulties are associated with deed restricting units.

- There is a limited pool of income qualified families earning 110% AMI. In order to qualify, a family of four earning \$69,400 a year and paying for monthly rent, transportation costs (including car payment(s), fuel, insurance, and maintenance), and food and clothing for four, must have little to no outstanding debt and a good credit rating.
- Long term affordability is unattractive to mortgage lenders. Lenders are uncomfortable with issues related to foreclosure, the need to rely on the Housing Commission to make whole any losses, and the long term requirement that a unit may only be resold to income-restricted families, all over a 55 year term.
- A family that must relocate (for family health or work related reasons) could be forced to sell their home at a loss. Increasing interest rates and HOA fees could combine to lower the restricted sales price and create a situation where the restricted price at the time of resale is less than it was for the previous homeowner.
- The San Diego Housing Commission will receive no shared equity funds that could otherwise be available to assist other income-restricted families.
- The San Diego Housing Commission subsidy will be unavailable for 55 years. After 55 years the subsidy will be significantly devalued and less valuable to other families needing assistance.

Mayor's Recommendations and Alternatives (Attachments 1A and 1B)

There are two policy components within the regulations for which alternative policies are provided. The first policy relates to processing of incentives when the only reason for a discretionary permit is the incentive(s) requested in accordance with State Density Bonus Law. The second policy for which an alternative is provided is the city initiated amendment that would increase the base density bonus provided to projects that provide for-sale housing affordable to moderate-income households. The following provides an explanation of the two policy areas. The draft regulations in Attachment 1A represent the policies recommended by the City Planning and Community Investment Department (Mayor's recommendation). The draft regulations in Attachment 1B represent alternative policies. These two policy components are unrelated; therefore, the City Council may accept one policy from Attachment 1A and the other from Attachment 1B. Attachment 9 provides a side-by-side summary of the differences between the two policy issues and Attachment 10 provides a side-by-side comparison of the regulations.

Processing Incentives

The regulations in Attachments 1A and 1B both require discretionary permits for projects that would be subject to the discretionary and CEQA process when the requirement is not triggered only as a result of an incentive requested in accordance with State Density Bonus Law. Applicants will be required to state when a project proposes to use the Affordable Housing Density Bonus Regulations. The application will require that the applicant demonstrate that the incentive is necessary to make the housing units affordable, identify the proposed affordability levels and the percentage of affordable units, and any incentive(s) requested. Additional submittal requirements, such as financial data, may be required on a project by project basis.

Mayor's Recommendation for Processing - Attachment 1A [Sections 143.0740(d)(3-5)]

The Mayor's recommendation is that projects that provide affordable housing not be required to get a discretionary permit unless a discretionary permit would be required without the affordable housing component of the project. When an application for a project using the Affordable Housing Density Bonus Regulations is submitted it will be reviewed to determine if the project, minus the incentive(s), would require a discretionary permit. When a discretionary permit is required, that same permit, at the same decision level, will be required and the appropriate CEQA review will occur. The decision maker(s) will be required to make the findings of the discretionary permit in order to approve the project. The decision maker(s) will also be required to review any requested incentive(s) to determine if either of the findings to deny the incentive(s) can be made. A project cannot be approved if the decision maker(s) cannot make the findings to approve the permit, or if the decision maker(s) can make one of the findings to deny the incentive(s). There are a number of discretionary actions that will always be required due to the location of a project. Examples of discretionary actions that will always be required include Coastal Development Permits, Site Development Permits when environmentally sensitive lands or when a historic structure is present, street or right-of-way vacations, and projects located within a community plan

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implementation overlay zone (CPIOZ) Type 'B'. Attachment 8 provides a complete list of discretionary permits that will always be required for projects using the Affordable Housing Density Bonus Regulations.

A project will be reviewed ministerially when, after review it is determined that the project minus the incentive(s), does not require a discretionary permit. The project will be concurrently reviewed by the San Diego Housing Commission, the City Planning and Community Investment Department, and the Development Services Department's Planning and Building Divisions. The project will be reviewed against applicable building codes (DSD Building), requirements for affordable housing agreements (SDHC), and the findings to deny a requested incentive(s) (CPCI and DSD Planning). A project can only receive a building permit when all reviewing disciplines are satisfied that the project meets all requirements. A project cannot be approved ministerially if the required findings for denial can be made.

Very few projects are anticipated to qualify for ministerial processing. First, in order to use the Affordable Housing Density Bonus Regulations, a project must propose and be able to achieve the maximum allowable density per the base zone or community plan. Existing zoning regulations related to height, parking, and environment often preclude a project from achieving the maximum allowable density. For instance, along Clairemont Mesa Boulevard, west of I-805, there are a number of existing multi-family projects that are zoned RM-3-9. This zone allows for up to 73 dwelling units per acre with a height limit of 60 feet. However, this area is subject to the Clairemont Mesa Height Limit Overlay Zone (30-foot height limit). It is not possible for a project to develop at a maximum density of 73 dwelling units per acre when it is restricted to a 30 foot height limit. A project could not request density bonus at this location through a ministerial process since it could not achieve maximum density under existing regulations. In order to use the Affordable Housing Density Bonus Regulations at this location a Process 5 Site Development Permit to exceed the 30-foot height limit (to achieve maximum density), would have to be processed in conjunction with a request for an incentive(s). Second, to be processed ministerially, a project without the proposed density bonus/incentive, must comply with all of the underlying zoning regulations, including height and setback. If any deviations would be required of the project without the density bonus/incentive then a Process 4 Planned Development Permit would have to be processed in conjunction with a request for an incentive. Third, as previously stated, there are numerous requirements to process discretionary permits for new development and multi-family housing based on locational criteria (Attachment 8) that apply to projects using the Affordable Housing Density Bonus Regulations.

Given this information, then first question might be "If the number of units anticipated to be processed ministerially is so low then why maintain a ministerial process?" However, a more relevant question is **"What message is the City sending about affordable housing if it requires an applicant who wants to build affordable housing to spend additional time and money in the discretionary process when the applicant could, based on existing zoning, build market rate housing through the ministerial process?"** Requiring a discretionary permit for projects that would not otherwise require

one will lengthen the review process an average of 6 months and increase project cost by an average of \$5,000 to \$10,000.

Alternative for Processing - Attachment 1B [Sections 143.0740(d)(3-4)]

The alternative would require that an affordable housing density bonus project always process a discretionary permit when an incentive is requested. A project would be processed at the same level of review that would normally apply if the request were not called an incentive. That is, if the requested deviation from development regulations (now called an incentive) were normally processed under a Process 2, 3, 4 or 5 level of review, then it would continue to be processed as such consistent with the City Municipal Code. No special processing would be associated with it except that the findings for approval or denial of the permit used by the decision maker in a process 2, 3, 4 or 5 would be replaced with the State Density Bonus Law findings for denial of an incentive. Maintaining the city's current processing allows for appeals, public notice, and community participation in projects that, except for a requested incentive, would be ministerial.

The criteria for approving an incentive under State Density Bonus Law are as follows:

- The applicant requests a density bonus.
- The applicant for a density bonus submits a request to the City for a specific incentive.
- The request meets the definition of what is considered an incentive under State Density Bonus Law.
- The applicant demonstrates that the waiver or modification of a development standard (the incentive) is necessary to make the housing units economically feasible.
- The incentive will result in identifiable, financially sufficient, and actual cost reductions.

The applicant is responsible for meeting all of the above criteria and where necessary burdened with proving that the criteria are satisfied. When the criteria are satisfied, the request can be approved. However, even if all of the criteria are provided to the satisfaction of the city, the City may, within its discretion, deny the incentive if either of the following written findings is made based upon substantial evidence:

1. The incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

2. The incentive would have a specific adverse impact¹, as defined in paragraph (2) of subdivision (d) of 65589.5, upon public health 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.

The burden to prove that the findings for denial can be made rests with the City. In other words, the applicant is not required, at this point, to demonstrate why there are no health & safety impacts, environmental impacts or historical resource impacts. It is the city's responsibility to demonstrate that such impacts will occur. The discretion remains with the City to determine whether the applicant for the incentive has sufficiently made the findings for approval, and secondly, that even if the criteria for approval have been made, that other circumstances (as outlined above) exist warranting denial of the project. See Government Code Sections 65915(d)(3) & (e). In considering denial, the City must weigh the facts and evidence to determine whether an incentive can be granted. As stated in State Density Bonus Law, "[n]othing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources."

Moderate Income For-Sale Housing

State Density Bonus Law establishes a sliding scale of density bonus for projects that provide for-sale housing for moderate income households. The state law baseline for the sliding scale provides a 5 percent density bonus for projects that include 10 percent of a project's pre-density bonus units for moderate-income households. Attachment 3 provides a side-by-side comparison of the Mayor's recommended bonus (City) and the alternative (State).

Mayor's Recommendation for Moderate Income - Attachment 1A (Table 143-07A)

As directed by the Land Use and Housing Committee, and recommended by the Mayor, the city-initiated amendment would provide a base density bonus of 20 percent for projects providing 10 percent of the pre-density bonus units for moderate-income households. The San Diego Housing Commission initially undertook an in-house analysis to determine whether the state density bonus of 5 percent in exchange for designating 10 percent of the units as moderate income units would be an incentive to

¹ "Specific adverse impact" on public health and safety means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety." Government Code Section 65589.5.

building moderate-income housing in San Diego. It was determined that the state density bonus for moderate income would not provide an incentive in San Diego given the high cost of land, increased construction costs, and the requirement to designate 10 percent of a project's units for moderate income households while receiving a density bonus of only 5 percent. More recently, the San Diego Housing Commission hired Keyser Marsten Associates, Inc. to conduct an analysis of the moderate-income density bonus to determine the density bonus needed to create an incentive for development of moderate income for-sale housing in San Diego. The report (Attachment 7) supports the Housing Commission's initial analysis.

The Keyser Marsten analysis, which is generally based on the RM-3-7 multi-dwelling unit zone, compared the incentives (profit/cost) derived from density bonuses of five percent, ten percent, fifteen percent, and twenty percent. The base line for the analysis was a multi-family development of 45 dwelling units with no density bonus. Other assumptions were that the density bonus units were two-bedroom units for a family of three earning 110 percent A.M.I. Table 3 provides a comparative breakdown of the analysis. The result of the analysis is that a density bonus of five percent or ten percent would provide no incentive, since such bonuses would result in financial losses. Density bonuses of fifteen percent and twenty percent would provide an incentive, since each would result in additional financial gain. However, the financial incentive provided by a density bonus of fifteen percent is marginal (\$3,700 per unit) and given likely future increases in construction costs would provide little to no incentive in the near future. A density bonus of twenty percent (\$10,400 per unit) is more likely to result in construction of moderate income affordable housing units in the City of San Diego.

TABLE 3
Economic Impact Analysis - Summary

	Baseline	Percent Density Bonus			
		5%	10%	15%	20%
Dwelling Units	45	47	49	51	54
Total Profit	---	(\$ 239,000)	(\$ 33,000)	\$ 187,000	\$ 564,000
Profit Per DU	---	(\$ 5,100)	(\$ 700)	\$ 3,700	\$ 10,400
% of Cost	---	- 1.4%	- 0.4%	0.5%	2.1%
% of Value	---	- 1.1%	- 0.4%	0.4%	1.7%

Alternative for Moderate Income - Attachment 1B (Table 143-07A)

The base of the density bonus scale for moderate income housing is a 5% density bonus for providing 10% of the units affordable at 110% AMI. This is the requirement in State Density Bonus Law.

Implementation:

The ordinance approving the amendments to these regulations will be crafted to allow implementation in those areas of the city outside the Coastal Overlay Zone 30 days after the second reading by the City Council. As required for all amendments to the City's Local Coastal Program, implementation in areas within the Coastal Overlay Zone will become effective only upon the unconditional certification of the regulations by the California Coastal Commission.

Environmental Analysis:

The City of San Diego previously prepared Environmental Impact Report No. 96-0333 for the Land Development Code. It has been determined that the proposed amendments to the Affordable Housing Density Bonus Regulations may result in significant impacts not discussed in EIR No. 96-0333. It has been determined that the proposed amendments have the potential to result in significant impacts to visual quality, transportation, and parking; and cumulative impacts to visual quality and parking.

The extent to which these potential impacts may or may not occur depends on several factors, including, but not limited to, site specific project location, surrounding natural and built characteristics, and project design. As previously stated, the findings for denying an incentive provide further reductions in the potential for impacts. An incentive(s) can be denied when it is found to have an adverse impact on the physical environment, health and safety, or historic resources. Additionally, projects using the Affordable Housing Density Bonus Regulations and processing a discretionary permit will be subject to the findings for approving a development permit and CEQA review. CEQA review will identify whether a project has an environmental impact, and if there is an impact, necessary mitigation would be considered with the project by the decisionmaker(s) as part of the project.

FISCAL CONSIDERATIONS:

The costs of processing this amendment to the City's Affordable Housing Density Bonus Regulations are shared by the City Planning and Community Investment Department, which is funded through the general fund, and the Development Services Department Code Update Section which is funded through an overhead expense in the Development Services Department's budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

San Diego Housing Commission - On April 8, 2005 the Housing Commission voted 4-0-0 to generally support the staff recommendation while expressing the view that the primary goal should be to provide incentives for low and very low income housing.

Land Use & Housing Committee (LU&H) - On May 11, 2005, the Committee voted to accept the proposed ordinance and directed staff to prepare the required environmental documentation for Planning Commission and City Council consideration and adoption. LU&H provided the following direction to staff:

- Answer more completely the Committee's questions regarding use of different approval process levels and differential findings for different elements of the program in order to adequately address community concerns;
- Direct the Intergovernmental Relations Department to bring state legislation affecting local housing and land use policy to the attention of LU&H for possible review and comment prior to adoption by the state or federal legislatures.
- Chart and track projects that take advantage of the density bonus program by monitoring the number of incentive(s) a project uses, the project location, and to what extent the project relies on state versus local elements of the program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Code Monitoring Team (CMT) - On April 12, 2006, the CMT voted 6-0-1 to support staff recommendation.

Technical Advisory Committee (TAC) - On March 9, 2005 the TAC voted 7-0-0 to support the draft ordinance with four recommendations. The first was that any proposal to increase density bonus for projects that satisfy their inclusionary housing onsite be expanded to also include the regulatory incentives afforded the state density bonus categories. After further review it was determined that a density bonus for projects that satisfy their onsite inclusionary housing and any expansion of that bonus to also include the incentives would dilute the incentive of providing additional affordable housing through the density bonus regulations. The second and third recommendations were that the review process for deviations for projects requesting a density bonus be reduced from the current city-wide Process Four to a Process Three, and that a separate category of density bonus should be developed for accessible units. Projects utilizing density bonus could be entitled to up to three incentives ministerially provided no discretionary permit is otherwise required. Reducing a decision level for deviating from city-wide zoning regulations as well as addressing the need for accessible living units should be considered city-wide and not in a piecemeal fashion for only certain project types. The fourth recommendation was that the minimum density bonus for moderate income housing be increased from 5 percent to 20 percent in recognition of the high development costs in San Diego. This has been included as a city-initiated amendment.

Community Planners Committee (CPC) - On February 22, 2005, the CPC voted 11-1-0 to oppose staff recommendation and recommended that the regulations be revised to not vary from or exceed the requirements of the State Density Bonus Law. Specifically, the CPC did not support the two city-initiated amendments. The CPC recommendation to oppose the city-initiated bonuses for moderate-income for-sale units and construction of inclusionary housing onsite would likely remove both the incentive to provide housing in the moderate-income category and the incentive to construct inclusionary housing onsite. The two city-initiated amendments would result in additional affordable housing units, and in the case of the onsite building bonus, those affordable housing units would be developed more rapidly than they would through collection of in-lieu fees.

KEY STAKEHOLDERS:

Key stakeholders include the building industry, organizations that advocate for increasing the city's supply of affordable housing, and community planning groups.

ALTERNATIVES:

1. Adopt only the regulations that implement the state mandated Density Bonus Law and deny the city-initiated density bonus incentive. This would be adoption of an ordinance containing the regulations from:
 - o The Mayor's Recommendation for Processing Incentives (Attachment 1A), or
 - o The alternative for Processing Incentives (Attachment 1B), and
 - o The alternative regulations for Moderate Income For-Sale Housing (Attachment 1B).

2. Adopt the regulations that implement the state mandated Density Bonus Law and accept or modify the city-initiated density bonus incentive. This would be adoption of an ordinance containing the regulations from:
 - o The Mayor's Recommendation for Processing Incentives (Attachment 1A), or
 - o The alternative for Processing Incentives (Attachment 1B), and
 - o The regulations for Moderate Income For-Sale Housing from the Mayor's Recommendations for Moderate Income For-Sale Housing (Attachment 1A) or the alternative regulations for Moderate Income For-Sale Housing (Attachment 1B) with or without modification.

3. Deny or modify the regulations that implement the state mandated Density Bonus Law beyond what is presented in Attachments 1A and 1B, and deny or modify the city-initiated density bonus incentive. This action could cause the regulations to be out of compliance with state law.



Dan Joyce,
Senior Planner



William Anderson, FAICP
Deputy Chief of Land Use and
Economic Development

ANDERSON/DJ

- ATTACHMENTS:
- 1A. Mayor's Recommendation - Draft Regulations for Affordable Housing Density Bonus
 - 1B. Alternative Regulations
 2. Parking for Projects Utilizing Affordable Housing Density Bonus
 3. Comparison between State Requirement and City Proposal for Moderate Income Density Bonus
 4. Density Bonus Projects by Planning Areas and by Council Districts



5. Income and Density Bonus Project Distribution (2006)
6. Site Development Permit Findings for Environmentally Sensitive Lands
7. Keyser Marsten Associates, Inc. Report *Economic Impact Analysis Proposed Density Bonus Regulations*
8. Discretionary Permits Required of Density Bonus Projects
9. Summary Comparison - Mayor's Recommendations and Alternatives
10. Differences in Regulatory Language

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ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7, BY AMENDING SECTIONS 143.0710, 143.0715, 143.0720, BY RENUMBERING AND AMENDING CURRENT SECTION 143.0730 TO 143.0725, BY CREATING A NEW SECTION 143.0730, AND BY AMENDING BY AMENDING SECTIONS 143.0740, AND REPEALING SECTIONS 143.0750 AND 143.0760; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3, BY AMENDING SECTION 141.0310(B), ALL RELATING TO THE DENSITY BONUS REGULATIONS.

WHEREAS, the City of San Diego [City] is required by Section 65915 of the California Government Code [State Density Bonus Law] to provide a developer with a density bonus and other incentives for the production of affordable and senior housing units or the donation of land within a proposed development if the developer meets certain requirements [Density Bonus Regulations]; and

Whereas, the City desires to provide incentives to provide Inclusionary Housing on-site: and

WHEREAS, the City Council adopted Density Bonus Regulations Citywide on December 9, 1997, by O-18451; and

WHEREAS, the City Council proposed amendments to its Density Bonus Regulations on June 21, 1999, by O-18654, subject to the approval of the California Coastal Commission for the areas of the City within the Coastal Overlay Zone; and

WHEREAS, on November 13, 2000, the California Coastal Commission failed to approve the June 21, 1999 amendments for the areas of the City within the Coastal Overlay Zone, resulting in two different sets of Density Bonus Regulations, one effective outside of the Coastal Overlay Zone (O-18654) and one effective inside the Coastal Overlay Zone (O-18451); and

WHEREAS, the City's Density Bonus Regulations are inconsistent with recent amendments to the State Density Bonus Law; and

WHEREAS, the City desires to update its Density Bonus Regulations to ensure conformance with the State Density Bonus Law both inside and outside of the Coastal Overlay Zone; NOW, THEREFORE,

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

Section 1. That Chapter 14, Article 3, Division 7, is amended by amending Sections 143.0710, 143.0715, 143.0720, 143.0725, 143.0730, and 143.0740, and deleting Sections 143.0750 and 143.0760, to read as follows:

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, pursuant to the State Density Bonus Law.

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§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) *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
 - (2) *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.
 - (3) 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*.
 - (4) 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

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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 for 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) A *density* bonus agreement for housing for senior citizens shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- (1) 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) The *dwelling units* shall remain available for a period of at least 30 years or longer as may be required by other laws.
- (f) 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.
- (g) Provision shall be made by the San Diego Housing Commission for certification of eligible tenants and purchasers, annual certification of

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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(e), the *density* bonus shall be 20 percent.
- (b) For *development* meeting the criteria for *low income* in Section 143.0720(c)(1), 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).
- (c) For *development* meeting the criteria for *very low income* in Section 143.0720(c)(2), 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).
- (d) 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).
- (e) 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.

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- (f) 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.
 - (g) 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*.

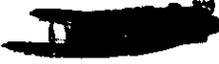
§143.0730 Density Bonus in Exchange for Donation of Land

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 this division and pursuant to the State Density Bonus Law.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

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

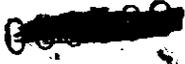
- (a) The *applicant* shall demonstrate that the incentive is necessary to make the housing units economically feasible.
- (b) An incentive means any of the following:
 - (1) A deviation to a *development* regulation;
 - (2) Approval of mixed use zoning in conjunction with a residential *development* 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;
- (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;
- (6) For projects required to notice the Federal Aviation Administration, an increase in height that has not received a determination of No Hazard to Air Navigation.

(d) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(c) 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.
 - (5) Notwithstanding Sections 143.0740(d)(3) and (4), when a *development permit* is required, the decision to deny a requested incentive shall be made by the decision maker for the *development permit*.
- (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 *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

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

Percent <i>Very Low Income Units</i>	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 <i>Moderate Income Units</i>	Percent <i>Density Bonus</i>	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:

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- (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)(4);
 - (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
 - (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),(d), or (e) 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:
 - (A) *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*.
 - (B) *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*

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unit that is limited to occupancy by a *very low income* household.

- (C) *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(g)(4)(A) and (B).
- (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.

Section 2. That Chapter 14, Article 1, Division 3, is amended by amending Section 141.0310 to read as follows:

§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]

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take

effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

APPROVED: _____, City Attorney

By _____
Deputy City Attorney



ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7, BY AMENDING SECTIONS 143.0710, 143.0715, 143.0720, BY RENUMBERING AND AMENDING CURRENT SECTION 143.0730 TO 143.0725, BY CREATING A NEW SECTION 143.0730, AND BY AMENDING BY AMENDING SECTIONS 143.0740, AND REPEALING SECTIONS 143.0750 AND 143.0760; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3, BY AMENDING SECTION 141.0310(B), ALL RELATING TO THE DENSITY BONUS REGULATIONS.

WHEREAS, the City of San Diego [City] is required by Section 65915 of the California Government Code [State Density Bonus Law] to provide a developer with a density bonus and other incentives for the production of affordable and senior housing units or the donation of land within a proposed development if the developer meets certain requirements [Density Bonus Regulations]; and

Whereas, the City desires to provide incentives to provide Inclusionary Housing on-site: and

WHEREAS, the City Council adopted Density Bonus Regulations Citywide on December 9, 1997, by O-18451; and

WHEREAS, the City Council proposed amendments to its Density Bonus Regulations on June 21, 1999, by O-18654, subject to the approval of the California Coastal Commission for the areas of the City within the Coastal Overlay Zone; and

WHEREAS, on November 13, 2000, the California Coastal Commission failed to approve the June 21, 1999 amendments for the areas of the City within the Coastal Overlay Zone, resulting in two different sets of Density Bonus Regulations, one effective outside of the Coastal Overlay Zone (O-18654) and one effective inside the Coastal Overlay Zone (O-18451); and

WHEREAS, the City's Density Bonus Regulations are inconsistent with recent amendments to the State Density Bonus Law; and

WHEREAS, the City desires to update its Density Bonus Regulations to ensure conformance with the State Density Bonus Law both inside and outside of the Coastal Overlay Zone; NOW, THEREFORE,

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

Section 1. That Chapter 14, Article 3, Division 7, is amended by amending Sections 143.0710, 143.0715, 143.0720, 143.0725, 143.0730, and 143.0740, and deleting Sections 143.0750 and 143.0760, to read as follows:

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

- ~~000000~~ (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) *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
 - (2) *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.
 - (3) 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*.
 - (4) 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 for 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) A *density* bonus agreement for housing for senior citizens shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- (1) 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) The *dwelling units* shall remain available for a period of at least 30 years or longer as may be required by other laws.
- (f) 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.

- (g) 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(e), the *density* bonus shall be 20 percent.
- (b) For *development* meeting the criteria for *low income* in Section 143.0720(c)(1), 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).
- (c) For *development* meeting the criteria for *very low income* in Section 143.0720(c)(2), 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).
- (d) 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).
- (e) 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

~~000000~~ number of *dwelling units* may be distributed without regard to the zone boundaries.

- (f) 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.
- (g) 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 this division and pursuant to the State Density Bonus Law.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

The City shall process an incentive requested by an *applicant*, consistent with State Density Bonus 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.

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- (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;
 - (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;
 - (6) For projects required to notice the Federal Aviation Administration, an increase in height that has not received a determination of No Hazard to Air Navigation.
- (d) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(c) 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 and *development permit* for a *development* requesting an incentive shall be the same that would be required of the *development* if it were not providing affordable housing units in accordance with this division.
- (4) When a *development permit* is required, the decision on the *findings* to deny a requested incentive, in addition to the required *findings* of the *development permit*, shall be made by the decision maker for the *development permit*. Except that, notwithstanding Section 126.0504 and 126.0604 (Findings for Site Development Permit Approval and Findings for Planned Development Permit Approval), when a *development permit* is required only as a result of a requested incentive, then only a decision on the *findings* to deny the requested incentive is required to be made by the decision maker.
- (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 *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 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 <i>Moderate Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
10	5	1
11	6	1
12	7	1
13	8	1
14	9	1
15	10	1
16	11	1
17	12	1
18	13	1
19	14	1
20	15	2
21	16	2
22	17	2
23	18	2
24	19	2
25	20	2
26	21	2
27	22	2
28	23	2
29	24	2
30	25	3
31	26	3
32	27	3
33	28	3

34	29	3
35	30	3
36	31	3
37	32	3
38	33	3
39	34	3
40	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)(4);
 - (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
 - (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),(d), or (e) 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

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- (4) Additional reductions to the parking ratios shall be granted for projects within a *transit area*, and for *very low income* households as follows:
- (A) *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*.
- (B) *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.
- (C) *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(g)(4)(A) and (B).
- (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.

Section 2. That Chapter 14, Article 1, Division 3, is amended by amending Section 141.0310 to read as follows:

§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]

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

APPROVED: _____, City Attorney

By _____
Deputy City Attorney

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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.

**Comparison between State Requirement and City Proposal
for
Moderate Income Density Bonus**

Percent Moderate Income Units	Percent Density Bonus		Number of Incentives
	State	City	
10	5	20	1
11	6	21	1
12	7	22	1
13	8	23	1
14	9	24	1
15	10	25	1
16	11	26	1
17	12	27	1
18	13	28	1
19	14	29	1
20	15	30	1
21	16	31	1
22	17	32	1
23	18	33	1
24	19	34	1
25	20	35	2
26	21	35	2
27	22	35	2
28	23	35	2
29	24	35	2
30	25	35	2
31	26	35	2
32	27	35	2
33	28	35	2
34	29	35	2
35	30	35	3
36	31	35	3
37	32	35	3
38	33	35	3
39	34	35	3
40	35	35	3

Existing Density Bonus Projects - By Planning Areas

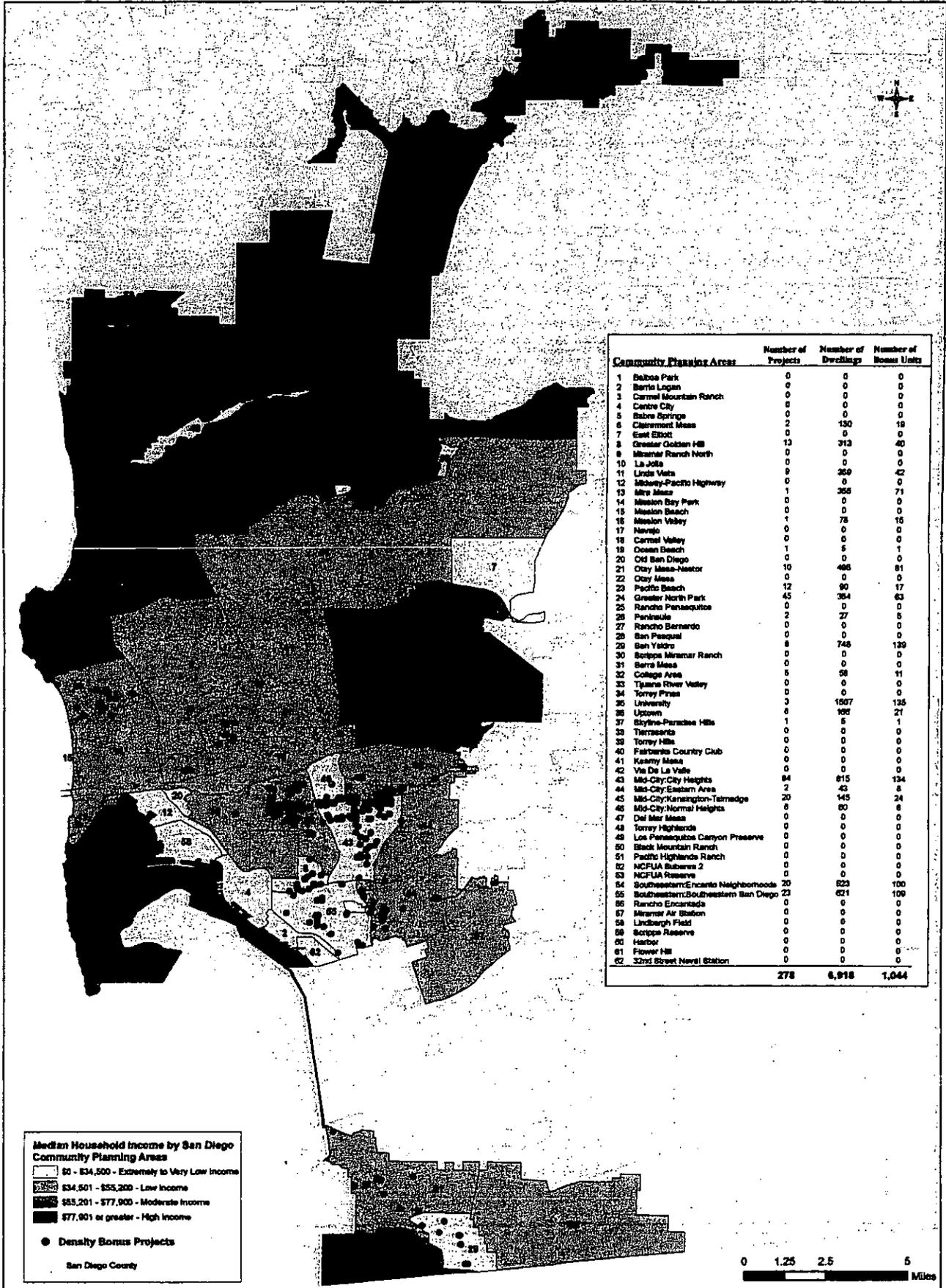
Plan Areas	Density Bonus Projects	Total Units in Project	Density Bonus Units
Barrio Logan	0	0	0
Black Mountain Ranch	0	0	0
Carmel Mountain Ranch	0	0	0
Carmel Valley	0	0	0
Clairemont Mesa	2	130	19
College Area	5	58	11
Del Mar Mesa	0	0	0
East Elliot	0	0	0
Fairbanks Country Club	0	0	0
Golden Hill	13	313	40
Kearny Mesa	0	0	0
La Jolla	0	0	0
Linda Vista	9	369	42
Mid-City	114	1,063	174
Midway-Pacific Hwy	0	0	0
Miramar Ranch North	0	0	0
Mira Mesa	1	355	71
Mission Beach	0	0	0
Mission Valley	1	78	15
Navajo	0	0	0
North Park	45	364	63
Ocean Beach	1	5	1
Old Town San Diego	0	0	0
Otay Mesa	0	0	0
Otay Mesa-Nestor	10	469	81
Pacific Beach	12	90	17
Pacific Highlands Ranch	0	0	0
Peninsula	2	27	5
Rancho Bernardo	0	0	0
Rancho Encantada	0	0	0
Rancho Peñasquitos	0	0	0
Sabre Springs	0	0	0
San Pasqual	0	0	0
San Ysidro	8	748	139
Scripps Miramar Ranch	0	0	0
Serra Mesa	0	0	0
Skyline Paradise Hills	1	5	1
Southeastern San Diego	43	1,144	209
Tierrasanta	0	0	0
Tijuana River Valley	0	0	0
Torrey Highlands	0	0	0
Torrey Hills	0	0	0
Torrey Pines	0	0	0
University	3	1,507	135
Uptown	8	166	21
Villa de la Valle	0	0	0
Total	278	6,891	1,044

Existing Density Bonus Projects
By City Council District
October 2006

Project Type	Council Districts								Total
	CD1	CD2	CD3	CD4	CD5	CD6	CD7	CD8	
Projects Using Density Bonus	3	15	142	43	1	12	32	30	278
Bonus Units	135	23	249	205	71	76	44	241	1,044

Income and Density Bonus Project Distribution (2006)

City of San Diego



**Site Development Permit
Required Findings
For
Environmentally Sensitive Lands**

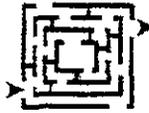
§126.0504 Findings for Site Development Permit Approval

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b) through (n) that are applicable to the proposed *development* as specified in this section.

- (a) Findings for all Site Development Permits
- (1) The proposed *development* will not adversely affect the applicable *land use plan*;
 - (2) The proposed *development* will not be detrimental to the public health, safety, and welfare; and
 - (3) The proposed *development* will comply with the applicable regulations of the Land Development Code.
- (b) Supplemental Findings--Environmentally Sensitive Lands
- A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):
- (1) The site is physically suitable for the design and siting of the proposed *development* and the *development* will result in minimum disturbance to *environmentally sensitive lands*;
 - (2) The proposed *development* will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, *flood* hazards, or fire hazards;
 - (3) The proposed *development* will be sited and designed to prevent adverse impacts on any adjacent *environmentally sensitive lands*;
 - (4) The proposed *development* will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;
 - (5) The proposed *development* will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and
 - (6) The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed *development*.

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ATTACHMENT 7

KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

MEMORANDUM

SAN FRANCISCO
A. JERRY KEYSER
TIMOTHY C. KELLY
KATE EARLE FUNK
DEBBIE M. KERN
ROBERT J. WETMORE

LOS ANGELES
CALVIN E. HOLLIS, II
KATHLEEN H. HEAD
JAMES A. RABE
PAUL C. ANDERSON
GREGORY D. SOO-HOO

SAN DIEGO
GERALD M. TRIMBLE
PAUL C. MARRA

To: Ms. Amy Benjamin, Program Analyst
San Diego Housing Commission

From: KEYSER MARSTON ASSOCIATES, INC.

Date: July 24, 2007

Subject: Economic Impact Analysis
Affordable Housing Density Bonus Regulations

I. INTRODUCTION

A. Objective

Per your request, Keyser Marston Associates, Inc. (KMA) has undertaken an economic impact analysis of a proposed amendment to the City of San Diego's (City's) affordable housing density bonus ordinance.

The State of California requires cities to grant density bonuses to residential developments if a portion of the development is restricted to specific affordability levels. The City is considering amending their density bonus ordinance to increase the density bonus for moderate for-sale housing from the State-mandated minimum of 5% to 20%, provided that 10% of total pre-density units are affordable to moderate-income households.

The San Diego Housing Commission (Commission) requested that KMA evaluate the economic impact of various levels of increase in the density bonus for moderate-income for-sale housing.

To:

Ms. Amy Benjamin, Program Analyst

July 24, 2007

Subject:

Economic Impact Analysis

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Affordable Housing Density Bonus Regulations

B. Report Organization

This report is organized as follows:

- Section II presents KMA's key findings.
- Section III presents the KMA method of analysis.
- Section IV specifies the limiting conditions pertaining to this report.
- Data tables and technical analyses are presented in the attachments.

II. KEY FINDINGS**A. Economic Impact Analysis of Alternative Density Bonus Scenarios***Description of Development Scenarios Tested*

As part of the KMA economic analysis, KMA developed a base case example for a for-sale multi-family market-rate residential development. The base case example was used as a prototype on which to test the impact of various density bonus scenarios. The following table summarizes the various density bonus scenarios tested:

	Percent Moderate-Income	Density Bonus	Density (Units/Acre)	Number of Units		
				Affordable	Market-Rate	Total
Base Case	0%	0%	45.0	0	45	45
Scenario 1	10%	5%	47.3	5	42	47
Scenario 2	10%	10%	49.5	5	44	49
Scenario 3	10%	15%	51.8	5	46	51
Scenario 4	10%	20%	54.0	5	49	54

For each scenario, KMA assumed 10% of pre-bonus units (5 units) are affordable to moderate-income households. The State of California Density Bonus Law (California Government Code Section 65915) allows the maximum moderate-income sale price to be calculated based on an income limit of 110% of Area Median Income (AMI). The

To:

Ms. Amy Benjamin, Program Analyst

July 24, 2007

Subject:

Economic Impact Analysis

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Affordable Housing Density Bonus Regulations

KMA economic analysis, however, assumed a maximum moderate-income sales price at 100% AMI, consistent with parameters set forth in the City of San Diego Inclusionary Housing Ordinance for affordable for-sale housing.

Based on the foregoing, KMA estimated the maximum sales price for a two bedroom moderate-income unit at 100% AMI to be \$183,000.

The KMA economic analysis is reflective of a generic development in an unspecified location. Therefore, the KMA analysis does not evaluate the impact of concessions or incentives which are also available to multi-family residential developers if at least 10% of pre-bonus units are affordable to moderate-income households.

Developer Profit Under Alternative Density Bonus Scenarios

As shown in the attached Summary Table and summarized below, the impact of allowing only the State-mandated minimum density bonus of 5% is estimated to *reduce* the developer's profit by 1.1% of project value. KMA found that as the density bonus increased, developer profit experienced a marginal to small increase. As such, the granting of a 20% density bonus, as proposed by the City, is estimated to increase the developer profit by 1.7% of project value.

	Percent Moderate-Income	Density Bonus	Indicated Developer Profit (% of Project Value)	Impact Relative to Base Case	
				% of Value	Per Unit
Base Case	0%	0%	7.6%	N/A	N/A
Scenario 1	10%	5%	6.5%	(1.1%)	(\$5,100)
Scenario 2	10%	10%	7.3%	(0.4%)	(\$700)
Scenario 3	10%	15%	8.0%	0.4%	\$3,700
Scenario 4	10%	20%	9.3%	1.7%	\$10,400

The KMA estimate of economic impact does not include other considerations such as:

- The potential increase in construction costs due to change in construction type or the need for additional parking; and

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- Additional risks incurred by the developer due to the obligation to qualify moderate-income homebuyers.

These considerations may further affect the feasibility of multi-family for-sale developments using the moderate-income density bonus.

B. Feasibility of the Moderate-Income Density Bonus

It is the KMA finding that the moderate-income density bonus program as defined in the State of California Density Bonus Law is not sufficient to encourage San Diego developers of market-rate multi-family for-sale residential developments to include moderate-income units. The KMA finding is based on the following:

- State Density Bonus Law limits the number of market-rate units developed regardless of the amount of additional density granted.
- Each moderate-income unit requires financial assistance in addition to the "free land" provided by the density bonus.
- Market-rate developers are likely to perceive payment of the City of San Diego inclusionary housing in-lieu fee as the least risky and most certain course of action.

These factors are discussed in further detail below.

State Density Bonus Law Sliding Scale

State Density Bonus Law allows developments to qualify for a density bonus based on a sliding scale. The sliding scale allows for density to increase from a minimum of 5% for a development with 10% moderate-income units, to a maximum of 35% for a development with 40% moderate-income units.

The following table presents an illustrative example of the sliding scale used by State Density Bonus Law. For purposes of clarity, the example assumes a development with a base case maximum density of 100 units.

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Percent Moderate-Income	State Density Bonus	Number of Units		
		Market-Rate	Affordable	Total
0%	0%	100	0	100
10%	5%	95	10	105
15%	10%	95	15	110
20%	15%	95	20	115
25%	20%	95	25	120
30%	25%	95	30	125
35%	30%	95	35	130
40%	35%	95	40	135

As shown above, regardless of the increased density allowed, the number of market-rate units permitted within a development remains unchanged at 95 units. As such, when considering whether or not to apply for a density bonus, the developer faces two choices:

- (1) Develop 100 market-rate units and pay the current City of San Diego inclusionary housing in-lieu fee of \$7.31 per square foot (SF); or
- (2) Develop 95 market-rate units and develop between 10 and 40 moderate-income units.

Financial Assistance Required for Moderate-Income Units

Developers in San Diego County contemplating building moderate-income units must consider that the moderate-income price restrictions fall well below the cost to produce a multi-family residential unit, even before considering the cost of land. As indicated above, the KMA economic analysis estimates the maximum price for a two-bedroom unit for a household at 100% AMI to be \$183,000. KMA estimates that the cost to develop that same unit is \$313,000, exclusive of land cost. As shown below, the difference between \$313,000 and \$183,000 reflects the required financial assistance needed for each moderate-income unit developed:

Maximum Unit Price – 100% AMI	\$183,000
(Less) Development Costs Per Unit (excluding land)	(\$313,000)
Financial Assistance Required per Moderate-Income Unit (in addition to free land)	\$130,000

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Therefore, if a developer chooses to request a density bonus, they potentially lose the opportunity to develop five market-rate units as well as experience a financial loss of \$130,000 on each moderate-income unit. This analysis assumes that the developer does not derive any marginal cost savings as a result of the larger project.

The financial loss associated with the moderate-income density bonus in State Density Bonus Law is confirmed by the KMA economic analysis. The KMA analysis found that a density bonus of 5% to 10% resulted in a reduction in developer return, while a density bonus of 15% to 20% resulted in a marginal to small increase in return.

Additional Considerations

There are a number of issues requiring further consideration by a developer contemplating the use of the moderate-income density bonus. These issues include:

- The potential for a disproportionate increase in construction costs due to change in construction type and/or the need for additional parking.
- Additional risks incurred by the developer due to the obligation to qualify moderate-income homebuyers.

As a result of these additional considerations, an effective density bonus program will likely need to generate a slightly higher return to the developer than the base case in order to incentivize developers to use the program.

As indicated above, KMA did not evaluate the impact of concessions or incentives which are available to multi-family residential developments using a moderate-income density bonus. These incentives and concessions may offset the economic impact of the additional considerations noted above.

III. METHOD OF ANALYSIS

The key inputs and assumptions used in the KMA economic analysis are as follows:

Table 1 – Project Description

Table 1 provides a description of each of the scenarios tested. Key assumptions used in preparing the Base Case Scenario include:

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Site Area 1.0 Acre
 Allowable Density 45 units per acre
 Construction Type Type V – wood frame stacked flats
 over podium parking
 Number of Units 45 market-rate units
 Average Unit Size 1,000 SF
 Parking Ratio 2.0 spaces per unit

Table 2 – Development Costs

Table 2 identifies the development cost assumptions used for each of the density bonus scenarios. Key assumptions used by KMA in estimating development costs are as follows:

Acquisition Costs	\$50 per SF site area
Parking	\$25,000 per space
Shell Construction	\$130 per SF gross building area
Indirect Costs	28%-33% of direct costs
Financing Costs	11%-12% of direct costs

Table 3 – Estimate of Affordable Price

Table 3 calculates the maximum unit price for a two bedroom unit at 100% AMI. Key assumptions used in determining the maximum price include:

Maximum household income at 100% AMI	\$62,450
income allocation to housing	35%
Property tax rate	1.15%
HOA dues	\$3,600 per year
Mortgage interest rate	7.0%
Down payment	5.0%

Table 4 – Project Value / Indicated Developer Profit

Table 4 presents an estimate of gross sales proceeds and resulting developer profit for each scenario. Project value was calculated assuming moderate-income units priced at the maximum unit price of \$183,000 and market-rate units priced at \$425 per square foot, or \$425,000 per unit.

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Developer profit was estimated based on the difference between gross sales proceeds less the sum of total development costs and cost of sale.

IV. LIMITING CONDITIONS

1. Keyser Marston Associates, Inc. (KMA) has made extensive efforts to confirm the accuracy and timeliness of the information contained in this document. Such information was compiled from a variety of sources deemed to be reliable including state and local government, planning agencies, and other third parties. Although KMA believes all information in this document is correct, it does not guarantee the accuracy of such and assumes no responsibility for inaccuracies in the information provided by third parties. Further, no guarantee is made as to the possible effect on development of current or future federal, state, or local legislation including environmental or ecological matters.
2. The accompanying projections and analyses are based on estimates and assumptions which were developed using currently available economic data, project specific data and other relevant information. It is the nature of forecasting, however, that some assumptions may not materialize and unanticipated events and circumstances may occur. Such changes are likely to be material to the projections and conclusions herein and, if they occur, require review or revision of this document.
3. The analysis assumes that neither the local nor national economy will experience a major recession. If an unforeseen change occurs in the economy, the conclusions contained herein may no longer be valid.
4. The findings are based on economic rather than political considerations. Therefore, they should be construed neither as a representation nor opinion that government approvals for development can be secured.
5. Development opportunities are assumed to be achievable during the specified time frame. A change in development schedule requires that the conclusions contained herein be reviewed for validity.
6. The analysis, opinions, recommendations and conclusions of this document are KMA's informed judgment based on market and economic conditions as of the date of this report. Due to the volatility of market conditions and complex dynamics influencing the economic conditions of the building and development industry,

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conclusions and recommended actions contained herein should not be relied upon as sole input for final business decisions regarding current and future development and planning.

7. Any estimates of development costs, capitalization rates, income and/or expense projections are based on the best available project-specific data as well as the experiences of similar projects. They are not intended to be projections of the future for the specific project. No warranty or representation is made that any of the estimates or projections will actually materialize.

attachments

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ATTACHMENT 7

**Economic Impact Analysis
Proposed Density Bonus Regulations
San Diego Housing Commission**

Keyser Marston Associates, Inc.

May 23, 2007

SUMMARY TABLE

ECONOMIC IMPACT ANALYSIS - PROPOSED DENSITY BONUS REGULATIONS
SAN DIEGO HOUSING COMMISSION

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	Base Case	Scenario 1 5% Density Bonus	Scenario 2 10% Density Bonus	Scenario 3 15% Density Bonus	Scenario 4 20% Density Bonus
I. Project Description					
Site Size (SF)	43,560 SF	43,560 SF	43,560 SF	43,560 SF	43,560 SF
Density (Units/Acre)	45.0 Units/Acre	47.3 Units/Acre	49.5 Units/Acre	51.8 Units/Acre	54.0 Units/Acre
Affordable Units	0 Units	5 Units	5 Units	5 Units	5 Units
Market-Rate Units	45 Units	42 Units	44 Units	46 Units	49 Units
Total Units	45 Units	47 Units	49 Units	51 Units	54 Units
II. Indicated Developer Profit					
% of Cost	8.5%	7.2%	8.1%	9.0%	10.6%
% of Value	7.6%	6.5%	7.3%	8.0%	9.3%
III. Economic Impact Relative to Base Case					
Per Unit		(\$5,100)	(\$700)	\$3,700	\$10,400
% of Cost	n/a	-1.4%	-0.4%	0.5%	2.1%
% of Value		-1.1%	-0.4%	0.4%	1.7%

TABLE 1

PROJECT DESCRIPTION
 ECONOMIC IMPACT ANALYSIS - PROPOSED DENSITY BONUS REGULATIONS
 SAN DIEGO HOUSING COMMISSION

	Base Case Scenario			Scenario 1 5% Density Bonus			Scenario 2 10% Density Bonus		
I. Site Area	43,560 SF	1.00 Acres		43,560 SF	1.00 Acres		43,560 SF	1.00 Acres	
II. Project Description	Type V Stacked Flats over Podium Parking			Type V Stacked Flats over Podium Parking			Type V Stacked Flats over Podium Parking		
III. Allowable Density	45.0 Units/Acre			47.3 Units/Acre			49.5 Units/Acre		
IV. Number of Units/Unit Mix									
Condominiums - Affordable	0 Units	0%	800 SF	5 Units	11%	800 SF	5 Units	10%	800 SF
Condominiums - Market-Rate	<u>45 Units</u>	<u>100%</u>	<u>1,000 SF</u>	<u>42 Units</u>	<u>89%</u>	<u>1,000 SF</u>	<u>44 Units</u>	<u>90%</u>	<u>1,000 SF</u>
Total/Average	45 Units	100%	1,000 SF	47 Units	100%	979 SF	49 Units	100%	980 SF
V. Gross Building Area									
Residential Area	45,000 SF	85%		46,000 SF	85%		48,000 SF	85%	
Common Area/Circulation	<u>7,900 SF</u>	<u>15%</u>		<u>8,100 SF</u>	<u>15%</u>		<u>8,500 SF</u>	<u>15%</u>	
Total Residential Area	52,900 SF	100%		54,100 SF	100%		56,500 SF	100%	
Floor Area Ratio (FAR)	1.2			1.2			1.3		
VI. Parking									
<u>Residential Parking</u>									
Parking Ratio	2.0 Spaces/Unit			2.0 Spaces/Unit			2.0 Spaces/Unit		
Number of Spaces	90 Spaces			94 Spaces			98 Spaces		

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TABLE 1 (CONT'D.)

PROJECT DESCRIPTION
 ECONOMIC IMPACT ANALYSIS - PROPOSED DENSITY BONUS REGULATIONS
 SAN DIEGO HOUSING COMMISSION

	Scenario 3 15% Density Bonus			Scenario 4 20% Density Bonus		
	I. Site Area	43,560 SF	1.00 SF		43,560 SF	1.00 Acres
II. Project Description	Type V Stacked Flats over Podium Parking			Type V Stacked Flats over Podium Parking		
III. Allowable Density	51.8 Units/Acre			54.0 Units/Acre		
IV. Number of Units/Unit Mix						
Condominiums - Affordable	5 Units	10%	800 SF	5 Units	9%	800 SF
Condominiums - Market-Rate	<u>46</u> Units	<u>90%</u>	<u>1,000</u> SF	<u>49</u> Units	<u>91%</u>	<u>1,000</u> SF
Total/Average	51 Units	100%	980 SF	54 Units	100%	981 SF
V. Gross Building Area						
Residential Area	50,000 SF	85%		53,000 SF	85%	
Common Area/Circulation	<u>8,800</u> SF	<u>15%</u>		<u>9,000</u> SF	<u>15%</u>	
Total Residential Area	58,800 SF	100%		62,000 SF	100%	
Floor Area Ratio (FAR)	1.3			1.4		
VI. Parking						
<u>Residential Parking</u>						
Parking Ratio	2.0 Spaces/Unit			2.0 Spaces/Unit		
Number of Spaces	102 Spaces			108 Spaces		

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TABLE 2

DEVELOPMENT COSTS
ECONOMIC IMPACT ANALYSIS - PROPOSED DENSITY BONUS REGULATIONS
SAN DIEGO HOUSING COMMISSION

	Base Case Scenario			Scenario 1 5% Density Bonus			Scenario 2 10% Density Bonus		
	Totals	Per Unit	Comments	Totals	Per Unit	Comments	Totals	Per Unit	Comments
I. Direct Costs (1)									
Off-Site Improvements	\$0	\$0	\$0 Per SF Site Area	\$0	\$0	\$0 Per SF Site Area	\$0	\$0	\$0 Per SF Site Area
On-Sites/Landscaping	\$436,000	\$9,700	\$10 Per SF Site Area	\$436,000	\$9,300	\$10 Per SF Site Area	\$436,000	\$8,898	\$10 Per SF Site Area
Parking	\$2,250,000	\$50,000	\$25,000 Per Space	\$2,350,000	\$50,000	\$25,000 Per Space	\$2,450,000	\$50,000	\$25,000 Per Space
Shell Construction	\$6,877,000	\$152,800	\$130 Per SF GBA	\$7,033,000	\$149,600	\$130 Per SF GBA	\$7,345,000	\$149,898	\$130 Per SF GBA
FF&E/Amenities	\$225,000	\$5,000	Allowance	\$235,000	\$5,000	Allowance	\$245,000	\$5,000	Allowance
Contingency	\$489,000	\$10,900	5.0% of Directs	\$503,000	\$10,700	5.0% of Directs	\$524,000	\$10,694	5.0% of Directs
Total Direct Costs	\$10,277,000	\$228,400	\$194 Per SF GBA	\$10,557,000	\$224,600	\$195 Per SF GBA	\$11,000,000	\$224,490	\$195 Per SF GBA
II. Indirect Costs									
Architecture & Engineering	\$514,000	\$11,400	5.0% of Directs	\$528,000	\$11,200	5.0% of Directs	\$550,000	\$11,224	5.0% of Directs
Permits & Fees (2)	\$794,000	\$17,600	\$15 Per SF GBA	\$812,000	\$17,300	\$15 Per SF GBA	\$848,000	\$17,306	\$15 Per SF GBA
Inclusionary In-Lieu Fee	\$387,000	\$8,800	\$7.31 Per SF GBA	\$0	\$0	\$0 Per SF GBA	\$0	\$0	\$0 Per SF GBA
Legal & Accounting	\$103,000	\$2,300	1.0% of Directs	\$106,000	\$2,300	1.0% of Directs	\$110,000	\$2,245	1.0% of Directs
Taxes & Insurance	\$574,000	\$12,800	3.0% of Value	\$563,000	\$12,000	3.0% of Value	\$588,000	\$12,000	3.0% of Value
Developer Fee	\$308,000	\$6,800	3.0% of Directs	\$317,000	\$6,700	3.0% of Directs	\$330,000	\$6,735	3.0% of Directs
Marketing/Sales	\$574,000	\$12,800	3.0% of Value	\$563,000	\$12,000	3.0% of Value	\$588,000	\$12,000	3.0% of Value
Contingency	\$163,000	\$3,500	5.0% of Indirects	\$144,000	\$3,100	5.0% of Indirects	\$151,000	\$3,082	5.0% of Indirects
Total Indirect Costs	\$3,417,000	\$75,900	33.2% of Directs	\$3,033,000	\$64,500	28.7% of Directs	\$3,165,000	\$64,592	28.8% of Directs
III. Financing Costs (3)									
Loan Fees	\$137,000	\$3,000	1.3% of Directs	\$136,000	\$2,900	1.3% of Directs	\$141,000	\$2,878	1.3% of Directs
Interest During Construction	\$862,000	\$19,200	8.4% of Directs	\$856,000	\$18,200	8.1% of Directs	\$887,000	\$18,102	8.1% of Directs
Interest During Sales	\$191,000	\$4,200	1.9% of Directs	\$190,000	\$4,000	1.8% of Directs	\$197,000	\$4,020	1.8% of Directs
HOA Dues on Unsold Units	\$32,000	\$700	0.3% of Directs	\$34,000	\$700	0.3% of Directs	\$35,000	\$714	0.3% of Directs
Total Financing Costs	\$1,222,000	\$27,200	11.9% of Directs	\$1,216,000	\$25,900	11.5% of Directs	\$1,260,000	\$25,714	11.5% of Directs
IV. Total Development Costs w/o Land	\$14,916,000	\$331,500	\$282 Per SF GBA	\$14,806,000	\$315,000	\$274 Per SF GBA	\$15,425,000	\$314,796	\$273 Per SF GBA
V. Acquisition Costs	\$2,178,000	\$48,400	\$50 Per SF Site Area	\$2,178,000	\$46,300	\$50 Per SF Site Area	\$2,178,000	\$44,449	\$50 Per SF Site Area
VI. Total Development Costs w/Land	\$17,094,000	\$379,900	\$323 Per SF GBA	\$16,984,000	\$361,400	\$314 Per SF GBA	\$17,603,000	\$359,245	\$312 Per SF GBA

(1) Does not assume payment of prevailing wages.
 (2) Estimate. Not verified by KMA or San Diego Housing Commission (SDHC).
 (3) Financing costs estimated assuming interest rate of 7.0%, construction period of 18 months, and homeowners association (HOA) dues of \$300 per month.

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TABLE 2 (CONFD.)

**DEVELOPMENT COSTS
ECONOMIC IMPACT ANALYSIS - PROPOSED DENSITY BONUS REGULATIONS
SAN DIEGO HOUSING COMMISSION**

	Scenario 3 15% Density Bonus			Scenario 4 20% Density Bonus		
	Totals	Per Unit	Comments	Totals	Per Unit	Comments
I. Direct Costs (1)						
Off-Site Improvements	\$0	\$0	\$0 Per SF Site Area	\$0	\$0	\$0 Per SF Site Area
On-Sites/Landscaping	\$438,000	\$8,549	\$10 Per SF Site Area	\$438,000	\$8,100	\$10 Per SF Site Area
Parking	\$2,550,000	\$50,000	\$25,000 Per Space	\$2,700,000	\$50,000	\$25,000 Per Space
Shell Construction	\$7,844,000	\$149,882	\$130 Per SF GBA	\$8,060,000	\$149,300	\$130 Per SF GBA
FF&E/Amenities	\$255,000	\$5,000	Allowance	\$270,000	\$5,000	Allowance
Contingency	\$544,000	\$10,667	5.0% of Directs	\$573,000	\$10,600	5.0% of Directs
Total Direct Costs	\$11,429,000	\$224,098	\$194 Per SF GBA	\$12,039,000	\$222,900	\$194 Per SF GBA
II. Indirect Costs						
Architecture & Engineering	\$571,000	\$11,196	5.0% of Directs	\$602,000	\$11,100	5.0% of Directs
Permits & Fees (2)	\$882,000	\$17,294	\$15 Per SF GBA	\$930,000	\$17,200	\$15 Per SF GBA
Inclusionary In-Lieu Fee	\$0	\$0	\$0 Per SF GBA	\$0	\$0	\$0 Per SF GBA
Legal & Accounting	\$114,000	\$2,235	1.0% of Directs	\$120,000	\$2,200	1.0% of Directs
Taxes & Insurance	\$614,000	\$12,039	3.0% of Value	\$652,000	\$12,100	3.0% of Value
Developer Fee	\$343,000	\$6,725	3.0% of Directs	\$361,000	\$6,700	3.0% of Directs
Marketing/Sales	\$614,000	\$12,039	3.0% of Value	\$652,000	\$12,100	3.0% of Value
Contingency	\$157,000	\$3,078	5.0% of Indirects	\$168,000	\$3,100	5.0% of Indirects
Total Indirect Costs	\$3,295,000	\$64,608	28.8% of Directs	\$3,483,000	\$64,500	28.9% of Directs
III. Financing Costs (3)						
Loan Fees	\$146,000	\$2,863	1.3% of Directs	\$153,000	\$2,800	1.3% of Directs
Interest During Construction	\$918,000	\$18,000	8.0% of Directs	\$961,000	\$17,800	8.0% of Directs
Interest During Sales	\$204,000	\$4,000	1.8% of Directs	\$214,000	\$4,000	1.8% of Directs
HOA Dues on Unsold Units	\$37,000	\$725	0.3% of Directs	\$39,000	\$700	0.3% of Directs
Total Financing Costs	\$1,305,000	\$25,588	11.4% of Directs	\$1,367,000	\$25,300	11.4% of Directs
IV. Total Development Costs w/o Land	\$16,029,000	\$314,294	\$273 Per SF GBA	\$18,889,000	\$312,800	\$272 Per SF GBA
V. Acquisition Costs	\$2,178,000	\$42,706	\$50 Per SF Site Area	\$2,178,000	\$40,300	\$50 Per SF Site Area
VI. Total Development Costs w/Land	\$18,207,000	\$357,000	\$310 Per SF GBA	\$19,067,000	\$353,100	\$308 Per SF GBA

(1) Does not assume payment of prevailing wages.
 (2) Estimate. Not verified by KMA or San Diego Housing Commission (SDHC).
 (3) Financing costs estimated assuming interest rate of 7.0%, construction period of 18 months, and homeowners association (HOA) dues of \$300 per month.

TABLE 3

ESTIMATE OF AFFORDABLE PRICE
 ECONOMIC IMPACT ANALYSIS - PROPOSED DENSITY BONUS REGULATIONS
 SAN DIEGO HOUSING COMMISSION

Number of Bedrooms	2
Percent of AMI	100.0%
Assumed Family Size	3.0
Maximum Household Income (Rounded) (1)	\$62,450
Income Allocation to Housing	35.0%
Annual Amount Available for Housing	\$21,858
Annual Homeowner Association (HOA) Dues (2)	\$3,600
Tax Rate	1.15%
Annual Taxes (3)	\$4,370
Available for Mortgage	\$13,888
Interest Rate	7.00%
Down Payment	5.00%
Closing Costs	0.00%
Supportable Mortgage	\$173,950
Add: Down Payment	\$9,150
(Less) Closing Costs	<u>\$0</u>
Maximum Unit Price (Rounded)	\$183,000

(1) Per San Diego Housing Commission (SDHC) 2007 Income Limits.

(2) Gross estimate.

(3) Property tax assessment based on market value of actual unit. Assumes market value of \$380,000/unit or \$475/SF.

Source: State of California Department of Housing and Community Development, San Diego Housing Commission, California Redevelopment Law H&SC § 50052.5.

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TABLE 4

PROJECT VALUE / INDICATED DEVELOPER PROFIT
 ECONOMIC IMPACT ANALYSIS - PROPOSED DENSITY BONUS REGULATIONS
 SAN DIEGO HOUSING COMMISSION

	Base Case Scenario					Scenario 1 5% Density Bonus					Scenario 2 10% Density Bonus				
	Average Unit Size	# of Units	Price Per SF	Price Per Unit	Total Sales	Average Unit Size	# of Units	Price Per SF	Price Per Unit	Total Sales	Average Unit Size	# of Units	Price Per SF	Price Per Unit	Total Sales
I. Project Value															
<u>Condominium Residential Proceeds</u>															
Affordable Units	800 SF	0	\$0	\$0	\$0	800 SF	5	\$229	\$183,000	\$915,000	800 SF	5	\$229	\$183,000	\$915,000
Market-Rate Units	1,000 SF	45	\$425	\$425,000	\$19,125,000	1,000 SF	42	\$425	\$425,000	\$17,850,000	1,000 SF	44	\$425	\$425,000	\$18,700,000
Total/Average	1,000 SF	45	\$425	\$425,000	\$19,125,000	979 SF	47	\$408	\$399,255	\$18,765,000	980 SF	49	\$409	\$400,306	\$19,615,000
Total Gross Sales Proceeds					\$19,125,000					\$18,765,000					\$19,615,000
II. Indicated Developer Profit															
Total Gross Sales Proceeds					\$19,125,000					\$18,765,000					\$19,615,000
(Less) Cost of Sale @			3.0% of Value		(\$574,000)			3.0% of Value		(\$563,000)			3.0% of Value		(\$588,000)
(Less) Total Development Costs w/Land					(\$17,094,000)					(\$16,984,000)					(\$17,603,000)
Total Indicated Developer Profit					\$1,457,000					\$1,218,000					\$1,424,000
% of Cost					8.5%					7.2%					8.1%
% of Value					7.6%					6.5%					7.3%
III. Economic Impact Relative to Base Case															
Indicated Profit - Density Bonus Scenarios										\$1,218,000					\$1,424,000
(Less) Developer Profit - Base Case										(\$1,457,000)					(\$1,457,000)
Total Economic Impact Relative to Base Case										(\$239,000)					(\$33,000)
Per Unit										(\$5,100)					(\$700)
% of Cost										-1.4%					-0.4%
% of Value										-1.1%					-0.4%

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TABLE 4 (CONT'D.)

PROJECT VALUE / INDICATED DEVELOPER PROFIT
 ECONOMIC IMPACT ANALYSIS - PROPOSED DENSITY BONUS REGULATIONS
 SAN DIEGO HOUSING COMMISSION

	Scenario 3 15% Density Bonus					Scenario 4 20% Density Bonus				
	Average Unit Size	# of Units	Price Per SF	Price Per Unit	Total Sales	Average Unit Size	# of Units	Price Per SF	Price Per Unit	Total Sales
I. Project Value										
<u>Condominium Residential Proceeds</u>										
Affordable Units	800 SF	5	\$229	\$183,000	\$915,000	800 SF	5	\$229	\$183,000	\$915,000
Market-Rate Units	1,000 SF	48	\$425	\$425,000	\$19,550,000	1,000 SF	49	\$425	\$425,000	\$20,825,000
Total/Average	980 SF	51	\$409	\$401,275	\$20,465,000	981 SF	54	\$410	\$402,593	\$21,740,000
				\$20,465,000						\$21,740,000
II. Indicated Developer Profit										
Total Gross Sales Proceeds				\$20,465,000						\$21,740,000
(Less) Cost of Sale @			3.0% of Value	(\$614,000)				3.0% of Value		(\$652,000)
(Less) Total Development Costs w/Land				(\$18,207,000)						(\$19,067,000)
Total Indicated Developer Profit				\$1,644,000						\$2,021,000
% of Cost				9.0%						10.8%
% of Value				8.0%						9.3%
III. Economic Impact Relative to Base Case										
Indicated Profit - Density Bonus Scenarios				\$1,644,000						\$2,021,000
(Less) Developer Profit - Base Case				(\$1,457,000)						(\$1,457,000)
Total Economic Impact Relative to Base Case				\$187,000						\$564,000
Per Unit				\$3,700						\$10,400
% of Cost				0.5%						2.1%
% of Value				0.4%						1.7%

**Discretionary Permits that are
Required for Density Bonus Projects**

LOCATION	APPLICABILITY	PERMIT*
Coastal Overlay Zone	All new development	Coastal Development Permit
Citywide	ESL on site of multi-family project	Site Development Permit
Citywide	Multi-family on consolidated lots exceeding thresholds in Table 126-05A	Site Development Permit
Citywide - CPIOZ	Projects in Type "B" CPIOZ per Community Plan	Site Development Permit
Mission Trails Design District	All multi-family development	Site Development Permit
Urban Village Overlay Zone	All new development	Site Development Permit
Historic Districts	Residential & commercial development	Site Development Permit
Citywide	When historic resources (other than a district or structure) are present	Site Development Permit
Midway-Pacific Corridor	All mixed-use development	Planned Development Permit
Miramar Ranch	All multi-family	Planned Development Permit
Torrey Pines	All multi-family	Planned Development Permit
Sabre Springs	Selected areas of Moderate and Low Moderate Designations	Planned Development Permit
Mira Mesa	Rezoned and subdivisions	Planned Development Permit
Sabre Springs	Majority of multi-family land use designations	Planned Development Permit
Scripps Miramar Ranch	Residential development in Areas C and E	Planned Development Permit
Barrio Logan PDO	New development	Coastal Development Permit
Carmel Valley PDO	Multi-family development	Site Development Permit
Cass Street PDO	New development	Coastal Development Permit
Central Urbanized PDO	Residential development in commercial zones along University Ave. and El Cajon Blvd. that are not mixed use	Planned Development Permit
Centre City PDO	New development over 1,000 gross square feet (prior to incentive)	Centre City Development Permit
Golden Hill PDO	All multi-family and Mixed use per Table 158-02A	Golden Hill Development Permit
La Jolla PDO	New Development	Coastal Development Permit



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**Discretionary Permits that are
Required for Density Bonus Projects**

LOCATION	APPLICABILITY	PERMIT*
La Jolla Shores PDO	New Development	La Jolla Shores Development Permit
Mid City PDO	All multi-family and mixed use per Table 1512-02A	Site Development Permit
Mission Beach PDO	New Development	Coastal Development Permit
Mission Valley PDO	Projects in the Multi-Use Zone, in the San Diego River District; in the Hillside Subdistrict north of Friars Road, or with above or below ground structured parking	Mission Valley Development Permit
Old Town San Diego PDO	New Development	Planned Development Permit
San Ysidro PDO	Mixed Use projects	San Ysidro Development Permit
Southeastern San Diego PDO	Multi-family development of four or more units (prior to added density)	Southeastern San Diego Development Permit
West Lewis Street PDO	Projects Greater than 1,000 s.f. (prior to incentive)	Site Development Permit

* More than one discretionary permit may be required of a project proposing to use the Affordable Housing Density Bonus Regulations.

**Summary Comparison – Mayor’s Recommendation and Alternatives
(Attachments 1A and 1B)**

Mayor’s Recommendations Attachment 1A	Alternatives Attachment 1B
Processing Incentives	
<ul style="list-style-type: none"> The <u>decision process</u> for a development requesting an affordable housing incentive shall be the same decision process that would be required if the incentive were not a part of the project proposal. The <u>development permit</u> requirement for a development requesting an affordable housing incentive shall be the same development permit that would be required <u>if the incentive were not a part</u> of the project proposal. If an affordable housing density bonus project without the requested incentive would be ministerial then the project with the incentive is ministerial. 	<ul style="list-style-type: none"> The <u>decision process</u> for a development requesting an affordable housing incentive shall be the same decision process that would be required if the incentive were requested without using the affordable housing density bonus regulations. The <u>development permit</u> requirement for a development requesting an affordable housing incentive shall be the same development permit requirement that would be required <u>if the incentive were requested without</u> using the affordable housing density bonus regulations. If an affordable housing density bonus project without the requested incentive would be ministerial then the project with the incentive is required to follow the discretionary process that would otherwise be required by the incentive if it were not associated with a request for density bonus. The process would include noticing, community planning group recommendation, and associated public hearing. Except that the standard of review is limited to the findings for denial of an incentive and not the findings of the permit.
Moderate Income For-Sale Housing	
<p>The base of the density bonus scale for moderate income housing is a 20% density bonus for providing 10% of the units affordable at 110% AMI. This is a city initiated proposal.</p>	<p>The base of the density bonus scale for moderate income housing is a 5% density bonus for providing 10% of the units affordable at 110% AMI. This is the requirement in State Density Bonus Law.</p>

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There are two policy issues within the proposed Affordable Housing Density Bonus Regulations for which an alternative is provided for City Council consideration. This attachment provides a comparison between the regulatory language that would implement the Mayor's recommended policies for the Affordable Housing Density Bonus Regulations and the language that would implement the alternative policies for the Affordable Housing Density Bonus Regulations.

The two areas of policy difference are:

1. Processing for requested incentives when a discretionary permit is not otherwise required. See differences between regulatory languages in Section 143.0740(d) below.
2. Amount of density bonus offered for Moderate Income For-Sale Housing. See differences in Table 143-07C below.

Article 3: Supplemental Development Regulations

Division 7: Affordable Housing Density Bonus Regulations

§143.0710 through 143.0730 [No Change]

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

(a) – (c) [No Change]

(d) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(c) 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.

Mayor's Recommendation (Attachment 1A)	Alternative (Attachment 1B)
<p>(3) The decision process for a <i>development</i> requesting an incentive shall be the same decision process that would be required if the incentive were not a part of the project proposal.</p> <p>(4) The <i>development permit</i> requirement for a <i>development</i> requesting an incentive shall be the same <i>development permit</i> that would be required if the incentive were not a part of the project proposal.</p> <p>(5) Notwithstanding Sections 143.0740(d)(3) and (4), when a <i>development permit</i> is required, the decision to deny a requested incentive shall be made by the decision maker for the <i>development permit</i>.</p>	<p>(3) The decision process and <i>development permit</i> for a <i>development</i> requesting an incentive shall be the same that would be required of the <i>development</i> if it were not providing affordable housing units in accordance with this division.</p> <p>(4) When a <i>development permit</i> is required, the decision on the <i>findings</i> to deny a requested incentive, in addition to the required <i>findings</i> of the <i>development permit</i>, shall be made by the decision maker for the <i>development permit</i>. Except that, notwithstanding Section 126.0504 and 126.0604 (Findings for Site Development Permit Approval and Findings for Planned Development Permit Approval), when a <i>development permit</i> is required only as a result of a requested incentive, then only a decision on the <i>findings</i> to deny the requested incentive is required to be made by the decision maker.</p>

(e) [No Change]

Table 143-07A [No Change]

Table 143.07B [No Change]

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

Percent <i>Moderate Income</i> Units	Percent <i>Density</i> Bonus		Number of Incentives
	Mayor's Recommendation	Alternative	
10	20	5	1
11	21	6	1
12	22	7	1
13	23	8	1
14	24	9	1
15	25	10	1
16	26	11	1
17	27	12	1
18	28	13	1
19	29	14	1
20	30	15	2
21	31	16	2
22	32	17	2
23	33	18	2
24	34	19	2
25	35	20	2
26	35	21	2
27	35	22	2
28	35	23	2
29	35	24	2
30	35	25	3
31	35	26	3
32	35	27	3
33	35	28	3
34	35	29	3
35	35	30	3
36	35	31	3
37	35	32	3
38	35	33	3
39	35	34	3
40	35	35	3

(f) - (g) [No Change]

§141.0310 [No Change]

000387

TO: A Recorder/County Clerk
P.O. Box 1750, MS A33
San Diego, CA 92101-2422

FROM: Development Services Department, City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101

 X Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

Project Number: 63422

State Clearinghouse Number: 96081056

Project Title: Land Development Code Revisions: Affordable Housing Density Bonus Regulations

Project Location: The entire City of San Diego in the County of San Diego.

Project Description: 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 approved by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Project Applicant: City of San Diego Planning Department, 202 C Street, San Diego, CA, 92101. Contact: Betsy McCullough (619)236-6879.

This is to advise that the **San Diego City Council** on _____ approved the above described project and made the following determinations:

1. The project in its approved form X will, ___ will not, have a significant effect on the environment.
2. X A Supplement to Environmental Impact Report No. 96-0333 was prepared for this project and certified by the San Diego City Council pursuant to the provisions of CEQA.
3. Mitigation measures ___ were, X were not, made a condition of the approval of the project.
4. (EIR only) Findings X were, ___ were not, made pursuant to CEQA Guidelines Section 15091.
5. (EIR only) A Statement of Overriding Considerations X was, ___ was not, adopted for this project.

It is hereby certified that the final environmental report, including comments and responses, is available to the general public at the office of the Land Development Review Division, Fifth Floor, City Operations Building, 1222 First Avenue, San Diego, CA 92101.

Analyst: Mirrasoul

Telephone: (619) 446-5380

Filed by: _____
Signature

_____ Title

Reference: California Public Resources Code, Sections 21108 and 21152.



000280

State of California - The Resources Agency

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FISH AND GAME

http://www.dfg.ca.gov
Environmental Review and Permitting
1416 Ninth Street, Suite 1260
Sacramento, California 95814



CEQA Filing Fee No Effect Determination Form

Applicant Name: City of San Diego Planning Dept. Date Submitted: 1/24/07

Applicant Address: 202 C Street, San Diego, CA 92101

Project Name: Land Development Code Revisions: Affordable Housing Density Bonus Regulations

CEQA Lead Agency: City of San Diego

CEQA Document Type: Supplement to EIR No. 96-0333

SCH Number and/or local agency ID number: 96081056

Project Location: Entire City of San Diego

Brief Project Description:

Amendments to Chapter 14, Article 3, Division 7, Sections §143.0710 through §143.0750, 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 approved by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Determination: Based on a review of the Project as proposed, the Department of Fish and Game has determined that for purposes of the assessment of CEQA filing fees [F&G Code 711.4(c)] the project has no potential effect on fish, wildlife and habitat and the project as described does not require payment of a CEQA filing fee. This determination does not in any way imply that the project is exempt from CEQA and does not determine the significance of any potential project effects evaluated pursuant to CEQA.

Please retain this original determination for your records; you are required to file a copy of this determination with the County Clerk after your project is approved and at the time of filing of the CEQA lead agency's Notice of Determination (NOD). If you do not file a copy of this determination with the County Clerk at the time of filing of the NOD, the appropriate CEQA filing fee will be due and payable.

Without a valid No Effect Determination Form or proof of fee payment, the project will not be operative, vested, or final and any local permits issued for the project will be invalid, pursuant to Fish and Game Code Section 711.4(c)(3).

DFG Approval By: Elizabeth Lucas Date: 01-24-07

Title: Staff Environmental Scientist

000391



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: September 29, 2006 REPORT NO. PC-06-264

ATTENTION: Planning Commission
Agenda of October 5, 2006

SUBJECT: AFFORDABLE HOUSING DENSITY BONUS REGULATIONS

REFERENCE: Manager's Report Nos. 03-237, 04-127, 05-028, 05-107

SUMMARY

Issue - Should the Planning Commission recommend to the City Council approval of amendments to the Land Development Code related to the City's Affordable Housing Density Bonus Regulations (Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 3, Division 7)?

Staff Recommendations -

1. Recommend that the City Council CERTIFY Supplement to Environmental Impact Report No. 96-0333 (Project No. 63422) and adopt the Findings and Statement of Overriding Considerations.
2. Recommend to the City Council approval of amendments to the Land Development Code and the City's Local Coastal Program related to the City's Affordable Housing Density Bonus Regulations (Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 3, Division 7).

Other Recommendations - Community Planners Committee (CPC) - On February 23, 2005, the CPC voted 11-1 to oppose the staff recommendation and to revise the City's draft Affordable Housing Density Bonus Regulations to not vary from or exceed the requirements of the state required Density Bonus Program. Specifically, the CPC did not support the two City-initiated proposals. The first City-initiated proposal is to provide a 10 percent density bonus incentive for providing required inclusionary housing onsite

rather than paying an in-lieu fee. The second is to increase the state-required density bonus for providing moderate income housing from 5 percent to 20 percent.

Technical Advisory Committee (TAC) - On March 9, 2005 the TAC voted 7-0 to support the staff recommendation with the following additions:

1. Projects that qualify for the proposed 10 percent bonus by satisfying their inclusionary housing requirement onsite be afforded the regulatory incentives available to projects that qualify for state density bonus.
2. The review process for incentives/deviations should be Process Three or less.
3. A new local density bonus category is added for accessible units that meet American National Standards Institute A 117.1 standards.
4. The moderate income condominium category should have the more generous bonus recommended by staff.

Planning Commission - On March 17, 2005, the Planning Commission held a workshop on the draft regulations. A number of questions were asked but no specific direction was given.

Housing Commission - On April 8, 2005, the Housing Commission voted 4-0 to generally support the staff recommendation while expressing the view that the primary goal should be to provide incentives for low- and very-low income housing.

Land Use & Housing Committee (LU&H) - On May 11, 2005, the Committee voted to accept the proposed ordinance and directed staff to prepare the required environmental documentation for Planning Commission and City Council consideration and adoption. LU&H provided the following direction to staff:

1. Answer more completely the Committee's questions regarding use of different approval process levels and differential findings for different elements of the program in order to adequately address community concerns.
2. Direct the Intergovernmental Relations Department to bring state legislation affecting local housing and land use policy to the attention of the Committee for possible review and comment prior to adoption by the state or federal legislatures.
3. Chart and track which projects take advantage of the density bonus program, the number of incentives each uses, where the projects are located, and to what extent they rely on state versus local elements of the program.

Code Monitoring Team (CMT) - On April, 2006, the City of San Diego's (City's) CMT voted to recommend approval of the proposed revisions to the City's Affordable Housing Density Bonus Regulations by a vote of 6-0-1.

Environmental Review - A Supplement to Environmental Impact Report No. 96-0333 has been prepared for the project in accordance with the California Environmental Quality Act (CEQA).

Fiscal Impact - None with this action.

Housing Impact - The intent of these revisions is to provide incentives to increase the supply of housing affordable to very-low and low-income renters, seniors, and moderate income homeowners in accordance with state law.

BACKGROUND

State law requires cities in California to grant density bonuses and development incentives to residential projects when restrictions are implemented to maintain specified affordability levels. San Diego's Municipal Code includes local regulations intended to fulfill this state requirement.

On January 1, 2003, Assembly Bill (AB) 1866 became effective. The revised bill was intended to increase use of the state density bonus program and increase the supply of affordable housing in the state. Passage of this bill resulted in San Diego's density bonus regulations becoming outdated and partially out of compliance with state law. Therefore, on December 3, 2003, the City Council's Land Use and Housing Committee directed the Planning Department and the City Attorney to make necessary revisions to the City's Affordable Housing Density Bonus Regulations and forward them to the Community Planners Committee, Housing Commission, and Planning Commission for input and recommendations and then to the City Council for adoption.

A draft of that ordinance was prepared for presentation to City Council. However, the presentation to the City Council was postponed when it became apparent that the state density bonus regulations were again being significantly modified at the state level. On January 1, 2005, the second major revision to the state density bonus law in two years, Senate Bill (SB) 1818, became effective. Further, only a few months later, Senate Bill 435, which provided clarifying language related to SB 1818, was approved.

DISCUSSION

The purpose of this draft of the Affordable Housing Density Bonus Regulations is to bring the City's regulations into conformance with state density bonus law. State density bonus law requires that the density bonus be granted ministerially. A project may be granted up to three incentives through Process One based upon the percentage of affordable units in a project and the level of affordability. The incentives may take the form of deviations from development regulations. State law also directs that an applicant proposing a project that uses density bonus, in and of itself, cannot be required to process a land use plan or zoning ordinance amendment. However, applicants requesting deviations to regulations, or changes to land use plans or zoning beyond those permitted through density bonus shall be required to comply with current Land Development Code processes.

The draft Affordable Housing Density Bonus Regulations in Attachment 1 reflect all of the amendments made to state density bonus law. The following is a summary of significant changes to state density bonus law that have been enacted.

- A new density bonus category was added for moderate income common interest for-sale condominiums and planned unit developments.
- Upon resale of a moderate-income unit developed under the density bonus law, the local government shall recapture both the initial subsidy and a proportionate share of appreciation, unless it conflicts with another funding source or law.
- A new density bonus category was added for projects that donate land to the City and make at least 10 percent of units affordable to very-low-income families.
- The maximum state density bonus was increased from 25 percent to 35 percent. A sliding scale of density bonus was established from 5 percent to 35 percent depending on the proportion of units that will be affordable and at what affordability level they will be provided.
- Rental projects that receive a density bonus must retain a specified number of units at specified affordability levels for 30 years.
- The City must offer up to three incentives to all qualifying projects that request incentives. The number of incentives a project is eligible for depends upon the number (percentage) of affordable units being provided and the income group being targeted.
- The City must offer an additional incentive to qualifying projects that include onsite day care facilities meeting specified conditions.
- Applicants may choose incentives. The City must grant the request unless specific findings are made that granting the request would not be necessary to provide the affordable units or that the requested deviation would have an adverse impact on health, safety, the physical environment, or property listed on the California Register of Historical Resources.
- The revised state law limits parking standards that a city can place on projects seeking a density bonus. Furthermore, a development using density bonus may use tandem or uncovered parking to meet this requirement.
- Density bonus for senior developments also applies to senior mobilehome parks.

On June 9, 2004, LU&H recommended adding a new City category of projects eligible for a density bonus. The intent would be to create an incentive that would encourage developers to satisfy their inclusionary housing requirements onsite, rather than option to pay the in-lieu fee.

On February 2, 2005, Planning Department and Housing Commission staff returned to LU&H with the draft *Affordable Housing Density Bonus Regulations*. Staff was directed to seek input from a number of City advisory committees including the Community Planners Committee, the Technical Advisory Committee, the Housing Commission, and the Planning Commission. Staff sought input and recommendations from each of these bodies (see "Other Recommendations" starting on page 1 of this report).

The recommendations made by the CPC and TAC have been analyzed. Staff believes that the CPC recommendation to oppose the City-initiated bonuses for moderate-income for-sale units and construction of inclusionary housing onsite would likely remove both the incentive to provide housing in the moderate-income category and the incentive to construct inclusionary housing onsite. Staff believes the two City-initiated amendments to the state density bonus law would result in additional affordable housing units, and in the case of the onsite building bonus, those affordable housing unit would be developed more rapidly than they would through collection of in-lieu fees.

The TAC made four recommendations, some which staff believes would expand the scope beyond the goal of fostering more affordable housing construction. The first recommendation, that the onsite density bonus also include the regulatory incentives afforded the state density bonus categories, is not recommended because it would dilute the incentive of providing additional affordable housing (beyond that required by the Inclusionary Housing Regulations) through the density bonus regulations. The second and third recommendations, that a review process for deviations be a Process Three and that a separate category of density bonus be developed for accessible units, has a twofold response. First, projects utilizing density bonus would be entitled to up to three deviations/incentives ministerially, beyond those three, the project would be subject to the findings and requirements of the Planned Development Permit which is a Process Four. Second the lowering of a decision level for deviating from citywide zoning regulations and addressing the need for accessible living units should be considered citywide and not in a piecemeal fashion for only for certain project types. The fourth recommendation, that the density bonus for moderate income housing be increased has been incorporated into the draft regulations. A City-initiated amendment proposes the minimum density bonus for providing moderate income for-sale housing be increased from 5 percent to 20 percent.

Staff returned to LU&H on May 11, 2005, to request that the Committee recommend the proposed amendments to the Planning Commission and City Council. LU&H provided direction to staff in three areas: clarify the findings and processes, become involved in state housing and land use legislation early on, and chart and track projects that utilize the density bonus regulations.

Regarding the findings and processes, state law mandates that qualifying projects are entitled to up to three incentives, to be granted ministerially, unless findings are made that the incentives are not needed to make the project affordable or that the project would result in specified adverse impacts. Projects requesting to deviate from regulations beyond the three ministerial incentives allowed through density bonus would be required to process a Planned Development Permit

(Process Four) as would other projects requesting to deviate from development regulations. The second and third recommendations (early involvement in state housing and land use legislation, and charting and tracking projects using the density bonus program) are operational and administrative functions that can be accomplished.

Staff has incorporated two City-initiated amendments into the draft Affordable Housing Density Bonus Regulations that are in addition to those required by the state. At the direction of LU&H staff has included a density bonus incentive for projects that satisfy their required inclusionary housing requirement onsite rather than through payment of an in-lieu fee. The "onsite building bonus" would provide a 10 percent density bonus, to be approved ministerially, to applicants that agree to satisfy their inclusionary housing requirement onsite. An applicant could apply for both the state density bonus and the onsite building bonus up to a maximum allowable density bonus of 35 percent as allowed per state law, without processing a rezone or community plan amendment to increase the density on a site.

The second City-initiated amendment would increase the density bonus for projects that provide 10 percent of the onsite units to moderate income homebuyers within common interest developments. The Housing Commission and the City Planning and Community Investment Department believe that the state's minimum requirement a of 5 percent density bonus provided for moderate-income ownership units in the state legislation is not sufficient to offset the cost of providing affordable units in San Diego due to the region's high costs and is therefore not a viable incentive. Since cities do have the option of offering a more generous density bonus ratio than that required by the state, it is recommended that in San Diego, the basic density bonus for moderate-income projects be increased to 20 percent. An applicant could apply for this bonus and the state density bonus up to a maximum allowable density bonus of 35 percent as allowed per state law, without processing a rezone or community plan amendment to increase the density on a site.

Due to the complexity of the state density bonus regulations, the Housing Commission has drafted a procedures manual. This manual will be for the use of potential density bonus applicants to explain the procedures and requirements for each of the categories. The manual contains information regarding application procedures, agreements, restrictions, affordability requirements, development incentives, rents and for-sale prices, information on the interaction/relationship between the proposed onsite building bonus and state density bonus provisions, and Housing Commission fees for administering the program.

The ordinance approving the amendments to these regulations will be crafted to allow implementation in those areas of the City outside the Coastal Overlay Zone 30 days after the second reading at City Council. Implementation in areas within the Coastal Overlay Zone will become effective upon the unconditional certification of the regulations by the California Coastal Commission.

CONCLUSION

Staff recommends approval of the proposed draft Affordable Housing Density Bonus Regulations in accordance with state law with the addition of the two City-initiated density bonus incentives.

ALTERNATIVES

1. Adopt the state-mandated density bonus regulations and deny or modify the City-initiated density bonus incentives.
2. Deny and/or modify the state mandated provisions of the draft Affordable Housing Density Bonus Regulations. This action would cause the regulations to be out of compliance with state law.

Respectfully submitted,

Dan Joyce
Senior Planner
Development Services

William Anderson, FAICP
Director
Planning and Community Investment

ANDERSON/DJ/ah

Attachment: Draft Affordable Housing Density Bonus Regulations

REGULATIONS RELATED TO AFFORDABLE HOUSING DENSITY BONUS

10-05-06

DRAFT

Article 3: Supplemental Development Regulations**Division 7: Affordable Housing Density Bonus Regulations***(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)***§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 shelter 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* of 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.

§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 an 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*.

DRAFT

- (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 *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 *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*

REGULATIONS RELATED TO AFFORDABLE HOUSING DENSITY BONUS

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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.
 - (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.

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- (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) Where the zone requires that each *lot* be occupied by no more than one *dwelling unit*, the *development* requires a Planned Development Permit.
- (g) 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.
- (h) 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.

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- (i) 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 land to the City for *development* with affordable housing units, in exchange for a *density* bonus, in accordance with California Government Code Section 65915, provided the land to be transferred meets the following criteria:

- (a) The site is at least 1 acre or of sufficient size to permit *development* of at least 40 affordable *dwelling units*;
- (b) The General Plan designation is appropriate for residential *development*;
- (c) The site is zoned to allow for the appropriate residential *development*;
- (d) The site is or will be served by public facilities and infrastructure adequate to serve the *dwelling units*; and
- (e) The land to be transferred is within the boundary of the proposed *development* or, if the City agrees, within one-quarter mile of the boundary of the proposed *development*.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

- (a) The City shall grant an incentive requested by an applicant, to the extent allowed by State law and as set forth in this Section.
- (1) An incentive means any of the following:
- (A) A deviation to a *development* regulation;
- (B) Approval of a mixed use *development* in conjunction with the residential development if the commercial, office, or industrial uses will reduce the cost of the residential development; and if the mixed use *development* is compatible with the residential *development*; and if the mixed use *development* is compatible with the applicable land use plan;

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- (C) Any other regulatory deviation proposed by the applicant, other than a waiver from a required permit, which results in identifiable, financially sufficient, and actual cost reductions.
- (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 (Chapter 12, Article 6, Division 6).
- (3) Nothing in this division shall be construed to require the City or any of its related legal entities, including the San Diego Housing Commission, to provide a direct financial incentive, including the provision of land, or the waiver of fees or dedication requirements.
- (4) Upon an *applicant's* request, *development* meeting the requirements of Sections 143.0720(c) or (d) shall be entitled to incentives pursuant to Section 143.0740(b) unless the City makes a written finding 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.
- (b) The following incentives shall be provided through Process One consistent with Tables 143-07A, 143-07B, and 143-07C:
- (1) One incentive for *development* that includes any of the following:
- (A) At least 10 percent of the total units for *low income* households;
- (B) At least 5 percent of the total units for *very low income* households; or
- (C) At least 10 percent of the total units for *moderate income* households in a common interest *development*.

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- (2) Two incentives for *development* that includes any of the following:
- (A) At least 20 percent of the total units for *low income* households;
 - (B) At least 10 percent of the total units for *very low income* households; or
 - (C) At least 20 percent of the total units for *moderate income* households in a common interest *development*.
- (3) Three incentives for *development* that includes any of the following:
- (A) At least 30 percent of the total units for *low income* households;
 - (B) At least 15 percent of the total units for *very low income* households; or
 - (C) At least 30 percent of the total units for *moderate income* households in a common interest *development*.

Low Income Density Bonus
Table 143-07A

Percent <i>Low Income</i> units	Percent Density Bonus	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

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Very Low Income Density Bonus
Table 143-07B

Percent <i>Very Low Income</i> Units	Percent Density Bonus	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

Moderate Income Density Bonus
Table 143-07C

Percent <i>Moderate Income</i> 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

- (c) 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:

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- (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
 - (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.
- (d) 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-half parking spaces
 - (4) For purposes of this division, a *development* may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking.

§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.

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- (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 *findings* in Section 126.0708(b)(2) can be made.

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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

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- (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]

**STATEMENT OF OVERRIDING CONSIDERATIONS
FOR THE PROPOSED REVISIONS TO THE
DENSITY BONUS ORDINANCE**

The City Council, pursuant to the State CEQA Guidelines, after balancing the benefits of the proposed Land Development Code amendments and associated actions against the potentially unavoidable significant direct and cumulative impacts of the project on Visual Quality (Neighborhood Character/Views/Aesthetics) and Transportation/Parking hereby determines that the impacts are acceptable for the following reasons:

1. Additional residential development allowed by the proposed regulatory changes would be beneficial in helping to address the ongoing affordable housing shortage in the City.
2. The proposed regulatory changes will foster development of moderate income condominiums which will increase first time homeownership opportunities in the City. Increasing first time homeownership opportunities is key goal of the Housing Element.

**FINDING AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE
PROPOSED REVISIONS TO THE DENSITY BONUS ORDINANCE WITHIN THE
LAND DEVELOPMENT CODE**

The following Findings and Statement of Overriding Considerations are made relative to the conclusions of the Supplemental EIR and the Final EIR for the Land Development Code and associated actions (LDR No. 96-0333, SCH No. 96081056).

The proposed revisions to the Land Development Code are to implement Assembly Bill 1866, State Senate Bills 1818 and 435, and facilitate the development of affordable housing within the City of San Diego. The goal of the density bonus ordinance is to increase the supply of affordable housing by bringing the City's density bonus ordinance into compliance with state law and enacting two additional provisions specific to San Diego. The recently adopted state law requires the City to provide up to three regulatory incentives to applicants that provide affordable housing using the density bonus law; it provides additional incentives 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 level of affordability and proportion of affordable units; it limits the parking standards required for density bonus projects and allows tandem parking within projects that qualify for the density bonus; it changes the length of the affordability requirements; it clarifies that the density bonus for senior development also applies to senior mobilehome parks.

In addition to the new provisions included within state law, the City would offer up to a 10 percent density bonus to projects that build their inclusionary units on-site rather than paying an in-lieu affordable housing fee, and increase the base density bonus for projects that provide moderate income ownership units from 5 percent to 20.

The Supplemental EIR for the project evaluates the following environmental issues in relation to the project: Visual Quality (Neighborhood Character/Views/Aesthetics) and Transportation/Parking. The Supplemental EIR also analyzes the cumulative effects and growth inducing impacts of the project, as well as alternatives to the project.

Having reviewed and considered the information contained in the Supplemental EIR, the final EIR for the Land Development Code and associated actions (LDR No. 96-0333), related documents and the public record, the Council of the City of San Diego makes the following finding pursuant to Section 15091 of the California Administrative Code.

Specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the Supplemental EIR to reduce the following significant impacts:

1. Visual Quality (Neighborhood Character/Views/Aesthetics)

Impact: Inconsistency with the development regulations of the underlying zone, such as setbacks, lot size, height and FAR which creates the potential for impacts to neighborhood character, views and aesthetics.

2. Transportation/Parking

Impact: Inconsistency with the transportation and parking regulations of the underlying zone which creates the potential for impacts to traffic circulation and parking.

In addition to the effects directly attributable to the project, as described above, 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.

FINDING: The Supplemental EIR addresses a range of project alternatives which could reduce one or more of the significant impacts that would result from the proposed revisions to the Density Bonus Ordinance. The environmental benefits of each of these alternatives and the reasons for their rejection are described below.

1. The **No Project alternative** would result in a continuation of the existing density bonus regulations. This alternative is infeasible for the following reasons:
 - A. This alternative would not contain the density bonus incentive(s) which would provide an incentive for the construction of affordable housing on-site rather than payment of an in-lieu inclusionary fee. It is anticipated that fewer affordable housing units would be constructed.
 - B. This alternative would not contain the 20 percent density bonus provision for moderate income ownership units necessary to attract the additional development of affordable housing that would help the City of San Diego meet or begin to meet required affordable housing goals.
 - C. This alternative would not meet the goals of the project which are to increase the supply of the City's affordable housing by both bringing the City's density bonus ordinance into compliance with state law and enacting two additional provisions specific to San Diego.
 - D. The City's density bonus ordinance would not be brought into compliance with state law.
2. The **"Elimination of the On-site Inclusionary Units Density Bonus Alternative"** would remove the City's incentive. This alternative is infeasible for the following reasons:

- A. This alternative does not contain the density bonus incentive which would provide an incentive for the construction of affordable housing on-site rather than payment of an in-lieu inclusionary fee.
 - B. This alternative would not meet the goals of the project which are to increase the supply of the City's affordable housing by both bringing the City's density bonus ordinance into compliance with state law and enacting two additional provisions specific to San Diego.
 - C. This alternative would make it more difficult for the City to achieve its affordable housing goals.
3. The **"Elimination of the City's 20 Percent Density Bonus for Moderate Income Ownership Units"** would remove the City's additional 20 percent density bonus. However, this alternative is infeasible for the following reason:
- A. This alternative does not contain the 20 percent density bonus provision for moderate income ownership units that could attract the additional development of affordable housing.
 - B. This alternative would not meet the goals of the project which are to increase the supply of the City's affordable housing by both bringing the City's density bonus ordinance into compliance with state law and enacting two additional provisions specific to San Diego.
 - C. This alternative would make it more difficult for the City to achieve its affordable housing goals. The state 5 percent density bonus is a disincentive because it has a negative cost impact on development of housing.

**FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE
PROPOSED CHANGES TO THE DENSITY BONUS ORDINANCE**

The California Environmental Quality Act (CEQA) requires that no public agency shall approve or carry out a project which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on the environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been or can or should be, adopted by that other agency.
3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

(Section 21081 of the California Environmental Quality Act)

CEQA further requires that, where the decision of the public agency allows the occurrence of significant effects which are identified in the Supplemental EIR, but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the Supplemental EIR and/or other information in the record (Section 15093 of the State CEQA Guidelines).

The following Finding and Statement of Overriding Considerations have been submitted by the project applicant as candidate findings to be made by the decision-making body. The Land Development Review Division of Development Services does not recommend that the discretionary body either adopt or reject these findings. They are attached to allow readers of this report an opportunity to review the applicant's position on this matter.

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REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE)

N/A 52 11/20

CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):
CITY PLANNING & COMMUNITY INVESTMENT

3. DATE:
10/8/07

4. SUBJECT:
AMENDMENTS TO REGULATIONS RELATED TO AFFORDABLE HOUSING DENSITY BONUS

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)
Dan Joyce (619)446-5388 MS 501

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)
Mary Wright (619)555-4528 (MS 5A)

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					
DEPT.	1316	1300			
ORGANIZATION	1633	1291			
OBJECT ACCOUNT	1101				
JOB ORDER	6090	36			
C.I.P. NUMBER					
AMOUNT	\$ 0				

9. ADDITIONAL INFORMATION / ESTIMATED COST:
The staffing costs and fiscal impacts to prepare the proposed regulations are part of the LDC Implementation Work Program. Costs associated with the processing of projects subject to the regulations will be paid by the applicant.

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	MARY WRIGHT	<i>Mary P. Wright</i> 10/8/07	8			
2	ENVIRONMENTAL	ROBERT MANIS	<i>Robert Manis</i> 10/8/07	9			
3				10	CITY ATTORNEY	SHIRLEY EDWARDS	
4				11	ORIG. DEPT	MARY WRIGHT	<i>Mary Wright</i> 10/10/07
5	AUDITOR	SALLY ENRIQUES	<i>Sally Enriques</i> 10-10-07	DOCKET COORD: _____ COUNCIL LIAISON _____			
	DEPUTY CHIEF	WILLIAM ANDERSON	<i>William Anderson</i> 10-10-07	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/>			
7				REFER TO: _____ COUNCIL DATE: _____			

11. PREPARATION OF: RESOLUTION ORDINANCE AGREEMENT(S) DEED(S)

- Resolution certifying the information contained in the Supplement to Environmental Impact Report No. 96-0333 (Project No. 63422), has been completed in compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines, and that said Supplement reflects the independent judgment of the City of San Diego as Lead Agency, stating for the record that the final Supplement to EIR No. 96-0333 has been reviewed and considered prior to approving the project, certifying the final Supplement to EIR No. 96-0333, and adopting the Findings and Statement of Overriding Considerations.
- Ordinance implementing the Mayor's recommendation to amend Division 3 of Article 1 of Chapter 14, and Division 7 of Article 3 of Chapter 14 of the San Diego Municipal Code as they pertain to the Affordable Housing Density Bonus Regulations to be adopted citywide and to become effective 30 days after the second reading of the ordinance, except that the regulations shall only become effective in those portions of the city subject to California Coastal Commission certification on the date that the California Coastal Commission unconditionally certifies the regulations.

11A. STAFF RECOMMENDATIONS:
Approve the Resolution.
Introduce the Ordinance implementing the Mayor's recommendation.

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): Citywide

COMMUNITY AREA(S): Citywide

ENVIRONMENTAL IMPACT: The City of San Diego as Lead Agency under CEQA has prepared and completed the Supplement to Environmental Impact Report No. 96-0333 (Project No. 63422) covering this activity.

HOUSING IMPACT: These amended regulations provide incentives for the construction of very low, low, and moderate income housing; and senior housing and as such provide an incentive to increase the supply of housing available for members of the public in the targeted income and age brackets.

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CITY CLERK INSTRUCTIONS: Mail Notice of Public Hearing to City Always and Coastal Always lists. Publish Notice of Public Hearing as one-eight page advertisement in newspaper. Send draft of docket entry to Project Manager for review. The regulations will not be in effective within the Coastal Overlay Zone until the date that the California Coastal Commission unconditionally certifies the regulations.

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000421

EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: October 17, 2007

REPORT NO.: 07-162

ATTENTION: Council President and City Council

ORIGINATING DEPARTMENT: City Planning and Community Investment Department

SUBJECT: Affordable Housing Density Bonus. Project Number 63422.

COUNCIL DISTRICT(S): Citywide

STAFF CONTACT: Dan Joyce. 619-446-5388. djoyce@san_diego.gov

REQUESTED ACTION:

Approval of amendments to the Land Development Code and the City's Local Coastal Program related to the city's Affordable Housing Density Bonus Regulations.

STAFF RECOMMENDATION:

1. **CERTIFY** Supplement to Environmental Impact Report No. 96-0333 (Project 63422) and adopt the Findings and Statement of Overriding Considerations.
2. **APPROVE** the amendments to the Land Development Code and the City's Local Coastal Program related to the Affordable Housing Density Bonus Regulations as recommended by the Mayor's Office (Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 3, Division 7).

EXECUTIVE SUMMARY:

State Density Bonus Law requires cities in California grant density bonuses and development incentives to residential projects when restrictions are implemented to maintain specified affordability levels. San Diego's Municipal Code includes Affordable Housing Density Bonus regulations. The state has amended its affordable housing density bonus three times since 2003 with the latest amendment being implemented in January 2006. The draft regulations are intended to bring the city's regulations into compliance with current state requirements. The draft regulations also include a city-initiated amendment which increases the minimum density bonus for projects that provide moderate income for-sale housing. Also included for City Council consideration are two City Attorney options for implementing the State Density Bonus Law related to processing and density bonus for moderate for-sale housing.

There are three alternative actions for consideration. The City Council may:

- Adopt the regulations implementing the State Density Bonus Law only;
- Adopt the state mandated regulations and accept or modify the city-initiated density bonus incentive for moderate income for-sale housing; or
- Deny or modify the state mandated regulations and deny or modify the City-initiated density bonus incentive. Denial of the state mandated regulations could cause the City to be noncompliant with State Density Bonus Law.

FISCAL CONSIDERATIONS:

The costs of processing this amendment are shared by the City Planning and Community Investment Department which is funded through the general fund and the Development Services Department Code Update Section which is funded as an overhead expense in the Development Services Department's budget.

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000422

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was scheduled for City Council on January 30, 2007 and continued to February 27. On February 27 the item was continued to March 27 when it was returned to the Mayor's Office. On May 11, 2005, the Land Use & Housing Committee voted to accept the proposed ordinance. The Committee asked that clarification be provided regarding the approval process and findings; that Intergovernmental Relations Department bring state legislation affecting local housing and land use policy to the attention of the Committee for possible review and comment prior to adoption by the state or federal legislatures; and that projects using density bonus be tracked to identify which projects take advantage of the density bonus program, the number of incentives each uses, where the projects are located, and to what extent they rely on state versus local elements of the program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 12, 2006 the Planning Commission voted 5-0-0 to recommend approval of staff recommendation with direction to investigate issues related to additional reductions in parking, to simplify the regulations, to track the use of the program, to consider expanding the incentive program, and to remove the option of the in-lieu fee in the Inclusionary Housing Ordinance.

On April 8, 2005 the Housing Commission voted 4-0-0 to recommend approval of staff recommendation while stating that the primary goal should be to provide incentives for low and very low income housing.

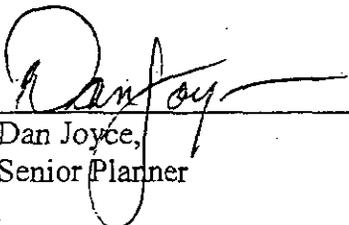
On April 12, 2006, Code Monitoring Team voted 6-0-1 to recommend approval of staff recommendation.

On March 9, 2005 the Technical Advisory Committee voted 7-0-0 to recommend approval of staff recommendation with four recommendations.

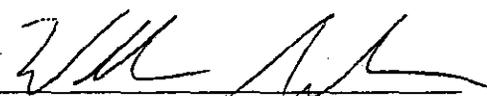
On February 22, 2005 the Community Planners Committee voted 11-1-0 to oppose staff recommendation and to recommend the regulations be revised to include only the state requirements.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Key stakeholders include advocates for affordable housing, the building industry and community planning groups. The environmental document has identified potential for impacts to visual quality, transportation, and parking; and cumulative impacts to visual quality and parking.



Dan Joyce,
Senior Planner



William Anderson, FAICP
Deputy Chief of Land Use and
Economic Development

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

EFFECTIVE DATE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7, BY AMENDING SECTIONS 143.0710, 143.0715, 143.0720, BY RENUMBERING AND AMENDING CURRENT SECTION 143.0730 TO 143.0725; BY CREATING A NEW SECTION 143.0730, AND BY AMENDING SECTIONS 143.0740, AND REPEALING SECTION 143.0760; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3, BY AMENDING SECTION 141.0310(b), ALL RELATING TO THE DENSITY BONUS REGULATIONS.

This is an ordinance which amends Chapter 14, Article 3, Division 7, by amending Sections 143.0710, 143.0715, 143.0720, 143.0725, 143.0730, 143.0740 and 143.0750; and repealing Section 143.0760; amends Chapter 12, Article 6, Division 7 by amending Section 126.0708; and amends Chapter 14, Article 1, Division 3, by amending Section 141.0310(b), all relating to the Density Bonus Regulations.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its final passage, since a written or printed copy will be available to the City Council and the public a day prior to its final passage.

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

000424

(O-2008-19)
COR.COPY

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

SMT:SRE:als:pev
10/11/07/07
10/16/07 COR.COPY
Or.Dept:DSD
O-2008-19
MMS#5457

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7, BY AMENDING SECTIONS 143.0710, 143.0715, 143.0720, BY RENUMBERING AND AMENDING CURRENT SECTION 143.0730 TO 143.0725, BY CREATING A NEW SECTION 143.0730, AND BY AMENDING SECTIONS 143.0740, AND REPEALING SECTION 143.0760; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3, BY AMENDING SECTION 141.0310(b), ALL RELATING TO THE DENSITY BONUS REGULATIONS.

WHEREAS, the City of San Diego [City] is required by Sections 65915 et seq. of the California Government Code [State Density Bonus Law] to provide a density bonus and other incentives for the production of affordable and senior housing units, or for the donation of land within a proposed housing development, if the developer meets certain requirements [Density Bonus Regulations]; and

WHEREAS, the City Council adopted Density Bonus Regulations Citywide on December 9, 1997 by O-18451; and

WHEREAS, the City Council proposed amendments to its Density Bonus Regulations on June 21, 1999, by O-18654, subject to the approval of the California Coastal Commission for the areas of the City within the Coastal Overlay Zone; and

WHEREAS, on November 13, 2000, the California Coastal Commission failed to approve the June 21, 1999 amendments for the areas of the City within the Coastal Overlay Zone, resulting in two different sets of Density Bonus Regulations, one effective outside the Coastal Overlay Zone (O-18654) and one effective inside the Coastal Overlay Zone (O-18451); and

WHEREAS, the City's Density Bonus Regulations are inconsistent with recent amendments to the state Density Bonus Law; and

WHEREAS, the City desires to update its Density Bonus Regulations to ensure conformance with the State Density Bonus Law; and

WHEREAS, nothing in the adoption of these Housing *Density* Bonus Regulations as now set forth in Chapter 14, Article 3, Division 7 of the San Diego Municipal Code shall be construed, interpreted or applied in any manner to adversely affect the application and validity of the provisions of the Coastal Height Limit Overlay Zone, also known as Proposition D passed by the voters of San Diego on or in 1972; NOW, THEREFORE,

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

Section 1. That Chapter 14, Article 3, Division 7, is amended by amending Sections 143.0710, 143.0715, and 143.0720, to read as follows:

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, pursuant to the State Density Bonus Law.

§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) *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
 - (2) *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.
 - (3) 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*.

- (4) 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 for 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) A *density* bonus agreement for housing for senior citizens shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- (1) 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) The *dwelling units* shall remain available for a period of at least 30 years or longer as may be required by other laws.
- (f) 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.

- (g) 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.

Section 2. That Chapter 14, Article 3, Division 7, is amended by renumbering and amending the current Section 143.0730 to 143.0725, to read as follows:

§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(e), the *density* bonus shall be 20 percent.
- (b) For *development* meeting the criteria for *low income* in Section 143.0720(c)(1), 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).

- (c) For *development* meeting the criteria for *very low income* in Section 143.0720(c)(2), 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).
- (d) 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).
- (e) 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.

- (f) 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.
- (g) 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*.

Section 3. That Chapter 14, Article 3, Division 7, is amended by creating a new Section 143.0730, to read as follows:

§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 this division and pursuant to State Density Bonus Law.

Section 4. That Chapter 14, Article 3, Division 7, is amended by amending Sections 143.0740, and 143.0750, to read as follows:

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

The City shall process an incentive requested by an *applicant*, consistent with State Density Bonus 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;
 - (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;
 - (6) For projects required to notice the Federal Aviation Administration, an increase in height that has not received a determination of No Hazard to Air Navigation.
- (d) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(c) 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) (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 *development* 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 *development* proposal.
 - (5) Notwithstanding Sections 143.0740(d)(3) and (4), when a *development permit* is required, the decision to deny a requested incentive shall be made by the decision maker for the *development permit*.
- (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 *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 <i>Moderate</i> <i>Income</i> Units	Percent <i>Density Bonus</i>	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)(4);
- (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
 - (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),(d), or (e) 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:
 - (A) *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*.

(B) *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.

(C) *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(g)(4)(A) and (B).

(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.

Section 5. That Chapter 14, Article 3, Division 7, is amended by repealing section 143.0760.

Section 6. That Chapter 14, Article 1, Division 3, is amended by amending Section 141.0310, to read as follows:

§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 in text.]
- (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]

Section 7. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of its passage.

Section 8. This ordinance shall take effect and be in force on the thirtieth day from and after its final passage except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

Karen Heumann
Assistant City Attorney

SRE:pev
10/11/07
10/17/07 COR.COPY
Or.Dept:City Attorney
O-2008-19
MMS#5457

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underlined

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7, BY AMENDING SECTIONS 143.0710, 143.0715, 143.0720, BY RENUMBERING AND AMENDING CURRENT SECTION 143.0730 TO 143.0725, BY CREATING A NEW SECTION 143.0730, AND BY AMENDING SECTIONS 143.0740, AND REPEALING SECTION 143.0760; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3, BY AMENDING SECTION 141.0310(b), ALL RELATING TO THE DENSITY BONUS REGULATIONS.

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 ~~densities~~ 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 ~~shelter~~ 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~~ development incentive be available for use in all residential ~~developments~~ 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 Applies

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

(a) A portion of the total dwelling units-dwelling units in the development being reserved for moderate, low or very low-income households or for senior citizens ~~or qualified residents~~ through a written agreement. With the San Diego Housing Commission; or

(b) ~~An applicant proposing development as provided in Section 143.0715(a) shall be entitled to a density bonus as provided in Sections 143.0720 and 143.0730 and may be granted an additional development incentive as provided in Section 143.0740.~~ The donation of land, pursuant to the State Density Bonus Law.

§143.0720 Density Bonus in Exchange for Affordable Housing Density Bonus Agreement Units

- (a) ~~An applicant development~~ shall be entitled to a *density* bonus and incentives as described in this division, for any residential *development* for which an 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 as provided in ~~Section 143.0720(b)~~. 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) The ~~A rental affordable housing~~ *density* bonus agreement shall include utilize the following provisions qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- (1) ~~With respect to rental housing affordable units:~~
- (A1) *Low income* - At least ~~20-10~~ percent of the pre-*density* bonus units in the *development* will 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

- (B2) Very low income - At least ~~40~~ 5 percent of the pre-density bonus units in the *development* will ~~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; ~~or,~~
- (C) ~~At least 50 percent of the total units will be available to senior citizens or qualifying residents as defined under California Civil Code Section 51.3.~~
- (3) The affordable units shall be designated units, comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
- (4) 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.
- (2d) ~~With respect to "for sale" housing affordability shall be determined based on prevailing underwriting standards of mortgage financing available for the *development*, which shall include a forgivable second, silent mortgage, as administered by the Housing Commission. At least 20 percent of the pre-bonus units in the *development* shall be available to *low-income* purchasers or 10 percent of the pre-bonus units shall be available to *very low-income* purchasers or at least 50 percent of the pre-bonus units in the *development* shall be available to senior citizens or qualifying residents as defined under California Civil Code Section 51.3. 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) ~~The affordable units will remain available and affordable as provided in Section 143.0720 for a period of at least 30 years if an additional development incentive is granted to the applicant as provided in Section 143.0740 or 10 years if an additional development incentive is not granted. If an applicant does not request an additional development incentive, the applicant shall submit a pro-forma analysis for the Chief Executive Officer of the Housing Commission to document project~~

feasibility. 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, which are be comparable in bedroom mix and amenities to the market-rate units in the development, and are be dispersed throughout the development.

(e) A density bonus agreement for housing for senior citizens shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:

(1) 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) The dwelling units shall remain available for a period of at least 30 years or longer as may be required by other laws.

(f) 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.

(~~§~~(g)) Provision shall be made by the San Diego Housing Commission for certification of eligible tenants and purchasers, annual certification of property owner compliance, ~~and~~ 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.

§143.073025 Density Bonus Provisions

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

(a) ~~The *development* shall be permitted a density bonus of the amount of units requested by the *applicant*, up to a total project dwelling unit count of 125 percent of the units permitted by the *density* regulations of the applicable base zone. For senior citizen housing meeting the criteria of Section 143.0720(3),~~ the *density* bonus shall be 20 percent.

- (b) ~~Where the applicable zone requires that each lot be occupied by no more than one dwelling unit, the development requires a Site Development Permit. If any deviation from the development regulations of the applicable zone is proposed, a Planned Development Permit is required.~~ For development meeting the criteria for low income in Section 143.0720(c)(1), 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).
- (c) For development meeting the criteria for very low income in Section 143.0720(c)(2), 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).
- (d) 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).

- (c) If the *premises* is located in two or more zones, the number of dwelling units ~~dwelling units~~ permitted in the *development* is the sum of the ~~dwelling units~~ dwelling units permitted in each of the zones. Within the *development*, the permitted number of dwelling units ~~dwelling units~~ dwelling units may be distributed without regard to the zone boundaries.
- (df) Where the *development* consists of two or more specifically identified parcels, whether contiguous or noncontiguous, the maximum number of dwelling units ~~dwelling units~~ dwelling units permitted on each parcel ~~property~~ is calculated based on the area of that ~~property~~ parcel. ~~Within the *development*, if any portion of the *density* is to be transferred between two or more separate parcels, the regulations of Section 143.0750 apply.~~
- (eg) Where the *development* consists of two or more noncontiguous parcels lying within two or more community planning areas, the ~~dwelling units~~ 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~~ 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 land to the City for development with affordable housing units, in exchange for a density bonus, in accordance with this division and pursuant to State Density Bonus Law.

§143.0740 Additional Development Incentive for Affordable Housing Density Bonus Projects

In accordance with the provisions of Government Code Section 65915, the City may grant a development incentive in addition to the 25 percent density bonus. The additional development incentive may consist of the following: The City shall process an incentive requested by an applicant, consistent with State Density Bonus Law and as set forth in this Section.

- (a) A density bonus of more than 25 percent; The applicant shall demonstrate that the incentive is necessary to make the housing units economically feasible.
- (b) A financial incentive consisting of: An incentive means any of the following:
 - (1) Fee reductions or deferrals as authorized for affordable housing in the Municipal Code; or A deviation to a development regulation;
 - (2) Direct financing assistance from the Housing Commission, Redevelopment Agency, or other public funds, if authorized by the applicable agency on a case by case basis, or 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 costs reductions.

(c) A deviation from applicable *development* regulations of the underlying zone pursuant to Section 143.0750. 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;

(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;

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- (5) A deviation from the requirements of the City of San Diego Building Regulations;
- (6) For projects required to notice the Federal Aviation Administration, an increase in height that has not received a determination of No Hazard to Air Navigation.
- (d) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(c) 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 development 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 development proposal.
- (5) Notwithstanding Section 143.0740(d)(3) and (4), when a development permit is required, the decision to deny a requested incentive shall be made by the decision maker for the development permit.
- (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 moderate income consistent with the percentage of pre-density bonus units identified in column one of each table.

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Table 143-07A
Low Income Density Bonus
Rental Housing

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

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

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

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

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

(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)(4);
- (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*;

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(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

(B) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care center;
and

(C) 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),(d), or (e) 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:

(A) *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*.

(B) *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.*

(C) *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(g)(4)(A) and (B).*

(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.*

§143.0760 Deviations from Density Bonus and Affordable Housing Provisions

~~(a) — A deviation from the provisions of either Section 143.0730 or Section 143.0740 may be requested in accordance with a Site Development Permit and shall require that the *findings* in Section 126.0504(m) be made.~~

~~(b) — Deviations may only be considered as follows:~~

- (1) ~~An increase in the affordable housing density bonus provisions of Section 143.0730(a) and/or decrease in the affordable housing provisions of Section 143.0740(a), may be granted where the *development* provides for the inclusion of dwelling units affordable by persons of *very low income*. The total *density* bonus shall not result in a *development* containing more than 150 percent of the units permitted by the *density* regulations of the base zone nor shall the affordable housing requirement provide that less than 10 percent of the total development be affordable by persons and families of very low income.~~
- (2) ~~An increase in the affordable housing density bonus provisions of Section 143.0730(a), and/or decrease in the affordable housing provisions of Section 143.0740(a), may be granted where the *development* is located within a census tract where the median household income exceeds 120 percent of the citywide median household income as measured by the most recent U.S. Bureau of Census survey and the *development* provides for the inclusion of dwelling units affordable by persons of *low income*. The total *density* bonus shall not result in a *development* containing more than 150 percent of the units permitted by the *density* regulations of the applicable zone nor shall the affordable housing requirement provide that less than 10 percent of the total *development* be affordable by persons and *families of low income*.~~

§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 in text.]
- (b) ~~Housing for senior citizens may be permitted an affordable housing a density bonus and an additional development incentive as provided in Chapter 14, Article 3, Division 7 (Affordable Housing Density Bonus Regulations). All density bonus units in excess of 25 percent of the allowable density of the base zone shall be for occupancy by very low income Senior Citizens or very low income qualifying residents at a rent that does not exceed 30 percent of 50 percent of area median income, as adjusted for assumed household size. Proposed developments that provide daily meals in a common cooking and dining facility, and provide and maintain a common transportation service for residents, may be exempt from the affordability requirement of Chapter 14, Article 3, Division 7.~~

(c) through (e) [no change]

SRE:pev
10/11/07
10/16/07 COR.COPY
Or.Dept:DSD
O-2008-19
MMD #5457

000463

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Supplement to Environmental Impact Report No. 96-0333 (Project No. 63422), on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of amendments to regulations related to the Affordable Housing Density Bonus.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the office of the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED, that pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the office of the City Clerk and incorporated herein by reference, with respect to the project.

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BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Karen Heumann
Assistant City Attorney

SRE:pev
10/11/07
Or.Dept:DSD
R-2008-195
MMS #5457
ENVIRONMENTAL - EIR 11-01-04

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor