



Land Development
Review Division
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SUPPLEMENT to an ENVIRONMENTAL IMPACT REPORT

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

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

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

May 2007 Update

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

I. PROJECT DESCRIPTION

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

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

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

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

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

II. ENVIRONMENTAL SETTING: See EIR.

III. DISCUSSION

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

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

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

Maximum Density

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

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

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

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

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

Additional Development Incentives (Section 143.0740)

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

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

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

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

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

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

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

Supplemental Findings

The supplemental findings for SDP are:

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

Coastal Zone (Section 143.0750)

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

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

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

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

Projects Subject to the California Environmental Quality Act (CEQA)

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

ministerial using the density bonus regulations. By approving the amendments to the LDC, the City Council would be codifying how projects proposing to use the density bonus regulations would be processed.

Potential Impacts

Visual Quality (Neighborhood Character/Views/Aesthetics)

Significance Criteria

In analyzing a project's potential environmental effects, staff is guided by the City's Significance Determination Thresholds. The Visual Quality section of the Guidelines addresses public views from public spaces, neighborhood character, and aesthetics. While several factors are involved in evaluating potential project impacts in these areas, the effect of bulk and scale is a common theme in all three. For instance, according to the Guidelines, projects that severely contrast with the surrounding community character by substantially exceeding height or bulk regulations, or those that strongly contrast architecturally with existing patterns of development in surrounding areas may result in a significant impact on neighborhood character. Projects that exceed height and bulk regulations and, as a result, substantially block views from public areas (roads, designated open space, etc.) of public resources such as the ocean may be considered to have a significant view impact. Projects with development features that significantly conflict with the height, bulk, or coverage regulations of a zone without also providing architectural interest may result in a significant aesthetic impact.

Impact Conclusion of the LDC EIR

The LDC EIR did not identify significant view or aesthetic impacts, and concluded that significant impacts to neighborhood character would not result from the adoption of the LDC. This conclusion was based on the expectation that future projects would conform to the LDC development regulations. These regulations specify the bulk and scale limits of features that affect neighborhood character, views, and aesthetics, such as building setbacks, lot size, height, and floor area ratio (FAR). In general, these types of limits are identified and applied within each zone or planned district ordinance.

Proposed Project Impact

The density bonus incentives included in the revised ordinance would potentially allow for up to three deviations from the bulk and scale regulations of the underlying zones without requiring the project to process a discretionary permit. The deviation(s) allowed would be on a case-by-case basis, and could include deviations from the underlying zone requirements related to height, lot size, FAR, and setbacks. The allowed deviations and additional density could result in structures that are larger and taller than surrounding buildings, closer to adjacent structures and roadways, and/or cover a larger portion of the property. These differences may result in direct impacts on neighborhood character and aesthetics. Larger structures also have the potential to block public views. Construction of several projects with bulk and scale deviations in any one area may also result in localized cumulative visual quality impacts.

Mitigation

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

Significance of Impact

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

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

Transportation/ Parking

Significance Criteria - Traffic

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

Significance Criteria – Parking

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

Impact Conclusion of the LDC EIR

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

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

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

Impact - Proposed Density Bonus Ordinance Revisions

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

Significance of Impact

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

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

Health and Safety

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

Public Services and Facilities

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

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

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

Other Potential Impacts

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

Conclusion

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

IV. ALTERNATIVES

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

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

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

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

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

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

V. DETERMINATION:

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

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

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

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

VII. SIGNIFICANT UNMITIGATED IMPACTS:

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

Bonus Ordinance have the potential to result in significant impacts to visual quality and transportation/parking, as well as cumulative impacts to visual quality and parking.

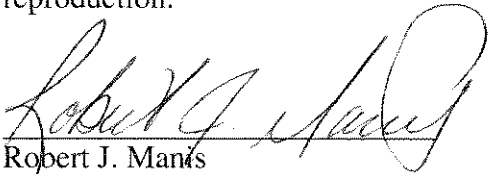
Because there are new significant unmitigated direct and cumulative impacts associated with future development in conformance with the proposed revisions, approval requires the decision-maker to make specific and substantiated CEQA Findings which state that:

- a) specific economic, social or other considerations make infeasible the project alternatives identified in the Supplement EIR; and
- b) the impacts have been found acceptable because of specific overriding considerations. Approval of the project requires the decisionmaker to adopt the Findings and a Statement of Overriding Considerations.

VIII. RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but they did not address the draft Supplement findings or the accuracy/completeness of the Initial Study. No response is necessary. The letters and responses follow.
- () Comments addressing the findings of the draft Supplement EIR and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft Supplement EIR, EIR No. 96-0333, and any technical appendices may be reviewed in the office of the land Development Review Division, or purchased for the cost of reproduction.



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May 16, 2007
Date of Draft Report

Date of Final Report

Analyst: Mirrasoul

Attachments:

- Attachment A: Conclusions of Final EIR No. 96-0333
- Attachment B: Draft Affordable Housing Density Bonus Regulations
- Attachment C: Parking Table