

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 findings 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.

**FINDINGS 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 have been proposed to implement Assembly Bill 1866 and State Senate Bills 435 and 1818, and to facilitate the development of affordable housing within the City of San Diego. These revisions would require the City to provide additional development incentives or concessions to facilitate the development of affordable housing and provide additional incentives or concessions to qualifying projects that include on-site day care facilities. In addition these revisions would expand the density bonus entitlement option to condominium developments which provide units restricted to moderate income residents and would change the length of the affordability requirements. The proposed ordinance would also offer a 10 percent density bonus to projects that build their required inclusionary units on-site rather than paying an in-lieu affordable housing fee.

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 findings pursuant too 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 underling zone, such as setbacks, lot size, height and FAR.

2. Transportation/Parking

Impact: inconsistency with the transportation and parking regulations of the underlying zone.

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.

FINDINGS: 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 not bring the City’s Ordinance into compliance with State law. ~~However, t~~his alternative is also infeasible for the following reasons:

This alternative would remove the City-proposed 10 percent density bonus incentive which provides an incentive for the construction of affordable housing on-site rather than payment of an in-lieu inclusionary fee and the City-proposed 20 percent density bonus incentive for moderate income ownership units. The removal of this alternative would make it harder for the City to achieve affordable housing goals. The elimination of these incentives would result in the construction of fewer affordable housing units.

Since the new state law is already in effect, this project would not result in any additional environmental impacts.

This is a gross
misrepresentation.
State law does not
allow "in-lieu" for
density bonus.

2. The “**Elimination of the City’s On-site Inclusionary Unit Density Bonus Alternative**” would remove the City’s proposed additional incentive for the construction of on-site inclusionary units. This alternative is infeasible for the following reasons:

This alternative would 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. The removal of this alternative would make it harder for the City to achieve our affordable housing goals. It is anticipated that the inclusion of this incentive would result in additional affordable housing units.

The elimination of this incentive would reduce but not eliminate potential impacts to visual quality and transportation and parking.

3. The “**Elimination of the City’s 20 Percent Density Bonus Incentive for Moderate Income Ownership Units**” would remove the 20 percent density bonus as an additional development incentive. However, this alternative is infeasible for the following reasons:

The 20 percent density bonus incentive for the construction of moderate income ownership is a very valuable incentive that would help the City of San Diego begin to meet our required affordable housing goals. The State’s density bonus incentive of five percent is inadequate for the City of San Diego due to the high cost of land in our City. The removal of this alternative would make it harder for the City to achieve affordable housing goals. It is anticipated that the inclusion of this incentive would result in additional affordable housing units.

**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 and associated actions against the unavoidable significant direct and cumulative impact 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 severe housing shortage in the City.
2. The Housing Element calls for aggressively encouraging use of the Density Bonus program. The proposed regulatory changes are intended to help encourage use of this program.
3. Additional residential development allowed by the proposed regulatory changes would help the City meet key goals of the Strategic Framework Element to maximize residential development opportunities in already developed portions of the City.
4. 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 another key goal of the Housing Element.