

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

## NOTICED HEARINGS: (Continued)

ITEM-335: Two actions related to Amendments to Affordable Housing Density Bonus.

Matter of approving, conditionally approving, modifying or denying an ordinance that would amend the Land Development Code regulations in Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 1, Division 7, all related to Affordable Housing Density Bonus. The City Council will also consider a resolution to certify that 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.

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

If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Development Services Department, Attention: Dan Joyce, Senior Planner, 1222 First Avenue, MS 501, San Diego, CA 92101 before the close of the City Council public hearing. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

In accordance with the California Coastal Act and Guidelines, if you wish to review a draft of the amendment language or have any questions, you can contact the City Project Manager listed above.

(See Report to the City Council No. 07-021 and City Attorney memorandum dated February 23, 2007. SEIR No. 96-0333/Project No. 63422. Citywide.)

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

(Continued from the meeting of January 30, 2007, Item 331, at the request of Councilmember Frye, for further review.)

**STAFF'S RECOMMENDATION:**

Adopt the resolution in Subitem A and introduce the ordinance in **either** Option 1 or Option 2 in Subitem B:

Subitem-A: (R-2007-698)

Adoption of a Resolution certifying that Supplement to the Environmental Impact Report No. 96-0333, 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 Environmental Impact Report No. 96-0333;

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;

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.

**Option 1**

Subitem-B: (O-2007-40 Cor. Copy 1)

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 14, Article 3, Division 7, Sections 143.0710, 143.0715, 143.0720, 143.0725, 143.0730, 143.0740, and 143.0750, and deleting Section 143.0760; By amending Chapter 12, Article 6, Division 7, Section 126.0708, and amending Chapter 14, Article 1, Division 3, by amending Section 141.0310(b), all relating to the Affordable Housing Density Bonus Regulations.

**OR**

**Option 2**

(O-2007-40) **Alternative State Mandated Density Bonus Ordinance.**

Amending Chapter 14, Article 3, Division 7, Sections 143.0710, 143.0715, 143.0720, 143.0725, 143.0730, 143.0740, and 143.0750, and amending Chapter 14, Article 1, Division 3, by amending Section 141.0310(b), all relating to the Affordable Housing Density Bonus Regulations.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

**OTHER RECOMMENDATIONS:**

Planning Commission on October 12, 2006, voted 5-0-0 recommend approval with additional recommendations added to the conditions; was opposition.

Ayes: Naslund, Garcia, Schultz, Griswold, Ontai  
Not present: Chase, Otsuji

This is a matter of City-wide effect. The following community group has taken a position on the item:

Opposed: Community Planners Committee (CPC) – (minutes of February 22, 2005) The Committee recommended the regulations be written to implement only the state requirements and did not support the city-initiated amendments.

**STAFF SUPPORTING INFORMATION:**

REQUESTED ACTION:

Approval of amendments to the Land Development Code 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 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).

EXECUTIVE SUMMARY:

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 Affordable Housing Density Bonus regulations. However, 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 two city-initiated amendments.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

The two city-initiated amendments are a density bonus incentive for applicants that satisfy required inclusionary housing onsite rather than through payment of an in-lieu fee, and an increase to the minimum density bonus for projects that provide moderate income for-sale housing.

There are two alternative actions for consideration. First, the Council may adopt the state mandated density bonus regulations and deny or modify the city-initiated density bonus incentives and still be in compliance with state mandates. Second, the Council may deny and/or modify the state mandated provisions of the regulations. However, this action would cause the regulations to be out of compliance with state 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.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

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.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

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 and the building industry. The environmental document has identified potential for impacts to visual quality, transportation, and parking; and cumulative impacts to visual quality and parking.

Waring/McCullough /DJ

**LEGAL DESCRIPTION:**

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.

Staff: Dan Joyce – (619) 446-5388  
Shannon M. Thomas – Deputy City Attorney