

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

## NOTICED HEARINGS: (Continued)

**The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.**

ITEM-334: Amendments to Regulations Related to Affordable Housing Density Bonus. Amending the San Diego Municipal Code, Land Development Code; Certifying Supplement to Environmental Impact Report No. 96-0333, Project No. 63422 and adopting Findings and Statement of Overriding Considerations. (Citywide.)

[▶ View referenced exhibit back-up material \(Part 1 of 3\).](#)

[▶ View referenced exhibit back-up material \(Part 2 of 3\).](#)

[▶ View referenced exhibit back-up material \(Part 3 of 3\).](#)

Consideration of an ordinance that would amend the Land Development Code regulations in 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 constitute an amendment to City of San Diego's Local Coastal Program (LCP) and must be certified by the California Coastal Commission to be effective in the Coastal Overlay Zone. The LCP amendment will not become effective within the Coastal Overlay Zone until unconditionally certified by the California Coastal Commission.** If you wish to be noticed of the Coastal Commission hearing on this issue, prior to the close of the City Council public hearing, you must submit a request in writing to City of San Diego, Development Services Department, 1222 First Avenue, MS-501, San Diego, CA 92101, Attention: Dan Joyce.

**\*Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

(See Report to the City Council No. 07-162. SEIR No. 96-0333/Project No. 63422.)

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

(Continued from the meeting of January 30, 2007, Item 331, at the request of Councilmember Frye for further review; Continued from the meeting of February 27, 2007, Item 335 at the request of Councilmember Frye for further review; Last continued from the meeting of March 27, 2007, Item 333, by common consent to return to the Mayor for further review.)

**NOTE:** Hearing open. No testimony taken on 1/30/07.  
Hearing closed. Public testimony taken on 2/27/07.

**STAFF'S RECOMMENDATION:**

Adopt the resolution in Subitem A and introduce the ordinance in Subitem B:

Subitem-A: (R-2008-195)

Adoption of a Resolution certifying that Supplement to the 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;

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;

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.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

Subitem-B: (O-2008-19 Cor. Copy)

Introduction of 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.

**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).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

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.

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.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

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.

Anderson/Joyce

**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  
Karen Heumann– Assistant City Attorney