

**CALIFORNIA COASTAL COMMISSION**

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December 17, 2015

# Th 16a

**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
TONI ROSS, COASTAL PROGRAM ANALYST, SD COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE LOCAL COASTAL  
PROGRAM AMENDMENT NO. LCP-6-OCN-15-0040-3 (Density Bonus  
Provisions) for Commission Meeting of January 13-15, 2016**

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**SYNOPSIS**

On November 23, 2015, the City of Oceanside Local Coastal Program (LCP) Amendment #LCP-6-OCN-15-0040-3 was filed in the San Diego District office. The date by which the Commission must take action, absent an extension of the time limits by the Commission, is January 22, 2016. This report addresses the City's entire submittal.

**SUMMARY OF AMENDMENT REQUEST**

The City is proposing to add a new Article (Article 40) into its certified Implementation Plan (IP). Currently, the City's LCP does not contain any density bonus provisions. As required by Government Code Section 65915, the City must allow residential projects to exceed maximum allowable densities when such projects include rental and/or for-sale dwelling units affordable to lower income households, as defined by state and as allowed by federal law. State density bonus law also mandates that cities grant concessions or incentives, such as modifications in site development standards, to aid in making the density bonus projects physically or economically feasible. The City's amendment proposal is intended to bring the City's IP into conformance with state housing laws. Specifically, the City's amendment includes provisions for the maximum permitted densities for projects and the number of required low income units. The calculation for any potential density bonus is based on the otherwise maximum allowable density included in the City's certified LCP. In addition, provisions for concessions, incentives, waivers of development standards and parking requirements are specified, as well as how such provisions will be reviewed, approved and implemented by the City.

The City of Oceanside originally submitted the subject LCP Amendment request in April, 2013 (LCP Amendment No. OCN-MAJ-1-12). The Commission approved the amendment request at its November, 2013 hearing with the inclusion of one modification. The modification added language to the article that clarified that for development within

the coastal zone, requested density bonuses and any associated incentive(s), concession(s), and/or waiver(s) or reduction(s) of development standards shall be consistent with all applicable requirements of the certified Oceanside Local Coastal Program Land Use Plan(s) with the exception of density. Section 13537 of the Commission's regulations requires the City formally accept the suggested modification(s) within six months of Commission approval. However, the City failed to accept the revisions within this time frame. As such, the Commission certification expired in May, 2014. As such, the City has resubmitted the same amendment request but the resubmittal now incorporates the Commission's previous modification into this proposal. As such, the subject LCP Amendment consists of the City's previous request, along with the adopted suggested modification required by the Commission's November 2013 action. The density bonus provisions will be applied throughout the coastal zone with the exception of the Downtown "D" District.

### **SUMMARY OF STAFF RECOMMENDATION**

As described in the previous section, the subject LCP Amendment includes a new article (Article 40) that provides density bonus provisions previously reviewed by the Commission. The subject LCP amendment request is identical to the proposal heard by the Commission in 2013 except that the Commission's suggested modification clarifying that density bonus projects and all associated concessions located in the coastal zone must also be found consistent with the City's LCP has been incorporated into the subject amendment request. No new consistency concerns associated with density bonus provision have been identified since the time of the previous Commission action. As such, the proposed amendment can be found consistent with the City's Land Use Plan (LUP) as proposed.

The appropriate resolutions and motions begin on Page 4. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 5.

### **ADDITIONAL INFORMATION**

Further information on the City of Oceanside LCP Amendment LCP-6-OCN-15-0040-3 may be obtained from Toni Ross Coastal Planner, at (619) 767-2370.

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## **PART I. OVERVIEW**

### **A. LCP HISTORY**

The City of Oceanside first submitted its Local Coastal Program Land Use Plan (LUP) to the Commission in July 1980, and it was certified with suggested modifications on February 19, 1981. This action, however, deferred certification on a portion of the San Luis Rey River valley where an extension of State Route 76 was proposed. On January 25, 1985, the Commission approved with suggested modifications the resubmitted LUP and Implementing Ordinances. The suggested modifications related to the guaranteed provision of recreation and visitor-serving facilities, assurance of the safety of shorefront structures, and the provision of an environmentally sensitive routing of the proposed Route 76 east of Interstate 5. The suggested modifications to the Zoning/Implementation phase resulted in ordinances and other implementation measures that were consistent with the conditionally certified LUP policies.

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for "commercial" use; the Commission's suggested modification designated it as "open space." On July 10, 1985, the Commission certified the City's Local Coastal Program as resubmitted by the City, including deferred certification on the above parcel.

The City's Implementation Plan does not currently contain any density bonus provisions. As such, the approval of the subject amendment will facilitate affordable housing proposals and will add a new Article (Article 40 – Density Bonus Provisions) into the City's certified Implementation Plan which would apply citywide, with the exception of the Downtown District.

### **B. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

**PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS**

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. **MOTION:** *I move that the Commission reject the Implementation Program Amendment for the City of Oceanside LCP-6-OCN-15-0040-3 as submitted.*

**STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the City of Oceanside as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

**PART III. FINDINGS FOR APPROVAL OF THE CITY OF OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED****A. AMENDMENT DESCRIPTION**

Currently, the City's LCP does not contain any density bonus/affordable housing provisions. As such, the City is proposing to include a new Article (Article 40 – Density Bonus Provisions) into its certified Implementation Plan (IP). Specifically, the City's amendment includes the details of approving a bonus in allowable density which include, in part, affordable housing standards, calculating the required number of affordable units, alternatives to construction of inclusionary units, as well as provisions for concessions, incentives, waivers of development standards, and parking requirements. The subject LCP amendment request is a resubmittal from a previous request, with the exception that the current proposal has incorporated the modification previously required by the Commission.

**B. FINDINGS FOR APPROVAL**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

a) Purpose and Intent of the Ordinance. The purpose of the proposed ordinance is to establish policies which facilitate the development of affordable housing to serve a variety of economic needs within the City and to encourage the provision of very low, low and moderate priced housing as well as senior housing by providing qualifying developers/property owners density bonuses and additional incentives.

b) Major Provisions of the Ordinance. Major provisions of the ordinance include the granting of a density bonus when the project includes 1) 10% of proposed units are designated as low income housing; 2) 5% of proposed units are designated as very low income housing, or 3) a senior citizen housing development. Additional provisions include application of density bonus and description and application of potential concessions/incentives, waivers or reductions in development standards, and/or modifications to vehicular parking ratios.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan(s) (LUP). The City's LUP contains a number of policies that address protection of public views, preservation of community character, the provision of adequate parking, protection for sensitive habitats and protection of and improvements to public access and state, in part:

**City of Oceanside LCP Land Use Policies for Visual Resources**

*VI. Visual Resources and Special Communities*

*1. In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment. [,,]*

*3. All new development shall be designed in a manner which minimizes disruption of natural land forms and significant vegetation.*

*4. The City shall maintain existing view corridors through public rights-of-way.*

*[...]*

*8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.*

**City of Oceanside LCP – Design Standards for Preserving and Creating Views**

*The visual orientation to the Pacific Ocean is a major identity factor for the City of Oceanside. Traditional view corridors should be preserved and reinforced in the placement of buildings and landscaping. Additionally, some views not presently recognized deserve consideration in the design and location of further coastal improvements.*

## **City of Oceanside LCP Land Use Policies for Coastal Access**

### *I. Coastal Access*

*Objective: Adequate access to and along the coast shall be provided and maintained*

### *VII. New Development and Public Works*

*1. The City shall deny any project which diminishes public access to the shoreline, degrades coastal aesthetics, or precludes adequate urban services for coastal-dependent, recreation, or visitor serving uses.*

## **City of Oceanside LCP Land Use Policies for Environmentally Sensitive Habitat**

### *IV. San Luis Rey River Specific Plan*

*Objectives – The City shall protect, maintain and enhance the river’s existing sensitive habitats*

### *V. Environmentally Sensitive Habitat Areas*

*2. Prior to approving any development on dry lands adjacent to Buena Vista Lagoon, the City shall consult the State Department of Fish and Game to ensure that adequate measures are provided to protect and enhance the lagoon’s sensitive resources. Such measures shall include:*

*a. Provision of adequate buffers between development and the lagoon.*

In general, density bonus regulations raise several concerns regarding the protection of coastal resources and thus the consistency with the City’s certified LCP. Specifically, granting of a density greater than the density that could be otherwise permitted in the LCP could adversely affect coastal resources by allowing a development that could impact public views (such as high rises), or permitting a development that could adversely affect public access (congestion or traffic due to a higher intensity type of project). In addition, incentives, concessions or waivers/reductions in development standards that may be granted to encourage affordable housing could also result in adverse impacts to coastal resources. For example, when incentives, concessions or deviations are granted to new development, there is the possibility that development could encroach onto environmentally sensitive habitat areas (e.g., wetlands) or result in reduced buffers next to such habitat areas. If waivers were provided to the required

height limit, coastal views may be impacted. If parking reductions were granted, potential impacts to public access could occur.

However, the City's proposal includes language that clearly states that no such development proposals shall be approved if such an approval could not be found consistent with applicable provisions of the City's LUP. Thus, while proposals for density bonus may be allowed to include reductions in development standards such as reduction in parking, waivers such as reduced setbacks, or incentives such as a reduction on regulatory processing fees, such proposals cannot be permitted if they will result in impacts to coastal resources (e.g., adversely affect parking in nearshore areas or usurp parking for beach visitors, etc.). Specifically, Article 40 includes a provision that states that for development located in the coastal zone, the requested density bonus must be consistent with all requirements of the City of Oceanside's Land Use Plan other than the density certified in the City's LCP. Through the certification of the density bonus provisions, applicants will be allowed limited density increases that are tied to the provision of affordable housing, but only if those proposals will also protect the coastal resources (public parking, public vantages to the ocean, public accessways) consistent with the City's certified LCP.

In addition, in the granting of density bonuses, such development should be located near transit centers to foster less dependence on automobiles which will reduce traffic and congestion especially in light of the fact that such development proposals permit development to be much more intense. Traditionally, if an applicant is proposing to provide the lower cost units offsite, such units must be located within ¼ mile of the site receiving the density bonus, concessions, incentives, etc. However, as proposed by the City, lower income units may be constructed off site in greater distances than ¼ mile if the land is situated within a transit-oriented area of the City, as identified on the regional Smart Growth Concept Map, prepared by the San Diego Association of Governments, or within ¼ mile of high-frequency bus service. As such, the City has incorporated additional requirements for units located greater than ¼ mile from the site of the density bonus project to be located within areas that have ample alternative modes of public transportation. This provision will allow the applicant additional flexibility if he/she chooses to locate the units offsite, and; at the same time, will promote the use of alternative transportation.

In summary, the various affordable housing projects that will be permitted through the Density Bonus regulations will comply with the land use policies of the certified LCP. Therefore, the proposed LCP amendment will have no significant adverse impacts on coastal resources and the proposed amendment request is found to be consistent with and adequate to carry out the certified LUP.

**PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Secretary of the Resources Agency to be functionally equivalent to the EIR process and pursuant to CEQA section 21080.5, the Resources Agency certified the Commission's program. Thus, under CEQA Section 21080.5, the Commission, in its implementation of its certified regulatory program, is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, under CEQA section 21080.5(d)(2)(A), the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions in its review of the submittal. In this case, the City has included a provision that clarifies that all density bonuses and associated concession located in the coastal zone must also be found consistent with the City's LCP. Therefore, the Commission finds that the proposed amendment, as submitted, will not result in any significant adverse environmental effects for which feasible mitigation measures would be required. Thus, the proposed amendment is consistent with CEQA section 21080.5(d)(2)(A).



**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING THE LOCAL COASTAL PROGRAM FOR THE PURPOSE OF ADOPTING STATE MANDATED AFFORDABLE HOUSING DENSITY BONUS REGULATIONS AND REQUESTING CALIFORNIA COASTAL COMMISSION CERTIFICATION OF SAID AMENDMENT**

(City of Oceanside –Applicant)

(LCPA11-00001)

WHEREAS, the California Coastal Act (Public Resources Code §30000, et seq.) (the "Coastal Act") requires that the City adopt a Local Coastal Program (LCP) which meets the requirements of the Coastal Act at the local level and implements its provisions and policies;

WHEREAS, on January 25, 1985, the California Coastal Commission ("Commission") approved with suggested modifications, the City's Land Use Plan ("LUP") and, pursuant to Public Resources Code §30512.2, found the City's LUP to be consistent with the policies and requirements of Chapter 3 of the Coastal Act and to meet the basic stated goals specified in Public Resources Code §30001.5;

WHEREAS, on December 8, 2008, the California Coastal Commission (CCC) established with the City of Oceanside that development proposals in those portions of the Coastal Zone located outside of the Downtown Redevelopment Area would be reviewed for consistency under the standards of the City's 1986 Zoning Ordinance, in light of the fact that the previously applicable 1992 Zoning Ordinance had never received CCC certification; and

WHEREAS, on May 11, 2009, the City acknowledged in correspondence to the CCC an obligation to use the 1986 Zoning Ordinance as the standard for review of development proposals within those portions of the Coastal Zone located outside of the Downtown Redevelopment Area; and

WHEREAS, Government Code Section 65915, commonly known as state density bonus law, requires that all cities and counties in the State of California allow density bonus and other regulatory concessions in exchange for specified percentages of affordable housing within otherwise market-rate housing developments; and

EXHIBIT NO. 1

Resolution

LCP-6-OCN-15-0040-3 (Density Bonus Provisions)  
California Coastal Commission

1           WHEREAS, state density bonus law requires that all cities and counties in the State of  
2 California adopt local density bonus provisions that conform to state density bonus law; and

3           WHEREAS, Program 3 of the City's 2005-2010 Housing Element, adopted on  
4 June 17, 2009, establishes that the City will adopt local density bonus provisions that conform to  
5 state law; and

6           WHEREAS, the 1986 Zoning Ordinance does not include density bonus provisions; and

7           WHEREAS, changes in state density bonus law, enacted on January 1, 1995, as State Bill  
8 1818, require amendments to the City's density bonus provisions to achieve consistency with state  
9 density bonus law; and

10           WHEREAS, the Planning Division has prepared recommendations for text amendments to  
11 both the 1986 and the 1992 Zoning Ordinances to bring both documents into conformance with  
12 state density bonus law, underscore the City's authority to allow the off-site provision of required  
13 affordable units, and provide additional flexibility for land donation in exchange for density  
14 bonus; and

15           WHEREAS, the Planning Commission did, on the 9th day of January, 2012, conduct a  
16 duly-advertised public hearing as prescribed by law to consider said recommendations for text  
17 amendments to the 1986 and 1992 Zoning Ordinances; and

18           WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of  
19 Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the  
20 State Guidelines thereto amended to date and hereby approved by the City Council in  
21 conjunction with its recommendations on the application; and

22           WHEREAS, the City Council/Community Development Commission conducted a duly  
23 noticed public hearing on May 2, 2012, and found that the Local Coastal Program Amendment  
24 (LCPA11-00001) conformed with and was adequate to carry out the land use plan of the Local  
25 Coastal Program; and

26           WHEREAS, on November 14, 2013, the California Coastal Commission certified the  
27 City's density bonus provisions with a suggested modification that requires subsequent City  
28 Council approval; and

1 WHEREAS, the City Council conducted a duly noticed public hearing on August 5,  
2 2015, and hereby finds that the suggested modification to Local Coastal Program Amendment  
3 (LCPA11-00001) conforms with and is adequate to carry out the land use plan of the Local  
4 Coastal Program.

5 NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE as  
6 follows:  
7

- 8 1. Pursuant to Public Resources Code §30510(a), the Oceanside City Council hereby  
9 certifies that the Local Coastal Program Amendment (LCPA11-00001) is intended to be  
10 carried out in a manner fully in conformity with the Coastal Act, and is hereby adopted.
- 11 2. Pursuant to the California Environmental Quality Act of 1970, and the State Guidelines  
12 thereto amended to date, a Notice of Exemption has been issued for the project by the  
13 Resource Officer for the City of Oceanside.
- 14 3. Pursuant to Coastal Commission Local Coastal Program Regulations §13551(b), this  
15 Local Coastal Plan Amendment shall take effect upon Coastal Commission approval.
- 16 4. Notice is hereby given that the time within which judicial review must be sought on the  
17 decision is governed by Public Resources Code §30801.

18 PASSED AND ADOPTED by the Oceanside City Council/Community Development  
19 Commission this 5th day of August, 2015, by the following vote:

20 AYES: WOOD, FELLER, KERN, LOWERY, SANCHEZ

21 NAYS: NONE

22 ABSENT: NONE

23 ABSTAIN: NONE

24  
25  
26 ATTEST:

27 Golly P. Probaugh, A.S.O.T.  
28 City Clerk/ CDC Secretary

Jim Wood  
Mayor/CDC Chair of the City of Oceanside

APPROVED AS TO FORM:

John P. Bell  
City Attorney/ CDC General Counsel

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**ORDINANCE NO. 15-OR0529-1**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ADDING ARTICLE 40 OF THE 1986 OCEANSIDE ZONING ORDINANCE (AFFORDABLE HOUSING DENSITY BONUS), WITH MODIFICATIONS SUGGESTED BY THE CALIFORNIA COASTAL COMMISSION**

WHEREAS, on May 2, 2012, the City Council adopted changes to the City's affordable housing density bonus provisions, in accordance with California Government Code Section 65915-65915; and

WHEREAS, said changes require amendment of the implementing document of the City's Local Coastal Program, which must be certified by the California Coastal Commission prior to becoming effective; and

WHEREAS, on November 14, 2013, the California Coastal Commission approved said changes with a suggested modification that provides that for development located in the Coastal Zone, any density bonus and related concession or incentive provided shall be consistent with all applicable resource standards of the certified Oceanside Local Coastal Program Land Use Plan(s) with the exception of density; and

WHEREAS, the City Council conducted a duly-noticed public hearing on August 5, 2015, to consider the suggested modification to the City's density bonus provisions; and

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California Environmental Quality Act of the 1970 and State Guidelines;

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

**SECTION 1.** Zone Amendment (ZA11-00003) establishing the text of the 1986 Zoning Ordinance for properties within the Coastal Zone, except for those properties within the Downtown "D" District, as established in Exhibit A, is hereby adopted.

**SECTION 2.** The City Clerk of the City of Oceanside is hereby directed to publish this Ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15) days after its passage in a newspaper of general circulation published in the City of Oceanside.

**SECTION 3.** Severability.



1 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be  
2 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision  
3 shall not affect the validity of the remaining portions of this Ordinance. The City Council  
4 hereby declares that it would have passed this Ordinance and adopted this Ordinance and each  
5 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more  
6 sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

7 **SECTION 4.** Notice is hereby given that the time within which judicial review must  
8 be sought on this decision is governed by Government Code Section 65009(c).

9 **SECTION 5.** This ordinance shall be effective 30 days after its adoption.

10  
11 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,  
12 California, held on the 5th day of August, 2015, and, thereafter,

13 PASSED AND ADOPTED at a regular meeting of the City Council of the City of  
14 Oceanside, California, held on the 2nd day of September, 2015, by the following vote:

15  
16 AYES: WOOD, FELLER, KERN, LOWERY, SANCHEZ

17 NAYS: NONE

18 ABSENT: NONE

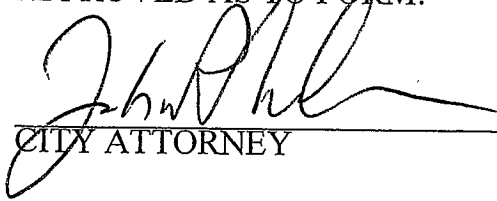
19 ABSTAIN: NONE

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21   
MAYOR OF THE CITY OF OCEANSIDE

22 ATTEST:

APPROVED AS TO FORM:

23  
24   
25 \_\_\_\_\_  
CITY CLERK

26  
27   
28 \_\_\_\_\_  
CITY ATTORNEY

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ADDING ARTICLE 40 OF  
THE 1986 OCEANSIDE ZONING ORDINANCE, MODIFYING THE CITY'S DENSITY BONUS  
PROVISIONS TO COMPLY WITH GOVERNMENT CODE SECTION 65915

**ARTICLE 40**

**AFFORDABLE HOUSING DENSITY BONUS**

- A. Purpose. This section establishes policies which facilitate the development of affordable housing to serve a variety of needs within the City. To encourage provision of moderate, low and very low income housing, senior housing, and ancillary child care facilities, the City shall provide developers/property owners meeting the requirements of this section a density bonus and additional incentives or concessions. The regulations set forth in this section shall apply citywide.
- B. Definitions. As used in this section, the following terms shall have the following meanings:
- (1) “Density Bonus” means either: (a) a density increase over the maximum allowable residential density allowance under applicable zoning and Land Use Element of the General Plan as of the date of application. The provisions of this Ordinance shall apply only to residential development of five or more units. The number of housing units to be reserved for very low, low or moderate income households or senior housing does not include the density bonus units.
  - (2) “Concession” or “incentive” shall have the meaning set forth in Government Code section 655915(k).
  - (3) “Equivalent Financial Value” concerns a condominium conversion project seeking a density bonus and refers to the cost to the developer/property owner based on the land cost per dwelling unit. The land cost per dwelling unit is determined by the difference in the value of the land with and without the density bonus.
  - (4) “Low Income Households” as currently defined in section 50079.5 of the Health and Safety Code and any subsequent amendments or revisions.
  - (5) “Very Low Income Households” as currently defined in section 50105 of the Health and Safety Code and any subsequent amendments or revisions.
  - (6) “Moderate Income Households” as currently defined in section 50093 of the Health and Safety Code and any subsequent amendments or revisions.
  - (7) “Senior Citizen Housing Development” as currently defined by Sections 51.3 and 51.12 of the Civil Code and any subsequent amendments or revisions.
  - (8) “Common Interest Development” as currently defined in Section 1351 of the Civil Code and any subsequent amendments or revisions.
  - (9) “Child Care Facility” means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school-age child care center, as defined by Government Code Section 65915.



City-Adopted Density Bonus Ordinance with CCC-Suggested Modification

C. Implementation. The City shall grant a density bonus, in the amount specified in subsection D below, to an applicant who proposes a housing development consisting of five or more dwelling units and meeting at least one of the following criteria:

- (1) At least ten percent (10%) of the total units of the housing development are designated for low income households; or
- (2) At least five percent (5%) of the total units of the housing development are designated for very low income households; or
- (3) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.
- (4) Ten percent (10%) of the total dwelling units in a common interest development as provided in Section 1351 of the Civil Code for persons and families of moderate income, provided that all units in the development are offered to the public for purchase.
- (5) Circumstances may arise in which the public interest would be served by allowing some or all of the designated affordable units associated with a density bonus project to be produced and operated at an alternative development site. Where the City and applicant form such an agreement, both the market-rate and affordable components of the project shall be considered a single housing development for the purposes of this chapter, and the applicant shall be subject to the same requirements of this chapter pertinent to the designated affordable units to be provided on the alternative site.

D. Amount of Density Bonus. The amount of density bonus granted to a qualifying project shall be based on the category and percentage of affordable units proposed, as reflected in the following matrices.

- (1) For housing developments meeting the criteria of Section C(1) above, the density bonus shall be calculated as follows:

**TABLE 1**  
**Density Bonus for Low Income Units**

<u>Percentage Low Income Units</u>	<u>Percentage Density Bonus</u>
<u>10</u>	<u>20</u>
<u>11</u>	<u>21.5</u>
<u>12</u>	<u>23</u>
<u>13</u>	<u>24.5</u>
<u>14</u>	<u>26</u>
<u>15</u>	<u>27.5</u>
<u>16</u>	<u>29</u>
<u>17</u>	<u>30.5</u>
<u>18</u>	<u>32</u>
<u>19</u>	<u>33.5</u>
<u>20</u>	<u>35</u>

City-Adopted Density Bonus Ordinance with CCC-Suggested Modification

- (2) For housing developments meeting the criteria of Section C(2) above, the density bonus shall be calculated as follows:

**TABLE 2**  
**Density Bonus for Very Low Income Units**

<u>Percentage Very Low Income Units</u>	<u>Percentage Density Bonus</u>
<u>5</u>	<u>20</u>
<u>6</u>	<u>22.5</u>
<u>7</u>	<u>25</u>
<u>8</u>	<u>27.5</u>
<u>9</u>	<u>30</u>
<u>10</u>	<u>32.5</u>
<u>11</u>	<u>35</u>

- (3) For housing development meeting the criteria of Section C(3) above, the density bonus shall be 20 percent (20%).
- (4) For housing development meeting the criteria of Section C(4) above, the density bonus shall be calculated as follows:

**TABLE 3**  
**Density Bonus for Moderate Income Units**

<u>Percentage Moderate Income Units</u>	<u>Percentage Density Bonus</u>
<u>10</u>	<u>5</u>
<u>11</u>	<u>6</u>
<u>12</u>	<u>7</u>
<u>13</u>	<u>8</u>
<u>14</u>	<u>9</u>
<u>15</u>	<u>10</u>
<u>16</u>	<u>11</u>
<u>17</u>	<u>12</u>
<u>18</u>	<u>13</u>
<u>19</u>	<u>14</u>
<u>20</u>	<u>15</u>
<u>21</u>	<u>16</u>
<u>22</u>	<u>17</u>
<u>23</u>	<u>18</u>
<u>24</u>	<u>19</u>
<u>25</u>	<u>20</u>
<u>26</u>	<u>21</u>
<u>27</u>	<u>22</u>
<u>28</u>	<u>23</u>
<u>29</u>	<u>24</u>



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<u>Percentage Moderate Income Units</u>	<u>Percentage Density Bonus</u>
<u>30</u>	<u>25</u>
<u>31</u>	<u>26</u>
<u>32</u>	<u>27</u>
<u>33</u>	<u>28</u>
<u>34</u>	<u>29</u>
<u>35</u>	<u>30</u>
<u>36</u>	<u>31</u>
<u>37</u>	<u>32</u>
<u>38</u>	<u>33</u>
<u>39</u>	<u>34</u>
<u>40</u>	<u>35</u>

- (5) All density calculations resulting in fractional units shall be rounded up to the next whole number, unless otherwise indicated.
- (6) The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.
- (7) An applicant may elect to accept a lesser percentage of density bonus.
- (8) The calculations are in accordance with Government Code Section 65915 and are subject to any subsequent amendments or revisions thereto.

E. Land Donation. When an applicant donates land to the City to satisfy the affordable housing obligation established under this Ordinance, the applicant shall be entitled to a density bonus as follows:

**TABLE 4**  
**Density Bonus for Land Donation**

<u>Percentage Very Low Income</u>	<u>Percentage Density Bonus</u>	<u>Percentage Low Income</u>	<u>Percentage Density Bonus</u>
<u>10</u>	<u>15</u>	<u>10</u>	<u>7.5</u>
<u>11</u>	<u>16</u>	<u>11</u>	<u>8</u>
<u>12</u>	<u>17</u>	<u>12</u>	<u>8.5</u>
<u>13</u>	<u>18</u>	<u>13</u>	<u>9</u>
<u>14</u>	<u>19</u>	<u>14</u>	<u>9.5</u>
<u>15</u>	<u>20</u>	<u>15</u>	<u>10</u>
<u>16</u>	<u>21</u>	<u>16</u>	<u>10.5</u>
<u>17</u>	<u>22</u>	<u>17</u>	<u>11</u>
<u>18</u>	<u>23</u>	<u>18</u>	<u>11.5</u>
<u>19</u>	<u>24</u>	<u>19</u>	<u>12</u>
<u>20</u>	<u>25</u>	<u>20</u>	<u>12.5</u>
<u>21</u>	<u>26</u>	<u>21</u>	<u>13</u>

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<u>Percentage Very Low Income</u>	<u>Percentage Density Bonus</u>
<u>22</u>	<u>27</u>
<u>23</u>	<u>28</u>
<u>24</u>	<u>29</u>
<u>25</u>	<u>30</u>
<u>26</u>	<u>31</u>
<u>27</u>	<u>32</u>
<u>28</u>	<u>33</u>
<u>29</u>	<u>34</u>
<u>30</u>	<u>35</u>

<u>Percentage Low Income</u>	<u>Percentage Density Bonus</u>
<u>22</u>	<u>13.5</u>
<u>23</u>	<u>14</u>
<u>24</u>	<u>14.5</u>
<u>25</u>	<u>15</u>
<u>26</u>	<u>15.5</u>
<u>27</u>	<u>16</u>
<u>28</u>	<u>16.5</u>
<u>29</u>	<u>17</u>
<u>30</u>	<u>17.5</u>

Density bonus calculations are in accordance with Section 65915 of the Government Code and are subject to any amendments or revisions thereto. Applicants seeking density bonus for both the provision of affordable units and the donation of land shall be limited to a maximum combined density bonus of thirty-five percent (35%). In order to qualify for the above density bonus, the land donation must meet the following conditions:

- (1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application if no subdivision map is proposed.
- (2) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low or low income households in an amount not less than 10 percent (10%) of the total units of the housing development.
- (3) The transferred land is of sufficient size to permit development of the minimum number of units required by the prior paragraph (2), has the appropriate general plan and zoning designations, is appropriately zoned with appropriate development standards for development at the appropriate density, and is or will be served by adequate public facilities and infrastructure.
- (4) No later than the date of approval of the final subdivision map, parcel map, or residential development application for the first density bonus market-rate unit, the transferred land shall have all City required discretionary permits and approvals, other than building permits, necessary for the development of the very low or low income units on the transferred land, except the City may subject the proposed development to subsequent design review if the design is not otherwise reviewed by the City prior to the time of transfer.
- (5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Government Code Section 65915, which shall be recorded on the property at the time of the transfer.
- (6) The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer.

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- (7) The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.
- (8) In the event the transferred land is not within the boundary of the proposed development or within one-quarter mile of the boundary thereof, the transferred land must be situated within a transit-oriented area of the City, as identified on the regional Smart Growth Concept Map, prepared by the San Diego Association of Governments, or within one-quarter mile of high-frequency bus service (i.e., providing 15-minute headways).
- (9) A financing plan for funding the affordable units shall be identified no later than the date of the approval of the final subdivision map, parcel map or residential development application for the market-rate component of the density bonus project.

F. Child Care Facility.

- (1) When an applicant proposes to construct a housing development that conforms to the requirements of this section and includes a child care facility that will be located on the premises of, as a part of, or adjacent to, the project, the City shall grant either:
  - (a) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility; or
  - (b) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
- (2) In order to qualify for the additional density bonus or incentive, the child care facility must meet the following criteria:
  - (a) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable.
  - (b) Of the children who attend the child care facility, the children of very low income households, low income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, low income households, or families of moderate income.

- G. Condominium Conversions. When an applicant for approval to convert apartments to a condominium project agrees to provide at least thirty-three percent (33%) of the total units of the proposed condominium to persons and families of low or moderate income, or fifteen percent (15%) of the total units of the proposed condominium project to very low income households, and agrees to pay for the reasonably necessary administrative costs incurred by the City pursuant to this subsection, the City shall grant either:

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- (1) A density bonus of twenty-five percent (25%) over the number of existing rental apartments, to be provided within the existing structure or structures proposed for conversion; or
- (2) An incentive of equivalent financial value.

The City may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of very low, low or moderate income households. The City shall enforce an equity sharing agreement, as set forth by Section 65915 of the Government Code, for these units.

H. Density Bonus Agreement. To be eligible for a density bonus, the applicant must submit an Affordable Housing Plan and, prior to securing any discretionary permits or approvals for the market-rate units, sign a binding agreement with the City which sets forth the conditions and guidelines to be met in the implementation of this Ordinance. The agreement will also establish specific compliance standards and remedies upon failure by the applicant to make the affordable units available to intended residents. As the means of ensuring compliance, the agreement shall require the recordation of a deed restriction against both the market-rate and affordable components of the density bonus project. The deed restriction shall remain in place and preclude issuance of the certificate of occupancy for the market-rate units until such time as the affordable units have been constructed or other security acceptable to the City is provided in lieu of the deed restriction. If the applicant proposes to phase development of the market-rate units, deed restrictions shall be recorded and implemented on a phase by phase basis.

I. Density Bonus Application.

- (1) Application for density bonus shall be made concurrent with submittals required for the processing of associated discretionary permits (e.g. development plans). The request for density bonus shall be articulated as part of the description and justification for the development project, in accordance with the City's Development Processing Guide. The request for density bonus shall specify the percentage of density bonus sought, per Subsections D(1) - D(4) of this Ordinance, and indicate how the affordable housing obligations of this Ordinance will be met.
- (2) The review process for a density bonus project shall be the same as that required for associated discretionary permits. Discretionary actions on density bonus projects shall be subject to the same appeal process applied to associated discretionary permits.
- (3) The application and approval of a density bonus and any associated incentives or concessions shall not require a separate permit or approval process from that otherwise required for the same project without a density bonus request.

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- (4) The granting of a density bonus shall not, in and of itself, require a general plan amendment, local coastal plan amendment, zone change, or other discretionary action.
- (5) For development within the coastal zone, the requested density bonus and any requested incentives(s), concession(s), and/or waiver(s) or reduction(s) of development standards shall be consistent with all applicable resource protection standards of the certified Oceanside Local Coastal Program Land Use Plan(s) with the exception of density.

J. Concessions and Incentives.

- (1) In additional to the applicable density bonus, qualifying projects shall receive the following number of incentives or concessions:
  - (a) One incentive or concession for projects that propose at least ten percent (10%) of the total units for lower income households, at least five percent (5%) for very low income households, or at least ten percent (10%) for persons and families of moderate income in a common interest development.
  - (b) Two incentives or concessions for projects that propose at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) for very low income households, or at least twenty percent (20%) for persons and families of moderate income in a common interest development.
  - (c) Three incentives or concessions for projects that propose at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a common interest development.
  - (d) Proposals seeking concessions or incentives deemed necessary to exceed the base density allowance would not be subject to the otherwise required conditional use permit.
- (2) For purposes of this Ordinance, concessions or incentives shall include, without limitation:
  - (a) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

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- (b) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
  - (c) Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable, financially sufficient, and actual cost reductions.
- (3) This section does not limit or require the City to provide direct financial incentives, including the provision of publicly owned land, or the waiver of fees or dedication requirements. However, the City will consider deferral of application processing fees on a case-by-case basis.
- (4) The City shall grant the concession or incentive requested by the applicant unless the City makes a written finding, based upon substantial evidence, of any of the following:
- (a) The concession or 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.
  - (b) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public 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 or moderate income households.
  - (c) The concession or incentive would be contrary to state or federal law.

K. Waiver or Reduction of Development Standards.

- (1) An applicant may submit to the City a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the City. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have 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 waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of

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Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

- (2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (L) of this Ordinance.

L. Vehicular Parking Ratio. Upon request of the developer, the following maximum parking ratio, inclusive of handicapped and guest parking, shall apply, pursuant to Section 65915 of the Government Code:

- (1) Zero to one bedroom: one on-site parking space.
- (2) Two to three bedrooms: two on-site parking spaces.
- (3) Four or more bedrooms: two and one-half parking spaces.

If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. A development may provide on-site parking through tandem parking or uncovered parking, but not through onstreet parking. The applicant may also request a concession or an incentive pursuant to subsection L hereof to further lower the vehicle parking ratios from those described herein.

M. Requirements for Participation. In order for a developer/property owner to be eligible for density bonus or other incentives, the following requirements must be met:

- (1) A unit will be counted toward meeting the affordable housing requirement if it is either vacant or occupied by a very low, low or moderate income tenant, as applicable, or a Senior Citizen (if density bonus was based on a Senior Citizen Housing Development).
- (2) The affordable units must be proportional to the overall project in terms of unit mix, floor plan, square footage, and exterior design. Further, the range of affordable units must be reasonably dispersed throughout the development.
- (3) The time period of availability to the intended population shall be for at least 30 years. A longer period of availability may be required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
- (4) The maximum allowable rents to comply with the law are determined by a formula designated by the State Department of Housing and Community Development based on the area median income. This formula is indicated in Section 65915(c) of the Government Code.
- (5) Owner-occupied units shall be available at affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code.

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- (6) For-sale affordable units may be subject to an equity sharing agreement, in the event that public subsidies are involved in the construction and/or purchase of said units.
- (7) The owner of the affordable units for which a density bonus was granted must provide to the Neighborhood Services Department a yearly accounting of the total units occupied, the total units vacant, the total units occupied by lower or very low-income households, the total number of units occupied by Senior Citizens and the total units required to be set aside under all applicable affordability covenants.