



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: September 29, 2006 REPORT NO. PC-06-264

ATTENTION: Planning Commission
Agenda of October 5, 2006

SUBJECT: AFFORDABLE HOUSING DENSITY BONUS REGULATIONS

REFERENCE: Manager's Report Nos. 03-237, 04-127, 05-028, 05-107

SUMMARY

Issue - Should the Planning Commission recommend to the City Council approval of amendments to the Land Development Code 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)?

Staff Recommendations -

1. Recommend that the City Council CERTIFY Supplement to Environmental Impact Report No. 96-0333 (Project No. 63422) and adopt the Findings and Statement of Overriding Considerations.
2. Recommend to the City Council approval of 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).

Other Recommendations - Community Planners Committee (CPC) - On February 23, 2005, the CPC voted 11-1 to oppose the staff recommendation and to revise the City's draft Affordable Housing Density Bonus Regulations to not vary from or exceed the requirements of the state required Density Bonus Program. Specifically, the CPC did not support the two City-initiated proposals. The first City-initiated proposal is to provide a 10 percent density bonus incentive for providing required inclusionary housing onsite

rather than paying an in-lieu fee. The second is to increase the state-required density bonus for providing moderate income housing from 5 percent to 20 percent.

Technical Advisory Committee (TAC) - On March 9, 2005 the TAC voted 7-0 to support the staff recommendation with the following additions:

1. Projects that qualify for the proposed 10 percent bonus by satisfying their inclusionary housing requirement onsite be afforded the regulatory incentives available to projects that qualify for state density bonus.
2. The review process for incentives/deviations should be Process Three or less.
3. A new local density bonus category is added for accessible units that meet American National Standards Institute A 117.1 standards.
4. The moderate income condominium category should have the more generous bonus recommended by staff.

Planning Commission - On March 17, 2005, the Planning Commission held a workshop on the draft regulations. A number of questions were asked but no specific direction was given.

Housing Commission - On April 8, 2005, the Housing Commission voted 4-0 to generally support the staff recommendation while expressing the view that the primary goal should be to provide incentives for low- and very-low income housing.

Land Use & Housing Committee (LU&H) - On May 11, 2005, the Committee voted to accept the proposed ordinance and directed staff to prepare the required environmental documentation for Planning Commission and City Council consideration and adoption. LU&H provided the following direction to staff:

1. Answer more completely the Committee's questions regarding use of different approval process levels and differential findings for different elements of the program in order to adequately address community concerns.
2. Direct the Intergovernmental Relations Department to 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.
3. Chart and track 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.

Code Monitoring Team (CMT) - On April, 2006, the City of San Diego's (City's) CMT voted to recommend approval of the proposed revisions to the City's Affordable Housing Density Bonus Regulations by a vote of 6-0-1.

Environmental Review - A Supplement to Environmental Impact Report No. 96-0333 has been prepared for the project in accordance with the California Environmental Quality Act (CEQA).

Fiscal Impact - None with this action.

Housing Impact - The intent of these revisions is to provide incentives to increase the supply of housing affordable to very-low and low-income renters, seniors, and moderate income homeowners in accordance with state law.

BACKGROUND

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 local regulations intended to fulfill this state requirement.

On January 1, 2003, Assembly Bill (AB) 1866 became effective. The revised bill was intended to increase use of the state density bonus program and increase the supply of affordable housing in the state. Passage of this bill resulted in San Diego's density bonus regulations becoming outdated and partially out of compliance with state law. Therefore, on December 3, 2003, the City Council's Land Use and Housing Committee directed the Planning Department and the City Attorney to make necessary revisions to the City's Affordable Housing Density Bonus Regulations and forward them to the Community Planners Committee, Housing Commission, and Planning Commission for input and recommendations and then to the City Council for adoption.

A draft of that ordinance was prepared for presentation to City Council. However, the presentation to the City Council was postponed when it became apparent that the state density bonus regulations were again being significantly modified at the state level. On January 1, 2005, the second major revision to the state density bonus law in two years, Senate Bill (SB) 1818, became effective. Further, only a few months later, Senate Bill 435, which provided clarifying language related to SB 1818, was approved.

DISCUSSION

The purpose of this draft of the Affordable Housing Density Bonus Regulations is to bring the City's regulations into conformance with state density bonus law. State density bonus law requires that the density bonus be granted ministerially. A project may be granted up to three incentives through Process One based upon the percentage of affordable units in a project and the level of affordability. The incentives may take the form of deviations from development regulations. State law also directs that an applicant proposing a project that uses density bonus, in and of itself, cannot be required to process a land use plan or zoning ordinance amendment. However, applicants requesting deviations to regulations, or changes to land use plans or zoning beyond those permitted through density bonus shall be required to comply with current Land Development Code processes.

The draft Affordable Housing Density Bonus Regulations in Attachment 1 reflect all of the amendments made to state density bonus law. The following is a summary of significant changes to state density bonus law that have been enacted.

- A new density bonus category was added for moderate income common interest for-sale condominiums and planned unit developments.
- Upon resale of a moderate-income unit developed under the density bonus law, the local government shall recapture both the initial subsidy and a proportionate share of appreciation, unless it conflicts with another funding source or law.
- A new density bonus category was added for projects that donate land to the City and make at least 10 percent of units affordable to very-low-income families.
- The maximum state density bonus was increased from 25 percent to 35 percent. A sliding scale of density bonus was established from 5 percent to 35 percent depending on the proportion of units that will be affordable and at what affordability level they will be provided.
- Rental projects that receive a density bonus must retain a specified number of units at specified affordability levels for 30 years.
- The City must offer up to three incentives to all qualifying projects that request incentives. The number of incentives a project is eligible for depends upon the number (percentage) of affordable units being provided and the income group being targeted.
- The City must offer an additional incentive to qualifying projects that include onsite day care facilities meeting specified conditions.
- Applicants may choose incentives. The City must grant the request unless specific findings are made that granting the request would not be necessary to provide the affordable units or that the requested deviation would have an adverse impact on health, safety, the physical environment, or property listed on the California Register of Historical Resources.
- The revised state law limits parking standards that a city can place on projects seeking a density bonus. Furthermore, a development using density bonus may use tandem or uncovered parking to meet this requirement.
- Density bonus for senior developments also applies to senior mobilehome parks.

On June 9, 2004, LU&H recommended adding a new City category of projects eligible for a density bonus. The intent would be to create an incentive that would encourage developers to satisfy their inclusionary housing requirements onsite, rather than option to pay the in-lieu fee.

On February 2, 2005, Planning Department and Housing Commission staff returned to LU&H with the draft Affordable Housing Density Bonus Regulations. Staff was directed to seek input from a number of City advisory committees including the Community Planners Committee, the Technical Advisory Committee, the Housing Commission, and the Planning Commission. Staff sought input and recommendations from each of these bodies (see “Other Recommendations” starting on page 1 of this report).

The recommendations made by the CPC and TAC have been analyzed. Staff believes that the CPC recommendation to oppose the City-initiated bonuses for moderate-income for-sale units and construction of inclusionary housing onsite would likely remove both the incentive to provide housing in the moderate-income category and the incentive to construct inclusionary housing onsite. Staff believes the two City-initiated amendments to the state density bonus law would result in additional affordable housing units, and in the case of the onsite building bonus, those affordable housing unit would be developed more rapidly than they would through collection of in-lieu fees.

The TAC made four recommendations, some which staff believes would expand the scope beyond the goal of fostering more affordable housing construction. The first recommendation, that the onsite density bonus also include the regulatory incentives afforded the state density bonus categories, is not recommended because it would dilute the incentive of providing additional affordable housing (beyond that required by the Inclusionary Housing Regulations) through the density bonus regulations. The second and third recommendations, that a review process for deviations be a Process Three and that a separate category of density bonus be developed for accessible units, has a twofold response. First, projects utilizing density bonus would be entitled to up to three deviations/incentives ministerially, beyond those three, the project would be subject to the findings and requirements of the Planned Development Permit which is a Process Four. Second the lowering of a decision level for deviating from citywide zoning regulations and addressing the need for accessible living units should be considered citywide and not in a piecemeal fashion for only for certain project types. The fourth recommendation, that the density bonus for moderate income housing be increased has been incorporated into the draft regulations. A City-initiated amendment proposes the minimum density bonus for providing moderate income for-sale housing be increased from 5 percent to 20 percent.

Staff returned to LU&H on May 11, 2005, to request that the Committee recommend the proposed amendments to the Planning Commission and City Council. LU&H provided direction to staff in three areas: clarify the findings and processes, become involved in state housing and land use legislation early on, and chart and track projects that utilize the density bonus regulations.

Regarding the findings and processes, state law mandates that qualifying projects are entitled to up to three incentives, to be granted ministerially, unless findings are made that the incentives are not needed to make the project affordable or that the project would result in specified adverse impacts. Projects requesting to deviate from regulations beyond the three ministerial incentives allowed through density bonus would be required to process a Planned Development Permit

(Process Four) as would other projects requesting to deviate from development regulations. The second and third recommendations (early involvement in state housing and land use legislation, and charting and tracking projects using the density bonus program) are operational and administrative functions that can be accomplished.

Staff has incorporated two City-initiated amendments into the draft Affordable Housing Density Bonus Regulations that are in addition to those required by the state. At the direction of LU&H staff has included a density bonus incentive for projects that satisfy their required inclusionary housing requirement onsite rather than through payment of an in-lieu fee. The “onsite building bonus” would provide a 10 percent density bonus, to be approved ministerially, to applicants that agree to satisfy their inclusionary housing requirement onsite. An applicant could apply for both the state density bonus and the onsite building bonus up to a maximum allowable density bonus of 35 percent as allowed per state law, without processing a rezone or community plan amendment to increase the density on a site.

The second City-initiated amendment would increase the density bonus for projects that provide 10 percent of the onsite units to moderate income homebuyers within common interest developments. The Housing Commission and the City Planning and Community Investment Department believe that the state’s minimum requirement a of 5 percent density bonus provided for moderate-income ownership units in the state legislation is not sufficient to offset the cost of providing affordable units in San Diego due to the region’s high costs and is therefore not a viable incentive. Since cities do have the option of offering a more generous density bonus ratio than that required by the state, it is recommended that in San Diego, the basic density bonus for moderate-income projects be increased to 20 percent. An applicant could apply for this bonus and the state density bonus up to a maximum allowable density bonus of 35 percent as allowed per state law, without processing a rezone or community plan amendment to increase the density on a site.

Due to the complexity of the state density bonus regulations, the Housing Commission has drafted a procedures manual. This manual will be for the use of potential density bonus applicants to explain the procedures and requirements for each of the categories. The manual contains information regarding application procedures, agreements, restrictions, affordability requirements, development incentives, rents and for-sale prices, information on the interaction/relationship between the proposed onsite building bonus and state density bonus provisions, and Housing Commission fees for administering the program.

The ordinance approving the amendments to these regulations will be crafted to allow implementation in those areas of the City outside the Coastal Overlay Zone 30 days after the second reading at City Council. Implementation in areas within the Coastal Overlay Zone will become effective upon the unconditional certification of the regulations by the California Coastal Commission.

CONCLUSION

Staff recommends approval of the proposed draft Affordable Housing Density Bonus Regulations in accordance with state law with the addition of the two City-initiated density bonus incentives.

ALTERNATIVES

1. Adopt the state-mandated density bonus regulations and deny or modify the City-initiated density bonus incentives.
2. Deny and/or modify the state mandated provisions of the draft Affordable Housing Density Bonus Regulations. This action would cause the regulations to be out of compliance with state law.

Respectfully submitted,

Dan Joyce
Senior Planner
Development Services

William Anderson, FAICP
Director
Planning and Community Investment

ANDERSON/DJ/ah

Attachment: Draft Affordable Housing Density Bonus Regulations

REGULATIONS RELATED TO AFFORDABLE HOUSING DENSITY BONUS

10-05-06

DRAFT

Article 3: Supplemental Development Regulations**Division 7: Affordable Housing Density Bonus Regulations***(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)***§143.0710 Purpose of Affordable Housing Density Bonus Regulations**

The purpose of these regulations is to provide increased residential *density* to developers who guarantee that a portion of their residential *development* will be available to *moderate income, low income, very low income*, or senior households. The regulations are intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for *moderate income, low income, very low income*, and senior households throughout the City. It is intended that the affordable housing *density* bonus and any additional *development* incentive be available for use in all residential *development* of five or more units, using criteria and standards provided in the Progress Guide and General Plan, as defined by the San Diego Housing Commission; that requests be processed by the City of San Diego, and that they be implemented by the President and Chief Executive Officer of the San Diego Housing Commission. It is also intended that these regulations implement the provisions of California Government Code Sections 65915 through 65918.

§143.0715 When Affordable Housing Density Bonus Regulations Apply

This division applies to any residential *development* of five or more pre-*density* bonus *dwelling units* where an *applicant* proposes *density* beyond that permitted by the applicable zone in exchange for either of the following as set forth in this division:

- (a) A portion of the total *dwelling units* in the development being reserved for *moderate, low, or very low income* households or for senior citizens through a written agreement with the San Diego Housing Commission; or
- (b) The donation of land.

§143.0720 Density Bonus in Exchange for Affordable Housing Units

- (a) A *development* shall be entitled to a *density* bonus and incentives as described in this division, for any residential *development* for which an agreement, and a deed of trust securing the agreement, is entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission. The agreement and deed of trust in favor of the San Diego Housing Commission are to be recorded in the Office of the Recorder of the County of San Diego as an encumbrance against the *development*.

DRAFT

- (b) The density bonus units authorized by this division shall be exempt from the Inclusionary Housing Regulations set forth in Chapter 14, Article 2, Division 13.
- (c) A rental *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
 - (1) Housing for senior citizens - The *development* consists of housing for senior citizens or qualifying residents as defined under California Civil Code Section 51.3 and 51.12, where at least 35 *dwelling units* are provided; or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Section 798.76 or 799.5.
 - (2) Affordable housing units -
 - (A) *Low income* - At least 10 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of area median income, as adjusted for assumed household size; or
 - (B) *Very low income* - At least 5 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for assumed household size.
 - (C) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
 - (3) The *dwelling units* shall remain available and affordable for a period of at least 30 years or longer as may be required by other laws.
- (d) A for-sale *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
 - (1) For-sale density bonus shall only be available to common interest *development*, as defined by California Civil Code Section 1351, where at least 10 percent of the pre-*density* bonus units in the *development*

DRAFT

shall be initially sold and affordable to *moderate income* households at a price that is affordable to families earning 110 percent of the area median income as adjusted or assumed household size, as determined by the San Diego Housing Commission, and where all of the *dwelling units* are offered to the public for purchase.

- (2) Prior to, or concurrent with, the sale of each *density* bonus affordable unit, the *applicant* shall require the buyer to execute and deliver a promissory note in favor of the San Diego Housing Commission.
 - (3) Each for-sale unit shall be occupied by the initial owner at all times until the resale of the unit.
 - (4) Upon the first resale of a unit the seller shall comply with all conditions regarding the sale of a unit, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).
 - (5) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
- (e) The *density* bonus units shall have recorded against them a Declaration of Covenants, Conditions and Restrictions in favor of the San Diego Housing Commission that shall enjoy first lien position and shall be secured by a deed of trust that may be recorded against the project or unit, as applicable, prior to construction or permanent financing.
- (f) Provision shall be made by the San Diego Housing Commission for certification of eligible tenants and purchasers, annual certification of property owner compliance, payment of a monitoring fee to the San Diego Housing Commission, as adjusted from time to time, for monitoring of affordable unit requirements, and any other terms that the San Diego Housing Commission determines are needed to implement the provisions and intent of this division and State law.

§143.0725 Density Bonus Provisions

A *development* proposal requesting an affordable housing *density* bonus is subject to the following:

- (a) For senior citizen housing meeting the criteria of Section 143.0720(c)(1), the *density* bonus shall be 20 percent.

DRAFT

- (b) For *development* that includes affordable housing, pursuant to the Inclusionary Housing Regulations in Chapter 14, Article 2, Division 13, and that affordable housing is located onsite, that *development* shall be entitled to a *density* bonus, equal to the number of affordable units provided onsite, up to a maximum of 10 percent of the pre-*density* bonus units. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent.
- (c) For development meeting the criteria for *low income* in Section 143.0720(c)(2)(A), the *density* bonus shall be calculated as set forth in Table 143-07A. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable *floor area ratio* applicable to the *development* consistent with Section 151.0310(e).
- (d) For *development* meeting the criteria for *very low income* in Section 143.0720(c)(2)(B), the *density* bonus shall be calculated as set forth in Table 143-07B. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable floor area ratio applicable to the *development* consistent with Section 151.0310(e).
- (e) For *development* meeting the criteria for *moderate income* in Section 143.0720(d), the *density* bonus shall be calculated as set forth in Table 143-07C. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable floor area ratio applicable to the *development* consistent with Section 151.0310(e).
- (f) Where the zone requires that each *lot* be occupied by no more than one *dwelling unit*, the *development* requires a Planned Development Permit.
- (g) If the *premises* is located in two or more zones, the number of *dwelling units* permitted in the *development* is the sum of the *dwelling units* permitted in each of the zones. Within the *development*, the permitted number of *dwelling units* may be distributed without regard to the zone boundaries.
- (h) Where the *development* consists of two or more specifically identified parcels, whether contiguous or noncontiguous, the maximum number of *dwelling units* permitted on each parcel is calculated based on the area of that parcel.

DRAFT

- (i) Where the *development* consists of two or more noncontiguous parcels lying within two or more community planning areas, the *dwelling units* reserved at levels affordable by *moderate income*, *low income* or *very low income* households shall be distributed among community planning areas in the same proportion as the total number of *dwelling units* constructed within the *development*.

§143.0730 Density Bonus in Exchange for Donation of Land

An *applicant* for a *tentative map*, *parcel map*, or residential *development* permit, may donate land to the City for *development* with affordable housing units, in exchange for a *density* bonus, in accordance with California Government Code Section 65915, provided the land to be transferred meets the following criteria:

- (a) The site is at least 1 acre or of sufficient size to permit *development* of at least 40 affordable *dwelling units*;
- (b) The General Plan designation is appropriate for residential *development*;
- (c) The site is zoned to allow for the appropriate residential *development*;
- (d) The site is or will be served by public facilities and infrastructure adequate to serve the *dwelling units*; and
- (e) The land to be transferred is within the boundary of the proposed *development* or, if the City agrees, within one-quarter mile of the boundary of the proposed *development*.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

- (a) The City shall grant an incentive requested by an applicant, to the extent allowed by State law and as set forth in this Section.
 - (1) An incentive means any of the following:
 - (A) A deviation to a *development* regulation;
 - (B) Approval of a mixed use *development* in conjunction with the residential development if the commercial, office, or industrial uses will reduce the cost of the residential development; and if the mixed use *development* is compatible with the residential *development*; and if the mixed use *development* is compatible with the applicable land use plan;

DRAFT

- (C) Any other regulatory deviation proposed by the applicant, other than a waiver from a required permit, which results in identifiable, financially sufficient, and actual cost reductions.
- (2) The granting of an incentive shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval, notwithstanding Planned Development Permit Procedures (Chapter 12, Article 6, Division 6).
- (3) Nothing in this division shall be construed to require the City or any of its related legal entities, including the San Diego Housing Commission, to provide a direct financial incentive, including the provision of land, or the waiver of fees or dedication requirements.
- (4) Upon an *applicant's* request, *development* meeting the requirements of Sections 143.0720(c) or (d) shall be entitled to incentives pursuant to Section 143.0740(b) unless the City makes a written finding based upon substantial evidence, of either of the following:
- (A) The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053.
- (B) The incentive would have a specific adverse impact upon 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* and *moderate income* households.
- (b) The following incentives shall be provided through Process One consistent with Tables 143-07A, 143-07B, and 143-07C:
- (1) One incentive for *development* that includes any of the following:
- (A) At least 10 percent of the total units for *low income* households;
- (B) At least 5 percent of the total units for *very low income* households; or
- (C) At least 10 percent of the total units for *moderate income* households in a common interest *development*.

REGULATIONS RELATED TO AFFORDABLE HOUSING DENSITY BONUS

10-05-06

DRAFT

- (2) Two incentives for *development* that includes any of the following:
 - (A) At least 20 percent of the total units for *low income* households;
 - (B) At least 10 percent of the total units for *very low income* households; or
 - (C) At least 20 percent of the total units for *moderate income* households in a common interest *development*.

- (3) Three incentives for *development* that includes any of the following:
 - (A) At least 30 percent of the total units for *low income* households;
 - (B) At least 15 percent of the total units for *very low income* households; or
 - (C) At least 30 percent of the total units for *moderate income* households in a common interest *development*.

Low Income Density Bonus
Table 143-07A

Percent <i>Low Income</i> units	Percent Density Bonus	Number of Incentives
10	20	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
16	29	1
17	30.5	1
18	32	1
19	33.5	1
20 – 29	35	2
≥ 30	35	3

DRAFT

Very Low Income Density Bonus
Table 143-07B

Percent <i>Very Low Income</i> Units	Percent Density Bonus	Number of Incentives
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5	2
11 - 14	35	2
≥ 15	35	3

Moderate Income Density Bonus
Table 143-07C

Percent <i>Moderate Income</i> Units	Percent Density Bonus	Number of Incentives
10	20	1
11	21	1
12	22	1
13	23	1
14	24	1
15	25	1
16	26	1
17	27	1
18	28	1
19	29	1
20	30	2
21	31	2
22	32	2
23	33	2
24	34	2
25 - 29	35	2
≥ 30	35	3

- (c) Child Care Center: *Development* that meets the criteria in 143.0720 and includes a child care center as defined in Section 141.0606(a)(2) as part of, or adjacent to, such *development* shall be entitled to an additional *density* bonus or incentive provided that:

REGULATIONS RELATED TO AFFORDABLE HOUSING DENSITY BONUS

10-05-06

DRAFT

- (1) The child care center remains in operation for the greater of 30 years, or the period of time established by Section 143.0720(c)(3);
 - (2) The percentage of children from *low, very low, or moderate income* households attending the child care center is equal to or greater than the percentage of those same households required in the residential *development*;
 - (3) The additional density bonus or incentive requested is either:
 - (A) An additional *density* bonus in an amount equal to the amount of square feet in the child care center up to a maximum combined *density* increase of 35 percent; or
 - (B) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care center; and
 - (4) The City finds, based upon substantial evidence, that the community is inadequately served by child care centers.
- (d) Parking: In addition to any other incentive, and upon the request of an *applicant* that proposes a *development* meeting the criteria of Section 143.0720(c) or (d), the City shall apply the following vehicular parking ratio, inclusive of handicapped and guest parking:
- (1) Zero to one bedroom: one onsite parking space
 - (2) Two to three bedrooms: two onsite parking spaces
 - (3) Four and more bedrooms: two and one-half parking spaces
 - (4) For purposes of this division, a *development* may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking.

§143.0750 Development in the Coastal Overlay Zone

- (a) *Development* within the Coastal Overlay Zone that proposes to use the regulations of this division shall be subject to the applicable certified land use plan and implementing ordinances, including a Coastal Development Permit (Chapter 12, Article 6, Division 7), as described in Chapter 13, Article 2, Division 4.

DRAFT

- (b) The City may consider deviations from the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1 when requested by an *applicant* as an incentive for providing affordable housing consistent with this division, provided that the *findings* in Section 126.0708(b)(2) can be made.

126.0708 Findings for Coastal Development Permit Approval

An application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are applicable to the proposed *development*.

- (a) [no change]
- (b) Supplemental Findings - Environmentally Sensitive Lands Within the Coastal Overlay Zone
 - (1) When a deviation is requested from the Environmentally Sensitive Lands Regulations because the *applicant* contends that application of the regulations would result in denial of all economically viable use, the following shall apply:
 - (A) Any *development permit* in the Coastal Overlay Zone, required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested in accordance with Section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* and the supplemental *findings* for deviations from the Environmentally Sensitive Lands Regulations in addition to the *findings* for the applicable *development permit(s)*:
 - (i) Based on the economic information provided by the *applicant*, as well as any other relevant evidence, each use provided for in the Environmentally Sensitive Lands Regulations would not provide any economically viable use of the *applicant's* property;
 - (ii) Application of the Environmentally Sensitive Lands Regulations would interfere with the *applicant's* reasonable investment-backed expectations;
 - (iii) The use proposed by the *applicant* is consistent with the applicable zoning;
 - (iv) The use and project design, siting, and size are the minimum necessary to provide the *applicant* with an economically viable use of the *premises*; and

DRAFT

- (v) The project is the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program with the exception of the provision for which the deviation is requested.
 - (B) The Coastal Development Permit shall include a determination of economically viable use.
 - (C) The public hearing on the Coastal Development Permit shall address the economically viable use determination.
 - (D) The *findings* adopted by the decision making authority shall identify the evidence supporting the *findings*.
- (2) A deviation from the Environmentally Sensitive Lands Regulations when requested as an incentive for providing affordable housing pursuant to the Affordable Housing Density Bonus Regulations in Chapter 14, Article 3, Division 7, may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0708(a)(1) through (4):
- (A) Feasible alternatives to the requested incentive and the effect of such alternatives on coastal resources have been considered;
 - (B) Granting the incentive or alternative will not adversely affect coastal resources.

§141.0310 Housing for Senior Citizens

Housing for senior citizens may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) [no change]
- (b) Housing for senior citizens may be permitted a *density* bonus as provided in Chapter 14, Article 3, Division 7 (Affordable Housing *Density* Bonus Regulations).
- (c) through (e) [no change]