



Meeting Date: 12/16/08

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Res. No(s).	<input type="checkbox"/> Report
<input checked="" type="checkbox"/> Ord. No(s).	<input checked="" type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other	<input type="checkbox"/> Other

Prepared By: Stephanie Diaz *SD*

Agenda Item No. K-1

Reviewed By: City Manager *[Signature]*

City Attorney *[Signature]*

Finance *[Signature]* N/A

Other (Specify) N/A

**DATE:** December 1, 2008

**TO:** City Council

**FROM:** Susan L. Martin, AICP, Planning Manager *SMartin*

**SUBJECT:** PZ 08-535-02 Zone Code Text Amendment Addressing the Density Bonus Ordinances. Filed by the City of Oxnard.

**RECOMMENDATION**

That City Council approve the first reading by title only and subsequent adoption of an ordinance repealing and amending City Code Article V, Divisions 7 and 8 of Chapter 16 relating to Density Bonuses.

**DISCUSSION**

State law requires that cities adopt ordinances that implement the requirements of State law to grant density bonuses and other concessions and incentives to developers of residential housing that provide affordable units.

The City's density bonus ordinances are contained in Article V of Division 7 and 8 of Chapter 16 of the City Code. The proposed amendments will conform the City's ordinances to recent changes in State law. Since the changes required many amendments to the current zone code text, this proposed ordinance repeals and amends the existing Division 7 (Incentives to Create Affordable Housing) and Division 8 (Incentives to Convert Apartments to Affordable Condominium Units). As the City's density bonus ordinances simply refer to State law rather than repeating many standards set by State law, some of the recent changes to State law do not require amendment of the City's density bonus ordinances. For example, although State law was changed to elaborate on the method of calculating density bonuses, the density bonus ordinances incorporate those standards by reference and need not be amended when the standards change.

The purpose of the proposed changes to the density bonus ordinances is to expand the types of affordable housing that will qualify a project for density bonuses and incentives or concessions, to allow approval of eligible projects despite obstacles posed by local development standards

(whether or not waiver or reduction of development standards is required to make the project economically feasible), to prevent approval of incentives that would be contrary to state or federal law, and to clarify equity sharing arrangements on resale of moderate income units in a common interest development. A summary of specific text amendments is outlined in the Planning Commission Staff Report, Attachment 2.

On November 20, 2008, the Planning Commission held a public hearing and considered the proposed amendments to the City's density bonus ordinances. The Commission adopted Resolution No. 2008-76 recommending to the City Council that the ordinance be adopted, Attachment 3.

The California Environmental Quality Act (CEQA) does not apply to this project pursuant to the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, section 15061(b)(3) therefore, staff recommends that the City Council accept the Notice of Exemption, Attachment 4.

## **FINANCIAL IMPACT**

There will be no direct costs to the City. A fee will continue to be charged for all permit requests for projects requesting density bonuses. The fees will reimburse the City for staff and material costs associated with the permit processing.

### Attachments

1. Incentives for Affordable Housing Ordinance
2. Planning Commission Staff Report (minus Attachments)
3. Planning Commission Resolution No. 2008-76
4. Notice of Exemption

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD  
REPEALING AND ADOPTING DIVISIONS 7 AND 8 OF ARTICLE 5  
OF CHAPTER 16 OF THE CITY CODE, CONCERNING INCENTIVES  
TO CREATE AFFORDABLE HOUSING

The City Council of the City of Oxnard does ordain as follows:

Part 1. Divisions 7 and 8 of Article 5 of Chapter 16 of the City Code are repealed.

Part 2. Divisions 7 and 8 of Article 5 of Chapter 16 of the City Code are adopted, to read:

“DIVISION 7. INCENTIVES TO CREATE AFFORDABLE HOUSING

SEC. 16-410. PURPOSE.

The purpose of this division is to specify how the city will implement compliance with Cal. Gov't Code, Section 65915 (“the statute”).

SEC. 16-411. DENSITY BONUSES AND INCENTIVES AND CONCESSIONS.

When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the city's jurisdiction that meets the requirements set out in Cal. Gov't Code Section 65915(b), the actions and procedures set out in sections 16-414 through 16-422 shall apply. The burden is on the applicant to show that the housing development meets such requirements.

SEC. 16-412. DEFINITIONS.

(A) AFFORDABLE HOUSING and AFFORDABLE UNITS – Units constructed for lower or very low income households, a senior citizen housing development, a mobilehome park that limits residency based on age requirements for housing for older persons, or units in a common interest development for persons and families of moderate income, all as defined in Cal. Gov't Code Section 65915(b)(1) and any other applicable federal and State laws.

(B) DENSITY BONUS – A density increase in the amount specified in the statute that is over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application to the city. The density bonus shall not be included when determining the number of housing units equal to the percent of the total specified in the statute. The density bonus shall apply to housing developments consisting of five or more dwelling units. The applicant may elect to accept a lesser percentage of density bonus than required by the statute.

(C) Terms used in this division that are also used in the statute shall have the meanings in this division that such terms have in the statute. If there is any inconsistency between this division and the statute, this division shall be construed in a manner consistent with the statute.

SEC. 16-413. FEES.

(A) An application for a density bonus permit shall be accompanied by the fee set by resolution of the city council.

(B) If an application for a density bonus permit requires an unusual amount or specialized type of study or evaluation by city staff, a consultant or legal counsel, city staff shall estimate the cost thereof and require the applicant to pay an additional fee or make one or more deposits to pay such cost before the study or evaluation is begun. On completion of the study or evaluation, and before the city council decides the application, city staff shall determine the actual cost of the work and the difference between the actual cost and the amount paid by the applicant, and shall require the applicant to pay any deficiency or shall refund to the applicant any excess.

SEC. 16-414. APPLICATION REQUIRED.

(A) When an applicant seeks a density bonus for a housing development that meets the criteria set out in Cal. Gov't Code Section 65915(b), or for the donation of land under circumstances that meet the criteria set out in Cal. Gov't Code Section 65915(g), the applicant shall file an application for a density bonus permit, whether or not the project also requires or has been granted a special use permit or other permits or approvals.

(B) The applicant for a housing development may request a meeting with city staff to discuss the specific incentives or concessions, and any waiver or reduction of development standards, requested in the application.

SEC. 16-415. CONTENT OF APPLICATION.

(A) The application for a density bonus permit shall include the following information:

(1) A description of the project, including the number of dwelling units, the number of affordable units and the location of the affordable units;

(2) A description of the density bonus and the incentives or concessions requested, if any, in accordance with Cal. Gov't Code Section 65915(d)(2);

(3) Any 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 Cal. Gov't Code Section 65915(b) at the densities or with the concessions or incentives permitted by the statute;

(4) The proposed sale or rental price of all units, and especially of the affordable units;

(5) The proposed method to guarantee that the applicant will establish the sales or rental prices as stated in the application;

(6) The proposed method of ensuring the continued affordability of all low and very low units that qualified the applicant for the award of the density bonus for at least 30 years, as required by Cal. Gov't Code Section 65915(c)(1);

(7) Whether the developer requests that the parking ratio for the project be as described in Cal. Gov't Code Section 65915(g);

(8) Other relevant information requested by city staff.

(B) The application for a density bonus permit for the donation of land shall include information required to show that the application meets the requirements of Cal. Gov't Code Section 65915(g)(2).

(C) The application for a density bonus permit for a housing development that conforms to the requirements of Cal. Gov't Code Section 65915(b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, shall include information as to how the applicant proposes to regulate attendance at the child care facility to conform to the requirements of Cal. Gov't Code Section 65915(h)(2)(B).

#### SEC. 16-416. EFFECT OF PROPOSAL FOR WAIVER OR REDUCTION OF DEVELOPMENT STANDARDS.

A proposal for the waiver or reduction of development standards shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Cal. Gov't Code Section 65915(d).

#### SEC. 16-417. PROJECT DESIGN.

The applicant to design the project so that the affordable units are dispersed throughout the project, have a number of bedrooms proportionate to the number of bedrooms in other units in the project, and do not differ in appearance, size or amenities from other units in the project; provided, however, that the interior appearance and amenities of affordable units may differ from other units in the project if a concession or incentive included in the findings referred to in section 16-419(D)(5) is granted, specifying such differences.

#### SEC. 16-418. STAFF RECOMMENDATION.

City staff may require the applicant to clarify, amplify, correct or otherwise supplement the application. After city staff deems the application to be complete, city staff shall make a recommendation to the planning commission concerning the density bonus and any concessions or incentives.

#### SEC. 16-419. PROCEDURES FOR PLANNING COMMISSION TO MAKE RECOMMENDATION.

(A) The secretary of the planning commission shall give notice as provided in Cal. Gov't Code Section 65091 of the planning commission's public hearing on the application for a density bonus permit. At the same time, the secretary shall also give the applicant written notice of the date, time and place of the hearing.

(B) The planning commission shall hold a public hearing on the application for a density bonus permit. The planning commission may continue the public hearing. Not more than 30 days after the close of the public hearing, the commission shall adopt a resolution recommending to the city council that the application be approved or denied, and stating any conditions to approval of the application.

(C) If the project meets the requirements set out in subsection (D), the planning commission shall recommend that a density bonus permit be granted, specifying the density bonus and any concessions or incentives, as required by the statute. The planning commission shall recommend approval of the concession or incentive requested by the applicant unless the planning commission makes a written finding, based on substantial evidence of any of the following:

(1) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Cal. Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Cal. Gov't Code Section 65915(c).

(2) The concession or incentive would have a specified adverse effect, as defined in Cal. Gov't Code Section 65589.5(d)(2), on public health and safety or the physical environment or on any real property 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.

(3) The concession or incentive would be contrary to State or federal law.

(D) Before recommending that a density bonus permit be granted, the applicant must show and the planning commission must make the following findings:

(1) If the application is for a housing project, that the project meets the criteria set out in Cal. Gov't Code Section 65915(b); or if the application is for the donation of land for housing, that all of the conditions set out in Cal. Gov't Code section 65915(g)(2) are met;

(2) If the application includes the waiver or reduction of development standards, that the waiver or reduction is necessary to prevent physically precluding the construction of the project at the densities or with the concessions or incentives permitted by the statute;

(3) The applicant has proposed a satisfactory method to guarantee that the sales or rental prices will be established as stated in the application;

(4) The applicant has agreed to execute the agreement referred to in section 16-421 or 16-422; and

(5) The affordable units are dispersed throughout the project, have a number of bedrooms proportionate to the number of bedrooms in other units in the project, and do not differ in appearance, size and amenities from other units in the project, except as provided in section 16-417.

SEC. 16-420. PROCEDURES FOR CITY COUNCIL TO DECIDE APPLICATION.

(A) Within 30 days of the date that the planning commission renders its decision, the city council shall hold a public hearing on the application for a density bonus permit and shall consider the planning commission's recommendation, which the city council may affirm, deny or modify. The city clerk shall give notice of the hearing as provided in Cal Gov't Code Section 65091. At the same time, the city clerk shall also give the applicant written notice of the date, time and place of the hearing. The city council may continue the public hearing.

(B) Within 30 days of the close of the public hearing, the city council shall adopt a resolution granting or denying the application for a density bonus permit. If the project meets the requirements set out in subsection (D) of section 16-419, the city council shall grant a density bonus permit, specifying the density bonus and any concessions or incentives, as required by the statute. The city council shall grant the concession or incentive requested by the applicant unless the city council makes a written finding, based on substantial evidence, of any of the following:

(1) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Cal. Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Cal. Gov't Code Section 65915(c).

(2) The concession or incentive would have a specific adverse effect, as defined in Cal. Gov't Code Section 65589.5(d)(2), on public health or safety or the physical environment or on any real property 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.

(3) The concession or incentive would be contrary to State or federal law.

(C) If the city council grants a density bonus permit, the resolution shall include the findings set out in subsection (D) (1) – (5) of section 16-419 and shall state any conditions on which the permit is approved.

(D) A density bonus permit shall automatically expire, without notice or hearing, two years after the date of adoption of the city council resolution granting the permit, unless by that date the project for which the permit was granted is complete or is substantially underway, as shown by issuance of a grading, foundation or building permit and the construction of substantial improvements.

#### SEC. 16-421. AGREEMENTS FOR LOW AND VERY LOW INCOME UNITS.

(A) No project may be granted a density bonus or a concession or incentive pursuant to Cal. Gov't Code Section 65915(1)(b)(A) or (B) unless the applicant executes an agreement in a form approved by both the city attorney and the director of housing or the secretary of the community development commission, ensuring the continued affordability of all low and very low income units that qualified the applicant for the award of the density bonus. The agreement shall be recorded before final map or parcel map approval or, if a map is not part of the project, before issuance of building permits.

(B) The term of the agreement shall be 30 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(C) The agreement shall set rents for the lower income density bonus units at an affordable rent as defined in Cal. Health and Safety Code Section 50053. The agreement shall require that owner-occupied units be made available at an affordable housing cost as defined in Cal. Health and Safety Code Section 50052.5.

(D) The agreement shall establish specific compliance standards and specific remedies available to the city if such compliance standards are not met. The agreement shall, among other things, specify the number of lower-income affordable units by number of bedrooms; standards for qualifying household incomes or other qualifying criteria, such as age; standards for maximum rents or sales prices; the person responsible for certifying tenant or owner incomes; procedures by which vacancies will be filled and units sold; required annual report and monitoring fees; restrictions imposed on lower-income affordable units on sale or transfer; and methods of enforcing such restrictions.

#### SEC. 16-422. AGREEMENTS FOR MODERATE INCOME UNITS IN A COMMON INTEREST DEVELOPMENT.

No project may be granted a density bonus or concession or incentive pursuant to Cal. Gov't Code Section 65915(b)(1)(D) unless the applicant executes an agreement in a form approved by both the city attorney and the director of housing or the secretary of the community development commission, ensuring that the initial occupant of the moderate-income units are persons and families of moderate income and that the units are offered at affordable housing cost, as described in Cal. Gov't Code Section 65915(c)(2). The agreement shall include requirements for equity sharing on resale of the moderate-income units, as set out in Cal. Gov't Code Section 65915(c)(2)(A), (B) and (C).

#### DIVISION 8. INCENTIVES TO CONVERT APARTMENTS TO AFFORDABLE CONDOMINIUM UNITS

##### SEC. 16-425. PURPOSE.

The purpose of this division is to adopt methods and procedures for processing applications to convert apartments to condominium units, some of which are set aside for moderate, low or lower income households, as set out in Cal. Gov't Code Section 65915.5 ("the statute").

##### SEC. 16-426. CONDOMINIUM DENSITY BONUS OR OTHER INCENTIVES.

When an applicant for approval to convert apartments to condominium units agrees to provide the percentage of units for moderate, low or lower income persons, families and households set out in the statute and agrees to pay the reasonably necessary administrative costs incurred by the city, the actions and procedures set out in sections 16-428 through 16-435 shall apply.

SEC. 16-427. DEFINITIONS.

(A) AFFORDABLE UNITS - Units set aside for moderate, low or lower income households in accordance with the statute.

(B) DENSITY BONUS - An increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(C) Terms used in this division that are also used in the statute shall have the meaning in this division that such terms have in the statute. If there is any inconsistency between this division and the statute, this division shall be construed in a manner consistent with the statute.

SEC. 16-428. FEES.

(A) A preliminary proposal, referred to in section 16-429, and an application for a condominium density bonus permit, referred to in section 16-430, shall be accompanied by the fee set by resolution of the city council. City staff shall not act on a preliminary proposal or an application that is not accompanied by the fee.

(B) If a preliminary proposal or an application for a condominium density bonus permit requires an unusual amount or specialized type of study or evaluation by city staff, a consultant or legal counsel, city staff shall estimate the cost thereof and require the applicant to pay an additional fee or make one or more deposits to pay such cost before the study or evaluation is begun. On completion of the study or evaluation, and before city staff responds to the preliminary proposal or the city council decides the application, city staff shall determine the actual cost of the work and the difference between the actual cost and the amount paid by the applicant, and shall require the applicant to pay any deficiency or shall refund to the applicant any excess.

SEC. 16-429. PRELIMINARY PROPOSAL.

If a developer submits a preliminary proposal for the conversion of apartments to condominiums pursuant to the statute before submitting any formal requests for subdivision map approvals, city staff shall, within 90 days of receiving the proposal, notify the developer in writing that the city will apply to procedures set out in this division in order to comply with the statute.

SEC. 16-430. APPLICATION FOR CONDOMINIUM DENSITY BONUS PERMIT.

An application for a condominium density bonus permit shall include the following information, whether or not the project also requires or has been granted any other approvals or permits, including the special use permit required by section 16-381:

(A) A description of the project, including the number of condominium units, the number of affordable units, and the location of the affordable units:

(B) Whether the developer prefers that the city grant a density bonus or provide other incentives of equivalent financial value and if the latter, a description of such incentives, their financial value, and the basis for calculating that value:

(C) The proposed sale or rental price of all units, and especially of the affordable units;

(D) The proposed method to guarantee that the applicant will establish the sales or rental prices as stated in the proposal;

(E) The proposed method and length of time of ensuring for a specified number of years the continued affordability of the affordable units to subsequent purchasers who are persons and families of low and moderate income or lower income households; and

(F) Other relevant information requested by city staff.

#### SEC. 16-431. SUPPLEMENTING APPLICATION.

City staff may require the applicant to clarify, amplify, correct or otherwise supplement the application.

#### SEC. 16-432. PROJECT DESIGN.

The applicant shall design the project so that the affordable units are dispersed throughout the project, have a number of bedrooms proportionate to the number of bedrooms in other units in the project, and do not differ in appearance, size and amenities from other units in the project; provided, however, that the interior appearance and amenities of the affordable units may differ from other units in the project as an incentive granted for the project, as specified by the city council in the resolution granting the condominium density bonus permit.

#### SEC. 16-433. STAFF RECOMMENDATION.

After city staff deems the application to be complete, city staff shall make a recommendation to the planning commission concerning the density bonus or incentives of equivalent financial value.

#### Sec. 16-434. PROCEDURE TO DECIDE APPLICATION.

(A) The secretary of the planning commission shall give notice as provided in Cal. Gov't Code Section 65091 of the planning commission's public hearing on the application for a condominium density bonus permit. At the same time, the secretary shall also give the applicant written notice of the date, time and place of the hearing.

(B) The planning commission shall hold a public hearing on the application for a condominium density bonus permit. The planning commission may continue the public hearing. Not more than 30 days after the close of the public hearing, the commission shall adopt a resolution recommending to the city council that the application be approved or denied, and stating any conditions to approval of the application.

(C) If the planning commission recommends approval of a condominium density bonus permit, the commission may recommend a density bonus or incentives the same as or different from those requested by the applicant or recommended by city staff.

(D) Before recommending approval of a condominium density bonus permit, the applicant must show and the planning commission must make all of the following findings regarding the project and the proposed density bonus or other incentives recommended for approval:

- (1) The project meets the criteria set out in the statute.
- (2) The density bonus or incentives will not adversely affect or be materially detrimental to uses or property adjacent to the subject property or to the public health, safety or welfare.
- (3) The subject property is adequate in size and shape and served by adequate infrastructure to accommodate the density bonus or incentives.
- (4) If one or more incentives are recommended instead of a density bonus, such incentive or incentives are of equivalent financial value to a density bonus.
- (5) The applicant has proposed a satisfactory method to guarantee that the sales or rental prices will be established as stated in the application.
- (6) The applicant has agreed to a satisfactory method of ensuring for a specified number of years the continued affordability of the affordable units to subsequent purchasers who are persons and families of low and moderate income or lower income households.
- (7) The affordable units are dispersed throughout the project, have a number of bedrooms proportionate to the number of bedrooms in other units the project, and do not differ in appearance, size or amenities from other units in the project, except as specified by the planning commission in accordance with section 16-431.

(E) Within 30 days of the date that the planning commission renders its decision, the city council shall hold a public hearing on the application and shall consider the commission's recommendation, which the city council may affirm, deny or modify. The city clerk shall give notice of the hearing as provided in Cal. Gov't Code Section 65091. At the same time, the city clerk shall also give the applicant written notice of the date, time and place of the hearing. The city council may continue the public hearing.

(F) Within 30 days of the close of the public hearing, the city council shall adopt a resolution approving or denying the application for a condominium density bonus permit. If the city council approves a condominium density bonus permit, the city council may approve a density bonus or incentives the same as or different from those requested by the applicant or recommended by the commission.

(G) If the city council approves a condominium density bonus permit, the resolution shall include the finds set out in subsection (D)(1) through (7) of this section 16-434 and shall state any conditions on which the permit is approved.

SEC. 16-435. CONTINUED AFFORDABILITY.

No condominium density bonus permit shall be granted unless the developer agrees to a satisfactory method of ensuring for a specified number of years the continued affordability of the affordable units to subsequent purchasers who are persons and families of low and moderate income or lower income households.”

Part 3. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. \_\_\_\_\_ was first read on \_\_\_\_\_, 2008, and finally adopted on \_\_\_\_\_, 2008, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Dr. Thomas E. Holden, Mayor

ATTEST:

\_\_\_\_\_  
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Alan Holmberg, Acting City Attorney



**Planning Division**

## PLANNING COMMISSION STAFF REPORT

**TO:** Planning Commission

**FROM:** Stephanie Diaz, Contract Planner

**DATE:** November 20, 2008

**SUBJECT:** Planning and Zoning Permit No. 08-535-02, (Zone Text Amendment) Addressing the Density Bonus Ordinance.

- 1) **Recommendation:** That the Planning Commission adopt a resolution recommending that the City Council approve Planning and Zoning Permit No.08-535-02 for a Zone Text Amendment addressing Density Bonuses.
- 2) **Project Description and Applicant:** A Zone Text Amendment repealing and amending Divisions 7 and 8 of Article 5 of Chapter 16 of the City Code (Density Bonus Ordinances) to reflect changes in State law, (Attachment A). The amendments are consistent with recent changes in State law to implement the density bonus statutes. Most changes are minor. Certain changes to conform to state law include the expansion of types of affordable housing that will qualify for a density bonus, providing authority to deny a requested incentive or concession that would be contrary to state or federal law and that persons purchasing affordable units agree to equity sharing on resale of the units. Filed by the City of Oxnard.
- 3) **Background Information:** Government Code section 65915 requires that the City adopt an ordinance specifying how the City will provide a density bonus and other incentives to create affordable housing. To meet this requirement, the City Council adopted Ordinance No. 2505 on October 19, 1999. This ordinance is referred to as the "Density Bonus Ordinance." In 2003 and 2005, the State made changes to Government Code section 65915 that required the City to amend its density bonus ordinance. The City Council adopted the required amendments. At this time, two Assembly Bills have been passed that require updating the City's Density Bonus Ordinance to be consistent with State Law.
- 4) **Environmental Determination:** The California Environmental Quality Act (CEQA) does not apply to this project pursuant to the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, section 15061(b)(3). Since the project is an ordinance to carry out state law relating to density

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ATTACHMENT 2  
PAGE 1 OF 4

bonuses, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment and recommends that Planning Commission accept the Notice of Exemption, (Attachment B).

**5) Analysis:**

- a. General Discussion:** State law (Government Code sections 65915 and 65915.5) require cities to adopt ordinances that specify incentives and concessions, including increased density, available to developers of projects that include affordable housing. State law sets out most of the standards that determine whether a project is eligible for a density bonus and other incentives and the amount thereof. City ordinances adopt the state procedures by which eligible projects are determined, approved and conditioned.
- b. General Plan Consistency:** The proposed Density Bonus Ordinance Amendments support the City's Housing Element of the General Plan and are consistent with the following goals and policies that are designed to remove governmental constraints from the production of affordable housing:

<i>Goal: Mitigate governmental constraints, to the extent feasible, that impeded housing affordability</i>	The Density Bonus Ordinance Amendments clarify the process to allow density bonuses to encourage production of affordable housing. Therefore, consistency with this policy may be found.
<i>Policy 4.1: Periodically review City regulations, ordinance, service fees, and development impact fees to ensure they do not unduly constrain the production of housing, including affordable housing.</i>	This update of the Density Bonus Ordinance will support the production of affordable housing. Therefore, consistency with this policy may be found.
<i>Policy 4.2: Offer regulatory incentives and concessions for affordable housing, such as relief from residential development standards (e.g. parking and setbacks), density bonuses, or fee waivers.</i>	The Density Bonus Ordinance provides for incentives and concessions for affordable housing. Therefore, consistency with this policy may be found.
<i>Policy 4.4: Support infill housing developments at suitable locations and provide, where appropriate, incentives to facilitate their development.</i>	The Density Bonus Ordinance provides for incentives and concessions for affordable housing. Therefore, consistency with this policy may be found.

- c. Zoning Code Amendment:** Many changes have been made to State law since the City's density bonus ordinances were last updated. Instead of addressing each change with an individual amendment, the proposed ordinance simply repeals the existing ordinance and adopts a new ordinance that contains all the relevant changes.

Division 7 of the new ordinance applies to most housing projects that contain affordable housing. Division 8 applies only to the conversion of apartments to condominiums that include affordable units. Most of the changes to State law affect only Division 7.

Most of the state law amendments are minor, affecting only citation references and choice of words. The major substantive changes to State law that require changes to the City's ordinances are as follows:

- Addition of two types of affordable housing that will qualify a project for a density bonus and incentives: A mobilehome park that limits residency based on age requirements for housing for older persons, and the construction of units in a common interest development for persons and families of moderate income.
- Addition of a requirement to waive or reduce development standards (such as height, setbacks, floor area ratio, open space or parking) that would physically preclude construction of an eligible project, unless the waiver or reduction would have a specific adverse impact that could not be avoided or satisfactorily mitigated. Such a waiver or reduction of development standards does not reduce or increase the number of incentives or concessions to which the applicant is entitled.
- Deletion of the requirement that the developer prepare a feasibility study to show that requested waivers or modifications of development standards are necessary to make the project economically feasible.
- Addition of authority to deny a requested incentive or concession that would be contrary to state or federal law.
- Addition of standards for equity sharing to be included in the affordable housing agreement that developers must enter into with the City for moderate income units in a common interest development. On resale of such units the City recaptures any subsidy and the seller and the City share any appreciation. The City's share of appreciation is the ratio of the City's initial subsidy to the fair market value of the unit at the time of initial sale.
- The definition of "density bonus" that applies only to the conversion of apartments to condominiums is stated as a 25% increase in condominium units over the number of apartment units.

The purpose of these changes to State law is to expand the types of affordable housing that will qualify a project for density bonuses and incentives or concessions, to allow approval of eligible projects despite obstacles posed by local development standards (whether or not waiver or reduction of development standards is required to make the project economically feasible), to prevent approval of incentives that would be contrary to state or federal law and to clarify equity sharing arrangements on resale of moderate income units in a common interest development.

**Appeal Procedure:** The Planning Commission's action is a recommendation and the matter will be considered by the City Council at a later date.

**Attachments:**

- |                                  |   |
|----------------------------------|---|
| A. Draft Density Bonus Ordinance | ] Not included, please see<br>Attachment # 1, 3, 4 of the City<br>Council staff report. |
| B. Notice of Exemption           |   |
| C. Resolution                    |   |

Prepared by: <u>SLD</u> SLD
Approved by: <u>SM</u> SM

RESOLUTION NO. 2008-76

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF PZ08-535-02, REPEALING AND AMENDING DIVISION 7 AND DIVISION 8 OF ARTICLE 5 OF CHAPTER 16 OF THE CITY CODE, CONCERNING DENSITY BONUSES FOR AFFORDABLE HOUSING. FILED BY THE CITY OF OXNARD, 214 SOUTH C STREET, OXNARD, CA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered PZ-08-535-02, filed by the City of Oxnard, to repeal and amend Division 7 and Division 8 of Article 5 of Chapter 16 of the City Code concerning density bonuses for affordable housing; and

WHEREAS, the Planning Commission has held a public hearing on this application; and

WHEREAS, the Planning Commission finds that the public interest and general welfare requires such an amendment; and

WHEREAS, the Planning Commission recommends the City Council find that the amendments conform to the General Plan; and

WHEREAS, the Planning Commissions finds that the California Environmental Quality Act (CEQA) does not apply to this project pursuant to the general rule expressed in section 15061(b)(3) of the State CEQA Guidelines that CEQA applies only to projects which have the potential for causing a significant effect on the environment and there is no possibility that the adoption of this ordinance and resolution may have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby recommends to the City Council adoption of the ordinance attached hereto as Exhibit A.

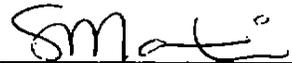
PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 20th day of November, 2008 by the following vote:

AYES: Commissioners: Dean, Elliott, Frank, Medina, Okada, Sanchez

NOES: Commissioners: None

ABSENT: Commissioners: Pinkard

  
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Michael Sanchez, Chairman

ATTEST:   
Susan L. Martin, Secretary

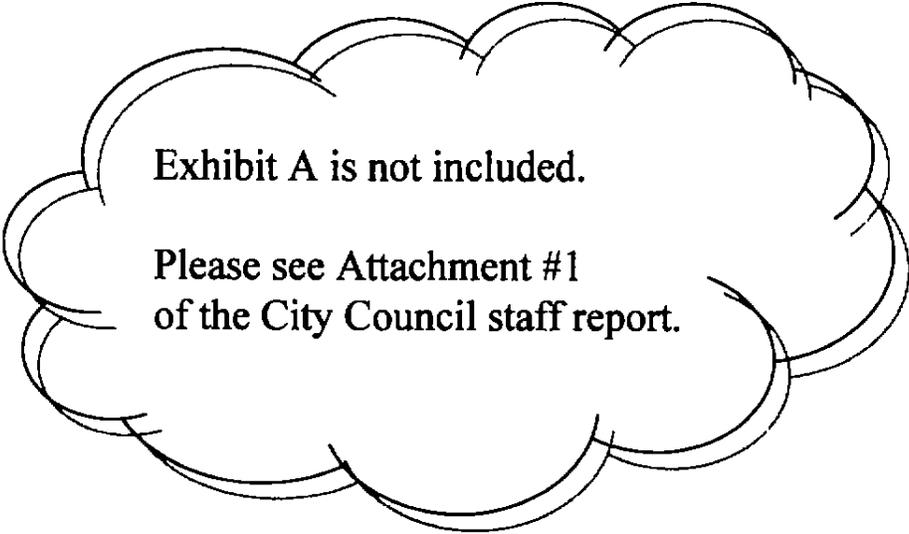


Exhibit A is not included.

Please see Attachment #1  
of the City Council staff report.



## NOTICE OF EXEMPTION

### *Project Description:*

**PZ 08-535-02** Zoning Code Text Amendment; Repealing and Amending Divisions 7 and 8 of Article 5 of Chapter 16 of the City Code (Density Bonus Ordinances) to reflect changes in State law. The amendments are consistent with recent changes in State law to implement the density bonus statutes. Most changes are minor. Certain changes to conform to state law include the expansion of types of affordable housing that will qualify for a density bonus, providing authority to deny a requested incentive or concession that would be contrary to state or federal law and that the City require persons purchasing affordable units to agree to equity sharing on resale of the units. Filed by the City of Oxnard.

### *Finding:*

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- Ministerial Project
- Categorical Exemption
- Statutory Exemption
- Emergency Project
- Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
- No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

**Supporting Reasons:** In accordance with the California Environmental Quality Act Guidelines 15061(b)(3) of the California Code of Regulations, projects involving no possibility of significant effect may be found to be exempt from the requirements of CEQA. The proposed project involves adoption of an ordinance to carry out state law in relation to density bonuses. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment.

November 20, 2008

Susan L. Martin, AICP  
Planning Division Manager