

TO: James L. App, City Manager
FROM: Ron Whisenand, Community Development Director
SUBJECT: Code Amendment 05-001: Residential Density Bonuses
DATE: August 15, 2006

Needs: To consider a City-initiated amendment to Zoning Code Chapter 21.16L, which sets forth regulations for granting residential density bonuses and “other incentives” in response to changes in Government Code Section 65915 effected by Senate Bill 1818 (2004) and Senate Bill 435 (2005).

- Facts:
1. At its meeting of July 18, 2006, the City Council opened a public hearing on an ordinance to update the City’s Density Bonus regulations and continued the hearing to August 15 in order that staff investigate the status of other jurisdictions’ compliance with SBs 1818 and 435. Staff’s findings are attached to this report and are discussed in the Analysis Section below.
 2. Section 65915 of the California Government Code requires local governments to grant density bonuses and “other incentives” for certain housing projects that are affordable to moderate-, lower-, and very low-income households.
 3. Government Code Section 65915 also requires local governments to adopt an ordinance to implement this State Law.
 4. In 2004, the State Legislature approved Senate Bill 1818, which made several substantial changes to Section 65915.
 5. In 2005, the State Legislature approved Senate Bill 435, which made further changes to Section 65915. These changes, however, were essentially clarifications and reformatting of the subject Code Section.
 6. The City’s density bonus regulations were adopted in 2003 via Ordinance 863 N.S. and are maintained in Chapter 21.16L of the Zoning Code.
 7. The proposed ordinance is subject to the California Environmental Quality Act (CEQA). An Initial Study has been conducted (please see Attachment 2), which concludes that the proposed code amendment will not have any significant effect on the environment and that no mitigation measures are necessary. It is proposed, therefore, that the City Council adopt a Negative Declaration for this code amendment.
 8. At its meeting of June 27, 2006, the Planning Commission reviewed the proposed code amendment and recommended its approval by the City Council.

Analysis and Conclusion: Other Jurisdictions’ Compliance with Recent State Law

Staff contacted other jurisdictions in the County, the Governor’s Office of Planning and Research, and the League of California Cities to determine how many jurisdictions had amended their density bonus regulations to comply with SBs 1818 and 435. The findings are listed in the attached survey. Out of 21 jurisdictions responding, 5 have adopted an updated ordinance, 8 are either in process of doing so or have plans to do so in the next year, and 8 have no expressed plans to update their ordinance in the next

year. The 8 jurisdictions with no plans did indicate that they would comply with the recent state law should a qualified applicant request a density bonus.

State Density Bonus Law

The State Law governing density bonuses and “other incentives” is rather complex. Attached is a one-page summary of the major provisions of this Law.

The draft ordinance (attached) proposes amendments to the City’s density bonus regulations to bring them into compliance with the changes to state law effected via SB 1818 and SB 435. The attached ordinance also proposes some reformatting to help clarify the density bonus regulations. Briefly, the changes mandated by State Law include the following:

1. The percentages of affordable units in residential projects necessary to qualify projects for density bonuses were lowered as follows:

Income Level	From	To
Lower Income	20%	10%
Very Low Income	10%	5%
Moderate Income (in condos/PUDs)	20%	10%

2. Local governments must grant density bonuses to qualified projects, *unless it finds that the project would have a specific, adverse impact upon health, safety, or the physical environment.*
3. Local governments must grant incentives, *provided that an applicant can satisfactorily demonstrate that each incentive is necessary to make the target affordable units financially feasible.*
4. State law provides that the number of mandatory incentives increases from one up to three as the percentages of units that are affordable to the target income group(s) increase.

Incentives include: (a) reductions in development standards (e.g. setbacks, off-street parking spaces); (b) mixed use zoning; (c) other regulatory incentives or concessions.

5. The new state law provides that additional density bonuses are required for projects that provide on-site child care facilities.
6. The new law now specifies provisions governing resale of condominium/Planned Unit Development units for moderate income households to ensure that the seller and city recapture appropriate amounts of equity.
7. The amount of density bonus was revised from a flat 25% to a graduated scale that starts at 20% and increases to 35% in proportion to the percentage of units that are affordable to the target income groups.
8. Provisions were added for instances in which developers donate usable land for affordable housing (in lieu of building the affordable units themselves).
9. Developers may request, and cities must allow, off-street parking ratios (for the whole residential project) per the ratios in the middle column below, even if they are less than those in

the City’s present parking code. At its meeting of July 18, the Council asked if the City could find that the reduction in parking would create an adverse impact on the environment. (See item #2 on the previous page.) If there were unusual circumstances in a project’s neighborhood in which there was already a significant, adverse on-street parking situation, or lack of ability to accommodate more on-street parking, there could possibly be grounds for making a finding of adverse impact. However, without substantial evidence to establish an existing problem, the City could be liable for the penalties commensurate with noncompliance with state law if it categorically considered the state’s parking ratios to cause environmental impacts.

Parking Requirement	State Law	City Parking Code
Studio (aka zero bedrooms)	1	1.5
1 bedroom	1	2
2-3 bedrooms	2	2
4+ bedrooms	2.5	2
Visitor parking	0	1 space per 5 units

City Housing Policies

Housing Element Goal H-1 calls for the City to “facilitate the development of a range of housing types, densities, and affordability levels to meet the diverse needs of the community, maintaining a balanced supply of ownership and rental units.”

Action Items supporting this goal call for the City to assist both for-profit and nonprofit housing developers with completing required tasks for government financing *and incentives such as density bonuses.*

The 2006 Economic Strategy calls for the City to: “encourage community development in ...compact and pedestrian oriented forms to accommodate all income levels and lifestyles” and to “increase the labor force resident in the City”. Beyond the matter of complying with state law, the granting of density bonuses would be an important tool in supporting such efforts.

The City has previously granted density bonuses to assist the following projects:

- Los Robles Terrace: 40 low income senior apartments at 2940 Spring Street;
- Canyon Creek Apartments: 68 low income family apartments presently under construction at 400 Oak Hill Road;
- Oak Park Senior Housing: 40 low income senior apartments presently under construction at 801 – 28th Street.

The attached ordinance is formatted to show additions in *bold, italicized text* and deletions in ~~double strike-through text~~.

Policy

Reference: General Plan: Housing Element; 2006 Economic Strategy; Government Code Sections 65915-65917

Fiscal Impact:

Development impact fees assessed on new units are designed to offset impacts to the general fund associated with the provision of City services to residences. The ordinance includes a provision to require that owners of rental units pay a fee to offset the City’s costs for annually monitoring the target (affordable) units.

Options: After consideration of all public testimony, that the City Council consider the following options:

- a. (1) Adopt Resolution No. 06-xx Approving a Negative Declaration for Code Amendment 05-001;
- (2) Introduce for first reading Ordinance No. XXX N.S. Amending the Zoning Code's Regulations for Residential Density Bonuses, and set August 29, 2006 as the date for adoption of said Ordinance.
- b. Amend, modify or reject the foregoing options.

Prepared By:

Ed Gallagher
Housing Programs Manager

Attachments:

1. Survey of Local Governments' Efforts to Comply with SB 1818 and SB 435
2. Summary of State Density Bonus Law
3. Resolution Adopting a Negative Declaration for the Proposed Ordinance (with attached Initial Study)
4. Draft Ordinance Amending the Zoning Code to Amend Regulations for Residential Density Bonuses
5. Newspaper Notice

ED\CODE AMEND\DENSITY BONUS\2005\CCCR 071806

Survey of Local Governments' Efforts to Comply with SB 1818 and SB 435

SLO County

City staff contacted each County jurisdiction's Planning or Community Development Department by phone and learned that no other jurisdiction has yet adopted one. Grover Beach plans to later this year. They have already approved density bonuses consistent with these recent state laws – but for small scale projects (5 units or less).

Outside of SLO County

The Governor's Office of Planning and Research (OPR) annually publishes a *Planner's Book of Lists* which contain surveys of jurisdictions' efforts and actions in a variety of planning issues. OPR has yet to survey local governments on their efforts to comply with these recent state laws. They are, however, considering whether to include such a survey for their 2007 *Book of Lists*.

The League of California Cities has not conducted any survey of jurisdictions' efforts to comply with these state laws. They do maintain a list serve bulletin board on which questions can be posed to other jurisdictions. Staff posted an inquiry on that list serve asking which jurisdictions had updated their density bonus ordinances to comply with these recent state laws and received the following information.

Yes

Albany
Escalon
San Leandro
San Rafael
Santa Cruz County

No (but have plans to in the next year)

Carpenteria
La Cañada-Flintridge
La Habra
Mill Valley
Pasadena (ordinance update is in progress)
Salinas
Santa Cruz (City)

No (and no expressed plans to at this time)

Claremont (but they implement current state law in practice)
Simi Valley (but they implement current state law in practice)

SUMMARY OF STATE DENSITY BONUS LAW (2006)

- The following types of housing projects qualify for a density bonus and additional concessions or incentives:
 - a. 10% of the allowable units (prior to a density bonus) are reserved for lower-income households;
 - b. 5% of the total units are reserved for very low-income households;
 - c. 100% of the total units are reserved for senior households;
 - d. 10% of the total units in a condominium project are reserved for moderate-income households.
- Density bonuses are also required for projects that provide on-site child care facilities and for developers who donate land for affordable housing (in lieu of building the affordable units themselves).

Developers are *entitled* to a density bonus, in a prescribed amount, but based on only one of the above conditions and provided that the project does not create a specific, adverse impact upon health, safety, or the physical environment. If a project meets more than one of the above conditions, the City *may, but is not obligated to*, grant additional density bonuses. Additional density bonuses may be approved without a general plan amendment.

- For projects that propose to provide units affordable to lower and/or very low income households, the entitled density bonus is calculated on a sliding scale, with the lowest density bonus equal to 20% of the maximum allowable density under the general plan. As the percentage of affordable units increases, the entitled density bonus increases proportionately to a maximum entitled bonus of 35%.

For example: On a 10 acre site designated for 20 units per acre, the general plan would allow up to 200 units to be built. If a developer proposes to reserve 10% of those units (20 units) for lower income persons, he/she would be entitled to an additional 20%, or 40 units. Therefore, the developer would be entitled to build 240 units, as long as 20 of the units were reserved for lower income households. If the developer proposed to reserve 20% of the 200 units for lower income households, he/she would be entitled to 35% density bonus and could build 270 units, of which 40 must be reserved for lower income households.

- Developers receiving a density bonus must execute an agreement with the City under which they agree to restrict sales prices or rents to levels affordable to the target income group in a manner prescribed by state law. An affordability covenant must be recorded against the property and remain in effect for no less than 30 years for most projects and 10 years for condominium projects
- In addition to a density bonus, qualifying projects are also *entitled* to “incentives” *if the developer can demonstrate that the incentives are necessary to make the target units financially feasible*. The number of incentives increases from one up to three as the percentages of units that are affordable to the target income groups increase.

Incentives include: (a) reductions in development standards (e.g. setbacks, off-street parking spaces); (b) mixed use zoning; (c) other regulatory incentives or concessions. The “other regulatory incentives or concessions” may include additional density bonuses and financial assistance, neither of which the City is obligated to approve.

- The new density bonus law provides that developers may request, and cities *must* allow, off-street parking ratios per the ratios in the middle column below, even if they are less than those in the City’s present parking code.

Parking Requirement	State Law	City
Studio (aka zero bedrooms)	1	1.5
1 bedroom	1	2
2-3 bedrooms	2	2
4+ bedrooms	2.5	2
Visitor parking	0	1 space per 5 units

RESOLUTION NO. 06-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROVING A NEGATIVE DECLARATION FOR CODE
AMENDMENT 05-001 (DENSITY BONUSES)

WHEREAS, the City has initiated Code Amendment 05-001 to amend the City's Zoning Code's regulations for granting of residential density bonuses and other incentives to implement changes to California Government Code Section 65915 effected by Senate Bill 1818 (2004) and Senate Bill 435 (2005); and

WHEREAS, an Initial Study was prepared for this project (attached to this resolution), which proposed that a Negative Declaration be approved; and

WHEREAS, Public Notice of the proposed Negative Declaration was given as required by Section 21092 of the Public Resources Code; and

WHEREAS, public hearings were conducted by the Planning Commission on June 27, 2006 and by the City Council on July 18 and August 15, 2006 to consider the Initial Study prepared for this application, and to accept public testimony regarding this proposed environmental determination for the proposed code amendment; and

WHEREAS, based on the information contained in the Initial Study prepared for this code amendment and testimony received as a result of the public notice, the City Council finds no substantial evidence that there would be a significant impact on the environment if the code amendment was approved.

NOW, THEREFORE, BE IT RESOLVED, that based on the City's independent judgment, the City Council of the City of El Paso de Robles does hereby approve a Negative Declaration for Code Amendment 05-001 in accordance with the California Environmental Quality Act.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 15th day of August 2006 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk

**ENVIRONMENTAL INITIAL STUDY CHECKLIST FORM
CITY OF PASO ROBLES
PLANNING DIVISION**

- 1. PROJECT TITLE:** Code Amendment 05-001
- Concurrent Entitlements:** None
- 2. LEAD AGENCY:** City of Paso Robles
1000 Spring Street
Paso Robles, CA 93446
- Contact:** Ed Gallagher, Housing Programs Manager
Phone: (805) 237-3970
- 3. PROJECT LOCATION:** City-wide
- 4. PROJECT PROPONENT:** City of Paso Robles
- Contact Person:** Ed Gallagher, Housing Programs Manager
Phone: (805) 237-3970
- 5. GENERAL PLAN DESIGNATION:** Residential Land Use Categories
- 6. ZONING:** Residential Zoning Districts
- 7. PROJECT DESCRIPTION:** This code amendment proposes to amend the City's Zoning Code to amend its regulations for approving density bonuses and "other incentives" that are required by Government Code Section 65915 to implement changes to state law enacted via Senate Bill (SB) 1818 (2004) and SB 435 (2005).
- Attached to this Initial Study is a summary of changes to Government Code Section 65915 effected by SB 1818. The changes effected by SB 435 are essentially clarifications and changes of format.
- 8. ENVIRONMENTAL SETTING:** See the Environmental Impact Report for the 2003 Update of the City's General Plan
- 9. OTHER AGENCIES WHOSE APPROVAL IS REQUIRED (AND PERMITS NEEDED):** none

Initial Study-Page 1

10. PERSONS PARTICIPATING IN THE PREPARATION OF THE INITIAL STUDY:

Ed Gallagher, Housing Programs Manager

11. RELATED ENVIRONMENTAL DOCUMENTATION: none

12. CONTEXT OF ENVIRONMENTAL ANALYSIS FOR PROJECT: The access to density bonuses and “other incentives” are a right secured by State Law for residential development projects that will reserve certain minimum percentages of the units for occupancy by low and moderate income households (provided that certain conditions exist). The code amendment itself will not cause any residential development to occur. As required by the California Environmental Quality Act, each future development project designed in accordance with the proposed code amendment will be the subject to preparation of its own environmental document.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” or is “Potentially Significant Unless Mitigated,” as indicated by the checklist on the following pages.

- Land Use & Planning
- Transportation/Circulation
- Public Services
- Population & Housing
- Biological Resources
- Utilities & Service Systems
- Geological Problems
- Energy & Mineral Resources
- Aesthetics
- Water
- Hazards
- Cultural Resources
- Air Quality
- Noise
- Recreation
- Mandatory Findings of Significance

DETERMINATION

(To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A **NEGATIVE DECLARATION** will be prepared.

I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project **MAY** have a significant effect(s) on the environment, but one or more effects (1) have been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) have been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a “potentially significant impact” or is “potentially significant unless mitigated.” An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effect(s) that remain to be addressed.

I find that although the proposed project could have a significant effect(s) on the environment, there **WILL NOT** be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project. (See item #11 above, for a specific reference to that EIR.)

Signature

Ed Gallagher

Printed Name

6/02/06

Date

Housing Programs Manager

Title

EVALUATION OF ENVIRONMENTAL IMPACTS:

A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to the project. A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards.

All answers must take account of the whole action involved. Answers should address off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

“Potentially Significant Impact” is appropriate, if an effect is significant or potentially significant, or if the lead agency lacks information to make a finding of insignificance. If there are one or more “Potentially Significant Impact” entries when the determination is made, preparation of an Environmental Impact Report is warranted.

Potentially Significant Impact Unless Mitigated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, “Earlier Analyses,” may be cross-referenced).

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). Earlier analyses are discussed in Section XVII at the end of the checklist.

References to information sources for potential impacts (e.g., general plans, zoning ordinances) have been incorporated into the checklist. A source list has been provided at the end of the checklist. Other sources used or individuals contacted have been cited in the respective discussions.

The following checklist has been formatted after Appendix I of Chapter 3, Title 14, California Code of Regulations, but has been augmented to reflect the needs and requirements of the City of Paso Robles.

(Note: Standard Conditions of Approval - The City imposes standard conditions of approval on projects which are considered to be components of or modifications to the project, some of these standard conditions also result in reducing or minimizing environmental impacts to a level of insignificance. However, because they are considered part of the project, they have not been identified as mitigation measures. For the readers’ information, a list of applicable standard conditions identified in the discussions has been provided as an attachment to this document.)_

SAMPLE QUESTION:

<i>ISSUES (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
---	---	---	---	------------------

Would the proposal result in or expose people to potential impacts involving:

Landslides or Mud flows? (Sources: 1, 6)

Discussion: The attached source list explains that 1 is the Paso Robles General Plan and 6 is a topographical map of the area which show that the area is located in a flat area. (Note: This response probably would not require further explanation).

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------------	--	------------------------------------	-----------

LAND USE AND PLANNING. Would the Proposal:

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Conflict with general plan designation or zoning? (Source: Paso Robles Zoning Code.) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

Discussion: Except in very limited circumstances, State Law preempts the City’s ability to deny density bonuses and other incentives.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| c) Be incompatible with existing land use in the vicinity? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

Discussion: See response to Item #1a.

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| d) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible uses)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

Discussion: See response to Item #1a.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion: See response to Item #1a.

II. POPULATION AND HOUSING. Would the proposal:

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Cumulatively exceed official regional or local population projections? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

Discussion: Since the granting of density bonuses is limited to low and moderate income households, and since recorded affordability covenants are required, the number of projects and additional dwelling units is anticipated to be insignificant in terms of the City’s overall population projections.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Displace existing housing, especially affordable housing? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

III. GEOLOGIC PROBLEMS. Would the proposal result in or expose people to potential impacts involving:

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Fault rupture? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Seismic ground shaking? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Seismic ground failure, including liquefaction? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Seiche, tsunami, or volcanic hazard? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Landslides or Mud flows? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Erosion, changes in topography or unstable soil conditions from excavation, grading, or fill? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Subsidence of the land? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expansive soils? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Unique geologic or physical features? Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. WATER. Would the proposal result in:

a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff? (Source: 9) Discussion:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of people or property to water related hazards such as flooding? (Source: 9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Discussion:				
c) Discharge into surface waters or other alteration of surface water quality (e.g. temperature, dissolved oxygen, turbidity)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
d) Changes in the amount of surface water in any water body?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
e) Changes in currents, or the course or direction of water movement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
f) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability? (Source: 9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
g) Altered direction or rate of flow of groundwater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
h) Impacts to groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
i) Substantial reduction in the amount of groundwater otherwise available for public water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				

V. AIR QUALITY. Would the proposal:

a) Violate any air quality standard or contribute to an existing or projected air quality violation? (Source: 10)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
b) Expose sensitive receptors to pollutants? (Source: 10)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------	--	------------------------------	-----------

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Alter air movement, moisture, or temperature? (Source: 10) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Create objectionable odors? (Source: 10) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

VI. TRANSPORTATION/CIRCULATION. Would the proposal result in:

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Increased vehicle trips or traffic congestion? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

Discussion: Since the granting of density bonuses is limited to low and moderate income households, and since recorded affordability covenants are required, the number of projects and additional dwelling units is anticipated to be insignificant in terms of increases to the overall carrying capacity of the circulation system.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Hazards to safety from design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Inadequate emergency access or inadequate access to nearby uses? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Insufficient parking capacity on-site or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Hazards or barriers for pedestrians or bicyclists? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| f) Conflicts with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| g) Rail, waterborne or air traffic impacts? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------	--	------------------------------	-----------

VII. BIOLOGICAL RESOURCES. Would the proposal result in impacts to:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Endangered, threatened or rare species or their habitats (including but not limited to: plants, fish, insects, animals, and birds)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Discussion: | | | | |
| b) Locally designated species (e.g., heritage trees)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Discussion: | | | | |
| c) Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Discussion: | | | | |
| d) Wetland habitat (e.g., marsh, riparian and vernal pool)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Discussion: | | | | |
| e) Wildlife dispersal or migration corridors? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Discussion: | | | | |

VIII. ENERGY AND MINERAL RESOURCES. Would the proposal:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Conflict with adopted energy conservation plans? (Source: 1) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Discussion: | | | | |
| b) Use non-renewable resource in a wasteful and inefficient manner? (Source: 1) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Discussion: | | | | |
| Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State? (Source: 1) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Discussion: | | | | |

IX. HAZARDS. Would the proposal involve:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| A risk of accidental explosion or release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------------	--	------------------------------------	-----------

radiation)?

Discussion:

- b) Possible interference with an emergency response plan or emergency evacuation plan?

Discussion:

- c) The creation of any health hazard or potential hazards?

Discussion:

- d) Increased fire hazard in areas with flammable brush, grass, or trees?

Discussion:

X. NOISE. Would the proposal result in:

- a) Increases in existing noise levels?

Discussion:

- b) Exposure of people to severe noise levels?

Discussion:

XI. PUBLIC SERVICES. Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:

- a) Fire protection? (Source: 1,9)

Discussion:

- b) Police Protection? (Source: 1,9)

Discussion:

- c) Schools?

Discussion:

- d) Maintenance of public facilities, including roads?

Discussion:

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Other governmental services? (Source: 1,9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				

XII.UTILITIES AND SERVICE SYSTEMS. Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities:

a) Power or natural gas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
b) Communication systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
c) Local or regional water treatment or distribution facilities? (Source: 1,9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
d) Sewer or septic tanks? (Source: 1,9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
e) Storm water drainage? (Source: 1,9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
f) Solid waste disposal? (Source: 1,9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
g) Local or regional water supplies? (Source: 1,9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				

XIII.AESTHETICS. Would the proposal:

a) Affect a scenic vista or scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
b) Have a demonstrable negative aesthetic effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Create light or glare? (Source: 1, 2, 9)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				

XIV.CULTURAL RESOURCES. Would the proposal:

a) Disturb paleontological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
b) Disturb archaeological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
c) Affect historical resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
d) Have the potential to cause a physical change which would affect unique ethnic cultural values?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
e) Restrict existing religious or sacred uses within the potential impact area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				

XV.RECREATION. Would the proposal:

a) Increase the demand for neighborhood or regional parks or other recreational facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				
b) Affect existing recreational opportunities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Discussion:				

XVI.MANDATORY FINDINGS OF SIGNIFICANCE.

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

ISSUES (and Supporting Information Sources):	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------	--	------------------------------	-----------

below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Does the project have the potential to achieve short-term, to the disadvantage of long-term environmental goals? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Discussion:

EARLIER ANALYSIS AND BACKGROUND MATERIALS.

Earlier analyses may be used where, pursuant to tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c)(3)(D).

Earlier Documents Prepared and Utilized in this Analysis and Background / Explanatory Materials

<u>Reference #</u>	<u>Document Title</u>	<u>Available for Review at:</u>
1	City of Paso Robles General Plan	City of Paso Robles Community Development Department 1000 Spring Street Paso Robles, CA 93446
2	City of Paso Robles Zoning Code	Same as above
3	City of Paso Robles Environmental Impact Report for General Plan Update	Same as above
4	1977 Airport Land Use Plan	Same as above
5	City of Paso Robles Municipal Code	Same as above
6	City of Paso Robles Water Master Plan	Same as above
7	City of Paso Robles Sewer Master Plan	Same as above
8	City of Paso Robles Housing Element	Same as above
9	City of Paso Robles Standard Conditions of Approval for New Development	Same as above
10	San Luis Obispo County Air Pollution Control District Guidelines for Impact Thresholds	APCD 3433 Roberto Court San Luis Obispo, CA 93401
11	San Luis Obispo County – Land Use Element	San Luis Obispo County Department of Planning County Government Center San Luis Obispo, CA 93408
12	USDA, Soils Conservation Service, Soil Survey of San Luis Obispo County, Paso Robles Area, 1983	Soil Conservation Offices Paso Robles, Ca 93446

**DENSITY BONUS LAW (Government Code Section 65915)
Changes Effective January 1, 2005, Pursuant to SB 1818**

1. The percentages of affordable units in residential projects necessary to qualify projects for density bonuses were lowered as follows:

Income Level	From	To
Lower Income	20%	10%
Very Low Income	10%	5%
Moderate Income (in condos/PUDs)	20%	10%

2. Cities no longer have the option of granting density bonuses or incentives, they must grant both. Further, the number of incentives increases from one to three as the percentages of units that are affordable to the target income groups increase.

Incentives include: (a) reductions in development standards (e.g. setbacks, off-street parking spaces); (b) mixed use zoning; (c) other regulatory incentives or concessions. All incentives must result in identifiable, financially sufficient, and actual cost reductions.

3. Density bonuses are now required for projects with on-site child care facilities.
4. The new law now specifies provisions governing resale of condo/PUD units for moderate income households to ensure that the seller and city recapture appropriate amounts of equity.
5. The amount of density bonus was revised from a flat 25% to a graduated scale that starts at 20% and increases to 35% in proportion to the percentage of units that are affordable to the target income groups.
6. Provisions were added for instances in which developers donate land for affordable housing (in lieu of building the affordable units themselves).
7. Developers may request, and cities must allow, off-street parking ratios per the ratios in the middle column below, even if they are less than those in the City's present parking code.

Parking Requirement	SB 1818	City
Studio (aka zero bedrooms)	1	1.5
1 bedroom	1	2
2-3 bedrooms	2	2
4+ bedrooms	2.5	2
Visitor parking	0	1 space per 5 units

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING TITLE 21 (ZONING) OF THE MUNICIPAL CODE
TO AMEND REGULATIONS FOR DENSITY BONUSES AND OTHER INCENTIVES
(CODE AMENDMENT 05-001)

WHEREAS, California Government Code section 65915 et seq. requires local governments to grant density bonuses and “other incentives” for certain housing projects that are affordable to moderate-, low- and very low-income households; and

WHEREAS, Government Code section 65915 requires local governments to adopt an ordinance to implement state law; and

WHEREAS, in 2004 and 2005, the State Legislature adopted Senate Bills 1818 and 435, respectively, to amend Section 65915; and

WHEREAS, at its meeting of June 27, 2006, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this ordinance;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommended that the City Council adopt the proposed ordinance; and

WHEREAS, at its meetings of July 18 and August 15, 2006, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this ordinance;
- b. Considered the recommendation of the Planning Commission regarding this ordinance;
- c. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- d. Based on the information contained in the Initial Study, the City Council found that there would not be a significant impact on the environment as a result of the adoption of the ordinance and adopted a Negative Declaration in accordance with the California Environmental Quality Act;

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, hereby finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. As indicated in the staff report for Code Amendment 05-001, the ordinance is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 21.16L of the El Paso de Robles Municipal Code, which sets forth regulations for approval of density bonuses and other incentives is amended in its entirety to read as shown in Exhibit A of this Ordinance and incorporated herein by this reference.

SECTION 2: Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with section 36933 of the Government Code.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 4. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at regular meetings of the City Council held on July 18 and August 15, 2006, and passed and adopted by the City Council of the City of El Paso de Robles on the 29th day of August 2006 by the following roll call vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor Frank R. Mecham

ATTEST:

Deborah D. Robinson, Deputy City Clerk

Exhibit A

Chapter 21.16L

DENSITY BONUSES

Sections:

21.16L.010	Purpose
21.16L.020	Definitions
21.16L.030	Qualifying projects - new housing
21.16L.040	Density bonuses - new housing
21.16L.050	Qualifying projects - condominium conversions
21.16L.060	Density bonuses - condominium conversions
21.16L.070	Incentives and concessions
21.16L.080	Density bonus application
21.16L.090	Review and approval of density bonus application
21.16L.100	Density bonuses for donations of land
21.16L.110	Density bonuses for child care facilities
21.16L.120	Density bonus housing standards
21.16L.130	Density bonus housing agreement as a condition of development
21.16L.140	Eligibility requirements
21.16L.150	Management and monitoring
21.16L.160	Administrative fee for target dwelling units.

21.16L.010 Purpose

Density bonuses and “incentives or concessions” set forth in this Chapter are intended to meet the following objectives:

- A. To implement policies and programs of the Housing Element of the City’s General Plan, which encourage the provision of affordable housing in the City by granting density bonuses and incentives or concessions to developers of residential projects that construct or otherwise provide for dwelling units that will be available for purchase or rent by moderate income, lower income, and very low income persons and households and by senior citizens.
- B. To implement the mandates for density bonuses and incentives or concessions set forth in California Government Code section 65915 et seq. (the “Density Bonus Law”).
- C. As specified in Section 65915 of the California Government Code, the granting of a density bonus and incentives or concessions shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.
- D. As specified in Section 65917 of the California Government Code, the City shall not offer a density bonus or any other incentive in the absence of an agreement by an applicant in accordance with Section 65915 of the California Government Code that would undermine the intent of the Density Bonus Law.
- E. This Chapter is intended to apply to residential projects consisting of five or more dwelling units. However, on a case-by-case basis, with a development plan application, multi-family properties on which the maximum allowable residential yield is two to four dwelling units may add one additional dwelling unit to meet the needs of one of the household groups defined in Section 21.16L.030, if the Planning Commission or City Council find that the additional unit will meet zoning requirements for

setbacks, lot coverage, grading limitations, and oak tree preservation. In such cases, incentives or concessions consisting of modifications of zoning standards shall be limited to such standards as building separations, open space, laundry rooms, storage space, and off-street parking.

21.16L.020 Definitions

Whenever the following terms are used in this Chapter, unless otherwise apparent from the context or unless inconsistent with a definition provided under state law in which case the definition under state law shall apply, they shall have the meanings established by this section:

“Applicant” refers to the person(s) and/or parties requesting a density bonus and includes the developers of “housing developments.”

“Area median income” shall mean the median income of San Luis Obispo County as published and periodically updated by the State Department of Housing and Community Development.

“Affordable housing” shall mean housing meeting the requirements set forth in state law and, where applicable, federal law, for “very low-income,” “low-income,” “lower-income,” or “moderate-income households.”

“Allowable housing expense” shall mean the total monthly or annual recurring expenses required of a household to obtain shelter. For a for-sale unit, allowable housing expenses include loan principal, loan interest, property and mortgage insurance, property taxes, homeowners association dues, and a reasonable allowance for utilities (sewer, water, gas, trash and electricity). For a rental unit, allowable housing expenses include rent and a reasonable allowance for utilities.

“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 centers.

“Common interest development” shall have the same meaning as that set forth in Section 1351 of the California Civil Code.

“Condominium project” shall have the same meaning as that set forth in subdivision (f) of Section 1351 of the California Civil Code.

“Condominium conversion” shall mean the change of occupancy of a dwelling unit from rental to owner-occupied.

“Density bonus (condominium conversions)” shall mean an increase in the number of dwelling units in an existing apartment building or complex of buildings.

“Density bonus (new housing)” shall mean a density increase over the otherwise maximum allowable residential density under the zoning ordinance and land use element of the general plan, at the time of application for a density bonus.

“Density bonus application” shall mean an application, in conjunction with the development plan submitted pursuant to Section 23.23B for a housing development, requesting from the City a density bonus and incentives or concessions.

“Density bonus dwelling units” shall mean those residential units granted pursuant to the provisions of this Chapter which exceed the otherwise maximum allowable residential yield of the project site.

“Density bonus housing agreement” shall mean an agreement between an applicant and the City guaranteeing the affordability of rental or ownership units in accordance with the provisions of this Chapter. The density bonus housing agreement shall establish the number of target dwelling units and density bonus dwelling units, the unit sizes, location, affordability tenure, terms and conditions of affordability, and unit production schedule.

“Financial incentive” shall mean any incentive offered by the City that consists entirely of financial or monetary assistance.

“Housing development” shall mean projects: (a) to create five or more new residential lots and/or dwelling units, via applications for subdivision maps, parcel maps, and/or development plans, and/or (b) to convert existing residential development consisting of five or more dwelling units from rental units to condominiums.

“Incentive or Concession” shall have the meaning set forth in Section 65915 of the California Government Code, to include, but not be limited to, the reduction of site development standards or zoning code requirements, approval of mixed use zoning in conjunction with the housing development, or any other regulatory incentive which would result in identifiable cost reductions to enable the provision of affordable housing or housing for qualifying (senior) residents.

“Low-income household” shall mean that segment of lower-income households that excludes very low-income households, that is, whose gross income is greater than fifty percent (50%), but does not exceed eighty percent (80%) of the area median income pursuant to section 50079.5 of the California Health and Safety Code.

“Lower-income household” shall mean a household with an income that does not exceed eighty percent (80%) of the area median income pursuant to section 50079.5 of the California Health and Safety Code.

“Market-rate unit” shall mean a dwelling unit whose rental rate or sales price is not restricted either by this Chapter or by any other requirement imposed through other local, state, or federal affordable housing programs.

“Moderate-income household” shall mean a household whose income exceeds eighty percent (80%) but does not exceed one hundred and twenty percent (120%) of the area median income pursuant to section 50093 of the California Health and Safety Code.

“Monthly gross income” shall mean moneys derived from all sources except gifts to any household member, and income of minors.

“Other incentive of equivalent financial value” is a term that only applies to condominium conversions and shall mean an incentive offered by the City such as reduction or waiver of requirements that the City might otherwise apply as condition of condominium conversion, that is offered in-lieu of a density bonus. This term shall not be construed to require the City to provide cash transfer payments or other monetary compensation.

“Planned development” shall have the same meaning as that set forth in subdivision (k) of section 1351 of the California Civil Code.

“Qualifying (senior) resident” shall mean a senior citizen or other person eligible to reside in a senior citizen housing development as defined in sections 51.3 and 51.12 of the California Civil Code.

“Target dwelling unit” shall mean a dwelling unit that will be offered for rent or sale exclusively to and which shall be affordable to the designated income group or qualifying (senior) resident, as required by this Chapter.

“Target income level” shall mean the income standards for very low-, low-, lower- and moderate-income levels within San Luis Obispo County as determined annually by the U.S. Department of Housing and Urban Development, and adjusted for household size.

“Very low income household” shall mean a household with an income that does not exceed fifty percent (50%) of the area median income pursuant to section 50105 of the California Health and Safety Code.

21.16L.030 Qualifying projects - new housing

To an applicant for a housing development who files a density bonus application, or who proposes to donate land for target dwelling units, and who agrees or proposes to construct new target dwelling units, or donate land sufficient to accommodate target dwelling units for the target income levels or qualifying residents set forth below, the City shall grant a density bonus and incentives or concessions, as set forth in Sections *21.16L.040 and* 21.16L.070.

- A. A minimum of ten percent (10%) of the total units of a housing development for lower-income households; or
- B. A minimum of five percent (5%) of the total units of a housing development for very low-income households; or
- C. A senior citizen housing development as defined in Section 51.3 of the California 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 California Civil Code.*
- D. A minimum of ten percent (10%) of the total units of new construction in a *common interest development* ~~condominium or planned development project~~ for moderate-income households, *provided that all units in the development are offered to the public for purchase.*

For any proposed residential development project, a density bonus shall be granted on the basis of only one of the above conditions. The applicant who requests a density bonus shall, in writing, elect whether the bonus shall be awarded on the basis of subsections A, B, C, or D, above. For example, if the general plan would permit development of 40 units on a property, and an applicant proposes to provide 10% of the units affordable to low income households and 5% of the units affordable to very-low income households, the applicant would be limited to a density bonus for only one of the qualifying income groups, but not both. That is, a density bonus of 8 units (20% of 40 units allowable under the general plan) could be awarded on the basis of either the 10% of units reserved for low income households or the 5% of units reserved for very-low income households.

21.16L.040 Density bonuses - new housing

- A. The number of density bonus dwelling units to be granted for a new housing development shall be determined as follows:
 - 1. For those projects described by Subsections A and B of Section 21.16L.030: The minimum density bonus shall be twenty percent (20%) of the maximum number of dwelling units permitted on a property under the Land Use Element of the General Plan. For projects described by Subsections A and B that propose greater percentages of dwelling units for low and very low income households, the density bonuses shall be increased as shown in the table below. Any resulting decimal fraction shall be rounded to the next larger integer.

Percent of units affordable to low income households	Minimum density bonus	Percent of units affordable to very low income households	Minimum density bonus
10%	20.0%	5%	20.0%
11%	21.5%	6%	22.5%
12%	23.0%	7%	25.0%
13%	24.5%	8%	27.5%
14%	26.0%	9%	30.0%
15%	27.5%	10%	32.5%
16%	29.0%	11% and above	35.0%
17%	30.5%		
18%	32.0%		
19%	33.5%		
20% and above	35.0%		

The density bonus shall not be included when determining the number of dwelling units that equal to the percentages of the units in the first and third columns above. For example, if the general plan would permit development of 40 units on a property, and an applicant proposes to provide 10% of the units affordable to low income households, the applicant would be granted a density bonus of 8 units (20% of 40 units allowable under the general plan). The housing project would, therefore, consist of 48 units, of which 4 (10% of 40 units) must be made to be affordable to low income households.

2. For those projects listed in subsection C of Section 21.16L.030: The density bonus for any project that sets aside a minimum number of thirty-five (35) dwelling units for use by qualified senior citizens, as that term is defined in Civil Code section 51.3(b)(1) shall be entitled to a twenty percent (20%) density bonus unless a lesser percentage is elected by the applicant/developer.
3. For those projects listed in subsection D of Section 21.16L.030: The minimum density bonus shall be *calculated as follows:*

<i>Percentage Low-Income Units</i>	<i>Percentage Density Bonus</i>
<i>10</i>	<i>5</i>
<i>11</i>	<i>6</i>
<i>12</i>	<i>7</i>
<i>13</i>	<i>8</i>
<i>14</i>	<i>9</i>
<i>15</i>	<i>10</i>
<i>16</i>	<i>11</i>
<i>17</i>	<i>12</i>
<i>18</i>	<i>13</i>
<i>19</i>	<i>14</i>
<i>20</i>	<i>15</i>
<i>21</i>	<i>16</i>
<i>22</i>	<i>17</i>
<i>23</i>	<i>18</i>
<i>24</i>	<i>19</i>

<i>Percentage Low-Income Units</i>	<i>Percentage Density Bonus</i>
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

~~ten percent (10%) of the maximum number of dwelling units permitted on a property under the Land Use Element of the General Plan. For projects that propose greater percentages of dwelling units for moderate income households, the density bonuses shall be increased by one percent (1%) for each one percent (1%) increase above ten percent (10%), up to a maximum of thirty-five percent (35%).~~

Any resulting decimal fraction shall be rounded to the next larger integer.

The density bonus shall not be included when determining the number of dwelling units that equal to the percentages of the units affordable to moderate income households between ten and thirty-five percent.

- B. An applicant may, *in writing, elect to accept* ~~request~~ a density increase ~~of~~ less than the percentages specified in Subsections A.1, A.2, and A.3 of this Section. In such a case, the City may grant such a lesser density bonus provided that the same proportion of target dwelling units is maintained. For example, if the general plan would permit development of 40 units on a property, and an applicant proposes to provide 10% of the units affordable to low income households, should the applicant request only a 10% density bonus (instead of the 20% allowed), the City could approve a 44 unit project (instead of 48 units) with 2 target dwelling units (instead of 4 target dwelling units).
- C. If an applicant requests a density bonus of more than the percentages specified in Subsections A.1 ~~through and A.2 A.3~~ of this Section, the requested density increase shall be considered an additional density bonus. The City Council may, at its discretion, grant an additional density bonus if a written finding is made by the City Council that the additional density bonus is required in order for allowable housing expenses for the proposed housing development to be set as affordable. In granting an additional density bonus, the City may require some portion of the additional density bonus to be designated as target dwelling units.
- D. A density bonus housing agreement shall be a condition of discretionary permits (i.e., tentative maps, parcel maps, and development plans) for all applicants who request a density bonus and incentives or

concessions. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a housing development which are designated for the location of target dwelling units. The density bonus housing agreement shall be consistent with Section 21.16L.130.

21.16L.050 Qualifying projects - condominium conversions

To an applicant proposing to convert apartments to condominiums, who files a density bonus application, and who agrees or proposes to provide dwelling units for any of the target income levels or qualifying residents set forth below, the City shall either grant a density bonus of twenty-five percent (25%) or provide another incentive of equivalent financial value, as set forth in Section 21.16L.070.

- A. A minimum of thirty-three percent (33%) of the total units of the proposed condominium project for low-income or moderate-income households; or
- B. A minimum of fifteen percent (15%) of the total units of the proposed condominium project for lower-income households.

21.16L.060 Density bonuses - condominium conversions

- A. The minimum number of density bonus dwelling units to be granted for a condominium conversion shall be twenty-five percent (25%) of the number of existing dwelling units within the structure or structures proposed for conversion. The density bonus shall not be included when determining the number of housing units which is equal to thirty-three percent (33%) or fifteen percent (15%) of the total units. Any resulting decimal fraction shall be rounded to the next larger integer.
- B. An applicant proposing to convert apartments to condominiums shall be ineligible for a density bonus or other incentive of equivalent financial value under this Section if the apartments proposed for conversion constitute a housing development for which a density bonus was previously provided under the provisions of this Chapter.
- C. If an applicant requests a density increase of less than twenty-five percent (25%), the granting of such requests shall not reduce the number of target dwelling units required.
- D. The City may grant a density bonus greater than what is described above for a condominium conversion that meets the requirements of this section or it may grant a proportionately lower density bonus than what is described above for a condominium conversion that proposes to provide lesser percentages of target dwelling units than those specified in Subsections A and B of Section 21.16L.040.
- E. A density bonus housing agreement shall be made a condition of the discretionary permits (tentative maps, parcel maps, and development plans) for all condominium conversion proposals that request a density bonus or other incentive of equivalent financial value. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a housing development that are designated for the location of target dwelling units. The density bonus housing agreement shall be consistent with the terms of Section 21.16L.130.

21.16L.070 Incentives and concessions

- A. Incentives and concessions may include, but are not limited to, the following:
 - 1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards approved by the

State 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 vehicle parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions;

2. Approval of mixed-use zoning in conjunction with the housing development if mixed-use zoning will reduce the cost of the housing development and if the mixed-use zoning is compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located; or
 3. Other regulatory incentives or concessions proposed by the applicant or the City which result in identifiable, financially sufficient, and actual cost reductions;
 4. Additional density bonus above the minimum percentages set forth in Section 21.16L.040;
 5. Direct financial aid including, but not limited to: Redevelopment Low and Moderate Income Housing funding, Community Development Block Grant funding, Home Investment Partnership Act (HOME) funding, or subsidizing infrastructure, land cost or construction costs, planning application, plan check, building permit, or development impact fees; or other incentives of equivalent financial value based upon the land costs per dwelling unit.
- B. The value of each incentive will vary from project to project. Therefore, each incentive or concession shall be determined on a case-by-case basis.
- C. Except as provided in Subsection E of this Section, to those applications meeting the requirements set forth in Section 21.16L.030 for a new housing development, a density bonus and incentives or concessions shall be granted to qualified lower-income, very low-income, qualifying (senior) resident, and condominium project housing developments in accordance with the following schedule.
1. One incentive or concession for projects that include at least 10 percent (10%) of the total units for lower income households, at least 5 percent (5%) for very low income households, or at least 10 percent (10%) for persons and families of moderate income in a **common interest development** ~~condominium or planned development~~.
 2. Two incentives or concessions for projects that include at least 20 percent (20%) of the total units for lower income households, at least 10 percent (10%) for very low income households, or at least 20 percent (20%) for persons and families of moderate income in a **common interest development** ~~condominium or planned development~~.
 3. Three incentives or concessions for projects that include at least 30 percent (30%) of the total units for lower income households, at least 15 percent (15%) for very low income households, or at least 30 percent (30%) for persons and families of moderate income in a **common interest development** ~~condominium or planned development~~.
- D. Except as provided in Subsection E of this Section, to those applications meeting the requirements set forth in Section 21.16L.040 for a condominium conversion, either (i) a density bonus or (ii) another incentive of equivalent financial value shall be granted to qualified lower-income, low-income, and moderate-income housing developments.
- E. Exceptions.

1. Pursuant to California Government Code Section 65915, the City is not required to approve an incentive or concession if it makes a written finding, based on substantial evidence, of either of the following:
 - a. The incentive or concession is not required in order to provide for affordable housing costs, as defined in section 50052.5 of the California Health and Safety Code, or for rents for the targeted units;
 - b. The incentive or concession would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of California Government Code 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- and moderate-income households.
2. Pursuant to California Government Code Section 65915.5, the City is not required to approve a proposal to convert apartments to condominiums.

21.16L.080 Density bonus application

- A. All applicants for a density bonus shall submit a density bonus application in conjunction with a development plan application pursuant to Chapter 21.23B, which may be processed simultaneously with other applications for general plan amendments, rezones, and/or subdivision (tract or parcel) maps. Target dwelling units shall be designated on the project plans. All applicants shall be provided with a copy of this Chapter and all required application forms.
- B. Preliminary Application. An applicant proposing a density bonus for a housing development may, prior to the submittal of any formal requests for approvals of such housing development, submit a preliminary application to the Community Development Director. The preliminary application shall include the following information:
 1. A brief description of the proposal including the number of target dwelling units and density bonus dwelling units proposed;
 2. The zoning, general plan designations and assessors parcel number(s) of the project site;
 3. A site plan, drawn to scale, which includes: building footprints, driveway and parking layout, building elevations, existing contours and proposed grading;
 4. A letter identifying what specific incentive(s) or concession(s) (i.e., standards modifications, density bonus, or fee subsidies) are being requested of the City; and
 5. In the case of a request for any incentives or concessions, a pro forma for the proposed housing development.

Within ninety (90) days of receipt of the preliminary application, the Community Development Director shall provide to an applicant a letter that identifies: (i) issues of concern; (ii) the density bonus and/or incentives or concessions that the Community Development Director may recommend to the Planning Commission or City Council; and (iii) the procedures for compliance with this Chapter.

C. Density Bonus Application Submittal. In addition to the information required by Section 21.23B.130, the completed density bonus application submitted as part of the applicant’s development plan application(s), shall include the following information:

1. A legal description of the total site proposed for development of the target dwelling units including a statement of present ownership and present and proposed zoning;
2. A letter signed by the applicant stating what incentive(s) or concession(s), if any, is/are being requested from the City;
3. Site plans, designating the total number of units proposed on the site, identifying the number and locations of target dwelling units, and supporting plans per the application submittal requirements; and
4. In the case of a condominium conversion request, a report documenting the following information for each unit proposed to be converted: the monthly gross income of tenants of each unit throughout the prior year, the monthly rent for each unit throughout the prior year, and vacancy information for each unit throughout the prior year.

Any applicant applying for incentives or concessions shall submit supporting financial documents with the density bonus application. Such financial documents shall support or establish that the incentives or concessions are necessary to provide for affordable housing costs.

21.16L.090 Review and approval of density bonus application

- A. Planning Commission Review. Except for those density bonus applications that request a financial incentive, the Planning Commission shall have the authority to review and act upon an application for a density bonus and incentives or concessions. A final decision by the Planning Commission shall be appealable to the City Council pursuant to Sections 21.23A.100 and 21.23A.110.
- B. City Council Review. If the density bonus application involves a request to the City for financial incentives, then the Planning Commission shall make a recommendation to the City Council, which shall take final action on the density bonus application.
- C. A density bonus application shall be evaluated for conformance with the density bonus housing standards set forth in Section 21.16L.120.

21.16L.100 Density bonuses for donations of land

When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City as provided for in this Section, the applicant shall be entitled to a 15 percent (15%) increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development, *as follows*:

<i>Percentage Low-Income Units</i>	<i>Percentage Density Bonus</i>
<i>10</i>	<i>15</i>
<i>11</i>	<i>16</i>
<i>12</i>	<i>17</i>
<i>13</i>	<i>18</i>
<i>14</i>	<i>19</i>

<i>Percentage Low-Income Units</i>	<i>Percentage Density Bonus</i>
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

~~For each 1 percent increase above the minimum 10 percent (10%) land donation described in subsection B of this Section, the density bonus shall be increased by 1 percent (1%), up to a maximum of 35 percent (35%).~~

This increase shall be in addition to any increase in density mandated by Subsection B of Section 21.16L.030, up to a maximum combined mandated density increase of 35 percent (35%) if an applicant seeks both the increase required pursuant to this Section and Subsection B of Section 21.16L.030. All density calculations resulting in fractional units shall be rounded up to the next whole number.

Nothing in this Section shall be construed to enlarge or diminish the authority of the City to require an applicant to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this Section if all of the following conditions are met:

- A. The applicant donates and transfers the land no later than the date of approval of the final subdivision map or parcel map, or, for multiple family residential housing, the date of approval of a development plan application.
- B. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent (10%) of the number of residential units of the proposed development.
- C. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map or parcel map, or, for multiple family residential housing, the date of approval of a development plan application, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by subdivision

(i) of Section 65583.2 of the Government Code if the design is not reviewed by the City prior to the time of transfer.

- D. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Subsections B and D of Section 21.16L.120, which shall be recorded on the property at the time of dedication.
- E. The land is transferred to the City or its Redevelopment Agency or to a housing developer approved by the City or its Redevelopment Agency. The City or its Redevelopment Agency may require the applicant to identify and transfer the land to the approved housing developer.
- F. The transferred land shall be within the boundary of the proposed development or, if the City or its Redevelopment Agency agrees, within one-quarter mile of the boundary of the proposed development.

21.16L.110 Density bonuses for child care facilities

- A. When an applicant proposes to construct a housing development that conforms to the requirements of Section 21.16L.030 and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the City shall grant either of the following:
 - 1. 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.
 - 2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
- B. The City shall require, as a condition of approving the housing development, that the following occur:
 - 1. 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 pursuant to Subsections B and D of Section 21.16L.120.
 - 2. Of the children who attend the child care facility, the children of very low income households, lower 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, lower income households, or families of moderate income pursuant to Section 21.16L.030.
- C. Notwithstanding any requirement of this Section, the City shall not be required to provide a density bonus and incentives or concessions for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

21.16L.120 Density bonus housing standards

- A. Required target dwelling units shall be constructed concurrent with market-rate dwelling units unless both the City and the applicant agree within the density bonus housing agreement to an alternative schedule for development.
- B. Target dwelling units for *low and very low income* ~~lower~~ income households shall remain restricted and affordable for a period of at least thirty (30) years, or a longer period of time may be required if the project includes government financial assistance.

- C. *Rents for lower income target units shall be set at an affordable rent as defined in Section 50053 of the California Health and Safety Code. Owner-occupied target units shall be available at an affordable housing cost as defined in Section 50052.5 of the California Health and Safety Code.* ~~Those units targeted for lower income households shall be affordable at a rent that does not exceed 30 percent of 60 percent of area median income. Those units targeted for very low income households shall be affordable at a rent that does not exceed 30 percent of 50 percent of area median income.~~
- D. For a *common interest development* ~~condominium project or planned development~~, target dwelling units shall remain restricted and affordable to the designated group for a period of at least ten (10) years for any target unit for moderate-income households, except that a longer period of time may be required if the project includes government financial assistance.

The initial occupant of the moderate-income *target* units ~~that are directly related to the receipt of the density bonus in the condominium project or in the planned unit development~~ *in the common interest development* are persons and families of moderate income, *and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the California Health and Safety Code. The City shall enforce an equity-sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity-sharing agreement:*

- (1) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The City shall recapture *any initial subsidy and* its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the California Health and Safety Code that promote homeownership.
 - (2) *For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.*
 - (3) For purposes of this subdivision, the City's proportionate share of appreciation shall be equal to the *ratio of the initial subsidy to* ~~percentage by which the initial sale price to the moderate income household was less than~~ the fair market value of the home at the time of initial sale.
- E. Except for housing developments with donations of land, as provided in Section 21.16L100., target dwelling units and density bonus dwelling units shall be built within the housing development.
- F. All housing developments shall comply with all applicable development standards, except those which may be modified as an additional incentive or concession as provided herein. In addition, all target dwelling units must conform to the requirements of the applicable building and housing codes.
- G. Compatibility. Target dwelling units shall be of similar design and similar quality as the market-rate units. Exteriors and floor plans of target dwelling units shall be similar to the market-rate units; interior features such as luxury flooring, appliances, and lighting fixtures need not be the same.
- H. No target dwelling unit shall be rented or sold except in accordance with this Chapter.

- I. California Government Code Section 65915(e) prohibits the City from applying any development standard that will have the effect of precluding the construction of a development meeting the criteria of California Government Code Section 65915(b) at the densities or with the concessions or incentives permitted by California Government Code Section 65915.
- J. Applicants receiving a density bonus and incentives or concessions for a housing development shall use their best efforts to market and provide such housing to persons already residing and/or working in the City.
- K. 1. Upon the written request of the applicant, the following off-street parking space requirements shall supercede those set forth in Subsection A of Section 21.22.040, inclusive of handicapped and visitor parking, of a housing development meeting the criteria of Subsection B of Section 21.16L.030, that exceeds the following ratios:
 - a. Studio apartments to one bedrooms: one off-street parking space.
 - b. Two to three bedrooms: two off-street parking spaces.
 - c. Four and more bedrooms: two and one-half off-street parking spaces.
- 2. If the total number of parking spaces required for a housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subsection, a development may provide off-street parking through tandem parking or uncovered parking, but not through on-street parking.
- 3. This subsection shall apply to a housing development that meets the requirements of Subsection B of Section 21.16L.030, but only at the written request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section, subject to subsection D of Section 21.16L.060.

21.16L.130 Density bonus housing agreement as a condition of development

- A. Any applicant requesting a density bonus, additional incentive, or in-lieu incentive pursuant to this Chapter shall execute a density bonus agreement in a form approved by the City Attorney. The density bonus agreement shall be approved by the City Council and shall run with the land and shall be binding on the applicants, their heirs, transferees, assigns, successors, administrators, executors and other representatives and recorded on the deed for the requisite time period.
- B. A density bonus housing agreement processed pursuant to this Chapter shall include the following:
 - 1. The number of density bonus dwelling units granted;
 - 2. Incentives, concessions, and/or financial assistance provided by the city;
 - 3. The number of moderate-income, lower-income, low-income, and/or qualifying (senior) resident dwelling units proposed;
 - 4. The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;
 - 5. The proposed location of the moderate-income, lower-income, low-income, and/or qualifying (senior) resident target dwelling units;
 - 6. Tenure of restrictions for target dwelling units (of at least ten or thirty years);
 - 7. Schedule for production of target dwelling units;
 - 8. The standards for maximum qualifying incomes for affordable units;
 - 9. The standards for maximum rents or sales prices for affordable units;

10. The process to be used to certify tenant/homeowner incomes;
 11. The arrangements with a third party approved by the City for monitoring of the affordable units;
 12. A description of how vacancies will be marketed and filled;
 13. Restrictions and enforcement mechanisms binding on property upon sale or transfer;
 14. Penalties and enforcement mechanisms in event of failure to maintain affordability provisions; and
 15. Any other provisions deemed necessary by the City to fulfill the requirements of this Chapter.
- C. Following the approval and the signing by all parties, the completed density bonus housing agreement shall be recorded with the County Recorder's Office and the relevant terms and conditions therefrom filed and recorded as a deed restriction on those individual lots or units of a property which are designated for the location of target dwelling units. The approval and recordation shall take place prior to final map approval, or, where a subdivision or parcel map is not being processed, prior to issuance of building permits for such lots or units.

21.16L.140 Eligibility requirements

Only households meeting the standards for moderate-income households, lower-income households, low-income households, and qualifying (senior) residents as defined in Section 21.16L.020 shall be eligible to occupy target dwelling units.

21.16L.150 Management and monitoring

Rental target dwelling units shall be managed by the applicant, his or her agent, or their successors and assigns. Each owner of rental target dwelling units, upon request by the City, shall submit an annual report to the City identifying which units are target dwelling units, the monthly rent, vacancy information for each target rental dwelling unit for the prior year, monthly gross income for tenants of each target rental dwelling unit throughout the prior year, and other information as required by the City, while ensuring the privacy of the tenant.

21.16L.160 Administrative fee for target dwelling units

During the density bonus application period and throughout the term of the affordability covenants for the target dwelling units, the City will either directly or, via one or more third parties, provide a number of recurring services associated with the administration and monitoring of such units. Although the provision of some of these services will be within the normal purview of existing City activities, others will involve new costs to the City for which there are no existing funding sources. Therefore, the City Council hereby establishes an administrative fee for target dwelling units, the amount to be established by City Council resolution and paid prior to the issuance of building permit(s). In no event shall such administrative fee exceed the actual cost of providing services pursuant to this Chapter 21.16L.

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL
PROJECT NOTICING


Newspaper: Tribune

Date of Publication: June 7, 2006

Meeting Date: June 27, 2006
(Planning Commission)

Project: Code Amendment 05-001
To amend the Zoning Code
(City of Paso Robles)

I, Abigail Alvarado, employee of the Community Development Department, Planning Division, of the City of El Paso de Robles, do hereby certify that this notice is a true copy of a published legal newspaper notice for the above named project.

Signed: 
Abigail Alvarado

forms/newsaffi.691

CITY OF EL PASO DE ROBLES
NOTICE OF PUBLIC HEARINGS

Amendment to Zoning Code Establishing
Regulations for Residential Density Bonuses
Code Amendment 05-001

NOTICE IS HEREBY GIVEN that the Planning Commission and City Council of the City of El Paso de Robles will hold Public Hearings to consider Code Amendment 05-001, initiated by the City of Paso Robles, to amend the Zoning Code (Title 21 of the Municipal Code) to establish regulations for residential density bonuses as mandated by Section 65915 of the California Government Code.

The proposed code amendment is initiated to implement changes to State Density Bonus Law (Section 65915 of the California Government Code) as amended by Senate Bill 1818 (2004) and Senate Bill 435 (2005).

These hearings will take place in the Conference Room at the Paso Robles Library/City Hall, 1000 Spring Street, Paso Robles, California, at the hour of 7:30 pm on the following dates:

Planning Commission: Tuesday, June 27, 2006
City Council: Tuesday, July 18, 2006

All interested parties may appear and be heard at the above hearings.

At these hearings, the Planning Commission and City Council will consider adopting a Negative Declaration (a statement that there will be no significant environmental effects) in accordance with the provisions of the California Environmental Quality Act (CEQA).

The proposed Negative Declaration may be reviewed at the Community Development Department, 1000 Spring Street, Paso Robles, California between the date of publication of this notice and the date of the hearings.

Comments on the proposed code amendment and Negative Declaration may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446 or e-mailed to CDdirector@prcity.com provided that such comments are received prior to the time of the respective hearings.

If you challenge the Code Amendment in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission or City Council at, or prior to, the public hearing.

Ed Gallagher, Housing Programs Manager

June 7, 2006

6394169