

February 12, 2006

Subject: Affordable Housing Density Bonus and Ministerial Incentives/Deviations.
Proposed Changes to the Municipal Code.

Example: A developer wants to build apartments on a lot zoned Multi-Family Residential, RM-2-4 which has the following restrictions: Maximum Density 1,750 square feet, Minimum Lot size 6,000 square feet (0.14 acre), **40 foot Maximum Height**, 50 ft Minimum Width/Frontage, Minimum 90 feet depth, 15 foot front/back setback, 5 foot side setback. Even though the developer plans on selling the units as condominiums which would require Process Three, he uses the Process One, Ministerial Review to bypass the Community Planning Groups until the building is almost completed.

Currently, if the developer wanted a variance/deviation to the maximum height limit or minimum setbacks in RM-2-4, the variance/deviation is processed at the minimum in accordance with the discretionary Process Three (126.0804). For example, if the developer wanted a one foot increase in height from 40 feet to 41 feet, the project would have to be processed in accordance with the discretionary Process Three.

As discussed in the *Memorandum MS 59, Issues Relating to the Implementation of the State Bonus Law*, because the new apartments in RM-2-4 are reviewed under the Process One, Ministerial Review, any requested incentives/deviation/variance is process under Process One, no matter has absurd the request.

For example, as their incentive, a developer asked for a deviation on the height restriction from 40 feet to 500 feet. Because the apartments are process under Process One, according to *Memorandum MS 59*, the increase to 500 feet is also processed under the ministerial Process One. The processing of incentives/deviations should be based on the deviation, not the underlying project.

Ministerial (Process 1) over-the-counter review do not have to notify neighbors within 300 feet, community plans are not applicable, community planning groups are not consulted, and no public hearings are required at the Planning Commission or City Council. In addition, ministerial projects are exempt from CEQA, therefore no mitigation to development is required. City of San Diego CEQA mitigation measure that will not be analyzed or considered include: aesthetics, neighborhood character, natural resources, air quality, biology, energy, geology, soils, human health, public safety, hazardous materials, hydrology, water quality, land use, noise, paleontology, population, housing, public services, police, fire, sewer capacity, schools, parks, recreation resources, roads, transportation, circulation, utilities, and water conservation. Ministerially approved entitlements will make the City Council irrelevant, in that there will be nothing they can do when their constituent need help with unscrupulous adjacent developers. The check and balance of power between the City Council and the Mayor will be in jeopardy. The majority of items currently heard before the City Council will no longer come before the elected official body, but will be approved by clerks in DSD, with no recourse.

All other cities who have implemented the affordable housing Density Bonus do not interpret the law this way.

Regards,
Katheryn Rhodes

HEIGHT AND PARKING REQUIREMENTS FOR AFFORDABLE HOUSING DENSITY BONUS

ZONING: The following Information was found in the Official Zoning Maps and the City of San Diego Municipal Code Chapter 13, Article 1, Division 4. <http://clerkdoc.sannet.gov/legtrain/mc/MuniCodeChapter13/Ch13Art01Division04>. Official Zoning Maps represents the base zoning for properties within the City of San Diego. <http://www.sandiego.gov/development-services/zoning/zoning.shtml>

Residential Multi Family - RM

RM-1-1 Max Den 3,000 sqft. Min Lot 6,000 (0.14 acre). 30 ft Max Height. 50 ft width/frontage, 90 ft depth, 15 front/back setback, 5 ft side setback.
 RM-1-2 Max Den 2,500 sqft. Min Lot 6,000 (0.14 acre). 30 ft Max Height. 50 ft width/frontage, 90 ft depth, 15 front/back setback, 5 ft side setback.
 RM-1-3 Max Den 2,000 sqft. Min Lot 6,000 (0.14 acre). 30 ft Max Height. 50 ft width/frontage, 90 ft depth, 15 front/back setback, 5 ft side setback.
 RM-2-4 Max Den 1,750 sqft. Min Lot 6,000 (0.14 acre). 40 ft Max Height. 50 ft width/frontage, 90 ft depth, 15 front/back setback, 5 ft side setback.
 RM-2-5 Max Den 1,500 sqft. Min Lot 6,000 (0.14 acre). 40 ft Max Height. 50 ft width/frontage, 90 ft depth, 15 front/back setback, 5 ft side setback.
 RM-2-6 Max Den 1,250 sqft. Min Lot 6,000 (0.14 acre). 40 ft Max Height. 50 ft width/frontage, 90 ft depth, 15 frnt/bak stbck, 5 ft side stbck. Proposed.
 RM-3-7 Max Den 1,000 sqft. Min Lot 7,000 (0.16 acre). 40 ft Max Height. 70 ft width/frontage, 100 ft depth, 10 front/back setback, 5 ft side setback.
 RM-3-8 Max Den 800 sqft. Min Lot 7,000 (0.16 acre). 50 ft Max Height. 70 ft width/frontage, 100 ft depth, 10 front/back setback, 5 ft side setback.
 RM-3-9 Max Den 600 sqft. Min Lot 7,000 (0.16 acre). 60 ft Max Height. 70 ft width/frontage, 100 ft depth, 10 front/bck setbck, 5 ft side setback. Current
 RM-4-10 Max Den 400 sqft. Min Lot 7,000 (0.16 acre). ?? ft Max Height. 100 ft width/frontage, 100 ft depth, varies front back side setback.
 RM-4-11 Max Den 200 sqft. Min Lot 7,000 (0.16 acre). ?? ft Max Height. 100 ft width/frontage, 100 ft depth, varies front back side setback.

According to the General Plan and Community Plans, the area in the 30 foot Coastal Height Overlay Zone cannot achieve the maximum density because of height restrictions. The maximum 30 foot height limit west of Interstate 5 reduces the density to a maximum of 30 units per acre.

Example: In the La Playa area of Point Loma, the area bounded by San Elijo, McCall, the Bay, and the naval base is Zoned RM-3-9. Even through the maximum height limit is 60 feet for the current Zoning of RM-3-9, coastal height restriction from Proposition D will only allow for 30 foot high structures west of Interstate 5. Therefore, according to the Community Plan only a maximum density of 30 units per acre can be achieved with the 30 foot height limit.

Municipal Code – Chapter 14: General Regulations, Article 2: General Development Regulations, Division 5: Parking Regulations. Municipal Code – Chapter 13: Zones, Article 2: Overlay Zones, Division 8: Parking Impact Overlay Zone. Section 132.0801 – Purpose of the Parking Impact Overlay Zone. The purpose of the Parking Impact Overlay Zone is to provide supplemental parking regulations for specified coastal, beach, and campus areas that have parking impacts. The intent of this overlay zone is to identify areas of high parking demand and increase the off-street parking requirements accordingly. In general, the beach impact parking requirements increases the required off street parking spaces by 0.25 parking spaces per unit.

Table 142-05C. Minimum Number of Required Off-Street Parking Spaces Per Dwelling in Multi-Family (Condos and Apartments) Structures.

Number of Bedrooms	General Parking Requirements	Affordable Housing Density Bonus ¹	Beach Impact Parking Requirement
Studio & 1 Bedroom	1.50	1.00	1.75
2 Bedrooms	2.00	2.00	2.25
3 Bedrooms	2.25	2.00	2.50
4 Bedrooms	2.25	2.25	2.50
5+ Bedrooms	2.25	2.25	2.50

¹ Additional decreases allowed in the Land Development Code for very-low income and Transit and Urban Village Overlay Zone would be in addition to these reductions. Also the state regulations require that tandem parking be permitted and counted toward meeting the ratio.