

January 30, 2007

City Council, 202 C Street, San Diego, California 92101

Dan Joyce, Senior Planner, 1222 First Avenue, MS 501, San Diego, California 92101

Subject: Solution to Citizen Concerns Related to Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR)
Item-331 Amendments Related to Affordable Housing Density Bonus (Citywide)
City Council Meeting, Tuesday, January 30, 2007
<http://clerkdoc.sannet.gov/legtrain/Dockets/dkt20070130>

References: Ministerial Deviations to Height, Setbacks, Parking, and Floor-Area-Ratio (FAR)
[http://www.laplayaheritage.com/Documents/CITY%20OF%20SAN%20DIEGO/Density_Bonus_Height_& Setback_Deviations.pdf](http://www.laplayaheritage.com/Documents/CITY%20OF%20SAN%20DIEGO/Density_Bonus_Height_&_Setback_Deviations.pdf)

Dear City Council and Mr. Dan Joyce

We have concerns regarding the wording of the proposed Amendments Related to Affordable Housing Density Bonus regulations as they relate to proposed ministerial approval of deviations to height, setback, parking, and Floor-Area-Ratio (FAR) regulations. As written, the open ended wording to the Amendments may be misused as a loophole to get around the 30-foot Coastal Height Limit law among other quality of life laws in the city's Municipal Code. We read the vague wording to construe any requested deviations will be granted ministerially in conformance with the Affordable Housing Density Bonus regulations. For example if a developer provided 10 percent affordable housing, then they will get any incentive that they request without limits. The city-wide implications to get rid of height and setback requirements not in the coastal zone would become effective in 30 days. East of Interstate 5, the lack of limits to the height deviation and setbacks would create high-rise communities were none were planned.

For the record, Mr. Jim Waring of the Mayor's office has contact us by email and assured us that revisions will be made to the proposed ordinance to make sure, in no uncertain terms, the 30 foot coastal height limit will not be violated. As Mr. Waring wrote in his email "*It is not the intention of anyone here to defeat Proposition D... If the problem exists in the language and creates the loopholes you've identified, we need to change it before the vote.*"

We are delighted that this is the case and the City is acknowledging our concerns are valid and the proposed ordinance needs clarification of limits to height and setback deviations and ministerial approval. As a solution, we are proposing the following changes to the proposed ordinance.

1. In Section 143.0740 (a) (1) (A) add the following: **"Nothing in this ordinance implies that the 30 foot coastal height limit will be violated without a two-thirds vote by the citizens of San Diego."**
2. Senate Bill 1818 does not state that incentives need to be granted ministerially through the Process 1 review. **Please delete all references to approval of deviations through the Process 1 Ministerial review including all of Section 143.0740 (b).**
3. Set limits on height and setback deviation consistent with the existing Municipal Code. For example, the existing deviation to setback where 50 percent of the building can be on the side property line after discretionary review.
4. As an example, outside the 30 foot height limit, the maximum height deviation is 10 feet.

We only learned about the loopholes from a subcommittee meeting of the Sierra Club this last Saturday. A few years back, citizens fought this same issue of changes to density bonuses for affordable housing which would have violated the 30 foot coastal height limit. As we heard, the case came before the California Coastal Commission and the citizens won their case and the 30 foot coastal height limit was saved. Community opposition to changing height restrictions is well documented in San Diego.

Please note that besides these two little loopholes for height and setback deviations which have very large, unintended consequences, and the ministerial approval of deviations, we are very supportive of the new Affordable Housing Density Bonus changes to the Municipal Code. We do not want developers to use an incentive made in the name of the poor as loopholes that can change community character with ministerial approval. We hope you agree and make the changes in the proposed ordinance.

If you have any questions, please do not hesitate to contact us.

Regards,

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