

REPORT TO CITY COUNCIL

DATE: JUNE 11, 2008

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

SUBJECT: DENSITY BONUS ORDINANCE (CASE NO. 08-ZOA-001)

The purpose of the Statewide Density Bonus Law is to encourage developers to build affordable housing by requiring local governments to provide incentives to do so, in the form of both: (1) a density bonus, and (2) exceptions from normally applicable zoning and other development standards. The law requires each city or county to adopt an ordinance that specifies how residential density bonuses and related development incentives shall be granted. As a result of recent changes in state law (SB 1818, 2004), the current City Municipal Code section relating to density bonuses, entitled "Low and Moderate Income Housing Permit," needs to be updated accordingly. The Residential Density Bonus Ordinance (Attachment 1) would replace the existing Code section. The basic changes in state law include: (1) reducing the proportion of affordable units needed to obtain a density bonus; (2) increasing the maximum bonus from 25 to 35 percent; (3) requiring local governments to grant additional concessions; and (4) adding a bonus for land donation.

The Ordinance has been drafted pursuant to guidance in the State Government Code, and therefore codifies state law. The Government Code establishes the framework and parameters for a density bonus program that each local jurisdiction must follow. Much of what is included in the Ordinance has been taken directly from the Government Code. Local jurisdictions have only limited discretion in implementing the density bonus program, and can only deny a density bonus under certain specific circumstances.

The City Council authorized staff to draft the Density Bonus Ordinance as part of the acceptance of the "Affordable Housing Implementation Strategy Report" on June 27, 2007. The City Attorney has reviewed the draft Ordinance, and has found it acceptable as to form. The City Council Housing Subcommittee reviewed the draft Ordinance at its meeting on March 18, 2008, and found it acceptable. On May 15, 2008, the Planning Commission reviewed the draft Ordinance and suggested some minor changes for clarification. These changes have been incorporated into the Ordinance, which is Attachment 1. As demonstrated in Planning Commission Resolution No. 08-935 (Attachment 2), the Planning Commission recommended that the City Council adopt the Zoning Ordinance Amendment Case No. 08-ZOA-001, the

Negative Declaration, and make the necessary environmental findings pursuant to the California Environmental Quality Act (CEQA).

Upon request by a developer, the City is required to grant a density bonus of 20-35 percent above what would normally be allowed in the particular zone per the City's Zoning Code. The range would depend on the amount of units provided and the type of units in terms of very low income household, lower income household, moderate income household, or senior household (refer to Attachment 1 for definitions of these categories). Additionally, instead of building affordable or senior housing, a developer may donate land to the City as a means of obtaining a density bonus.

In addition to the density bonus, the developer is entitled, upon request, to one to three concessions or incentives, depending on the amount of affordable units and the types of units, as described above, which are provided. These can include, but may not be limited to, a reduction in minimum lot setbacks, and reduced minimum lot size. The developer can request any other concession or incentive for the City to consider.

For both the percent of density bonus and number of concessions granted, the amount allowed increases with the number of affordable units provided, and with a lower affordability range. For example, a project that consists of a large number of very low income households would be entitled to the maximum developer benefit.

Additionally, separate from the concessions noted above, if requested by the developer, the City must grant a reduction in the required parking ratio for the project, resulting in less parking than the Zoning Code currently requires. The state law also allows for tandem and uncovered parking.

While the City cannot deny a request for density bonus, the City has some discretion in terms of findings to be made when evaluating a request. First, the density bonus must be found to contribute significantly to the economic feasibility of providing the affordable units. Second, the incentive or concession requested must be shown as necessary to make the affordable units economically feasible. Third, it must be shown that the increased density and incentive or concession will not cause significant adverse effects on the public health and safety or the physical environment.

The Ordinance requires that a Density Bonus Housing Agreement between the City and developer be prepared, and recorded on the parcel(s). The Agreement would stipulate the household type, number, location, size and construction scheduling of all affordable units, as well as measures to maintain long term affordability of the units, among other items.

The Ordinance requires that the affordable units be constructed concurrently with the non-restricted units, unless both parties agree to an alternative schedule. The affordable units would be dispersed within the development and be of similar appearance to the non-restricted units.

Per state law, the very low and lower income category units would remain restricted and affordable to the designated group for at least 30 years. However, for the moderate income category, assuming for-sale units, the owner may sell the unit immediately and receive his or her

share of the equity on the unit. While the City would also receive its share of the equity, the result would be one less affordable unit in the City.

The Zoning Ordinance Amendment was analyzed for potential environmental impacts pursuant to the California Environmental Quality Act (CEQA). An Initial Study addressing the following environmental issue areas was prepared: land use and planning, biological resources, air quality, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, aesthetics, noise, population and housing, public services, recreation, transportation/traffic, utilities and service systems, and mandatory findings of significance. The project, being a ZOA and not a specific physical development, was found to have no potential environmental impacts, and a Negative Declaration (ND) was issued. The ND was circulated for public comment starting on March 27, 2008 and ending on April 28, 2008. No comments were received.

RECOMMENDATION

Staff recommends the City Council adopt Zoning Ordinance No. 08-352, including the environmental findings pursuant to the California Environmental Quality Act contained therein, and adopt the Negative Declaration.

Attachments:

1. Density Bonus Ordinance (No. 08-352)
2. Planning Commission Resolution No. 935
3. Initial Study/Negative Declaration

ORDINANCE NO. 08-352

**AN ORDINANCE OF THE CITY OF AGOURA HILLS,
CALIFORNIA, REVISING REGULATIONS APPLICABLE TO
THE GRANTING OF DENSITY BONUSES AND RELATED
INCENTIVES, AND AMENDING DIVISION 4. LOW AND
MODERATE INCOME HOUSING PERMIT OF PART 3 OF
CHAPTER 6 OF ARTICLE IX OF THE CITY OF AGOURA HILLS
MUNICIPAL CODE**

A. Recitals.

(i) The Statewide Density Bonus Law (Government Code Section 65915) requires each city to adopt an ordinance that specifies how residential density bonuses and related incentives shall be granted. The purpose of this ordinance is to amend the City's Municipal Code and adopt those procedures necessary in order to comply with Section 65915.

(ii) On May 15, 2008, the Planning Commission of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the Municipal Code amendments contained herein, as required by law. At the conclusion of the hearing, the Planning Commission recommended adoption of said amendments.

(iii) On June 11, 2008, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the Zoning Code amendments contained herein as required by law.

(iv) At the public hearing on June 11, 2008, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.

(v) All legal prerequisites to the adoption of this Ordinance have occurred.

B. Ordinance.

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

Section 1. The facts set forth in the Recitals, Part A of this ordinance, are true and correct.

Section 2. The provisions of this Ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The City Council held a

public hearing on June 11, 2008 to consider the Negative Declaration. Evidence, both written and oral, was duly presented to and considered by the City Council at this said hearing. The City Council finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The City Council has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment, and hereby adopts the Negative Declaration.

Section 3. Division 4. LOW AND MODERATE INCOME HOUSING PERMIT of Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code is hereby repealed in its entirety.

Section 4. New Division 4. RESIDENTIAL DENSITY BONUS is hereby added to Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code to read as follows:

“DIVISION 4. RESIDENTIAL DENSITY BONUS

Sections:

- 9674.1 Purpose.**
- 9674.2 Definitions.**
- 9674.3 Grant of Density Bonus.**
- 9674.4 Grant of Incentives and Concessions.**
- 9674.5 Floor Area Bonus for Concessions/Incentives for Childcare Facilities.**
- 9674.6 Affordability Requirements.**
- 9674.7 Development Standards.**
- 9674.8 Processing of Bonus Requests.**
- 9674.9 Changes in State Density Bonus Laws.**
- 9674.10 Administrative Procedures.**

9674.1 Purpose.

The purpose of the provisions of this division is to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with Government Code Sections 65915 and 65915.5 (Statewide Density Bonus Law). In enacting this division, it is the intent of the City to facilitate the development of affordable housing and to implement the goals, objectives and policies of the housing element of the City’s General Plan.

9674.2 Definitions.

Whenever the following terms are used in this chapter, they shall have the meanings established by this section:

- A. **ADDITIONAL INCENTIVE:** A regulatory concession as described in Government Code Section 65915 that may include, but not be limited to, the reduction of site development standards or Zoning Code requirements or other regulatory incentive, that would result in identifiable cost avoidance or reductions that is offered in addition to a density bonus.
- B. **AFFORDABLE HOUSING UNITS:** Housing units affordable to moderate, lower or very low income persons provided through the housing density bonus program pursuant to Government Code Section 65915.
- C. **CHILD CARE FACILITY:** A child day care (non-residential care) facility other than a family day care home, including, but not limited to, infant center, preschools, extended day care facilities, and school age child care centers, as described in Government Code Section 65915(i)(4).
- D. **CONDOMINIUM PROJECT:** A condominium project as defined in Section 1351 (f) of the California Civil Code. At the time of adoption of this Division, a condominium project means a development consisting of condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in a space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- E. **DENSITY BONUS:** A density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the City of Agoura Hills General Plan as of the date of application by the developer to the City.
- F. **DENSITY BONUS HOUSING AGREEMENT:** A legally binding agreement between a developer of a housing development and the City that ensures that the requirements of this Division and State Density Bonus Law are satisfied. The agreement shall establish, among other things, the number of target units, their size, location, terms and conditions of affordability and production schedule.
- G. **HOUSING DEVELOPMENT:** Construction projects consisting of five or more residential units or lots, including single-family and multi-family, that are proposed to be constructed.
- H. **LOWER INCOME HOUSEHOLD:** Households of lower income as defined in Section 50079.5 of the Health and Safety Code. At the time of the adoption of this Division, a household whose median income is equal to or less than 80 percent of the area median income is Lower Income, and is considered to be able to afford rent that does not exceed 30 percent of 80 percent of the area median income.

- I. **MODERATE INCOME HOUSEHOLD:** Households of moderate income as defined in Section 50093 of the Health and Safety Code. At the time of adoption of this Division, a household whose median income is equal to or less than 120 percent of the area median income is Moderate Income, and is considered to be able to afford rent that does not exceed 30 percent of 120 percent of the area median income.

- J. **PLANNED DEVELOPMENT:** A planned development as defined in Section 1351 (k) of the Civil Code. At the time of adoption of this Division, a planned development means a development other than a community apartment, condominium or stock cooperative having either or both of the following features:
 - (1) The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.

 - (2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment that may become a lien upon the separate interests in accordance with Section 1367 or 1367.1 of the California Civil Code.

- K. **SENIOR CITIZEN:** A senior citizen as defined in Section 51.3 of the Civil Code. At the time of the adoption of this section, qualifying resident or senior citizen were generally defined as a person 62 years of age or older, or 55 years of age or older living in a senior citizen housing development other than a mobile home, or the spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.

- L. **SENIOR CITIZEN HOUSING DEVELOPMENT:** A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code. At the time of adoption of this Division, a senior citizen housing development consists of more than 20 dwelling units and is designated as a senior community by its developer and zoned as a senior community by a local governmental entity, or characterized as a senior community in its governing documents, as these are defined in Section 1351, or qualified as a senior community under the Fair Housing Amendments Act of 1988, as amended.

- M. **VERY LOW INCOME HOUSEHOLD:** Households of Very Low Income as defined in Section 50105 of the California Health and Safety Code. At the time of the adoption of this Division, a household whose median income is equal to or less than 50 percent of the area median income is Very Low Income, and is considered to be able to afford rent that does not exceed 30 percent of 50 percent of the area median income.

- N. **TARGET UNIT:** A dwelling unit within a housing development to be reserved for sale or rent to, and affordable to, very low or lower income households, or moderate income households as provided in Section 9674.3, Subsection B.

9674.3 Grant of Density Bonus.

A. **Qualifying for Density Bonus.** The City shall grant a density bonus to any project for which a density bonus and incentives are required pursuant to Government Code Section 65915. A single development project shall not be granted more than one density bonus in compliance with this division, except as provided in Section 9674.3(B)(5).

The City shall grant a density bonus and at least one of the incentives described in Section 9674.4, Subsection B of this division to an applicant who agrees to provide the following:

1. Designate at least five percent (5%) of the total units of a housing development for very low income households; OR
2. Designate at least ten percent (10%) of the total units of a housing development for lower income households; OR
3. Designate at least ten percent (10%) of the total units of a condominium project or planned development for moderate income households.

The City shall grant a density bonus to an applicant who agrees to provide the following:

4. Any senior citizen housing development; OR
5. Donation of land pursuant to Government Code Section 65915 (h).

Developers electing to comply with the State Density Bonus Law must also meet the requirements of the City's Inclusionary Housing Ordinance.

B. **Allowable Density.** The number of density bonus units to be granted pursuant to this section shall be computed as follows:

1. Very Low Income Household. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%) provided, however, that for each one percent (1%) increase above five percent (5%) in the percentage of units affordable to very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty five percent (35%).
2. Lower Income Household. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%) provided, however, that for each one percent increase above ten percent (10%) in the percentage of units affordable to lower

income households, the number of density bonus units shall be increased by one and one-half percent (1.5%) up to a maximum of thirty five (35%) percent.

3. Moderate Income Condominium or Planned Development. The maximum allowable residential density for the site shall be multiplied by five percent (5%) provided, however, that for each one percent (1%) increase above ten percent (10%) of the percentage of units affordable to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty five percent (35%).

4. Senior Housing Development. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%).

5. Certain Donations of Land. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City that satisfies the requirements of Government Code Section 65915 (h), and complies with all procedural requirements of that subsection, including recordation of a deed restriction, then the maximum allowable residential density for the site shall be multiplied by fifteen percent (15%). However, for each one percent (1%) increase above the minimum percentage of land required to be donated pursuant to Government Code Section 65915 (h), the density bonus shall be increased by one percent up to a maximum of thirty five percent (35%). This increase shall be in addition to any increase required by Section 9674.3A of this division, up to a maximum combined density increase of thirty five percent (35%) if an applicant seeks both the increase required by this subsection and by Section 9674.3A.

All density calculations resulting in fractional units shall be rounded up to the next whole number. The density bonus shall not be included when determining the number of target units. When calculating the required number of target units, any resulting fraction of units shall be rounded to the next whole number.

9674.4 Grant of Incentives and Concessions.

A. Applicability of Incentives and Concessions. The allocation of an additional incentive or concession shall be determined on a case-by-case basis by the City Council pursuant to Government Code Section 65915(d). The City shall provide a density bonus and an additional incentive or concession for qualified developments upon the written request of a developer, unless the City makes the written findings, based on substantial evidence set forth in Government Code Section 65915(d)(1), of either of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs, or for rents for the targeted units.

2. The concession or incentive would have a specific adverse impact 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.

B. Number of Incentives or Concessions. In addition to the density bonus granted per Section 9674.3, Subsection B, the applicant shall receive the following number of incentives or concessions:

1. One (1) incentive shall be provided to a developer who agrees to construct at least ten percent (10%) of the total units for lower income households, at least five percent (5%) of the total units for very low income households, or at least ten percent (10%) of units in a condominium or planned development for moderate income households.

2. Two (2) incentives shall be provided to a developer who agrees to construct at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) of the total units for very low income households, or at least twenty percent (20%) of units in a condominium or planned development for moderate income households.

3. Three (3) incentives shall be provided to a developer who agrees to construct at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) of the total units for very low income households, or at least thirty percent (30%) of units in a condominium or planned development for moderate income households.

Table I. Affordability Category and Available Concessions/Incentives

AFFORDABILITY CATEGORY	ONE CONCESSION/ INCENTIVE	TWO CONCESSIONS/ INCENTIVES	THREE CONCESSIONS/ INCENTIVES
Very Low Income	5% set aside	10% set aside	15% set aside
Lower Income	10% set aside	20% set aside	30% set aside
Moderate Income	10% set aside	20% set aside	30% set aside

C. Types of Concessions and Incentives. If requested by the applicant, a qualifying project shall be entitled to at least one of the following incentives or concessions, unless the City makes the findings required by Government Code Section 65915(d)(1) as noted above:

1. Site Development Standards. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards as approved by the California Building Standards Commission (Division 13 of the Health and Safety Code), including, but not limited to, a reduction in minimum lot setbacks and reduced minimum lot size that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

2. Mixed Use. Approval of a mixed use zoning in conjunction with the housing project if other land uses will reduce the cost of the housing development and if the other uses are compatible with the housing project and existing or proposed development in the area where the proposed housing project will be located.

3. Other. Other regulatory incentives or concessions proposed by the developer or City that result in identifiable, financially sufficient, and actual cost reductions.

4. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land by the City or the waiver of fees or dedication requirements.

D. Requirements for Concessions and Incentives.

1. Economic Feasibility. An applicant seeking a waiver or modification of development or zoning standards shall show that the waiver or modification is necessary to make the housing development economically feasible assuming a reasonable rate of return.

3. Revenue. When determining project revenues, the applicant shall include moneys from the sale or rental of all units, including the density bonus units.

4. Costs. When determining project costs, the applicant shall not include the lost opportunity cost of the target units (e.g., the amount that would have been generated had the target units been rented or sold at market rate).

5. Criteria Used for Evaluation. One or more of the following criteria, to be determined by the City, shall be used to evaluate whether an incentive or concession is sufficient to make the affordable housing units economically feasible, and shall be submitted by the applicant:

a. A development pro forma with the capital costs, operating expenses, return on investment, revenues, loan-to-value ratio and the debt-coverage ratio, including the contribution provided by any applicable subsidy programs, and the economic effect created by the 30 year use and income restrictions of the affordable housing units.

b. Sources and use of funds statement identifying the projected financing gap of the project with the affordable housing units that are the basis for granting the density bonus and incentive(s) or concession(s). The developer shall establish how much of the gap would be covered by the density bonus, leaving a remainder figure to be covered by an additional incentive.

c. An appraisal report indicating the value of the density bonus and of the incentive(s) or concession(s) and of the value of any other incentive.

Determination of the completeness and accuracy of the financial information submitted in support of a request for an incentive and evaluation of this information shall be made by the City. The City may request assistance from a consultant in reviewing the financial information, the cost of which shall be borne by the applicant.

9674.5 Floor Area Bonus for Concessions/Incentives for Childcare Facilities.

A. In cases where the developer agrees to construct a housing development that qualifies for a density bonus pursuant to Section 9674.3A of this division that includes a childcare facility, the developer shall be entitled to an additional density bonus that is an amount of square feet of residential space equal to or greater than the amount of square feet in the childcare facility; or an additional incentive described in Section 9674.4, Subsection B, of this division that contributes significantly to the economic feasibility of the construction of the childcare facility. Any such childcare facility shall comply with the following:

1. The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable;

2. Of the children who attend the childcare 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 this division.

Notwithstanding the foregoing, the City shall not be required to provide a density bonus or incentive for a childcare facility when it is found, based upon substantial evidence, that the City has adequate childcare facilities.

9674.6 Affordability Requirements.

A. The owner's obligation to maintain units as affordable housing shall be evidenced by the Density Bonus Housing Agreement, which shall be recorded as a deed restriction running with the land and be binding upon all successors-in-interest.

B. Very Low and Low income category target units shall remain restricted and affordable to the designated group for a period of thirty (30) years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program), or otherwise provided by law.

C. Those units targeted for lower income households shall be affordable at a rent that does not exceed current Housing and Urban Development (HUD) income limits for lower income households for the County, adjusted for household size.

D. Those units targeted for very low income households shall be affordable at a rent that does not exceed current HUD income limits for very low income households for the County, adjusted for household size.

E. An applicant shall agree that the initial occupants of the moderate-income units in the condominium project or in the planned development are persons and families of moderate income. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote homeownership. For the purposes of this section, the City's proportionate share of appreciation shall be equal to the 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.

9674.7 Development Standards.

A. Target units shall be constructed concurrently with non-restricted units unless both the City and the applicant agree within the Density Bonus Housing Agreement to an alternative schedule for development.

B. Target units shall be built on site, and shall be dispersed within the development. In no event shall the target housing be located in only one portion of the housing development or situated in one building of a multi-building development. The design and exterior appearance of the affordable units shall be the same as the design and construction quality of the overall housing development. Target units may be smaller in aggregate size and have different interior finishes and features than the remainder of the units as long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The number of bedrooms must at a minimum be the same as those in the market-rate units. Housing developments shall comply with all applicable development standards, except those that may be modified as provided by this Division.

C. The density bonus units can be located in geographic areas of the development site other than the areas where the target units are located, and can be located only on parcels for which the density bonus was granted.

D. The entry into and execution of the Density Bonus Housing Agreement shall be a condition of any application for a discretionary planning permit (e.g., tract maps, parcel maps, site plans, conditional use permits) for a housing development proposed pursuant to this division. The agreement shall be recorded at the applicant's cost as a restriction on the parcel or parcels on which the target units will be constructed.

E. Upon request of the developer of a housing development qualifying for a density bonus pursuant to this Division, the City shall permit vehicular parking ratios, inclusive of handicapped and guest parking, in accordance with the following standards:

1. 0-1 bedrooms: One on-site parking space.
2. 2-3 bedrooms: Two on-site parking spaces.
3. 4 or more bedrooms: Two and one-half parking spaces.

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 section, a housing development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

9674.8 Processing of Bonus Requests.

A. Filing. An applicant proposing a housing development pursuant to this Division shall submit an application for a Density Bonus Housing Agreement as part of the submittal of any formal request for approval of a housing development. This shall be in addition to any other submittals required for the application for a discretionary planning permit for the housing development (e.g., tract maps, parcel maps, site plans, conditional use permits). An application for a Density Bonus Housing Agreement pursuant to this division shall be processed as part of the application for a housing development. An application for a housing development shall not be determined complete for purposes of Government Code Section 65920, et seq., unless and until the City Council has given preliminary approval of the form and content of the Density Bonus Housing Agreement, which complies with the provisions of this division.

B. Density Bonus Housing Agreement.

1. A Density Bonus Housing Agreement shall be made between the applicant and the City, which indicates the household type, number, location, size, and construction scheduling of all affordable units and any information required by the City to determine the applicant's compliance with this division.

2. The agreement shall be submitted to the Planning Commission for its recommendation and submitted to the City Council for final approval.

3. Following execution of the agreement by the applicant and the City, the completed agreement, or memorandum thereof, shall be recorded. The conditions contained in the agreement shall be filed and recorded on the parcel(s) designated for the construction of target units as a condition of final map approval, or, where a map is not being processed, prior to issuance of building permits or such parcels or units. The agreement shall be binding upon all future owners and successors in interest for this property, which is the subject of the housing development application.

C. Findings. All of the following findings shall be made, as applicable, in order to approve a density bonus, and incentive(s) or concession(s).

1. That the density bonus will contribute significantly to the economic feasibility of providing the affordable housing units.

2. That the incentive or concession is required in order to make the affordable housing units economically feasible or to set rents at qualifying levels for senior citizens and for moderate income, lower income or very low income households.

3. That the increased density and incentive(s) or concessions(s) will not cause significant adverse effects on the public health and safety or the physical environment.

9674.9 Changes in State Density Bonus Laws.

It is the intent of the City Council that the provisions of this division shall be interpreted so as to fulfill the requirements of Government Code Section 65915, notwithstanding changes in state laws revising percentages, numerical thresholds and/or other standards applicable to the granting of density bonuses or related incentives or concessions that may occur after the effective date of this division. Accordingly, it is the further intent of the City Council that any such changed percentages, numerical thresholds or other standards shall be deemed to supersede and govern any conflicting percentages, numerical thresholds or other standards contained in this Division, to the maximum extent permitted by law.

9674.10 Administrative Procedures.

The Director, or his or her designee, may adopt administrative procedures for the implementation of this Division.”

Section 5. Severability. The City Council declares that should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provision, sections, paragraphs, sentences and words of this ordinance shall remain in full force and effect.

Section 6. The City Clerk shall certify to the adoption of this ordinance.

This ordinance shall go into effect on the 31st day after its passage.

PASSED, APPROVED, AND ADOPTED, this ____ day of _____, 2008, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

John M. Edelston, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney

ATTACHMENT 1

DENSITY BONUS ORDINANCE

ORDINANCE NO. 08-352

**AN ORDINANCE OF THE CITY OF AGOURA HILLS,
CALIFORNIA, REVISING REGULATIONS APPLICABLE TO
THE GRANTING OF DENSITY BONUSES AND RELATED
INCENTIVES, AND AMENDING DIVISION 4. LOW AND
MODERATE INCOME HOUSING PERMIT OF PART 3 OF
CHAPTER 6 OF ARTICLE IX OF THE CITY OF AGOURA HILLS
MUNICIPAL CODE**

A. Recitals.

(i) The Statewide Density Bonus Law (Government Code Section 65915) requires each city to adopt an ordinance that specifies how residential density bonuses and related incentives shall be granted. The purpose of this ordinance is to amend the City's Municipal Code and adopt those procedures necessary in order to comply with Section 65915.

(ii) On May 15, 2008, the Planning Commission of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the Municipal Code amendments contained herein, as required by law. At the conclusion of the hearing, the Planning Commission recommended adoption of said amendments.

(iii) On June 11, 2008, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the Zoning Code amendments contained herein as required by law.

(iv) At the public hearing on June 11, 2008, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.

(v) All legal prerequisites to the adoption of this Ordinance have occurred.

B. Ordinance.

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

Section 1. The facts set forth in the Recitals, Part A of this ordinance, are true and correct.

Section 2. The provisions of this Ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The City Council held a

public hearing on June 11, 2008 to consider the Negative Declaration. Evidence, both written and oral, was duly presented to and considered by the City Council at this said hearing. The City Council finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The City Council has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment, and hereby adopts the Negative Declaration.

Section 3. Division 4. LOW AND MODERATE INCOME HOUSING PERMIT of Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code is hereby repealed in its entirety.

Section 4. New Division 4. RESIDENTIAL DENSITY BONUS is hereby added to Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code to read as follows:

“DIVISION 4. RESIDENTIAL DENSITY BONUS

Sections:

- 9674.1 Purpose.**
- 9674.2 Definitions.**
- 9674.3 Grant of Density Bonus.**
- 9674.4 Grant of Incentives and Concessions.**
- 9674.5 Floor Area Bonus for Concessions/Incentives for Childcare Facilities.**
- 9674.6 Affordability Requirements.**
- 9674.7 Development Standards.**
- 9674.8 Processing of Bonus Requests.**
- 9674.9 Changes in State Density Bonus Laws.**
- 9674.10 Administrative Procedures.**

9674.1 Purpose.

The purpose of the provisions of this division is to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with Government Code Sections 65915 and 65915.5 (Statewide Density Bonus Law). In enacting this division, it is the intent of the City to facilitate the development of affordable housing and to implement the goals, objectives and policies of the housing element of the City’s General Plan.

9674.2 Definitions.

Whenever the following terms are used in this chapter, they shall have the meanings established by this section:

- A. **ADDITIONAL INCENTIVE:** A regulatory concession as described in Government Code Section 65915 that may include, but not be limited to, the reduction of site development standards or Zoning Code requirements or other regulatory incentive, that would result in identifiable cost avoidance or reductions that is offered in addition to a density bonus.
- B. **AFFORDABLE HOUSING UNITS:** Housing units affordable to moderate, lower or very low income persons provided through the housing density bonus program pursuant to Government Code Section 65915.
- C. **CHILD CARE FACILITY:** A child day care (non-residential care) facility other than a family day care home, including, but not limited to, infant center, preschools, extended day care facilities, and school age child care centers, as described in Government Code Section 65915(i)(4).
- D. **CONDOMINIUM PROJECT:** A condominium project as defined in Section 1351 (f) of the California Civil Code. At the time of adoption of this Division, a condominium project means a development consisting of condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in a space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- E. **DENSITY BONUS:** A density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the City of Agoura Hills General Plan as of the date of application by the developer to the City.
- F. **DENSITY BONUS HOUSING AGREEMENT:** A legally binding agreement between a developer of a housing development and the City that ensures that the requirements of this Division and State Density Bonus Law are satisfied. The agreement shall establish, among other things, the number of target units, their size, location, terms and conditions of affordability and production schedule.
- G. **HOUSING DEVELOPMENT:** Construction projects consisting of five or more residential units or lots, including single-family and multi-family, that are proposed to be constructed.
- H. **LOWER INCOME HOUSEHOLD:** Households of lower income as defined in Section 50079.5 of the Health and Safety Code. At the time of the adoption of this Division, a household whose median income is equal to or less than 80 percent of the area median income is Lower Income, and is considered to be able to afford rent that does not exceed 30 percent of 80 percent of the area median income.

- I. **MODERATE INCOME HOUSEHOLD:** Households of moderate income as defined in Section 50093 of the Health and Safety Code. At the time of adoption of this Division, a household whose median income is equal to or less than 120 percent of the area median income is Moderate Income, and is considered to be able to afford rent that does not exceed 30 percent of 120 percent of the area median income.
- J. **PLANNED DEVELOPMENT:** A planned development as defined in Section 1351 (k) of the Civil Code. At the time of adoption of this Division, a planned development means a development other than a community apartment, condominium or stock cooperative having either or both of the following features:
- (1) The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
 - (2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment that may become a lien upon the separate interests in accordance with Section 1367 or 1367.1 of the California Civil Code.
- K. **SENIOR CITIZEN:** A senior citizen as defined in Section 51.3 of the Civil Code. At the time of the adoption of this section, qualifying resident or senior citizen were generally defined as a person 62 years of age or older, or 55 years of age or older living in a senior citizen housing development other than a mobile home, or the spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.
- L. **SENIOR CITIZEN HOUSING DEVELOPMENT:** A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code. At the time of adoption of this Division, a senior citizen housing development consists of more than 20 dwelling units and is designated as a senior community by its developer and zoned as a senior community by a local governmental entity, or characterized as a senior community in its governing documents, as these are defined in Section 1351, or qualified as a senior community under the Fair Housing Amendments Act of 1988, as amended.
- M. **VERY LOW INCOME HOUSEHOLD:** Households of Very Low Income as defined in Section 50105 of the California Health and Safety Code. At the time of the adoption of this Division, a household whose median income is equal to or less than 50 percent of the area median income is Very Low Income, and is considered to be able to afford rent that does not exceed 30 percent of 50 percent of the area median income.

- N. TARGET UNIT: A dwelling unit within a housing development to be reserved for sale or rent to, and affordable to, very low or lower income households, or moderate income households as provided in Section 9674.3, Subsection B.

9674.3 Grant of Density Bonus.

A. Qualifying for Density Bonus. The City shall grant a density bonus to any project for which a density bonus and incentives are required pursuant to Government Code Section 65915. A single development project shall not be granted more than one density bonus in compliance with this division, except as provided in Section 9674.3(B)(5).

The City shall grant a density bonus and at least one of the incentives described in Section 9674.4, Subsection B of this division to an applicant who agrees to provide the following:

1. Designate at least five percent (5%) of the total units of a housing development for very low income households; OR
2. Designate at least ten percent (10%) of the total units of a housing development for lower income households; OR
3. Designate at least ten percent (10%) of the total units of a condominium project or planned development for moderate income households.

The City shall grant a density bonus to an applicant who agrees to provide the following:

4. Any senior citizen housing development; OR
5. Donation of land pursuant to Government Code Section 65915 (h).

Developers electing to comply with the State Density Bonus Law must also meet the requirements of the City's Inclusionary Housing Ordinance.

B. Allowable Density. The number of density bonus units to be granted pursuant to this section shall be computed as follows:

1. Very Low Income Household. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%) provided, however, that for each one percent (1%) increase above five percent (5%) in the percentage of units affordable to very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty five percent (35%).
2. Lower Income Household. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%) provided, however, that for each one percent increase above ten percent (10%) in the percentage of units affordable to lower

income households, the number of density bonus units shall be increased by one and one-half percent (1.5%) up to a maximum of thirty five (35%) percent.

3. Moderate Income Condominium or Planned Development. The maximum allowable residential density for the site shall be multiplied by five percent (5%) provided, however, that for each one percent (1%) increase above ten percent (10%) of the percentage of units affordable to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty five percent (35%).

4. Senior Housing Development. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%).

5. Certain Donations of Land. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City that satisfies the requirements of Government Code Section 65915 (h), and complies with all procedural requirements of that subsection, including recordation of a deed restriction, then the maximum allowable residential density for the site shall be multiplied by fifteen percent (15%). However, for each one percent (1%) increase above the minimum percentage of land required to be donated pursuant to Government Code Section 65915 (h), the density bonus shall be increased by one percent up to a maximum of thirty five percent (35%). This increase shall be in addition to any increase required by Section 9674.3A of this division, up to a maximum combined density increase of thirty five percent (35%) if an applicant seeks both the increase required by this subsection and by Section 9674.3A.

All density calculations resulting in fractional units shall be rounded up to the next whole number. The density bonus shall not be included when determining the number of target units. When calculating the required number of target units, any resulting fraction of units shall be rounded to the next whole number.

9674.4 Grant of Incentives and Concessions.

A. Applicability of Incentives and Concessions. The allocation of an additional incentive or concession shall be determined on a case-by-case basis by the City Council pursuant to Government Code Section 65915(d). The City shall provide a density bonus and an additional incentive or concession for qualified developments upon the written request of a developer, unless the City makes the written findings, based on substantial evidence set forth in Government Code Section 65915(d)(1), of either of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs, or for rents for the targeted units.

2. The concession or incentive would have a specific adverse impact 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.

B. Number of Incentives or Concessions. In addition to the density bonus granted per Section 9674.3, Subsection B, the applicant shall receive the following number of incentives or concessions:

1. One (1) incentive shall be provided to a developer who agrees to construct at least ten percent (10%) of the total units for lower income households, at least five percent (5%) of the total units for very low income households, or at least ten percent (10%) of units in a condominium or planned development for moderate income households.

2. Two (2) incentives shall be provided to a developer who agrees to construct at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) of the total units for very low income households, or at least twenty percent (20%) of units in a condominium or planned development for moderate income households.

3. Three (3) incentives shall be provided to a developer who agrees to construct at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) of the total units for very low income households, or at least thirty percent (30%) of units in a condominium or planned development for moderate income households.

Table I. Affordability Category and Available Concessions/Incentives

AFFORDABILITY CATEGORY	ONE CONCESSION/ INCENTIVE	TWO CONCESSIONS/ INCENTIVES	THREE CONCESSIONS/ INCENTIVES
Very Low Income	5% set aside	10% set aside	15% set aside
Lower Income	10% set aside	20% set aside	30% set aside
Moderate Income	10% set aside	20% set aside	30% set aside

C. Types of Concessions and Incentives. If requested by the applicant, a qualifying project shall be entitled to at least one of the following incentives or concessions, unless the City makes the findings required by Government Code Section 65915(d)(1) as noted above:

1. Site Development Standards. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards as approved by the California Building Standards Commission (Division 13 of the Health and Safety Code), including, but not limited to, a reduction in minimum lot setbacks and reduced minimum lot size that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

2. Mixed Use. Approval of a mixed use zoning in conjunction with the housing project if other land uses will reduce the cost of the housing development and if the other uses are compatible with the housing project and existing or proposed development in the area where the proposed housing project will be located.

3. Other. Other regulatory incentives or concessions proposed by the developer or City that result in identifiable, financially sufficient, and actual cost reductions.

4. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land by the City or the waiver of fees or dedication requirements.

D. Requirements for Concessions and Incentives.

1. Economic Feasibility. An applicant seeking a waiver or modification of development or zoning standards shall show that the waiver or modification is necessary to make the housing development economically feasible assuming a reasonable rate of return.

3. Revenue. When determining project revenues, the applicant shall include moneys from the sale or rental of all units, including the density bonus units.

4. Costs. When determining project costs, the applicant shall not include the lost opportunity cost of the target units (e.g., the amount that would have been generated had the target units been rented or sold at market rate).

5. Criteria Used for Evaluation. One or more of the following criteria, to be determined by the City, shall be used to evaluate whether an incentive or concession is sufficient to make the affordable housing units economically feasible, and shall be submitted by the applicant:

a. A development pro forma with the capital costs, operating expenses, return on investment, revenues, loan-to-value ratio and the debt-coverage ratio, including the contribution provided by any applicable subsidy programs, and the economic effect created by the 30 year use and income restrictions of the affordable housing units.

b. Sources and use of funds statement identifying the projected financing gap of the project with the affordable housing units that are the basis for granting the density bonus and incentive(s) or concession(s). The developer shall establish how much of the gap would be covered by the density bonus, leaving a remainder figure to be covered by an additional incentive.

c. An appraisal report indicating the value of the density bonus and of the incentive(s) or concession(s) and of the value of any other incentive.

Determination of the completeness and accuracy of the financial information submitted in support of a request for an incentive and evaluation of this information shall be made by the City. The City may request assistance from a consultant in reviewing the financial information, the cost of which shall be borne by the applicant.

9674.5 Floor Area Bonus for Concessions/Incentives for Childcare Facilities.

A. In cases where the developer agrees to construct a housing development that qualifies for a density bonus pursuant to Section 9674.3A of this division that includes a childcare facility, the developer shall be entitled to an additional density bonus that is an amount of square feet of residential space equal to or greater than the amount of square feet in the childcare facility; or an additional incentive described in Section 9674.4, Subsection B, of this division that contributes significantly to the economic feasibility of the construction of the childcare facility. Any such childcare facility shall comply with the following:

1. The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable;

2. Of the children who attend the childcare 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 this division.

Notwithstanding the foregoing, the City shall not be required to provide a density bonus or incentive for a childcare facility when it is found, based upon substantial evidence, that the City has adequate childcare facilities.

9674.6 Affordability Requirements.

A. The owner's obligation to maintain units as affordable housing shall be evidenced by the Density Bonus Housing Agreement, which shall be recorded as a deed restriction running with the land and be binding upon all successors-in-interest.

B. Very Low and Low income category target units shall remain restricted and affordable to the designated group for a period of thirty (30) years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program), or otherwise provided by law.

C. Those units targeted for lower income households shall be affordable at a rent that does not exceed current Housing and Urban Development (HUD) income limits for lower income households for the County, adjusted for household size.

D. Those units targeted for very low income households shall be affordable at a rent that does not exceed current HUD income limits for very low income households for the County, adjusted for household size.

E. An applicant shall agree that the initial occupants of the moderate-income units in the condominium project or in the planned development are persons and families of moderate income. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote homeownership. For the purposes of this section, the City's proportionate share of appreciation shall be equal to the 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.

9674.7 Development Standards.

A. Target units shall be constructed concurrently with non-restricted units unless both the City and the applicant agree within the Density Bonus Housing Agreement to an alternative schedule for development.

B. Target units shall be built on site, and shall be dispersed within the development. In no event shall the target housing be located in only one portion of the housing development or situated in one building of a multi-building development. The design and exterior appearance of the affordable units shall be the same as the design and construction quality of the overall housing development. Target units may be smaller in aggregate size and have different interior finishes and features than the remainder of the units as long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The number of bedrooms must at a minimum be the same as those in the market-rate units. Housing developments shall comply with all applicable development standards, except those that may be modified as provided by this Division.

C. The density bonus units can be located in geographic areas of the development site other than the areas where the target units are located, and can be located only on parcels for which the density bonus was granted.

D. The entry into and execution of the Density Bonus Housing Agreement shall be a condition of any application for a discretionary planning permit (e.g., tract maps, parcel maps, site plans, conditional use permits) for a housing development proposed pursuant to this division. The agreement shall be recorded at the applicant's cost as a restriction on the parcel or parcels on which the target units will be constructed.

E. Upon request of the developer of a housing development qualifying for a density bonus pursuant to this Division, the City shall permit vehicular parking ratios, inclusive of handicapped and guest parking, in accordance with the following standards:

1. 0-1 bedrooms: One on-site parking space.
2. 2-3 bedrooms: Two on-site parking spaces.
3. 4 or more bedrooms: Two and one-half parking spaces.

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 section, a housing development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

9674.8 Processing of Bonus Requests.

A. Filing. An applicant proposing a housing development pursuant to this Division shall submit an application for a Density Bonus Housing Agreement as part of the submittal of any formal request for approval of a housing development. This shall be in addition to any other submittals required for the application for a discretionary planning permit for the housing development (e.g., tract maps, parcel maps, site plans, conditional use permits). An application for a Density Bonus Housing Agreement pursuant to this division shall be processed as part of the application for a housing development. An application for a housing development shall not be determined complete for purposes of Government Code Section 65920, et seq., unless and until the City Council has given preliminary approval of the form and content of the Density Bonus Housing Agreement, which complies with the provisions of this division.

B. Density Bonus Housing Agreement.

1. A Density Bonus Housing Agreement shall be made between the applicant and the City, which indicates the household type, number, location, size, and construction scheduling of all affordable units and any information required by the City to determine the applicant's compliance with this division.

2. The agreement shall be submitted to the Planning Commission for its recommendation and submitted to the City Council for final approval.

3. Following execution of the agreement by the applicant and the City, the completed agreement, or memorandum thereof, shall be recorded. The conditions contained in the agreement shall be filed and recorded on the parcel(s) designated for the construction of target units as a condition of final map approval, or, where a map is not being processed, prior to issuance of building permits or such parcels or units. The agreement shall be binding upon all future owners and successors in interest for this property, which is the subject of the housing development application.

C. Findings. All of the following findings shall be made, as applicable, in order to approve a density bonus, and incentive(s) or concession(s).

1. That the density bonus will contribute significantly to the economic feasibility of providing the affordable housing units.

2. That the incentive or concession is required in order to make the affordable housing units economically feasible or to set rents at qualifying levels for senior citizens and for moderate income, lower income or very low income households.

3. That the increased density and incentive(s) or concessions(s) will not cause significant adverse effects on the public health and safety or the physical environment.

9674.9 Changes in State Density Bonus Laws.

It is the intent of the City Council that the provisions of this division shall be interpreted so as to fulfill the requirements of Government Code Section 65915, notwithstanding changes in state laws revising percentages, numerical thresholds and/or other standards applicable to the granting of density bonuses or related incentives or concessions that may occur after the effective date of this division. Accordingly, it is the further intent of the City Council that any such changed percentages, numerical thresholds or other standards shall be deemed to supersede and govern any conflicting percentages, numerical thresholds or other standards contained in this Division, to the maximum extent permitted by law.

9674.10 Administrative Procedures.

The Director, or his or her designee, may adopt administrative procedures for the implementation of this Division.”

Section 5. Severability. The City Council declares that should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provision, sections, paragraphs, sentences and words of this ordinance shall remain in full force and effect.

Section 6. The City Clerk shall certify to the adoption of this ordinance.

This ordinance shall go into effect on the 31st day after its passage.

PASSED, APPROVED, AND ADOPTED, this ____ day of _____, 2008, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

John M. Edelston, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney

ATTACHMENT 2

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 935

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS RECOMMENDING THAT THE CITY COUNCIL REVISE REGULATIONS APPLICABLE TO THE GRANTING OF DENSITY BONUSES AND RELATED INCENTIVES, AND RECOMMENDING THAT THE CITY COUNCIL MAKE ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE # 08-ZOA-001)

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

WHEREAS, the Planning Commission has considered a Zoning Ordinance Amendment (ZOA) to revise regulations applicable to the granting of density bonuses and related incentives, pursuant to the Statewide Density Bonus Law (Government Code Section 65915), in Division 4. Low and Moderate Income Housing Permit of Part 3 of Chapter 6 of Article IX of the City of Agoura Hills Municipal Code.

WHEREAS, a duly noticed public hearing was held on May 15, 2008 at 6:30 p.m. in the City Hall Council Chambers, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given; and

WHEREAS, evidence, both written and oral, was duly presented to and considered by the Planning Commission of the City of Agoura Hills at the aforesaid public hearing; and

WHEREAS, after close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff report, the recommendations, and all other pertinent documents and associated actions regarding the proposed ordinance amendment; and

WHEREAS, the Statewide Density Bonus Law (Government Code Section 65915) requires each city to adopt an ordinance that specifies how residential density bonuses and related incentives shall be granted, and changes are needed to amend the City's Municipal Code to adopt those procedures necessary in order to comply with Section 65915; and

WHEREAS, the provisions of this division are to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with Section 65915; and

WHEREAS, it is the intent of the City to facilitate the development of affordable housing and to implement the goals, objectives and policies of the Housing Element of the General Plan, and the proposed amendments are consistent with the purposes of the General Plan in that they would help to provide a broad range of housing opportunities in the City; and

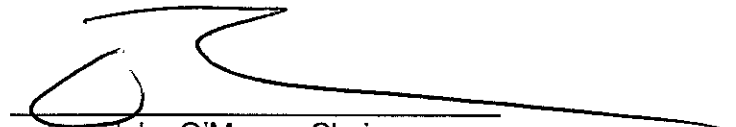
WHEREAS, the provisions of the Municipal Code amendments have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The Planning Commission held a public hearing on May 15,

2008 to consider the Negative Declaration. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at this said hearing. The Planning Commission finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The Planning Commission has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Agoura Hills recommends that the City Council repeal in its entirety Division 4. Low and Moderate Income Housing Permit of Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code, and add new Division 4. Residential Density Bonus to Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code, and that the City Council adopts the Negative Declaration prepared for the Zoning Ordinance Amendment.


PASSED, APPROVED AND ADOPTED this 15th day of May 2008, by the following vote to wit:

AYES: (4) O'Meara, Buckley Weber, Rishoff, Nouzille
NOES: (0)
ABSENT: (1) Zacuto
ABSTAIN: (0)



John O'Meara, Chair

ATTEST:



Doug Hooper, Secretary

ORDINANCE NO. 08-_____

AN ORDINANCE OF THE CITY OF AGOURA HILLS REVISING REGULATIONS APPLICABLE TO THE GRANTING OF DENSITY BONUSES AND RELATED INCENTIVES, AND AMENDING DIVISION 4. LOW AND MODERATE INCOME HOUSING PERMIT OF PART 3 OF CHAPTER 6 OF ARTICLE IX OF THE CITY OF AGOURA HILLS MUNICIPAL CODE

A. Recitals.

(i) The Statewide Density Bonus Law (Government Code Section 65915) requires each city to adopt an ordinance that specifies how residential density bonuses and related incentives shall be granted. The purpose of this ordinance is to amend the City's Municipal Code and adopt those procedures necessary in order to comply with Section 65915.

(ii) On May 15, 2008, the Planning Commission of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the municipal code amendments contained herein, as required by law. At the conclusion of the hearing, the Planning Commission recommended adoption of said amendments.

(iii) On _____, 2008 the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the zoning code amendments contained herein as required by law.

(iv) At the public hearing on _____, 2008, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.

(v) All legal prerequisites to the adoption of this ordinance have occurred.

B. Ordinance.

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

Section 1. The facts set forth in the Recitals, Part A of this ordinance, are true and correct.

Section 2. The provisions of this Ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The City Council held a public hearing on _____, 2008 to consider the Negative Declaration. Evidence,

both written and oral, was duly presented to and considered by the City Council at this said hearing. The City Council finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The City Council has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment, and hereby adopts the Negative Declaration.

Section 3. Division 4. LOW AND MODERATE INCOME HOUSING PERMIT of Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code is hereby repealed in its entirety.

Section 4. New Division 4. RESIDENTIAL DENSITY BONUS is hereby added to Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code to read as follows:

“DIVISION 4. RESIDENTIAL DENSITY BONUS

Sections:

- 9674.1 Purpose.**
- 9674.2 Definitions.**
- 9674.3 Grant of Density Bonus.**
- 9674.4 Grant of Incentives and Concessions.**
- 9674.5 Floor Area Bonus for Concessions/Incentives for Childcare Facilities.**
- 9674.6 Affordability Requirements.**
- 9674.7 Development Standards.**
- 9674.8 Processing of Bonus Requests.**
- 9674.9 Changes in State Density Bonus Laws.**
- 9674.10 Administrative Procedures.**

9674.1 Purpose.

The purpose of the provisions of this division is to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with Government Code Sections 65915 and 65915.5 (Statewide Density Bonus Law). In enacting this division, it is the intent of the city to facilitate the development of affordable housing and to implement the goals, objectives and policies of the housing element of the city's general plan.

9674.2 Definitions.

Whenever the following terms are used in this chapter, they shall have the meanings established by this section:

- A. **ADDITIONAL INCENTIVE:** A regulatory concession as described in Government Code Section 65915 that may include, but not be limited to, the reduction of site development standards or zoning code requirements or other regulatory incentive, that would result in identifiable cost avoidance or reductions that is offered in addition to a density bonus.
- B. **AFFORDABLE HOUSING UNITS:** Housing units affordable to moderate, lower or very low income persons provided through the housing density bonus program pursuant to Government Code Section 65915.
- C. **CHILD CARE FACILITY:** A child day care (non-residential care) facility other than a family day care home, including, but not limited to, infant center, preschools, extended day care facilities, and school age child care centers, as described in Government Code Section 65915(i)(4).
- D. **CONDOMINIUM PROJECT:** A condominium project as defined in Section 1351 (f) of the California Civil Code. At the time of adoption of this Division, a condominium project means a development consisting of condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in a space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- E. **DENSITY BONUS:** A density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the City of Agoura Hills General Plan as of the date of application by the developer to the City.
- F. **DENSITY BONUS HOUSING AGREEMENT:** A legally binding agreement between a developer of a housing development and the City that ensures that the requirements of this division and State Density Bonus Law are satisfied. The agreement shall establish, among other things, the number of target units, their size, location, terms and conditions of affordability and production schedule.
- G. **HOUSING DEVELOPMENT:** Construction projects consisting of five or more residential units or lots, including single-family and multi-family, that are proposed to be constructed.
- H. **LOWER INCOME HOUSEHOLD:** Households of lower income as defined in Section 50079.5 of the Health and Safety Code. At the time of the adoption of this Division, a household whose median income is equal to or less than 80 percent of the area median income is Lower Income, and is considered to be able to afford rent that does not exceed 30 percent of 80 percent of the area median income.

- I. **MODERATE INCOME HOUSEHOLD:** Households of moderate income as defined in Section 50093 of the Health and Safety Code. At the time of adoption of this Division, a household whose median income is equal to or less than 120 percent of the area median income is Moderate Income, and is considered to be able to afford rent that does not exceed 30 percent of 120 percent of the area median income.
- J. **PLANNED DEVELOPMENT:** A planned development as defined in Section 1351 (k) of the Civil Code. At the time of adoption of this Division, a planned development means a development other than a community apartment, condominium or stock cooperative having either or both of the following features:
- (1) The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
 - (2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment that may become a lien upon the separate interests in accordance with Section 1367 or 1367.1 of the California Civil Code.
- K. **SENIOR CITIZEN:** A senior citizen as defined in Section 51.3 of the Civil Code. At the time of the adoption of this section, qualifying resident or senior citizen were generally defined as a person 62 years of age or older, or 55 years of age or older living in a senior citizen housing development other than a mobile home, or the spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.
- L. **SENIOR CITIZEN HOUSING DEVELOPMENT:** A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code. At the time of adoption of this Division, a senior citizen housing development consists of more than 20 dwelling units and is designated as a senior community by its developer and zoned as a senior community by a local governmental entity, or characterized as a senior community in its governing documents, as these are defined in Section 1351, or qualified as a senior community under the federal Fair Housing Amendments Act of 1988, as amended.
- M. **VERY LOW INCOME HOUSEHOLD:** Households of Very Low Income as defined in Section 50105 of the California Health and Safety Code. At the time of the adoption of this Division, a household whose median income is equal to or less than 50 percent of the area median income is Very Low Income, and is considered to be able to afford rent that does not exceed 30 percent of 50 percent of the area median income.

- N. **TARGET UNIT:** A dwelling unit within a housing development to be reserved for sale or rent to, and affordable to, very low or lower income households, or moderate income households as provided in Section 9674.3, Subsection B.

9674.3 Grant of Density Bonus.

A. **Qualifying for Density Bonus.** The City shall grant a density bonus to any project for which a density bonus and incentives are required pursuant to Government Code Section 65915. A single development project shall not be granted more than one density bonus in compliance with this division, except as provided in Section 9674.3(B)(5).

The City shall grant a density bonus and at least one of the incentives described in Section 9674.4, Subsection B of this division to an applicant who agrees to provide the following:

1. Designate at least five percent (5%) of the total units of a housing development for very low income households; OR
2. Designate at least ten percent (10%) of the total units of a housing development for lower income households; OR
3. Designate at least ten percent (10%) of the total units of a condominium project or planned development for moderate income households.

The City shall grant a density bonus to an applicant who agrees to provide the following:

4. Any senior citizen housing development; OR
5. Donation of land pursuant to Government Code Section 65915 (h).

Developers electing to comply with the State Density Bonus Law must also meet the requirements of the City's Inclusionary Housing Ordinance.

B. **Allowable Density.** The number of density bonus units to be granted pursuant to this section shall be computed as follows:

1. Very Low Income Household. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%) provided, however, that for each one percent (1%) increase above five percent (5%) in the percentage of units affordable to very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty five percent (35%).

2. Lower Income Household. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%) provided, however, that for each one percent increase above ten percent (10%) in the percentage of units affordable to lower

income households, the number of density bonus units shall be increased by one and one-half percent (1.5%) up to a maximum of thirty five (35%) percent.

3. Moderate Income Condominium or Planned Development. The maximum allowable residential density for the site shall be multiplied by five percent (5%) provided, however, that for each one percent (1%) increase above ten percent (10%) of the percentage of units affordable to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty five percent (35%).

4. Senior Housing Development. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%).

5. Certain Donations of Land. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City that satisfies the requirements of Government Code Section 65915 (h), and complies with all procedural requirements of that subsection, including recordation of a deed restriction, then the maximum allowable residential density for the site shall be multiplied by fifteen percent (15%). However, for each one percent (1%) increase above the minimum percentage of land required to be donated pursuant to Government Code Section 65915 (h), the density bonus shall be increased by one percent up to a maximum of thirty five percent (35%). This increase shall be in addition to any increase required by Section 9674.3A of this division, up to a maximum combined density increase of thirty five percent (35%) if an applicant seeks both the increase required by this subsection and by Section 9674.3A.

All density calculations resulting in fractional units shall be rounded up to the next whole number. The density bonus shall not be included when determining the number of target units. When calculating the required number of target units, any resulting fraction of units shall be rounded to the next whole number.

9674.4 Grant of Incentives and Concessions.

A. Applicability of Incentives and Concessions. The allocation of an additional incentive or concession shall be determined on a case-by-case basis by the City Council pursuant to Government Code Section 65915(d). The City shall provide a density bonus and an additional incentive or concession for qualified developments upon the written request of a developer, unless the City makes the written findings, based on substantial evidence set forth in Government Code Section 65915(d)(1), of either of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs, or for rents for the targeted units.

2. The concession or incentive would have a specific adverse impact 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.

B. Number of Incentives or Concessions. In addition to the density bonus granted per Section 9674.3, Subsection B, the applicant shall receive the following number of incentives or concessions:

1. One (1) incentive shall be provided to a developer who agrees to construct at least ten percent (10%) of the total units for lower income households, at least five percent (5%) of the total units for very low income households, or at least ten percent (10%) of units in a condominium or planned development for moderate income households.

2. Two (2) incentives shall be provided to a developer who agrees to construct at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) of the total units for very low income households, or at least twenty percent (20%) of units in a condominium or planned development for moderate income households.

3. Three (3) incentives shall be provided to a developer who agrees to construct at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) of the total units for very low income households, or at least thirty percent (30%) of units in a condominium or planned development for moderate income households.

Table I. Affordability Category and Available Concessions/Incentives

AFFORDABILITY CATEGORY	ONE CONCESSION/ INCENTIVE	TWO CONCESSIONS/ INCENTIVES	THREE CONCESSIONS/ INCENTIVES
Very Low Income	5% set aside	10% set aside	15% set aside
Lower Income	10% set aside	20% set aside	30% set aside
Moderate Income	10% set aside	20% set aside	30% set aside

C. Types of Concessions and Incentives. If requested by the applicant, a qualifying project shall be entitled to at least one of the following incentives or concessions, unless the City makes the findings required by Government Code Section 65915(d)(1) as noted above:

1. Site Development Standards. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards as approved by the California Building Standards Commission (Division 13 of the Health and Safety Code), including, but not limited to, a reduction in minimum lot setbacks and reduced minimum lot size that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

2. Mixed Use. Approval of a mixed use zoning in conjunction with the housing project if other land uses will reduce the cost of the housing development and if the other uses are compatible with the housing project and existing or proposed development in the area where the proposed housing project will be located.

3. Other. Other regulatory incentives or concessions proposed by the developer or City that result in identifiable, financially sufficient, and actual cost reductions.

4. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land by the City or the waiver of fees or dedication requirements.

D. Requirements for Concessions and Incentives.

1. Economic Feasibility. An applicant seeking a waiver or modification of development or zoning standards shall show that the waiver or modification is necessary to make the housing development economically feasible assuming a reasonable rate of return.

3. Revenue. When determining project revenues, the applicant shall include moneys from the sale or rental of all units, including the density bonus units.

4. Costs. When determining project costs, the applicant shall not include the lost opportunity cost of the target units (e.g., the amount that would have been generated had the target units been rented or sold at market rate).

5. Criteria Used for Evaluation. One or more of the following criteria, to be determined by the City, shall be used to evaluate whether an incentive or concession is sufficient to make the affordable housing units economically feasible, and shall be submitted by the applicant:

a. A development pro forma with the capital costs, operating expenses, return on investment, revenues, loan-to-value ratio and the debt-coverage ratio, including the contribution provided by any applicable subsidy programs, and the economic effect created by the 30 year use and income restrictions of the affordable housing units.

b. Sources and use of funds statement identifying the projected financing gap of the project with the affordable housing units that are the basis for granting the density bonus and incentive(s) or concession(s). The developer shall establish how much of the gap would be covered by the density bonus, leaving a remainder figure to be covered by an additional incentive.

c. An appraisal report indicating the value of the density bonus and of the incentive(s) or concession(s) and of the value of any other incentive.

Determination of the completeness and accuracy of the financial information submitted in support of a request for an incentive and evaluation of this information shall be made by the City. The City may request assistance from a consultant in reviewing the financial information, the cost of which shall be borne by the applicant.

9674.5 Floor Area Bonus for Concessions/Incentives for Childcare Facilities.

A. In cases where the developer agrees to construct a housing development that qualifies for a density bonus pursuant to Section 9674.3A of this division that includes a childcare facility, the developer shall be entitled to an additional density bonus that is an amount of square feet of residential space equal to or greater than the amount of square feet in the childcare facility; or an additional incentive described in Section 9674.4, Subsection B, of this division that contributes significantly to the economic feasibility of the construction of the childcare facility. Any such childcare facility shall comply with the following:

1. The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable;

2. Of the children who attend the childcare 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 this division.

Notwithstanding the foregoing, the City shall not be required to provide a density bonus or incentive for a childcare facility when it is found, based upon substantial evidence, that the City has adequate childcare facilities.

9674.6 Affordability Requirements.

A. The owner's obligation to maintain units as affordable housing shall be evidenced by the Density Bonus Housing Agreement, which shall be recorded as a deed restriction running with the land and be binding upon all successors-in-interest.

B. Very Low and Low income category target units shall remain restricted and affordable to the designated group for a period of thirty (30) years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program), or otherwise provided by law.

C. Those units targeted for lower income households shall be affordable at a rent that does not exceed current Housing and Urban Development (HUD) income limits for lower income households for the county, adjusted for household size.

D. Those units targeted for very low income households shall be affordable at a rent that does not exceed current HUD income limits for very low income households for the county, adjusted for household size.

E. An applicant shall agree that the initial occupants of the moderate-income units in the condominium project or in the planned development are persons and families of moderate income. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote homeownership. For the purposes of this section, the City's proportionate share of appreciation shall be equal to the 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.

9674.7 Development Standards.

A. Target units shall be constructed concurrently with non-restricted units unless both the City and the applicant agree within the Density Bonus Housing Agreement to an alternative schedule for development.

B. Target units shall be built on site, and shall be dispersed within the development. In no event shall the target housing be located in only one portion of the housing development or situated in one building of a multi-building development. The design and exterior appearance of the affordable units shall be the same as the design and construction quality of the overall housing development. Target units may be smaller in aggregate size and have different interior finishes and features than the remainder of the units as long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The number of bedrooms must at a minimum be the same as those in the market-rate units. Housing developments shall comply with all applicable development standards, except those that may be modified as provided by this Division.

C. The density bonus units can be located in geographic areas of the development site other than the areas where the target units are located, and can be located only on parcels for which the density bonus was granted.

D. The entry into and execution of the Density Bonus Housing Agreement shall be a condition of any application for a discretionary planning permit (e.g., tract maps, parcel maps, site plans, conditional use permits) for a housing development proposed pursuant to this division. The agreement shall be recorded at the applicant's cost as a restriction on the parcel or parcels on which the target units will be constructed.

E. Upon request of the developer of a housing development qualifying for a density bonus pursuant to this division, the City shall permit vehicular parking ratios, inclusive of handicapped and guest parking, in accordance with the following standards:

1. 0-1 bedrooms: One on-site parking space.
2. 2-3 bedrooms: Two on-site parking spaces.
3. 4 or more bedrooms: Two and one-half parking spaces.

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 section, a housing development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

9674.8 Processing of Bonus Requests.

A. Filing. An applicant proposing a housing development pursuant to this Division shall submit an application for a Density Bonus Housing Agreement as part of the submittal of any formal request for approval of a housing development. This shall be in addition to any other submittals required for the application for a discretionary planning permit for the housing development (e.g., tract maps, parcel maps, site plans, conditional use permits). An application for a Density Bonus Housing Agreement pursuant to this division shall be processed as part of the application for a housing development. An application for a housing development shall not be determined complete for purposes of Government Code Section 65920, et seq., unless and until the City Council has given preliminary approval of the form and content of the Density Bonus Housing Agreement, which complies with the provisions of this division.

B. Density Bonus Housing Agreement.

1. A Density Bonus Housing Agreement shall be made between the applicant and the City, which indicates the household type, number, location, size, and construction scheduling of all affordable units and any information required by the City to determine the applicant's compliance with this division.

2. The agreement shall be submitted to the Planning Commission for its recommendation and submitted to the City Council for final approval.

3. Following execution of the agreement by the applicant and the City, the completed agreement, or memorandum thereof, shall be recorded. The conditions contained in the agreement shall be filed and recorded on the parcel(s) designated for the construction of target units as a condition of final map approval, or, where a map is not being processed, prior to issuance of building permits or such parcels or units. The agreement shall be binding upon all future owners and successors in interest for this property, which is the subject of the housing development application.

C. Findings. All of the following findings shall be made, as applicable, in order to approve a density bonus, and incentive(s) or concession(s).

1. That the density bonus will contribute significantly to the economic feasibility of providing the affordable housing units.

2. That the incentive or concession is required in order to make the affordable housing units economically feasible or to set rents at qualifying levels for senior citizens and for moderate income, lower income or very low income households.

3. That the increased density and incentive(s) or concessions(s) will not cause significant adverse effects on the public health and safety or the physical environment.

9674.9 Changes in State Density Bonus Laws.

It is the intent of the City Council that the provisions of this division shall be interpreted so as to fulfill the requirements of Government Code Section 65915, notwithstanding changes in state laws revising percentages, numerical thresholds and/or other standards applicable to the granting of density bonuses or related incentives or concessions that may occur after the effective date of this division. Accordingly, it is the further intent of the City Council that any such changed percentages, numerical thresholds or other standards shall be deemed to supersede and govern any conflicting percentages, numerical thresholds or other standards contained in this division, to the maximum extent permitted by law.

9674.10 Administrative Procedures.

The Director or his or her designee may adopt administrative procedures for the implementation of this Division.”

Section 5. Severability. The city council declares that should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provision, sections, paragraphs, sentences and words of this ordinance shall remain in full force and effect.

Section 6. The City Clerk shall certify to the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED this ____ day of ____ 2008, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

John M. Edelston, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney

ATTACHMENT 3

INITIAL STUDY/NEGATIVE DECLARATION

RESIDENTIAL DENSITY BONUS
ZONING ORDINANCE
AMENDMENT

Initial Study and Negative Declaration



City of Agoura Hills

May 2008

RESIDENTIAL DENSITY BONUS ZONING ORDINANCE AMENDMENT

**Initial Study and
Negative Declaration**

Prepared by:

City of Agoura Hills
Planning and Community Development Department
30001 Ladyface Court
Agoura Hills, CA 91301
Contact: Allison Cook, Senior Planner
(818) 597-7310

May 2008

TABLE OF CONTENTS

	Page
Introduction	
Legal Authority and Findings	1
Impact Analysis and Significance Classification	1
Initial Study	
Project Title	3
Case Number	3
Lead Agency Name and Address	3
Contact Person	3
Project Location and APN	3
Project Sponsor's Name and Address	3
General Plan Designation and Zoning	3
Project Description	3
Surrounding Land Uses	3
Site Description and Environmental Setting	3
Other Public Agencies Whose Approval is Required	3
Entitlements	3
Environmental Factors Affected	4
Determination	4
Evaluation of Environmental Impacts	5
Land Use and Planning	5
Biological Resources	5
Air Quality	7
Cultural Resources	7
Geology and Soils	8
Hazards and Hazardous Materials	10
Hydrology and Water Quality	11
Aesthetics	12
Noise	13
Population and Housing	14
Public Services	14
Recreation	15
Transportation/Traffic	15
Utilities and Service Systems	16
Mandatory Findings of Significance	17
References	18

INTRODUCTION

This Initial Study and Negative Declaration (IS/ND) addresses the potential environmental effects resulting from a Zoning Ordinance Amendments (ZOA) to revise regulations applicable to the granting of density bonuses under State Density Bonus Law in residential areas of the City of Agoura Hills.

LEGAL AUTHORITY AND FINDINGS

This Initial Study/ Negative Declaration has been prepared in accordance with the CEQA Guidelines and relevant provisions of the California Environmental Quality Act (CEQA) of 1970, as amended.

Initial Study. Section 15063(c) of the CEQA Guidelines defines an Initial Study as the proper preliminary method of analyzing the potential environmental consequences of a project. The purposes of the Initial Study are:

- (1) To provide the Lead Agency with the necessary information to decide whether to prepare an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND);
- (2) To enable the Lead Agency to modify a project, mitigating adverse impacts, thus avoiding the need to prepare an EIR; and
- (3) To provide sufficient technical analysis of the environmental effects of a project to permit a judgment based on the record as a whole, that the environmental effects of a project have been adequately mitigated.

Negative Declaration or Mitigated Negative Declaration. Section 15070 of the CEQA Guidelines states that a public agency shall prepare a Negative Declaration or Mitigated Negative Declaration for a project subject to CEQA when:

- (a) The Initial Study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment; or
- (b) The Initial Study identifies potentially significant effects but:
 1. Revisions in the project plans or proposals made by, or agreed to by, the applicant before a proposed Mitigated Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and
 2. There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

An IS/ND may be used to satisfy the requirements of CEQA when the physical effects of the proposed project are anticipated to have no significant unmitigable effects on the environment. As discussed further in subsequent sections of this document, implementation of the proposed project would not result in any significant effects on the environment.

IMPACT ANALYSIS AND SIGNIFICANCE CLASSIFICATION

The following sections of this IS/ND provide discussions of the possible environmental effects of the proposed project for specific issue areas that have been identified in the CEQA Initial Study Checklist. For each issue area, potential effects are discussed and evaluated.

A "significant effect" is defined by Section 15382 of the CEQA Guidelines as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by a project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." According to the CEQA Guidelines, "an economic or social change by itself shall not be

considered a significant effect on the environment, but may be considered in determining whether the physical change is significant.”

The following information applies to the Initial Study Checklist:

- (1) 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 projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- (2) All answers must take account of the whole action involved, including 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.
- (3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, and EIR is required.
- (4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” 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.
- (5) 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) In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
- (6) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - (a) Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
 - (b) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- (7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- (8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- (9) The explanation of each issue should identify:
 - (a) The significance criteria or threshold, if any, used to evaluate each question; and
 - (b) The mitigation measure identified, if any, to reduce the impact to less than significant.

INITIAL STUDY CHECKLIST

Project Title: Residential Density Bonus Zoning Ordinance Amendment

Case Number: 08-ZOA-001

Lead Agency Name and Address: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301

Contact Person and Phone Number: Allison Cook – Senior Planner
City of Agoura Hills
(818) 597-7310

Project Location: Citywide

Project Sponsor's Name and Address: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 93101

General Plan Designation: All designations Citywide

Zoning: All zones Citywide

Project Description: The project consists of the amendment of Division 4. Low and Moderate Income Housing Permit of Part 3 of Chapter 6 of Article IX of the Municipal Code. The purpose of the ZOA is to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with Government Code Sections 65915 and 65915.5 (Statewide Density Bonus Law). The Ordinance has been drafted pursuant to guidance in the Government Code, and therefore codifies the state law.

The purpose of the Statewide Density Bonus Law is to encourage developers to build affordable housing by requiring local governments to provide incentives to do so, in the form of both: 1) a density bonus, and 2) exceptions from normally applicable zoning and other development standards. The law requires each city or county to adopt an ordinance that specifies how residential density bonuses and related development incentives shall be granted. As a result of recent changes in state law (SB 1818, 2004), the current City Municipal Code section relating to density bonuses, entitled "Low and Moderate Income Housing Permit," needs to be updated accordingly. The Residential Density Bonus Ordinance, attached, would replace the existing Code section.

The Ordinance would apply to all areas of the City where residential uses are permitted. The Draft Ordinance is included in its entirety as Exhibit 1.

The project being analyzed as part of this environmental document is simply the ZOA, and not any specific development proposal. In the future, each individual residential development project being proposed and requesting a density bonus pursuant to this Ordinance would need to undergo separate and specific CEQA review, beyond this current document.

Surrounding Land Uses: Citywide

Site Description and Environmental Setting: Citywide

Other Public Agencies Whose Approval Is Required: Agoura Hills Redevelopment Agency

Entitlements: No entitlements or permits are required for the ZOA.

ENVIRONMENTAL FACTORS AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that could be lessened to a level of insignificance through incorporation of mitigation.

- | | | |
|--|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Air Quality | <input type="checkbox"/> Biological Resources |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Hazards/Hazardous Materials |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Noise | <input type="checkbox"/> Land Use/Planning |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities and Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION

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.	X
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 revisions in the project have been made by or agreed to by the project proponent. A MITIGATED 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 "potential significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to an earlier EIR or NEGATIVE DECLARATION , including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	

Report Preparer:

Allison Cook
 Allison Cook
 Senior Planner
 City of Agoura Hills

May 5, 2008
 Date

EVALUATION OF ENVIRONMENTAL IMPACTS

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(1) LAND USE AND PLANNING. Would the project:

a) Physically divide an established community?				x
b) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				x
c) Conflict with any applicable habitat conservation plan or natural communities conservation plan?				x

Discussion:

- a) The project consists of a Zoning Ordinance Amendment (ZOA), and is therefore not a physical development capable of dividing an established community. The proposed changes would simply allow for additional housing in areas already zoned for residential uses. Any incentives or concessions granted from existing development standards or a reduction in parking would first need to be determined by the City Planning Commission to have no adverse impacts upon public health and safety or the physical environment. Each individual proposal for residential development would be analyzed pursuant to CEQA, separate from this ND. The project would result in **no impact**.

- b) The ZOA codifies new State Density Bonus Law, and each city and county in the state is required to implement the State Density Bonus Law. The ZOA would be consistent with the General Plan, which offers broad policies and programs, and stipulates a maximum buildout of land uses in the City. The ZOA would allow exceptions to certain provisions of the Zoning Ordinance, as allowed and required by state law. As noted above under Item a), each exception would be analyzed per CEQA as individual project applications come forward. Therefore, there would be **no impact** from implementation of the ZOA.

- c) There are no habitat conservation plans or natural communities conservation plans applicable to the geographical area of the ZOA, either within or in the vicinity of, and so the project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(2) BIOLOGICAL RESOURCES. Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				x
---	--	--	--	---

b) Have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?				X
g) Result in damage to, loss of, or removal of native oak trees or other locally identified specimen trees of significance?				X

Discussion:

- a) Much of the ZOA project area (and the City as a whole) is already developed with urban uses, and any additional development would be considered infill. Because there are mostly infill lots, the potential habitat is somewhat limited, being adjacent to urban uses and subject to annual brush clearance for fire prevention purposes. In any case, the project consists of a ZOA, and therefore is not a physical development that could adversely affect sensitive biological species. Therefore, there would be **no impact**. Any proposal to build residences would be analyzed separately under CEQA as part of project specific environmental review, which would need to consider the habitat further.
- b), c) Please see the discussion in Item a) above. The project is not a physical development that could adversely affect wetlands, riparian habitat or other sensitive natural communities regulated by the California Department of Fish and Game or the U.S. Fish and Wildlife Service or the Army Corps of Engineers. Therefore, there would be **no impact**. Any future proposals to develop the residential sites would be separate projects under CEQA, and would undergo environmental review, including considering the habitat further, as a specific development proposal comes forward for review.
- d) Please see the discussion in Item a) above. Because the project is not a physical development, it does not have the potential to interfere with the movement of fish or wildlife. Any future proposals to develop the residential sites would be separate projects under CEQA, and would undergo environmental review, including considering wildlife movement further, as a specific development proposal comes forward for review. Therefore, there would be **no impact**.
- e), g) Since the project is not a proposal for a physical development in the area, there would be no impacts to oak trees in the area. Any future proposals to develop these residential sites, which would be a separate project under CEQA, would need to consider the oak trees. However, the current project would not adversely affect the oak trees, and there would be **no impact**.
- f) There are no Habitat Conservation Plans (HCPs) or Natural Communities Conservation Plans (NCCPs) or other conservation plans in or near the project area, nor in the City as a whole, so there would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(3) **AIR QUALITY.** Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

Discussion:

- a)-c) The City of Agoura Hills is located within the South Coast Air Basin, and is governed by the South Coast Air Quality Management District (SCAQMD). Since the project is not a proposal for a physical development, there would be no impacts to air quality as a result of the amendments and additions to the Zoning Ordinance. In any case, according to the Air Pollution Control District (APCD) Guidelines, to be consistent with the Air Quality Management Plan (AQMP), a project must conform to the local General Plan and must not result in or contribute to an exceedance of the City's projected population growth forecast. The project would not directly increase the number of residential units, although greater densities would be permitted in certain cases under the ZOA. However, in those cases, the residential densities would not exceed the total planned for in the General Plan and accounted for in the General Plan Environmental Impact Report (EIR), because, as a whole, the residential densities allowed for in the General Plan are greater than those allowed in the Zoning Ordinance. A potential increase in density allowed in each zone, assuming the maximum 35 percent increase per state law, would still not exceed General Plan residential buildout figures. Therefore, the project would be consistent with the City's General Plan, and does not change the buildout assumptions of the General Plan. As such, there would be **no impact**.
- d)-e) While the project does not include a physical development that could result in air quality emissions, it should be noted nonetheless that residential uses do not typically generate substantial pollutant concentrations or create objectionable odors that could affect nearby sensitive receptors or populations. The project would not adversely affect air quality in these circumstances, and so there would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(4) **CULTURAL RESOURCES.** Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
e) Result in physical disruption of an identified sacred place or other ethnographically documented location of significance to native Californians?				X

Discussion:

a)-e) The project is not a physical development capable of impacting cultural resources that may exist on or under the ground, or within a given area. In any case, the remaining vacant lots in the City are not currently known areas of historical, archaeological, or paleontological sensitivity, nor are there any human remains expected to be located here. Additionally, the area is not considered an identified sacred place or other ethnographically documented location of significance to native Californians. None of the proposed regulations under the ZOA would create cultural resource preservation concerns. Any proposal to build residential units would be analyzed separately under CEQA as part of project specific environmental review as a development proposal is submitted to the City, which would need to consider potential site specific cultural resources. Therefore, the current project would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
--	---------------------------------------	--	-------------------------------------	------------------

(5) GEOLOGY AND SOILS. Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
(ii) Strong seismic ground shaking?				X
(iii) Seismic-related ground failure, including liquefaction?				X
(iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?				X
---	--	--	--	---

Discussion:

a)-e) Per the City's General Plan Master Environmental Assessment, there are no active or inactive faults within the City limits, and so potential hazard from fault rupture is remote. However, there are several active and/or potentially active faults in the surrounding region that could produce ground shaking in the area. Other geologic or soil conditions are specific to individual sites. Nonetheless, the project that is the subject of this IS/ND is not a physical development with the potential for causing adverse impacts in the area of geology and soils. None of the proposed regulations or changes to the Zoning Ordinance would create additional geologic safety concerns. As previously noted, any proposal to build residential units would need to be analyzed separately under CEQA as part of project specific environmental review. The site specific geologic conditions and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(6) HAZARDS AND HAZARDOUS MATERIALS. Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wild lands?				X

Discussion:

- a)-d) The underlying zones and land use designations for the project area, being residential and open space, would not typically permit uses capable of containing substantial hazardous materials, such as manufacturing businesses. Because it is not a physical development proposal, the project would not result in the use of substantial hazardous materials, nor their storage, disposal or transport. The project, being a ZOA, would also not cause an accidental release or upset of such materials. Any future proposal to develop such a use in these residential and open space zones would be considered a separate project under CEQA, and would need to undergo separate project and environmental review per CEQA, aside from the current project, where these environmental issues would be further analyzed. Therefore, the current project would result in **no impact**.
 - e)-f) There are no airports or airstrips in the vicinity of the City of Agoura Hills. Therefore, the ZOA project would result in **no impact**.
 - g) There are no known currently adopted emergency response plans or emergency evacuation plans in the project area. In any case, the project itself, not being a physical development, would not interfere with such plans if created in the future. None of the proposed regulations or changes to the Zoning Ordinance would interfere with such plans. As specific development projects are proposed, they would be analyzed under separate CEQA review to ensure that they do not conflict with such plans. Therefore, the ZOA project would result in **no impact**.
 - h) Some of the residential areas affected by the proposed ZOA are within and/or adjacent to wildland areas. In any case, the project does not include specific physical development proposals. Any future proposal to develop in these residential and open space zones would be considered a separate project under CEQA, and would need to undergo separate project and environmental review per CEQA, aside from the project. The project would result in **no impacts**.
-

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(7) HYDROLOGY AND WATER QUALITY. Would the project:

a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially degrade groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off site?				X
d) Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
e) Otherwise substantially degrade water quality?				X
f) Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
h) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
i) Inundation by seiche, tsunami, or mudflow?				X

Discussion:

a)-e), i) The project that is the subject of this IS/ND is not a physical development with the potential for causing adverse impacts in the area of hydrology and water quality. None of the proposed regulations or changes to the Zoning Ordinance would adversely affect hydrology and water quality. As noted previously, any proposal to build a residence would be analyzed separately under CEQA as part of project specific environmental review. The site specific hydrology and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project would result in **no impact**.

f)-h) The project is not a physical development that could cause flood concerns. None of the proposed regulations or changes to the Zoning Ordinance would result in greater flood concerns in the project area. Each specific future development proposal would be considered a separate project under CEQA that would need to undergo separate environmental review, including flood impact analysis. Therefore, the current project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(8) AESTHETICS. Would the project:

a) Have a substantial adverse affect on a scenic vista?				X
b) Substantially damage scenic resources including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the project site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
e) Significantly impact any existing streetscape or public space which has been designed to provide areas of public assembly and congregation?				X

Discussion:

- a) The project area consists of a diverse range of neighborhoods and physical – both built and natural – features. The City General Plan Scenic Highways Element identifies Local Scenic Highways, County Scenic Highway, and areas eligible for state scenic highway designation. Many of the City's residential areas provide excellent vistas of Ladyface Mountain and the ridgelines along the south side of the City. Nonetheless, the project consists of a ZOA, and is not a physical development proposal. The project does not involve any direct physical changes to the environment. As such, it would result in **no adverse impact** to scenic vistas. As individual development projects are proposed, and the details of the proposed building design and grading known, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction in the future.
- b) There are no state scenic highways in the project area, although U.S. Highway 101 is eligible for state scenic highway designation. There are no historic buildings or rock outcroppings in or adjacent to the U.S. Highway 101. In any case, since the project is not a specific physical development proposal, the project would result in **no impact**. As individual development projects are proposed, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction on aesthetics.
- c) The project does not involve any direct physical changes to the environment. As such, it would result in **no impact** to the visual character or quality of the area. As individual development projects are proposed, and the details of the proposed building design and grading known, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction in the future.
- d) Since the project is not a physical development proposal, it would not result in impacts from lighting and glare. As previously described, any proposal to build a residence would be analyzed separately under CEQA as part of project specific environmental review, which would include a development project-specific lighting and glare assessment. Therefore, the current project would result in **no impacts**.
- e) The area subject to the ZOA is not located in the immediate vicinity of any known streets or public spaces used for the assembly and congregation of people. Therefore, there would be **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(9) NOISE. Would the project result in:

a) Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				x
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				x
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				x
d) A substantial, temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				x
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				x

Discussion:

Noise level (or volume) is generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). The A-weighting scale is an adjustment to the actual sound power levels to be consistent with that of human hearing response, which is most sensitive to frequencies around 4,000 Hertz (about the highest note on a piano) and less sensitive to low frequencies (below 100 Hertz). For the most sensitive uses, such as single family residential, 60 dBA Day-Night average level (Ldn) is the maximum normally acceptable exterior level. Ldn is the time average of all A-weighted levels for a 24-hour period, with a 10 dB upward adjustment added to those noise levels occurring between 10:00 PM and 7:00 AM to account for the general increased sensitivity of people to nighttime noise levels. The Community Noise Equivalent Level (CNEL) is similar to the Ldn except that it adds 5 dB to evening noise levels (7:00 PM to 10:00 PM). The City of Agoura Hills utilizes the CNEL for measuring noise levels. Sensitive noise receptors include residential units, libraries, hospitals and nursing homes. In the project vicinity, the sensitive noise receptors would be residences, schools and homes for the elderly.

- a),c),d) The project would not result in any physical development. The proposed regulations would not result in any changes to the types of uses allowed in the residential and open space zones, or to any noise standards. Any proposal for development in the project area would be analyzed separately under CEQA as part of project specific environmental review. The site specific noise conditions and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project itself would result in **no impacts**.
- b) Because it is not a physical development, the proposed project would not result in any impacts related to excessive groundborne vibration. As specific development projects are proposed, along with information about construction and grading details and methods, these projects would need to undergo separate CEQA review, including analysis of this issue area. Therefore, the current project would result in **no impacts**.
- e),f) The area affected by the proposed project is not located within the vicinity of an airport or private airstrip, and would not be affected by air traffic noise impacts. There would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(10) POPULATION AND HOUSING. Would the project:

a) Result in direct or indirect population related growth inducement impacts (significantly expand employment opportunities, remove policy impediments to growth, or contribute to potential extensions of growth inducing infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X

Discussion:

- a) The project would not result in any physical development. In any case, regulations proposed by the ZOA would not increase the total number of residential units accounted for in the General Plan (See Section (3) AIR QUALITY), and so there would not be any increase in population above that already accounted for in the General Plan as a result of the project. Therefore, the project would result in **no impacts** to population growth.
- b) The project does not consist of any physical development. Consequently, the proposed regulations do not result in the displacement of current housing. As specific development projects are proposed, along with information about any existing residences on the site, these projects would need to undergo separate CEQA review, including analysis of this issue area. Therefore, there would be **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(11) PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

a) Fire protection				X
b) Police protection				X
c) Schools				X
d) Parks				X
e) Other public facilities				X

Discussion:

- a),b) The City of Agoura Hills is served by the Los Angeles County Fire Department (LACFD) and the Los Angeles County Sheriff's Department (LACSD). The project itself would not require additional police or fire protection services, as no development is proposed. As such, the project would result in **no impacts**. As individual development projects are proposed in the project area at a later date, separate CEQA review would be undertaken to assess potential fire and police protection services impacts on an individual level. In any case, as the area affected by the project is already within a developed area currently served by these agencies, impacts to such services would likely not be significant, especially regarding the need to expand such services. Any future development project would be required to comply with Fire Code and

LACFD standards, including specific construction specifications, access design, location of fire hydrants, and other design requirements.

- c) In 1990, school facilities legislation (California Government Code Section 65995) was enacted to generate revenue for school districts for capital acquisitions and improvements. This legislation allows a maximum one-time fee of \$1.93 per square foot of residential floor area and \$0.31 per square foot of commercial and industrial space for development projects. This fee is divided between the primary and secondary schools and is termed a "Level One Fee." Adjustments to these Level One fees have occurred periodically, and the fees have been increased. The project would not result in impacts to schools, as no physical development is being proposed as part of the project itself. Therefore, there would be **no impacts** from the current project. As individual self-storage development proposals come forward, each development would undergo specific CEQA review and be assessed for school impacts. Such a development project would likely be required to pay school impact fees at the current commercial/industrial development rate to the local school district, Las Virgenes Unified School District.
- d) The project would not result in physical development. As individual development proposals come forward, each development would undergo specific CEQA review and be assessed for parks impacts. Such a development project would likely be required to pay the City park fee. Therefore, there would be **no impacts**.
- e) Since the proposal is for a ZOA, not a development proposal, the project would not contribute to the demand for any other public facilities. Therefore, there would be **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(12) RECREATION. Would the project:

a) Increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				x
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				x

Discussion:

- a),b) Since the project is not a particular development proposal, there would be **no impacts** to recreational facilities. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to recreation.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	---	------------------------------	-----------

(13) TRANSPORTATION/TRAFFIC. Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards related to existing intersections or roadway design features (e.g., sharp curves or dangerous intersections), or to incompatible uses (e.g., residential traffic conflicts with farm equipment)?				X
e) Result in inadequate secondary or emergency access?				X
f) Result in inadequate parking capacity?				X

Discussion:

- a) Since the project is not a particular development proposal, there would be **no impacts** to traffic and circulation. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to traffic and circulation.
- b) The Los Angeles County Congestion Management Plan (CMP) requires a regional traffic impact analysis when a project adds 150 or more trips in each direction to a freeway segment. Based on the discussion in Item "a" above, there would be **no impacts**.
- c) There are no airports or airfields in the project vicinity, so the proposal would result in **no impacts**.
- d), e) As discussed in Section (11) PUBLIC SERVICES, the ZOA is not a development proposal and so would not result in traffic-related hazards or impacts to access. As individual residential development projects are proposed, separate CEQA review would be undertaken to determine the specific project's impacts these items. The current project would result in **no impacts**.
- f) The proposed project is not a development proposal and so would not result in impacts to parking. As individual residential development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts on parking capacity. The current project would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
--	---------------------------------------	--	-------------------------------------	------------------

(14) UTILITIES AND SERVICE SYSTEMS. Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

Discussion:

- a) - e) As the project is not a physical development proposal, it would not result in impacts to wastewater, water or storm water. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to these services. The current project would result in **no impacts**.
- f) - g) As noted above, the proposed ZOA would not constitute a development proposal and so would not result in impacts to solid waste. As individual development projects are proposed in the ZOA, separate CEQA review would be undertaken to determine the specific project's impacts to these services. The ZOA would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
--	---------------------------------------	--	-------------------------------------	------------------

(15) 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 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?				X
b) 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 the past projects, the effects of other current projects, and the effects of probable future projects)?				X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X

Discussion:

- a) Given that the project consists of a ZOA, but with no physical development component, it would not have the potential to significantly degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop 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. Therefore, there would be no impacts.
 - b) As listed in the specific environmental issue sections, the project is not expected to have any impacts, so there would be no cumulative impacts.
 - c) As listed in the specific environmental issue sections, the project is not expected to have any impacts, so there would be no effects that would cause substantial adverse effects on human beings.
-

REFERENCES

Agoura Hills, City of. *General Plan*. May 1993.

Agoura Hills, City of. *Architectural Standards and Guidelines*. November 1992.

Agoura Hills, City of. *Municipal Code*, revised June 2005.

Agoura Hills, City of. *General Plan Master Environmental Assessment*, July 1992.

Agoura Hills, City of. *General Plan EIR*, March 1992.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF AGOURA HILLS REVISING REGULATIONS APPLICABLE TO THE GRANTING OF DENSITY BONUSES AND RELATED INCENTIVES, AND AMENDING DIVISION 4. LOW AND MODERATE INCOME HOUSING PERMIT OF PART 3 OF CHAPTER 6 OF ARTICLE IX OF THE CITY OF AGOURA HILLS MUNICIPAL CODE

A. Recitals.

(i) The Statewide Density Bonus Law (Government Code Section 65915) requires each city to adopt an ordinance that specifies how residential density bonuses and related incentives shall be granted. The purpose of this ordinance is to amend the City's Municipal Code and adopt those procedures necessary in order to comply with Section 65915.

(ii) On _____, 2008, the Planning Commission of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the municipal code amendments contained herein, as required by law. At the conclusion of the hearing, the Planning Commission recommended adoption of said amendments.

(iii) On _____, 2008, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the zoning code amendments contained herein as required by law.

(iv) At the public hearing on _____, 2008, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.

(v) All legal prerequisites to the adoption of this ordinance have occurred.

B. Ordinance.

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

Section 1. The facts set forth in the Recitals, Part A of this ordinance, are true and correct.

Section 2. The provisions of this ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The City Council finds

that a Negative Declaration is the appropriate environmental document for the ordinance and said Municipal Code amendments.

Section 3. Division 4. LOW AND MODERATE INCOME HOUSING PERMIT of Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code is hereby repealed in its entirety.

Section 4. New Division 4. RESIDENTIAL DENSITY BONUS is hereby added to Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code to read as follows:

“DIVISION 4. RESIDENTIAL DENSITY BONUS

Sections:

- 9674.1 Purpose.**
- 9674.2 Definitions.**
- 9674.3 Grant of Density Bonus.**
- 9674.4 Grant of Incentives and Concessions.**
- 9674.5 Floor Area Bonus for Concessions/Incentives for Childcare Facilities.**
- 9674.6 Affordability Requirements.**
- 9674.7 Development Standards.**
- 9674.8 Processing of Bonus Requests.**
- 9674.9 Changes in State Density Bonus Laws.**
- 9674.10 Administrative Procedures.**

9674.1 Purpose.

The purpose of the provisions of this division is to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with Government Code Sections 65915 and 65915.5 (Statewide Density Bonus Law). In enacting this division, it is the intent of the city to facilitate the development of affordable housing and to implement the goals, objectives and policies of the housing element of the city’s general plan.

9674.2 Definitions.

Whenever the following terms are used in this chapter, they shall have the meanings established by this section:

- A. **ADDITIONAL INCENTIVE:** A regulatory concession as described in Government Code Section 65915 that may include, but not be limited to, the reduction of site development standards or zoning code requirements or other regulatory incentive, that would result in identifiable cost avoidance or reductions that is offered in addition to a density bonus.

- B. **AFFORDABLE HOUSING UNITS:** Housing units affordable to moderate, lower or very low income persons provided through the housing density bonus program pursuant to California Government Code Section 65915.
- C. **CHILD CARE FACILITY:** A child day care (non-residential care) facility other than a family day care home, including, but not limited to, infant center, preschools, extended day care facilities, and school age child care centers, as described in Government Code Section 65915(i)(4).
- D. **CONDOMINIUM PROJECT:** A condominium project as defined in Section 1351 (f) of the California Civil Code. At the time of adoption of this Division, a condominium project means a development consisting of condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in a space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- E. **DENSITY BONUS:** A density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the City of Agoura Hills General Plan as of the date of application by the developer to the City.
- F. **DENSITY BONUS HOUSING AGREEMENT:** A legally binding agreement between a developer of a housing development and the City that ensures that the requirements of this division and State Density Bonus Law are satisfied. The agreement shall establish, among other things, the number of target units, their size, location, terms and conditions of affordability and production schedule.
- G. **HOUSING DEVELOPMENT:** Construction projects consisting of five or more residential units or lots, including single-family and multi-family, that are proposed to be constructed.
- H. **LOWER INCOME HOUSEHOLD:** Households of lower income as defined in Section 50079.5 of the California Health and Safety Code. At the time of the adoption of this Division, a household whose median income is equal to or less than 80 percent of the area median income is Lower Income, and is considered to be able to afford rent that does not exceed 30 percent of 80 percent of the area median income.
- I. **MODERATE INCOME HOUSEHOLD:** Households of moderate income as defined in Section 50093 of the California Health and Safety Code. At the time of adoption of this Division, a household whose median income is equal to or less than 120 percent of the area median income is Moderate Income, and is considered to be able to afford rent that does not exceed 30 percent of 120 percent of the area median income.

- J. **PLANNED DEVELOPMENT:** A planned development as defined in Section 1351 (k) of the California Civil Code. At the time of adoption of this Division, a planned development means a development other than a community apartment, condominium or stock cooperative having either or both of the following features:
- (1) The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
 - (2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment that may become a lien upon the separate interests in accordance with Section 1367 or 1367.1 of the California Civil Code.
- K. **SENIOR CITIZEN:** A senior citizen as defined in Section 51.3 of the California Civil Code. At the time of the adoption of this section, qualifying resident or senior citizen were generally defined as a person 62 years of age or older, or 55 years of age or older living in a senior citizen housing development other than a mobile home, or the spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.
- L. **SENIOR CITIZEN HOUSING DEVELOPMENT:** A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code. At the time of adoption of this Division, a senior citizen housing development consists of more than 20 dwelling units and is designated as a senior community by its developer and zoned as a senior community by a local governmental entity, or characterized as a senior community in its governing documents, as these are defined in Section 1351, or qualified as a senior community under the federal Fair Housing Amendments Act of 1988, as amended.
- M. **VERY LOW INCOME HOUSEHOLD:** Households of Very Low Income as defined in Section 50105 of the California Health and Safety Code. At the time of the adoption of this Division, a household whose median income is equal to or less than 50 percent of the area median income is Very Low Income, and is considered to be able to afford rent that does not exceed 30 percent of 50 percent of the area median income.
- N. **TARGET UNIT:** A dwelling unit within a housing development to be reserved for sale or rent to, and affordable to, very low or lower income households, or moderate income households as provided in Section 9674.3, Subsection B.

9674.3 Grant of Density Bonus.

A. **Qualifying for Density Bonus.** The City shall grant a density bonus to any project for which a density bonus and incentives are required pursuant to California Government

Code Section 65915. A single development project shall not be granted more than one density bonus in compliance with this division. The City shall grant a density bonus or a density bonus and at least one of the incentives described in Section 9674.4, Subsection B of this division to an applicant who agrees to provide the following:

1. Designate at least five percent (5%) of the total units of a housing development for very low income households.
2. Designate at least ten percent (10%) of the total units of a housing development for lower income households.
3. Designate at least ten percent (10%) of the total units of a condominium project or planned development for moderate income households.
4. Any senior citizen housing development.
5. Donation of land pursuant to Government Code Section 65915 (h).

Developers electing to comply with the State Density Bonus Law must also meet the requirements of the City's Inclusionary Housing Ordinance.

B. Allowable Density. The number of density bonus units to be granted pursuant to this section shall be computed as follows:

1. Very Low Income Household. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%) provided, however, that for each one percent (1%) increase above five percent (5%) in the percentage of units affordable to very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty five percent (35%).
2. Lower Income Household. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%) provided, however, that for each one percent increase above ten percent (10%) in the percentage of units affordable to lower income households, the number of density bonus units shall be increased by one and one-half percent (1.5%) up to a maximum of thirty five (35%) percent.
3. Moderate Income Condominium or Planned Development. The maximum allowable residential density for the site shall be multiplied by five percent (5%) provided, however, that for each one percent (1%) increase above ten percent (10%) of the percentage of units affordable to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty five percent (35%).
4. Senior Housing Development. The maximum allowable residential density for the site shall be multiplied by twenty percent (20%).

5. Certain Donations of Land. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the City that satisfies the requirements of Government Code Section 65915 (h), and complies with all procedural requirements of that subsection, including recordation of a deed restriction, then the maximum allowable residential density for the site shall be multiplied by fifteen percent (15%). However, for each one percent (1%) increase above the minimum percentage of land required to be donated pursuant to Government Code Section 65915 (h), the density bonus shall be increased by one percent up to a maximum of thirty five percent (35%). This increase shall be in addition to any increase required by Section 9674.3A of this division, up to a maximum combined density increase of thirty five percent (35%) if an applicant seeks both the increase required by this subsection and by Section 9674.3A.

All density calculations resulting in fractional units shall be rounded up to the next whole number. The density bonus shall not be included when determining the number of target units. When calculating the required number of target units, any resulting fraction of units shall be rounded to the next whole number.

9674.4 Grant of Incentives and Concessions.

A. Applicability of Incentives and Concessions. The allocation of an additional incentive or concession shall be determined on a case-by-case basis by the City Council pursuant to Government Code Section 65915(d). The City shall provide a density bonus and an additional incentive or concession for qualified developments upon the written request of a developer, unless the City makes the written findings, based on substantial evidence set forth in Government Code Section 65915(d)(1), of either of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs, or for rents for the targeted units.

2. The concession or incentive would have a specific adverse impact 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 impact without rendering the development unaffordable to low- and moderate-income households.

B. Number of Incentives or Concessions. In addition to the density bonus granted per Section 9674.3, Subsection B, the applicant shall receive the following number of incentives or concessions:

1. One (1) incentive shall be provided to a developer who agrees to construct at least ten percent (10%) of the total units for lower income households, at least five percent (5%) of the total units for very low income households, or at least ten percent (10%) of units in a condominium or planned development for moderate income households.

2. Two (2) incentives shall be provided to a developer who agrees to construct at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) of the total units for very low income households, or at least twenty percent (20%) of units in a condominium or planned development for moderate income households.

3. Three (3) incentives shall be provided to a developer who agrees to construct at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) of the total units for very low income households, or at least thirty percent (30%) of units in a condominium or planned development for moderate income households.

Table I. Affordability Category and Available Concessions/Incentives

AFFORDABILITY CATEGORY	ONE CONCESSION/ INCENTIVE	TWO CONCESSIONS/ INCENTIVES	THREE CONCESSIONS/ INCENTIVES
Very Low Income	5% set aside	10% set aside	15% set aside
Lower Income	10% set aside	20% set aside	30% set aside
Moderate Income	10% set aside	20% set aside	30% set aside

C. Types of Concessions and Incentives. If requested by the applicant, a qualifying project shall be entitled to at least one of the following incentives or concessions, unless the City makes the findings required by Government Code Section 65915(d)(1) as noted above:

1. Site Development Standards. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards as approved by the California Building Standards Commission (Division 13 of the Health and Safety Code), including, but not limited to, a reduction in minimum lot setbacks and reduced minimum lot size that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

2. Mixed Use. Approval of a mixed use zoning in conjunction with the housing project if other land uses will reduce the cost of the housing development and if the other uses are compatible with the housing project and existing or proposed development in the area where the proposed housing project will be located.

3. Other. Other regulatory incentives or concessions proposed by the developer or City that result in identifiable, financially sufficient, and actual cost reductions.

4. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land by the City or the waiver of fees or dedication requirements.

D. Requirements for Concessions and Incentives.

1. **Economic Feasibility.** An applicant seeking a waiver or modification of development or zoning standards shall show that the waiver or modification is necessary to make the housing development economically feasible assuming a reasonable rate of return.

3. **Revenue.** When determining project revenues, the applicant shall include moneys from the sale or rental of all units, including the density bonus units.

4. **Costs.** When determining project costs, the applicant shall not include the lost opportunity cost of the target units (e.g., the amount that would have been generated had the target units been rented or sold at market rate).

5. **Criteria Used for Evaluation.** One or more of the following criteria, to be determined by the City, shall be used to evaluate whether an incentive or concession is sufficient to make the affordable housing units economically feasible, and shall be submitted by the applicant:

a. A development pro forma with the capital costs, operating expenses, return on investment, revenues, loan-to-value ratio and the debt-coverage ratio, including the contribution provided by any applicable subsidy programs, and the economic effect created by the 30 year use and income restrictions of the affordable housing units.

b. Sources and use of funds statement identifying the projected financing gap of the project with the affordable housing units that are the basis for granting the density bonus and incentive(s) or concession(s). The developer shall establish how much of the gap would be covered by the density bonus, leaving a remainder figure to be covered by an additional incentive.

c. An appraisal report indicating the value of the density bonus and of the incentive(s) or concession(s) and of the value of any other incentive.

Determination of the completeness and accuracy of the financial information submitted in support of a request for an incentive and evaluation of this information shall be made by the City. The City may request assistance from a consultant in reviewing the financial information, the cost of which shall be borne by the applicant.

9674.5 Floor Area Bonus for Concessions/Incentives for Childcare Facilities.

A. In cases where the developer agrees to construct a housing development that qualifies for a density bonus pursuant to Section 9674.3A of this division that includes a childcare facility, the developer shall be entitled to an additional density bonus that is an amount of square feet of residential space equal to or greater than the amount of square feet in the childcare facility; or an additional incentive described in Section 9674.4, Subsection B, of

this division that contributes significantly to the economic feasibility of the construction of the childcare facility. Any such childcare facility shall comply with the following:

1. The childcare facility shall remain in operation for a period of time that is as long or longer than the period of time during which the density bonus units are required to remain affordable;

2. Of the children who attend the childcare 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 this division.

Notwithstanding the foregoing, the City shall not be required to provide a density bonus or incentive for a childcare facility when it is found, based upon substantial evidence, that the City has adequate childcare facilities.

9674.6 Affordability Requirements.

A. The owner's obligation to maintain units as affordable housing shall be evidenced by the Density Bonus Housing Agreement, which shall be recorded as a deed restriction running with the land and be binding upon all successors-in-interest.

B. Very Low and Low income category target units shall remain restricted and affordable to the designated group for a period of thirty (30) years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program), or otherwise provided by law.

C. Those units targeted for lower income households shall be affordable at a rent that does not exceed current Housing and Urban Development (HUD) income limits for lower income households for the county, adjusted for household size.

D. Those units targeted for very low income households shall be affordable at a rent that does not exceed current HUD income limits for very low income households for the county, adjusted for household size.

E. An applicant shall agree that the initial occupants of the moderate-income units in the condominium project or in the planned development are persons and families of moderate income. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote homeownership. For the purposes of this section, the City's proportionate share of appreciation shall be equal to the 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.

9674.7 Development Standards.

A. Target units shall be constructed concurrently with non-restricted units unless both the City and the applicant agree within the Density Bonus Housing Agreement to an alternative schedule for development.

B. Target units shall be built on site, and shall be dispersed within the development. In no event shall the target housing be located in only one portion of the housing development or situated in one building of a multi-building development. The design and exterior appearance of the affordable units shall be the same as the design and construction quality of the overall housing development. Target units may be smaller in aggregate size and have different interior finishes and features than the remainder of the units as long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The number of bedrooms must at a minimum be the same as those in the market-rate units. Housing developments shall comply with all applicable development standards, except those that may be modified as provided by this Division.

C. The density bonus units can be located in geographic areas of the development site other than the areas where the target units are located, and can be located only on parcels for which the density bonus was granted.

D. The entry into and execution of the Density Bonus Housing Agreement shall be a condition of any application for a discretionary planning permit (e.g., tract maps, parcel maps, site plans, conditional use permits) for a housing development proposed pursuant to this division. The agreement shall be recorded at the applicant's cost as a restriction on the parcel or parcels on which the target units will be constructed.

E. Upon request of the developer of a housing development qualifying for a density bonus pursuant to this division, the City shall permit vehicular parking ratios, inclusive of handicapped and guest parking, in accordance with the following standards:

1. 0-1 bedrooms: One on-site parking space.
2. 2-3 bedrooms: Two on-site parking spaces.
3. 4 or more bedrooms: Two and one-half parking spaces.

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 section, a housing development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

9674.8 Processing of Bonus Requests.

A. Filing. An applicant proposing a housing development pursuant to this Division shall submit an application for a Density Bonus Housing Agreement as part of the submittal of

any formal request for approval of a housing development. This shall be in addition to any other submittals required for the application for a discretionary planning permit for the housing development (e.g., tract maps, parcel maps, site plans, conditional use permits). An application for a Density Bonus Housing Agreement pursuant to this division shall be processed as part of the application for a housing development. An application for a housing development shall not be determined complete for purposes of Government Code Section 65920, et seq., unless and until the City Council has given preliminary approval of the form and content of the Density Bonus Housing Agreement, which complies with the provisions of this division.

B. Density Bonus Housing Agreement.

1. A Density Bonus Housing Agreement shall be made between the applicant and the City, which indicates the household type, number, location, size, and construction scheduling of all affordable units and any information required by the City to determine the applicant's compliance with this division.

2. The agreement shall be submitted to the Planning Commission for its recommendation and submitted to the City Council for final approval.

3. Following execution of the agreement by the applicant and the City, the completed agreement, or memorandum thereof, shall be recorded. The conditions contained in the agreement shall be filed and recorded on the parcel(s) designated for the construction of target units as a condition of final map approval, or, where a map is not being processed, prior to issuance of building permits or such parcels or units. The agreement shall be binding upon all future owners and successors in interest for this property, which is the subject of the housing development application.

C. Findings. All of the following findings shall be made, as applicable, in order to approve a density bonus, and incentive(s) or concession(s).

1. That the density bonus will contribute significantly to the economic feasibility of providing the affordable housing units.

2. That the incentive or concession is required in order to make the affordable housing units economically feasible or to set rents at qualifying levels for senior citizens and for moderate income, lower income or very low income households.

3. That the increased density and incentive(s) or concessions(s) will not cause significant adverse effects on the public health and safety or the physical environment.

9674.9 Changes in State Density Bonus Laws.

It is the intent of the City Council that the provisions of this division shall be interpreted so as to fulfill the requirements of Government Code Section 65915, notwithstanding changes in state laws revising percentages, numerical thresholds and/or other standards

applicable to the granting of density bonuses or related incentives or concessions that may occur after the effective date of this division. Accordingly, it is the further intent of the City Council that any such changed percentages, numerical thresholds or other standards shall be deemed to supersede and govern any conflicting percentages, numerical thresholds or other standards contained in this division, to the maximum extent permitted by law.

9674.10 Administrative Procedures.

The Director or his or her designee may adopt administrative procedures for the implementation of this Division.”

Section 5. Severability. The city council declares that should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provision, sections, paragraphs, sentences and words of this ordinance shall remain in full force and effect.

Section 6. The City Clerk shall certify to the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED this ____ day of ____ 2008, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

John Edelston, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney

