DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
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May 14, 2025

Darlene Nicandro, Development Services Director
300 North Coast Highway
Oceanside, CA 92054

Dear Darlene Nicandro:

RE: City of Oceanside – 503 Vista Bella – Letter of Support and Technical Assistance

The California Department of Housing and Community Development (HCD) understands that on May 21, 2025, the City of Oceanside (City) City Council will hold a continuation of its January 22, 2025 public hearing to consider the appeal of the Planning Commission's approval of a proposed 77-unit mixed-use, mixed-income housing development project to be located at 503 Vista Bella (Project).

This letter expresses HCD's support of the Planning Commission's decision to approve the Project and urges the City Council to deny the appeal. Upholding the Project's approval will ensure that the City complies with State Density Bonus Law (SDBL)[1] and the Five Hearing Rule.[2]

Project Description and Background

HCD understands that Vista Bella Investments Group LLC (Applicant) is seeking approval of a Development Plan and Density Bonus for a housing development project. The Project includes a mixed-use residential development totaling 77 units, including four live/work units, 688 square feet of commercial office space, and eight units affordable to very low-income households.

The approximately 1.74-acre site is split-zoned, with the eastern parcel (containing the office development) located in the Limited Commercial (CL) District and the western parcel located in the General Commercial (CG) District. The General Plan Land Use Designation is General Commercial (CG). Residential uses are permitted under the Zoning District and General Plan Land Use Designation with a base density of 29 units per acre. The site is not identified in the City's 6th Cycle Housing Element.

[1] Gov. Code, §§ 65915-65918.
[2] Gov. Code, § 65905.5.

State Density Bonus Law

HCD understands that there are three key questions regarding the SDBL; these questions are addressed below.

To meet the threshold necessary to deny a concession, can the density bonus units themselves be factored into the cost reduction of providing the affordable units?

No, the City cannot assign a value to the statutorily allotted and entitled density bonus units and then deduct that value from the cost of providing the affordable units in order to deny an incentive or concession requested by the applicant. To include the value of the bonus units, as the City's economic feasibility analysis does, improperly increases the total value weighed against the provision of affordable housing, which would lead to fewer concessions being granted and ultimately less affordable housing being produced, contrary to the intent of the SDBL.

HCD understands that the City and the Applicant agree that the Project meets the definition of a "housing development" under the SDBL[3] and therefore, the Applicant is entitled to *both* of the following for reserving at least 15 percent of the base units for very low-income households: a 50-percent density bonus[4] *and* a request for up to three incentives or concessions.[5] Furthermore, HCD understands that the Applicant is requesting only two of their three incentives or concessions, and both the City and the Applicant agree that the parking concession (to reduce required parking from 92 to 87 spaces) and the renewable energy concession (to waive the requirement to provide renewable energy on-site) would result in identifiable and actual cost reductions[6] of at least $1.4 million for the overall project.

However, in an effort to deny the concessions on the basis that the requests do not result in identifiable and actual cost reductions for the provision of affordable housing costs specifically,[7] the City is considering an economic feasibility analysis that assigns a value to the density bonus units and combines that with the value of the requested concessions (for a total of $9.1 million), which exceeds the purported net cost to provide the proposed eight very low-income units ($3.1 million).

To deny a concession on the basis that the value provided by the density bonus units exceeds the cost of providing the affordable units misinterprets how the City should make this calculation and conflicts with the legislative intent of the SDBL by creating a significant disincentive for housing developers to maximize the number of housing units proposed.[8]

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[3] Gov. Code, § 65915, subd. (i).
[4] Gov. Code, § 65915, subd. (f)(2).
[5] Gov. Code, § 65915, subd. (d)(2)(C).
[6] Gov. Code, § 65915, subd. (k)(1).
[7] Gov. Code, § 65915, subd. (d)(1)(A).
[8] Gov. Code, § 65915, subds. (r), (u).

Government Code section 65915, subdivision (b)(1) lays out the four components of a density bonus, each component distinct from the others:

> "A city, county, or city and county shall grant [1] one *density bonus*, the amount of which shall be specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, [2] *incentives or concessions*, as described in subdivision (d), [3] *waiver or reductions of development standards,* as described in subdivision (e), and [4] *parking ratios*, as described in subdivision (p)...." (Emphasis added.)

Government Code section 65915, subdivision (d)(1) describes the concessions and incentives and requires a city to make one of three specified written findings, based upon substantial evidence, to deny a concession or incentive. Subdivision (d)(1) involves concessions and incentives exclusively (component 2 of the density bonus, as described above) and does not make any reference to the density bonus units (component 1). Thus, where the statute reads that the "concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs,"[9] it means only the value of the concessions, not the value of the concessions combined with the value of the density bonus units.

Should the City's economic feasibility analysis and written findings regarding the cost reductions to provide for affordable housing incorporate long-term savings, or just the costs of construction?

The statute does not provide guidance on whether the City's calculation must evaluate solely the costs of construction of the housing development (e.g., installation of solar panels), or whether long-term costs for providing affordable units and savings from any regulatory requirements (e.g., reduction in energy costs) should be factored in the equation. However, if the City makes a written finding that amortizes the cost of a development standard or other regulatory requirement, it must also utilize the same methodology in evaluating the costs of providing for affordable housing over the same period of time.

Can the City deny a concession to waive a Climate Action Plan requirement?

The statute is clear that the City must make one of three written findings to deny a concession. The relevant finding here is that the concession would have "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."[10]

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[9] Gov. Code, § 65914, subd. (d)(1)(A).
[10] Gov. Code, 65589.5, subd. (d)(2).

Therefore, to deny the requested concession, the City must make written findings concluding that the requested concessions for this Project would result in such an impact and that "there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households."[11]

Based on consultation with California Air Resources Board (CARB) staff who provide recommendations to local governments on the development of climate action plans (CAPs) and review of land use projects, HCD understands that the proposed Project would not exceed the greenhouse gas (GHG) threshold set by the City's CAP of 900 MT CO2E. Consequently, the project is not required to incorporate project design features suggested by the CAP for projects exceeding the threshold, such as the provision of solar panels that go beyond the requirements in the Energy Code. CARB staff indicated that the Project is likely to be consistent with Oceanside's CAP and CARB's 2022 Scoping Plan for Achieving Carbon Neutrality.

Five Hearing Rule

Do community outreach meetings count towards the five hearing limit when the local agency requires them to be conducted as part of the project entitlement process?

Yes, community meetings count towards the five hearing limit when they are required to be conducted by law, ordinance, or regulation. HCD understands that the Project has already been heard at two community meetings (December 13, 2023 and May 15, 2024), one Planning Commission hearing (October 28, 2024), and one City Council hearing (January 22, 2025) after the application was deemed complete on September 25, 2023. Therefore, to require any hearing beyond the City Council hearing scheduled for May 21, 2025 would violate the five hearing rule.

The statute is clear that after the application is deemed complete, the City "shall not conduct more than five hearings pursuant to Section 65905, or any other law, ordinance, regulation requiring a public hearing in connection with the approval of that housing development project."[12] The City's Enhanced Notification Program[13] requires applicants proposing housing development projects containing five or more units to draft and implement a Community Outreach Plan as part of the entitlement process, whereby the City establishes the number of hearings and the manner in which the community meetings are noticed and conducted. Since the City requires the meetings to be held and dictates the process that the applicant must follow, the community meetings are, in

[11] Gov. Code, 65915, subd. (d)(1)(B).
[12] Gov. Code, § 65905.5, subd. (a).
[13] City of Oceanside, Enhanced Notification Program, Policy Number 300-14. Adopted 2-25-1987, Revised 4-22-2015. Available at https://www.ci.oceanside.ca.us/home/showpublisheddocument/176/637944279582930000.

effect, conducted by the City for the purposes of this statute and count towards the five hearing limit.

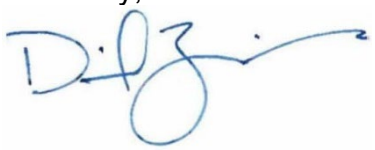
Permit Streamlining Act

HCD would also like to remind the City of its duty to maintain an exhaustive application submittal requirement checklist[14] and to make it available on the City's website[15] in accordance with the Permit Streamlining Act (PSA).' The checklist must include all criteria used to determine completeness[16] and must be revised as needed to remain current and accurate; however, any revisions shall apply prospectively only and may not be used to determine an application incomplete if the application was submitted prior to the revision.[17] The City's completeness review must be limited only to those items that are required on the checklist. As of May 5, 2025, the City's "Plan and Submittal Requirements" checklist did not include any reference to the Enhanced Notification Program or the Community Outreach Plan.

Conclusion

In sum, HCD reminds the City of its obligations under the SDBL, the Five Hearing Rule, and the PSA and urges the City Council to uphold the Planning Commission's approval of the Project to help meet the current housing crisis. HCD may review local government actions and inactions to determine consistency with these laws and may notify the California Office of the Attorney General if a local government is in violation of state law.[18] If you have any questions or need additional information, please contact Grace Wu at grace.wu@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

[14] Gov. Code, § 65940, subd. (a).
[15] Gov. Code, § 65940.1, subd. (a)(1)(C).
[16] Gov. Code, § 65941, subd. (a).
[17] Gov. Code, § 65942.
[18] Gov. Code, § 65585, subd. (j).