

REQUEST FOR Planning Commission Action



PLANNING COMMISSION MEETING DATE:

JANUARY 14, 2019

TITLE:

PUBLIC HEARING – DENSITY BONUS AGREEMENT APPLICATION NO. 2018-01 TO ALLOW CONSTRUCTION OF A 93-UNIT AFFORDABLE MULTI-FAMILY RESIDENTIAL PROJECT WITHIN THE TRANSIT ZONING CODE AT 609 NORTH SPURGEON STREET – NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA, APPLICANT {STRATEGIC PLAN NOS. 3, 2; 5, 3}

Prepared by Pedro Gomez

Executive Director

PLANNING COMMISSION SECRETARY

APPROVED

- As Recommended
- As Amended
- Set Public Hearing For _____

DENIED

- Applicant's Request
- Staff Recommendation

CONTINUED TO _____

Planning Manager

RECOMMENDED ACTION

Adopt a resolution approving Density Bonus Agreement Application No. 2018-01 as conditioned.

Executive Summary

Alexa Washburn, representing National Community Renaissance of California (“National CORE”), is requesting approval of a density bonus agreement (DBA) to allow the construction of an affordable 93-unit rental family-oriented, mixed-use commercial and residential community known as Legacy Square. As proposed, the project will take advantage of waivers from development standards and/or development concessions through the density bonus agreement pursuant to California Government Code sections 65915 through 65918 and Santa Ana Municipal Code (SAMC) Section 41-1600 through 41-1607. The request satisfies the purpose and intent of the Transit Zoning Code (TZC) to promote a pedestrian-oriented environment with a mix of land uses and will provide additional affordable housing stock to an underserved segment of the region’s population. As a result, staff recommends approval of the DBA.

Table 1: Project and Location Information

Item	Information
Project Address	609 North Spurgeon Street
Nearest Intersection	French Street and Santa Ana Boulevard
General Plan Designation	Urban Neighborhood (UN)
Zoning Designation	Transit Zoning Code (SD-84) with Urban Neighborhood 2 (UN-2) land use designation
Surrounding Land Uses	Single- and Multi-Family Residential (North)
	Commercial and Religious Institution (East)
	Multi-Family Residential (South)
	Spurgeon Station Post Office/Commercial (West)

Item	Information	
Site Size	1.74 acres combined	
Existing Site Development	The site contains two existing church buildings and a large surface parking lot	
Use Permissions	Mixed-use projects permitted by right by the UN-2 designation; DBA will address concessions and waiver	
Zoning Code Sections Affected	Uses	UN-2, Table 2A – Use Standards
	Development Standards	UN-2, Sec. 41-2014; Sec. 41-2020; Sec. 41-2025

Project Description

The project includes demolition of two church structures and construction of an affordable rental mixed-use community, consisting of 93 residential units, 7,267 square feet of flex mixed-use space and a 2,576-square-foot community center. The project will contain a 4-story building with two-story townhomes and flats/apartment units over an at-grade parking area with a total of 102 parking stalls to accommodate residents, visitors and staff. The project will include 30 one-bedroom units, 41 two-bedroom units, and 22 three-bedroom units, ranging in size from 612 to 1,742 square feet. Seven of the two-bedroom units and seven of the three-bedroom units will be two-story townhomes accessible from the street while the remaining 79 units will be flats/typical apartment units located on the 2nd, 3rd and 4th floors over the ground level parking. All units will contain full kitchens, bedrooms, bathrooms, in-unit storage, and open/common (living) areas.

Open space will be provided through a publicly-accessible entry plaza and grand staircase entry along Santa Ana Boulevard leading to an interior courtyard. The design and layout of the proposed building creates several unique outdoor areas within the courtyard including both passive and active spaces and amenities. The project’s flex mixed-use space area and leasing office will also front Santa Ana Boulevard, activating the street frontage and interfacing with the proposed Santa Ana Streetcar platform to be located at the corner of Santa Ana Boulevard and French Street. The proposed community center and laundry rooms will provide additional amenities to residents and visitors.

The project features a modern Main Street Commercial and Mission Revival architectural style common of many multiple-family or mixed-use residential communities under construction in Santa Ana and the region. The Main Street modern design complements the OC Streetcar and activate the street frontage, while the Mission Revival respects and complements the surrounding neighborhoods. The proposed materials include smooth stucco finishes, brick veneer, metal awnings and railing trim, wood post/railings, Tierra y Fuego Mexican Tile accents, and a clay mission style roof. Additionally, the design incorporates a color palette that would consist of earth-tone colors, contrasted with the accent brick veneer bases and Mexican tile accents. Overall, the project will include solid materials that will ensure that the project ages well for the duration of the building’s lifetime.

Affordability Mix

The project was originally proposed as a mixed-income project with eighty-one (81) units proposed as affordable to households earning less than 60-percent of the Area Median Income (AMI), integrated with 10-percent market rate units. However, upon review by the Community

Redevelopment and Housing Commission the unit mix was changed. The project is now proposed to be entirely affordable with ninety-two (92) units available to households earning less than 60-percent AMI, of which thirty-three (33) units will be set-aside for Permanent Supportive Housing. The last remaining unit will be a dedicated manager unit. Table 2 provides a complete breakdown of the unit affordability mix proposed by the developer for the project.

Table 2: Unit Affordability Mix

Income Limit Category	1-Bedroom	2-Bedroom	3-Bedroom	Total
Permanent Supportive Housing (>30% AMI)	30	3		33
Extremely Low Income (>30% AMI)			5	5
Very Low Income (>40% AMI)		60		6
Very Low Income (>50% AMI)		20	11	31
Low Income (>60% AMI)		12	5	17
Exempt Manager's Unit			1	1
Total	30	41	22	93

Density Bonus

The California Density Bonus law allows developers proposing five or more residential units to seek increases in base density for providing on-site housing units in exchange for providing affordable units on site. To help make constructing on-site affordable units feasible, the law allows developers to seek up to three incentives/concessions and an unlimited number of waivers, which are essentially variances from development standards that would help the project be built without significant burden and without detriment to public health. The first version of the Density Bonus Law was adopted in 1979 and has since been amended at various times. Recent revisions allow affordable housing developers to request incentives/concessions and/or waivers for 100-percent affordable developments, even if they do not require a numerical density bonus. Moreover, in early 2017, the law was amended to restrict the ability of local jurisdictions to require studies to “justify” the density bonus and requested incentives/waivers and places the onus on local jurisdictions to prove that the incentives/concessions or waivers are not financially warranted.

Due to the project’s 100-percent affordability rate the developer can seek up to three density bonus concessions and unlimited waivers, pursuant to Section 65915 et al. of the California Government Code (Density Bonuses and Other Incentives). In addition, the City’s Housing Opportunity Ordinance (HOO) allows developers to request up to two concessions to facilitate construction of affordable housing. Pursuant to Sec. 41-1904.1 of the HOO, the developer is requesting a 35-percent density bonus. As outlined by Table 3 below, the maximum unit yield for the 1.74-acre site using the TZC standards and both City and State density bonus is 94 units.

Table 3: Density Bonus Calculation

Density or Bonus	Allowed for Project	Provided
Base Density	52 units (1.74 acres x 30 units/acre base density based on Courtyard Housing type, which is the most “intense” type allowed in UN-2).	52 Units

35-Percent State Density Bonus	70 units (52 x 0.35)	+18 Units
35-Percent Bonus Provided by the Housing Opportunity Ordinance	94 units (70 x 0.35)	+24 Units
Total Units	94 units maximum	93 units proposed

The purpose of the HOO and the State Density Bonus Law is to encourage the development and availability of affordable housing by requiring the inclusion of affordable housing units within new developments. Pursuant to California Government Code sections 65915 (d)(1) and 65915 (e)(1), a local jurisdiction is limited in its ability to deny requested concessions and waivers and is preempted from denying the Density Bonus Agreement application. Although the City has analyzed the project and has identified several areas of concern, the conditions of approval proposed for the project are intended to address any of the project’s potential impacts. Table 4 outlines the incentives/concessions and waivers requested by the applicant.

Table 4: Requested Incentives/Concessions

TZC Standard	Requirement	Provided
Sec. 41-2020 & 41-2040 – Permitted Building Type and Architectural Style	The UN-2 land use designation only permits the Hybrid Court Building Type in certain locations.	A Hybrid Court Building Type is proposed at this location which is not permitted, pursuant to the TZC – Requires Waiver, Cal. Gov’t Code Sec. 65915 (e)(1)
Sec. 41-2014 – Building Setbacks	10 feet (front), 10 feet (street side), 15 feet (rear)	0 feet (front) and 10 feet (side) – Requires Concession (1 of 2), Cal. Gov’t Code Sec. 65915 (d)(1)
Sec. 41-2014 – Encroachments	Sec. 41-2014 of the TZC allows a maximum encroachment of 2’-0” into the required street side setback, subject to a minimum vertical clearance of 12’-0”.	Proposed deck design encroaches 6’-0” into the required 10’-0” street side setback along Spurgeon and French Street – Requires Concession (2 of 2), Cal. Gov’t Code Sec. 65915 (d)(1)

In addition, the site is parked in compliance with California Government Code Section 65915(p)(3)(A) and provides 1.1 spaces per unit, inclusive of handicapped and guest parking.

Analysis of the Issues

Pursuant to Section 41-1607 of the SAMC, an application for a density bonus agreement is required to be approved by the Planning Commission for any project containing “deviations” (incentives/concessions and/or waivers). The Planning Commission’s review of the density bonus agreement is based on the following findings:

1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the city.
2. The development will not be inconsistent with the purpose of the underlying zone or applicable designation in the general plan land use element.

3. The deviation is necessary to make it economically feasible for the applicant to utilize a density bonus authorized for the development pursuant to section 41-1603.

Because the project does not require a Site Plan Review Application, review and analyzes of the proposed project's land use, site planning and architectural design is not within the Planning Commission's purview. Therefore, the following subsections analyze the applicant's request for the Density Bonus Agreement application only.

Table 5: Analysis of the Requested Incentives/Concessions (2) and Waiver (1)

Standard	Analysis
Building Setbacks (Incentive/Concession)	Maintaining the required 10'-0" front yard setback would involve the significant loss of mixed-use space and the loss of six (6) three bedroom units. In addition, implementing the required front yard setback standard would result in the building being set back an additional 6-7 feet from the front property line, resulting in a significant loss of parking area and common open space. In order to maintain the current proposed unit count, the developer would be required to construct an additional level, resulting in a different type of construction (steel-frame versus wood), further increasing development costs. In addition, in order to maintain the current parking count the developer would be required to construct additional parking (above- or below-grade), resulting in increased construction costs and/or a loss of additional residential units.
Encroachments (Incentive/Concession)	Maintaining the maximum encroachment of 2'-0" into the required street side setbacks would result in the significant loss of the required private open space balconies. Implementing the required standard would result in the building being setback an additional 5-6 feet along the eastern and western property lines, resulting in a significant loss of parking area, common open space and residential units. To maintain the current parking count and open space, the developer would be required to construct additional parking, resulting in increased construction costs and/or a loss of additional units .
Permitted Building Type and Architectural Style (Waiver)	The proposed building is required to be designed as one of the building types and architectural styles permitted by the UN-2 zone. Pursuant to the TZC, the building type and architectural style are considered development standards that are eligible to be waived if they physically preclude the construction of the project. The project proposes a Hybrid Courtyard Building Type and Main Street Commercial architectural style which are only permitted in the UN-2 zone in certain locations of the TZC, but not permitted on the project site. However, if the project were designed as any other permitted building type or architectural style the project would result in a significant loss of residential units and a loss of any retail, service or office use. As a result, a waiver from the allowable building type and architectural style is required.

When analyzed cumulatively, the two requested concessions could be avoided if the project were designed using a different site plan or constructed using a different type of construction (steel-frame/Type I versus wood/Type III). If the project were designed with a multi-level parking and/or subterranean parking structure, or if the applicant used different building materials to construct a taller project, additional area on site would become available to provide open space and parking, and would allow the project to meet the required front yard setback. However, these changes would increase development costs and result in a project that would exceed the maximum permitted building height, resulting in the affordable housing project becoming financially infeasible due to the significantly-increased financial implications of an alternative construction type.

California Environmental Quality Act (CEQA) Analysis

Pursuant to the requirements of the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared and certified in 2010 in order to address the potential environmental impacts associated with the Transit Zoning Code. However, development of the Legacy Square project would have potential environmental impacts to an eligible but unlisted historical resource (Sanctuary and Anderson Court Complex, 1964-1966, and the Educational Building, 1928-1929) which was not addressed in the 2010 EIR. Therefore, an Initial Study and Mitigated Negative Declaration (IS/MND) has been prepared pursuant to the requirements of CEQA and has been attached to this report as Exhibit 11. The project was found to have a less than significant impact on the following environmental categories when proposed mitigation measures are implemented:

- Aesthetics
- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Noise
- Public Services
- Tribal Cultural Resources

The IS/MND's analysis determined that the above-mentioned environmental categories would cause no substantial adverse change to the environment with the inclusion of environmental commitments, or other enforceable measures, that would be adopted by the City. All mitigation measures in the original EIR and associated Mitigation Monitoring and Reporting Program (MMRP) have been enforced and are carried over within the IS/MND, with exception of Tribal Cultural Resources and Cultural Resources which required new mitigation measures.

Tribal Cultural Resources

Assembly Bill 52 (AB 52) requires meaningful consultation with California Native American Tribes on potential impacts on tribal cultural resources (TCRs), as defined in Public Resources Code Section 21074. TCRs are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either eligible or listed in the California Register of Historical Resources or local register of historical resources. In order to minimize impacts on potential TCRs, the IS/MND outlined mitigation measure TCR-1 requiring consultation of a qualified archaeologist and the local Native American representative, if unanticipated discoveries are made during construction activities. With implementation of mitigation measure TCR-1, potential project impacts on TCRs would be less than significant.

Cultural Resources

The City has determined the Educational Building to be a "historical resource" for CEQA-compliance purposes and determined that it requires proper mitigation of potential impacts from the proposed demolition. In addition, because the Sanctuary and Anderson Court Complex has also reached the commonly recognized 50-year age threshold for potential "historical resources," and the two buildings are integral parts of the same religious establishment, the IS/MND recommends that the Sanctuary and Anderson Complex should also be considered a component of the "historical resource."

To reduce potential impacts of the proposed demolition to a less than significant level, the IS/MND outlined mitigation measure CUL-1 which is consistent with the TZO EIR which required “written and photographic recordation of the resource in accordance with the level of Historic American Building Survey (HABS) documentation that is appropriate to the significance (local, state, national) of the resource.” Prior to demolition, the developer will be required to document the buildings to Historic American Building Survey (HABS) -like documentation for the historical resources slated for demolition. The HABS-like package will document in photographs and descriptive and historic narrative the historical resources slated for demolition. Documentation prepared for the package will draw upon primary and secondary source research and available studies previously prepared for the project.

The IS/MND’s Notice of Intent (NOI) was published in the Orange County Register and posted to the County Clerk on January 8, 2019, for the required 20-day public comment period. The IS/MND is also available for public view at the City Hall Planning counter, Santa Ana Library in the Civic Center and on the City website. The public review period ends on January 29th, which will allow the City to respond to any comments received and incorporate comments and responses into the IS/MND before the City Council public hearing, tentatively scheduled on February 5th. As of this printing, no comments or communications from the public have been received on the IS/MND.

Table 5: Strategic Plan Alignment and Public Notification & Community Outreach

Strategic Plan Alignment, and Public Notification & Community Outreach	
Strategic Plan Alignment	
Goal(s) and Policy(s)	Approval of this item supports the City’s efforts to meet Goal No. 3 (Economic Development) Objective No. 2 of creating new opportunities for business/job growth and encourage private development through new General Plan and Zoning Ordinance policies. The item also supports Goal 5 (Community Health, Livability, Engagement & Sustainability) Objective No. 3 to facilitate diverse housing opportunities and support efforts to preserve and improve the livability of Santa Ana neighborhoods.
Public Notification & Community Outreach	
Required Measures	<p>A public notice was posted on the project site on January 4, 2019.</p> <p>Notification by mail was mailed to all property owners and occupants within 500 feet of the project site on January 4, 2019.</p> <p>Newspaper posting was published in the Orange County Reporter on January 4, 2019.</p> <p>The applicant held a Sunshine Ordinance community meeting on the evening of November 27, 2018. This meeting was publicly noticed in the OC Register, posted on the City’s website, and invitation mailers were sent to all addresses within a 500-foot radius of the project site, as well as local community organizations. The meeting included a presentation on the project as well as a question and answer period to address concerns and collect feedback. Approximately 50 individuals attended the meeting. Notes from the meeting are attached to this report as Exhibit 9.</p>
Community Outreach & Additional Measures	The project applicant has held monthly meetings with the United Methodist Church congregation and United Methodist Church leadership to provide project updates and collect input on the design and amenities to serve the wider neighborhood. Meetings were held on July 19th, August 26th, September 23rd, October 28th, and December 2nd. Concurrently, the applicant and the United Methodist Church have worked collaboratively regarding the coordination of relocation assistance and outreach to local nonprofit organizations to better align and leverage resources. In the last six months, the applicant

	has had one-on-one meetings with half a dozen local organizations to discuss the project including, but not limited to: the Ebell Club, Vecindad Lacy en Accion (VELA), Kennedy Commission, Latino Health Access, Taller San Jose Health Builders, and the Santa Ana Unified School District.
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Conclusion

Based on the analysis provided within this report, the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in the city and will consistent with the purpose of the underlying zone and applicable designation in the general plan land use element. In addition, the proposed deviations are necessary to make the project economically feasible for the applicant to utilize a density bonus authorized for the development pursuant to section 41-1603. Therefore, staff recommends that the Planning Commission adopt a resolution approving Density Bonus Agreement Application No. 2018-01 as conditioned.



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- Exhibits
1. Resolution
 2. Vicinity Zoning and Aerial Map
 3. Site Photo
 4. Site Plan
 5. Unit Floor Plans
 6. Building Elevations
 7. Building Perspectives
 8. Landscape Plans
 9. Sunshine Ordinance Community Meeting Minutes
 10. Draft Density Bonus Agreement
 11. IS/MND