



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
July 16, 2024

TOPIC: Habitat for Humanity of Orange County Affordable Ownership Units

AGENDA TITLE

Conditional Grant Agreement for \$2,200,000 and a Density Bonus Agreement with Habitat for Humanity of Orange County for the Development of Six Affordable Ownership Units Located at 1921 W Washington Avenue, Santa Ana, CA 92706 (Non-General Fund)

RECOMMENDED ACTION

1. Authorize the City Manager to execute a Conditional Grant Agreement with Habitat for Humanity of Orange County for \$2,200,000 in Inclusionary Housing Funds for the development of six affordable ownership units located at 1921 W Washington Avenue, Santa Ana, CA 92706 (APN 405-101-37) (Agreement No. A-2024-XXX).
2. Approve an appropriation adjustment recognizing \$2,200,000 in prior-year fund balance in the Inclusionary Housing Fund and appropriate the same into the Loans and Grants expenditure account (no. 41718820-69152). (*Requires five affirmative votes*)
3. Authorize the City Manager to execute a Density Bonus Agreement with Habitat for Humanity of Orange County for a 45-year term for the development of six affordable ownership units located at 1921 W Washington Avenue, Santa Ana, CA 92706 (APN 405-101-37) (Agreement No. A-2024-XXX).
4. Adopt a resolution approving Density Bonus Agreement No. 2024-01 as conditioned.

RESOLUTION NO. 2024-XXX entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA APPROVING DENSITY BONUS AGREEMENT APPLICATION NO. 2024-01 AS CONDITIONED FOR A NEW FOR-SALE RESIDENTIAL DEVELOPMENT WITH SIX UNITS FOR THE PROPERTY LOCATED AT 1921 W WASHINGTON AVENUE (APN: 405-101-37) [includes determination that the recommended action is exempt from further review in accordance with the California Environmental Quality Act under Section 15195 (Residential Infill Exemption), as this project meets all the threshold criteria set forth in Section 15192 (Threshold Requirements for Exemption)]

GOVERNMENT CODE §84308 APPLIES: Yes

PLANNING COMMISSION RECOMMENDATION

At its regular meeting on June 10, 2024, the Planning Commission held a duly noticed public hearing and at that time considered all testimony, written and oral, and unanimously (5-0-0-2, with Commissioners Ramos and Oliva absent) recommended that the City Council approve Density Bonus Agreement No. 2024-01, as conditioned. As part of its actions, the Planning Commission also voted unanimously (5-0-0-2, with Commissioners Ramos and Oliva absent) to approve Tentative Tract Map (TTM) No. 2023-05, as conditioned.

DISCUSSION

On November 15, 2022, the City Council authorized the City Manager to execute a pre-commitment letter (Exhibit 1) with Habitat for Humanity of Orange County (“Habitat for Humanity”) for \$2,200,000 in Inclusionary Housing Funds for the development of six affordable ownership units located at 1921 W Washington Avenue, Santa Ana, CA 92706 (APN 405-101-37) (“Project”). The Project will include six newly constructed three-bedroom, two-bath homes affordable to low-income households earning less than 80% of the area median income (AMI) with a local preference for residents who live and/or work in the City. The pre-commitment letter was executed following a competitive Request for Proposals process approved by City Council in December 2021.

After the City Council approves a pre-commitment of funding for an affordable housing project, the developer must secure their entitlements and their remaining sources of financing as two primary conditions before staff will return to City Council. Relative to the Project’s entitlements, on June 10, 2024, the Planning Commission held a public hearing for the Project, where they voted unanimously to approve Tentative Tract Map No. 2023-05 and to recommend that the City Council approve Density Bonus Agreement No. 2024-01 with conditions. Relative to securing their remaining sources of financing, Habitat for Humanity has finalized their budget for the successful construction of the Project. Now that Habitat for Humanity has met these two conditions in the pre-commitment letter, City Council may consider approval of the Conditional Grant Agreement and Density Bonus Agreement for the development of the Project. Further details on both Agreements are provided below.

Conditional Grant Agreement

The Conditional Grant Agreement is attached as Exhibit 2. Amongst various other terms, the following key terms are incorporated into the Grant Agreement:

- Developer: Habitat for Humanity of Orange County.
- Conditional Grant Amount: \$2,200,000 in Inclusionary Housing Funds, conditional upon successful completion of the Project.
- Disbursement Schedule: 90% of the funds will be disbursed upfront for the construction, with a 10% contingency:

- The initial disbursement of \$1,980,000 may be disbursed after the Regulatory Agreement is recorded, insurance is provided, and the grading permit is ready to issue.
- The final disbursement of \$220,000 will be disbursed after the Project is completed, the Certificate of Occupancy is issued, and each home is successfully sold to a low-income family.

The Conditional Grant Agreement has been signed by Habitat for Humanity to acknowledge their acceptance of the terms.

Density Bonus Agreement

The Density Bonus Agreement is attached as Exhibit 3 and was approved unanimously by the Planning Commission on June 10, 2024.

Table 1: Project and Location Information

Item	Information	
Project Address and Council Ward	1921 W. Washington Blvd – Ward 5	
Nearest Intersection	Washington Street & English Street	
General Plan Designation	Low Density Residential (LR-7)	
Zoning Designation	Two-Family Residence (R-2)	
Surrounding Land Uses	North	Single-Family Residential
	East	Multi-Family Residential
	South	Single-Family Residential
	West	Multi-Family Residential
Property Size	0.37-acres (16,109 square feet)	
Existing Site Development	Vacant (demolition permits finalized on 1/26/24)	
Use Permissions	Two-Family Residential (R-2)	
Zoning Code Sections Affected	Uses	Article XVI.I (Density Bonus); SAMC Section 41-247
	Development Standards	Two-Family Residential (R-2)

The California Density Bonus (Government Code § 65915 et seq.) law allows developers proposing five or more residential units, as well as other projects, such as common interest developments under Civil Code § 4100, to increase density of on-site housing units in exchange for developing affordable units on site. To help make constructing on-site affordable units feasible, the law allows developers to seek up to five incentives/concessions and an unlimited number of waivers that facilitate production of units, 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 and places the onus on local jurisdictions to prove that the incentives/concessions or waivers requested by a developer are not warranted.

Pursuant to the California Density Bonus law, a project's affordability level is determined by dividing the number of proposed affordable units by the allowable "base" density (i.e.,

7 du/ac). Moreover, the law states that units added by a density bonus are excluded from the calculations. As outlined by Table 2 below, the base density for the 0.37-acre site at 7 du/ac is 3 units. All six units of the Project are proposed to be affordable to low income households (a 100% affordability rate) that allows Habitat for Humanity to request a density bonus of 80%, which equates to a maximum of three density bonus units, five concessions, and unlimited waivers that assist with production of the units onsite.

Table 2: Density Bonus Calculation

Affordable Unit – 100% (6 units)*	Density Bonus Calculation	Units Allowed
Base Density - Duplex Dwelling Building type	0.37 acres x 7	3**
80-Percent State Density Bonus	(3 units x 0.80)	+3 Units**
Total Units Allowed		6 Units
Total Units Proposed		6 Units
*Affordable unit percentage is calculated excluding units added by a density bonus. **AB 2501 states that any density calculations resulting units shall be rounded up to the next whole number. Applies to: Number of affordable units required to be eligible for the density bonus; Base density (i.e. the number of affordable units in the base project); and Eligible bonus units.		

The purpose of the Density Bonus Law is to encourage the development of affordable housing and a local jurisdiction is limited in its ability to deny requested concessions/waivers, and is preempted from denying the increased density.

Pursuant to Government Code § 65915 (d)(1), a requested concession or incentive shall be granted unless the City makes written findings, based on substantial evidence of any of the following: (1) the concession or incentive does not result in identifiable and actual cost reductions to provide the proposed affordable housing, (2) the concession or incentive would have a specific, adverse impact on public health and safety, or on any real property listed on 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 project unaffordable to low-income and moderate-income households, or (3) the concession or incentive would be contrary to state or federal law.

The Density Bonus Law also constrains the ability to deny requested waivers. Subject to exceptions for projects that receive a waiver from controls on maximum density, Government Code § 65915 (e)(1) provides that the City cannot apply any development standard that would physically preclude the construction of a development entitled to a density bonus at the increased density or with the concessions or incentives, unless the City makes findings that the waiver would have a specific, adverse impact on public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

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 3 outlines the incentives/concessions and waivers requested by the applicant.

Table 3: Requested Incentives/Concessions/Waivers

R-2 Standard	Requirement	Provided
Setbacks	<ul style="list-style-type: none"> Minimum rear setback of 10 feet if at least 1,200 square feet of open space areas is included. SAMC Section 41-251	<ul style="list-style-type: none"> Minimum rear setback of 6 feet. 1,204 square feet of open space is included. Requires Concession (1 of 4), Cal. Gov't Code Sec. 65915 (d)(1)(2)(B)
Front-yard Fencing	<ul style="list-style-type: none"> Residential front-yard fencing height restriction is three feet for sites fronting non-arterial streets. SAMC Section 41-610 (a)(1)	<ul style="list-style-type: none"> A four-foot approximate encroachment of a fence of up to six feet high within the front-yard area. Requires Concession (2 of 4), Cal. Gov't Code Sec. 65915 (d)(1)(2)(B)
Building Separation	<ul style="list-style-type: none"> Minimum building separation of 15 feet. SAMC Section 41-254 (a)	<ul style="list-style-type: none"> 10 feet of separation proposed between the front duplex and the center duplex. 9 feet of separation proposed between the rear duplex and the center duplex. Requires Concession (3 of 4), Cal. Gov't Code Sec. 65915 (d)(1)(2)(B)
Open Space	<ul style="list-style-type: none"> Minimum 100 square feet of private space to be provided per unit in the form of a private patio or deck. SAMC Section 41-255	<ul style="list-style-type: none"> 91 square foot balcony proposed for Unit 5. Requires Concession (4 of 4), Cal. Gov't Code Sec. 65915 (d)(1)(2)(B)
Trash Enclosure	<ul style="list-style-type: none"> Trash Enclosures: Located and screened from public streets and alleys, as well as be physically integrated with the site. SAMC Section 41-623	<ul style="list-style-type: none"> Locating the trash enclosure towards the frontage of the site and reducing the width of the drive aisle by 8-inches to 18 feet and 10-inches (18'-10") to accommodate PWA trash requirements. Requires Waiver (1 of 1) Cal. Gov't Code Sec. 65915 (e)(1)

Onsite Parking

The site parking is in compliance with California Government Code Sections 65915 (p)(1)(A), 65915 (p)(1)(B), and 65915 (p)(2)(A) and provides 15 total parking spaces or two-and-a-half spaces per unit. Per the California Density Bonus Law, a jurisdiction cannot impose a vehicular parking ratio that exceeds 0.5 spaces per unit, inclusive of handicapped and guest parking, when the development includes a minimum of twenty-percent (20%) low-income units, is located within one-half mile of a major transit stop, and when there is unobstructed access to the major transit stop from the development. As a 100% affordable project and at two-and-a-half spaces per unit, the Project exceeds the minimum required parking ratio by two spaces per unit, or 12 parking spaces.

To proactively address any neighborhood parking impacts that could result from the Project, the conditions of approval for the Tentative Tract Map and terms of the Density Bonus Agreement include provisions requiring the following parking management practices, to be incorporated into the final, recorded CC&Rs, and applicable throughout the life of the Project:

- Requiring onsite parking permits (such as stickers or hang-tags) for any parking in the surface guest parking spaces;
- Policies for maximum time vehicles may be parked in the surface guest spaces; and
- Policies for towing unauthorized vehicles; vehicles parked in unauthorized locations, such as fire lanes; vehicles parking in surface guest parking without a sticker, hang-tag, or other identifiers; and vehicles parked longer than any maximum guest parking timeframes allowed.

Key Terms

The Density Bonus Agreement includes the following key terms:

- Term of Agreement: Forty-five (45) years from the date of issuance of the Certificate of Occupancy for the Project.
- Project: Habitat for Humanity shall develop three new duplex buildings that would accommodate six 100% affordable, for sale residential units. The units shall be affordable to low-income households earning less than 80% AMI.
- Affordability: All six units are proposed to be affordable to low-income households earning less than 80% AMI as published by the California Department of Housing and Community Development ("HCD").
- Local Preference: Habitat for Humanity shall give a local preference in selecting homebuyers to Santa Ana residents who live or work in the City for at least 32 hours per week for six months, those seeking residence due to a disability, or households with students attending public school in the City.
- Occupancy Levels: The minimum number of occupants is three. The maximum number of occupants is eight.
- Homebuyers: Each homebuyer shall enter into a Homebuyer Loan Agreement with the City to memorialize a loan from the City to homebuyer in the amount equal to the difference between (a) the affordable sales price for the affordable unit and (b) the fair market value of the affordable unit without any restrictions on affordability or resale price, which amount shall be the amount of the City Promissory Note. Each homebuyer shall execute the Affordable Housing Resale Restrictions, the City Deed of Trust, and the Notice of Affordability Restrictions, each of which shall be recorded against the affordable unit. The Affordable Housing Resale Restrictions for each initial sale from Habitat for Humanity to a homebuyer shall also include an equity sharing agreement in accordance with California Government Code § 65915(c)(2)(A).

- Miscellaneous: Habitat for Humanity shall submit and obtain approval of an Emergency Evacuation Plan, Crime-Free Housing Plan, Onsite Parking Management Plan, and a Marketing and Resident Selection Plan.

The Density Bonus Agreement has been signed by Habitat for Humanity to acknowledge their acceptance of the terms. A Resolution is attached as Exhibit 4 for City Council to affirm that: 1) the Project will not be inconsistent with the purpose of the underlying zone or applicable designation in the General Plan land use element; 2) the deviation is necessary to make it economically feasible for Habitat for Humanity to utilize a density bonus authorized for the Project; and 3) the Project is exempt from the California Environmental Quality Act.

Project Description

The Project includes the construction of three new duplex buildings that would accommodate six 100% affordable, for-sale residential units. The front two duplex buildings (Units 1-4, closest to Washington Avenue) are designed with a similar floor plan and each contain the same square footage of approximately 1,859-square-feet (net floor area) for each unit. The rear duplex building (Units 5 & 6) will consist of 3,446 square-feet of floor area. In total, all new floor area onsite will be 10,882 square-feet. Units 1-4 each will consist of three bedrooms, two and a half restrooms, a kitchen, living room, and in-unit laundry facilities. Unit 5 will consist of 1,165 square-feet with three bedrooms, two restrooms, a living room, a dining room, a kitchen, and a balcony. Unit 6 will consist of one 1,168-square-foot ADA compliant unit with three bedrooms, two restrooms, a dining room, living room, kitchen, and in-unit laundry facilities. Onsite there will be a total of 15 parking stalls, which consist of two garage stalls per unit (tandem spaces for Unit 5) and three guest surface spaces (one ADA compliant space). All six units are proposed to be affordable to low-income households earning less than 80% AMI, which is currently set at \$129,000, adjusted for a four-person household size, as published by HCD.

The Project architecture features a traditional farmhouse style. The overall design, massing, features, and materials of the new construction will be compatible with and complement the variation of styles within the neighborhood. The farmhouse architectural style would include exterior horizontal and vertical board siding, exterior wood finishes, vinyl frame hung windows, wood eave brackets, wood trellises, decorative light fixtures, an enhanced frontage-facing porch area for Unit 1, and porticos for the remaining units. Moreover, the structure is designed to fully screen all mechanical equipment with the inclusion of walls or enhanced landscaping screens. Overall, the Project will include a design and quality construction materials that will ensure that the Project ages well for the duration of the building's lifetime.

FISCAL IMPACT

Approval of the requested appropriation adjustment will recognize \$2,200,000 in the Inclusionary Housing Fund, Prior Year Carry Forward revenue account (no. 41718002-50001) and appropriate the same amount in the Inclusionary Housing Fund, Loans and

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Grants expenditure account (no. 41718820-69152). Any remaining balances not expended at the end of the fiscal year will be presented to City Council for approval of carryovers to FY 2025-26.

Fiscal Year	Accounting Unit-Account	Fund Description	Accounting Unit, Account Description	Amount
FY 24-25	41718820-69152	Inclusionary Housing Fund	Inclusionary Housing Fund – Loans and Grants	2,200,000
Total Expenditures				\$2,200,000

EXHIBIT(S)

1. Pre-Commitment Letter
2. Conditional Grant Agreement
3. Density Bonus Agreement
4. Resolution

Submitted By: Michael L. Garcia, Executive Director of Community Development

Approved By: Alvaro Nuñez, Acting City Manager