



**City of Santa Ana**  
**20 Civic Center Plaza, Santa Ana, CA 92701**  
**Staff Report**  
**August 16, 2022**

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**TOPIC:** Cabrillo Crossing Density Bonus Agreement, 1814 & 1818 E. First Street

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**AGENDA TITLE:**

Density Bonus Agreement No. 2022-02 to Facilitate Construction of Cabrillo Crossing, a 35-Unit Mixed-Use Residential and Live/Work Community with Four Onsite Affordable Units

**RECOMMENDED ACTION**

1. Adopt a resolution approving Density Bonus Agreement No. 2022-02 as conditioned.
2. Authorize the City Manager to execute a Density Bonus Agreement with Brandywine Acquisition Group, LLC for a project known as Cabrillo Crossing for a 55-year term, for the development of a mixed-use residential and live/work development with 35 townhome units , including four onsite for-sale affordable units, at 1814 and 1818 East First Street, subject to non-substantive changes approved by the City Manager and City Attorney.

**EXECUTIVE SUMMARY**

Angela Meyer, representing Brandywine Acquisition Group, LLC (applicant), on behalf of David A. Colton Trust (property owner) is requesting approval of a density bonus agreement (DBA) to facilitate the construction of a 35-unit attached townhome development, six of which are proposed as live/work, with four onsite moderate-income affordable units, known as Cabrillo Crossing. As proposed, the project requires approval of a density bonus agreement with one waiver from the Metro East Mixed Use (MEMU) overlay district's development standards for onsite open space pursuant to California Government Code sections 65915 through 65918 and Santa Ana Municipal Code (SAMC) Section 41-1600. Staff is recommending approval of the applicant's request since the project's meets the criteria established in the MEMU overlay district to promote a pedestrian-oriented environment with a mix of land uses. Additionally, the project will provide affordable and market-rate ownership housing stock to the community.

### *Planning Commission Action*

On June 27, 2022, the Planning Commission held a public hearing for the project and voted unanimously (7-0) to approve Site Plan Review No. 2022-03 and Tentative Tract Map No. 2022-02 for the project, and recommended that the City Council approve Density Bonus Agreement No. 2022-02 with conditions.

As part of the discussion, the Planning Commission recommended that the developer work with staff to identify whether one of the proposed live/work units could be sold for moderate-income affordable ownership. Subsequently, the applicant and Housing Division staff reviewed additional information to determine the feasibility of including one of the live/work units for affordable ownership. It was determined that the inclusion of a live/work unit would require that the remaining three affordable units be the smallest unit type, which is not consistent with the goals of the City's Affordable Housing Opportunity and Creation Ordinance (AHOCO) and State Density Bonus Law to evenly disperse units among various floor plan types and sizes.

As a result, the developer is proposing to satisfy the AHOCO by providing four (4) onsite residential units for sale to moderate-income households. These units will be dispersed throughout the community and will each contain three bedrooms and will range in size from 1,513 to 1,848 square feet in size. The developer's Inclusionary Housing Plan has been reviewed and approved by the City's Housing Division.

## **DISCUSSION**

### **Project Description**

The project includes the construction of a mixed-use townhome development with 1,980 square feet of commercial space. The project will contain five structures consisting of a surface parking area with 10 open/guest parking spaces and 35 townhome units, six of which are proposed to be live/work. The structures will each contain a two-car garage at ground level with residential units above, some with roof decks and others with fourth-level flex rooms. All structures will contain a four-story volume to enhance the project's urban presence. The project will include three-bedroom unit townhome (29) and three-bedroom unit townhome with home office (6), ranging in size from 1,513 to 2,379 square feet. 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 plaza fronting First Street, as well as common onsite open space for use by the residents. Each unit will also contain roof decks and private balconies for the use of each unit's owners.

The project will feature a contemporary architectural style with exterior materials that include cement stucco and siding, smooth stucco finishes, exterior veneer finishes, wood framed awning, and wood guard railing. These solid materials will ensure that the project ages well for the duration of each onsite building's lifetime.

As part of the current entitlement, the applicant has submitted a tentative parcel map application to subdivide the project site into thirty-five individual condominium units, which would allow each unit to be sold for individual ownership. The applicant has prepared the required tentative parcel map for a condominium subdivision.

**Table 1: Project and Location Information**

Item	Information	
Project Address	1814 and 1818 East First Street – Ward 3	
Nearest Intersection	First Street and Cabrillo Park Drive	
General Plan Designation	District Center (DC) 3	
Zoning Designation	General Commercial (C-2) with the Metro East Mixed Use (MEMU) overlay district (OZ-1), Active Urban sub-district	
Surrounding Land Uses	Office (North)	
	Institutional (East)	
	Office (South)	
	Commercial and Santa Ana (I-5) Freeway (West)	
Site Size	1.40 acres	
Existing Site Development	The site currently vacant/undeveloped	
Use Permissions	Mixed-use projects permitted by the OZ-1 designation; deviations/concessions will address proposed deficiencies	
Zoning Code Sections Affected	Uses	OZ-1, Section No. 4
	Development Standards	OZ-4, Section Nos. 4.5

**Table 2: Conformance to Development Standards**

Standard	Required by the MEMU	Provided
Stories	Minimum 3, no maximum	4 stories
Minimum Site Area	1 acre	1.40 acres
Permitted Frontage	Forecourt, shopfront, gallery, or arcade	Shopfront on First Street as permitted by MEMU
Publicly Accessible Open Space	15 percent of total lot area	Less than 6 percent – <b><i>Requires Concession (1), Cal. Gov't Code Sec. 65915 (d)(1)</i></b>
Private/Common Open Space	90 square feet per unit	90 square feet per unit
Building Setbacks	10 feet (front), 5 feet (side), 5 feet (rear)	11 feet (front-north), 5 (side-east), 11 feet (side-west), 8 (rear-south)
Residential Parking	2 spaces per unit overall – every unit must be allocated at least 1 space	2 spaces per unit
Courtyard height-to-width ratios	2 to 1 (enclosed on four sides), 3 to 1 (open on one or more sides)	Complies; various ratios in excess of 2 to 1 and 3 to 1 provided
Driveway width	24 feet maximum	25 feet
Building Massing	A variety of massing, volume, and step-backs are required to increase building articulation	Complies; the building features a step-back along First Street

Standard	Required by the MEMU	Provided
		and breaks in volume to reduce massing

**Table 3: Density Bonus Calculation**

Density or Bonus	Allowed for Project	Provided
Base Density	126 units (1.40 acres x 90 units/acre base density used as a standard for developments in areas designated DC by the General Plan Land Use element)	35 units
35-Percent State Density Bonus	+43 units (125 x 0.35)	0
35-Percent Bonus Provided by the Housing Opportunity Ordinance	+43 units (125 x 0.35)	0
<b>Total Units</b>	<b>211 units maximum</b>	<b>35 units proposed</b>

Although the project is proposing a total number of units (35) that is below the maximum City-prescribed density for the project site based on its acreage, the developer is able to seek a concession because it is a mixed-income community with onsite affordable units. The City's Affordable Housing Opportunity and Creation Ordinance (AHOCO) allows developers to request up to two concessions to facilitate construction of affordable housing. However, none of the concessions listed in the HOO are being requested by the applicant. Instead, the one requested concession is permitted by Section 65915 et al. of the California Government Code (Density Bonuses and Other Incentives). Pursuant to California Government Code sections 65915 (d)(1) and 65915 (e)(1), a local jurisdiction is limited in its ability to deny the requested concessions and is preempted from denying the Density Bonus Agreement application.

### **Background**

The Metro East Mixed Use overlay district was adopted in 2007 as a result of interest in developing mixed-use residential and commercial projects in its project area. The regulating plan, which establishes land uses and development standards, allows a variety of housing and commercial projects, including mixed-use residential communities, live/work units, hotels, and offices. The Metro East Mixed Use overlay district was modified and expanded in 2018 to include areas along East First Street between Grand Avenue and the Santa Ana (I-5) Freeway. Since its adoption, the district has resulted in four mixed-use communities built or under construction, with two more projects entitled.

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 facilitate the construction of on-site affordable units, the law allows developers to seek up to three incentives/concessions and an unlimited number of waivers, which are essentially deviations from development standards to provide relief and allow the project be built without significant burden (e.g. financial, site constraints) 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 affordable or mixed-income 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.

### **Analysis of the Issues**

Section 41-1607 of the Santa Ana Municipal Code requires an application for a density bonus agreement containing “deviations” (incentives/concessions and/or waivers) to have been recommended by the Planning Commission and approved by the City Council. The following subsections analyze the applicant’s request for both the Density Bonus Agreement application.

The MEMU regulating plan requires that publicly-accessible open space be provided along main street-facing façades. Because the project has frontage on only one street, meeting this requirement would result in the building being placed back significantly from First Street. Requiring this development standard would result in designating the first 1/4 of the site’s depth as a front yard setback, resulting in the developer reducing the number of units or reducing the square footage for private or common open space area. Moreover, in order to maintain the current proposed unit count, the developer would be required to construct additional levels, resulting in a different type of construction (steel-frame/Type I versus wood/Type III), further increasing development costs. If the publicly accessible open space standard were applied as written, the result would be a significant loss of units and parking area. Placing the building back would also result in the development not contributing to an urban, walkable environment. The Applicant designed the community so that each unit contains ample onsite private open space as a tradeoff for placing the building closer to the street and by providing a commercial component along First Street that will activate the street frontage.

When analyzed cumulatively, the requested concession could be avoided if the project were constructed using a different site plan and building type. If the project were designed with a multi-level parking and/or subterranean parking structure, or if the applicant used different building materials (non-combustible, Type I) to construct a taller project, additional area on site would become available to provide the publicly-accessible open space. However, these changes would increase development costs, resulting in the affordable housing project becoming financially infeasible due to the significantly-increased financial implications of using Type I construction.

### ***Affordable Housing Opportunity and Creation Ordinance***

The proposed development is subject to the requirements of the City’s Affordable Housing Opportunity and Creation Ordinance (AHOCO), which allows developments in the Metro

East Mixed Use overlay district to provide onsite affordable units at the rate of ten percent (10%) of the entire unit count. As the community consists of 35 units, 3.5 units onsite would need to be built and sold to moderate-income households.

The developer is proposing to satisfy the AHOCO by providing four (4) onsite units for sale to moderate-income households. These units will be dispersed throughout the community and will each contain three bedrooms and will range in size from 1,513 to 1,848 square feet in size. The developer's Inclusionary Housing Plan has been reviewed and approved by the City's Housing Division.

#### *Key Items in the Density Bonus Agreement*

The following is a list of key items agreed upon in the Density Bonus Agreement:

- Affordable Units. The Project shall have four (4) onsite units for sale to moderate-income households. These units will be dispersed throughout the community and will each contain three bedrooms and will range in size from 1,513 to 1,848 square feet in size. The affordable units shall be restricted to use and occupancy by eligible households for a total period of no less than fifty-five (55) years including:
  - The affordable units in the Project shall at all times during the term of the Agreement be for sale to moderate-income purchasers at 120% of Area Median Income (AMI).
- Marketing and Purchaser Selection Plan. Developer shall prepare and obtain City's approval a marketing program and purchaser selection plan for the sale of the affordable units at the project prior to occupancy.
- Selection of Purchasers. The Developer shall give preference in for sale units to households that live and/or work in the City of Santa Ana. Implementation of the preference will be monitored by staff in the Community Development Agency.
- Onsite Parking Management Plan. Developer has agreed to provide a parking management plan.

The Density Bonus Agreement has been signed by the Developer to acknowledge their acceptance of the terms. The Agreement is not considered final until the City Council has reviewed and approved the Agreement and the Agreement is executed by all parties.

#### **Public Notification and Community Outreach**

As part of the Planning Commission action, project notifications were posted, published, and mailed in accordance with City and State regulations. In addition, staff contacted the provided contacts for the Lyon Street Neighborhood Association to ensure they were aware of the project and public hearing. In addition, the applicant held a community meeting in conformance to Sunshine Ordinance notification requirements in place at the time the application was submitted on November 30, 2021 at 6:00 p.m. to discuss the project with community members and surrounding property owners. Participants asked questions about the project timing and construction impacts, but no significant issues

were raised by participants during the meeting. At the time this report was prepared, no issues of concern were raised regarding the proposed density bonus agreement.

### **ENVIRONMENTAL IMPACT**

In accordance with the California Environmental Quality Act (CEQA), the Planning Commission action was determined to be adequately evaluated in the previously certified Subsequent Environmental Impact Report (EIR) No. 2018-15 (State Clearinghouse No. 2006031041) as per Sections 15162 and 15168 of the CEQA guidelines. All mitigation measures in EIR No. 2018-15 and associated Mitigation Monitoring and Reporting Program (MMRP) have been enforced and continue to apply to the proposed project. As required by the MMRP, a traffic impact analysis was performed to analyze any potential changes in area traffic as a result of the proposed development. The study concluded that no additional significant impacts would trigger the requirement for additional environmental review. In addition, a health risk assessment (HRA) was prepared to identify any impacts from developing a residential community near a major freeway. The HRA finds that no mitigation measures are required for the project other than installing and routinely maintaining high efficiency Minimum Efficiency Reporting Value (MERV) filters of MERV 13 or better as indicated by the American Society of Heating Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 52.2, in the intake of ventilation systems. In considering additional analysis, the applicant submitted additional studies, including phase I and II site analyses, shade and shadow analysis, noise analysis, and a fiscal impact and economic benefit analysis.

As outlined in this staff report, the project is consistent with the City's General Plan and the MEMU regulating plan. Further, it is consistent with the density bonus provisions outlined in the City's AHOCO Ordinance. The project site is located within city limits and is less than five acres in size. It is already in an urbanized setting surrounded by urban uses, and the project has not been identified as habitat for endangered, rare or threatened species. Environmental Review No. 2021-116 was filed for the project on June 28, 2022, following Planning Commission approval of the site plan review and tentative tract map.

### **FISCAL IMPACT**

There is no fiscal impact associated with this action.

### **EXHIBIT(S)**

1. Resolution – Density Bonus Agreement
2. Density Bonus Agreement
3. Planning Commission Staff Report and Exhibits

Submitted By: Minh Thai, Executive Director of Planning and Building Agency, and Steven Mendoza, Assistant City Manager

Approved By: Kristine Ridge, City Manager