



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
December 6, 2022

TOPIC: Density Bonus Agreement No. 2022-03 – Warmington Residential (717 S Lyon Street)

AGENDA TITLE:

Density Bonus Agreement No. 2022-03 to Facilitate the Construction of a For-Sale Residential Townhouse Development, Consisting of 51 Townhouse Units with Eight Units Proposed as Affordable to Low-Income Households

RECOMMENDED ACTION

1. Adopt a resolution approving Density Bonus Agreement No. 2022-03 as conditioned.
2. Authorize the City Manager to execute a Density Bonus Agreement with Warmington Residential, Inc., for a 55-year term, for a for-sale residential townhouse development, consisting of 51 townhouse units with eight units proposed as affordable to low-income households at 717 S. Lyon Street, subject to non-substantive changes approved by the City Manager and City Attorney.

EXECUTIVE SUMMARY

Greg Ocasek, representing Warmington Residential California, Inc. (applicant), on behalf of Wesley T. Geller, trustee of the Orange County Electrical Joint Apprenticeship Trust (property owner), is requesting approval of density bonus agreement (DBA) No. 2022-03 to facilitate the construction of a residential townhouse development, consisting of 51 townhouse units with eight units proposed as affordable at 717 S. Lyon Street.

As proposed, the project will utilize 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. Moreover, the project requires approval by the City Council for a density bonus to allow up to 22.16 dwelling units per acre (du/ac). Staff is recommending approval of the applicant's request due to the projects satisfying the intent of the General Plan to promote a pedestrian-oriented environment, and because the project will provide additional affordable and market-rate ownership housing stock to the community.

Planning Commission Action

On September 26, 2022, the Planning Commission held a public hearing for the project and voted unanimously (6-0-0-1) to approve Vesting Tentative Tract Map No. 2022-03 for the project, and recommended that the City Council approve Density Bonus Agreement No. 2022-03 with conditions.

As part of the discussion, the Planning Commission amended the resolutions to include a condition of approval requiring that the applicant meet with planning staff to explore and implement ways to maximize the proposed onsite landscaping. This condition was in response to commission concerns regarding a requested concession by the applicant for a reduction in the required onsite common open space.

DISCUSSION

California Senate Bill 330

The California Senate Bill (SB) 330, the Housing Crisis Act of 2019, (HCA) became effective on January 1, 2020, and established a statewide “housing emergency” until January 1, 2025. The senate bill amended Government Code Section 65941.1 with the broad goals of facilitating increased production of new residential units, protecting existing units, and providing for an expedited review and approval process for housing development projects through submittal of a “preliminary application.” On January 1, 2022, the HCA was extended until January 1, 2030, with the passage of Senate Bill 8.

This application is being submitted pursuant SB 330/the HCA. As such, the proposed development site will not be required to be rezoned, if found consistent with the objective General Plan standards for the property. Moreover, the development is required to comply with the objective zoning code standards applicable to the property, but only to the extent that they facilitate the development at the density allowed by the general plan, 15 du/ac per the Medium Density Residential (MR-15) General Plan land use designation. In consultation with City Staff, Warmington Residential California, Inc. has selected the Corridor District zoning designation within the Harbor Mixed Use Transit Corridor Plan (SP-2), as the proposed zoning for the project (per SB 330), an option afforded to the developer by Appendix A of the General Plan Land Use Element.

Project Description

The project includes the construction of a new residential development consisting of 51 townhouse units, 17,790 square feet of open space, and 105 parking spaces, including 102 covered parking spaces and three open/guest parking spaces. The development will consist of twelve residential buildings with three-story townhouse units and will provide onsite bicycle storage. The structures will each contain a two-car garage at ground level (Tuck-under building design) with residential units above, some with balconies/decks and others with a den/fourth flex room. The project will include eight (8) two-bedroom units, eight (8) three-bedroom units, twenty-two (22) three-bedroom plus den units, and thirteen (13) three-bedroom units plus den or an optional fourth bedroom.

Of the total units in the development, eight units are proposed to be affordable to households earning less than 50-80 percent of the area median income (AMI), which is currently set at \$108,400, adjusted for a four-person household size, as published by California Department of Housing and Community Development (HCD). Seven of the affordable units will be three-bedroom units while the last unit will be a two-bedroom unit. The proposed units will range in size between 1,300 to 1,992 square feet in size and will contain full kitchens, bedrooms, bathrooms, in-unit storage, and open/common (living) areas.

Common open space will be provided through several private exterior areas approximately 6,100 square feet in size, or 7 percent of the total site area. One area will be a courtyard approximately 2,016 square feet in size, located on the west side of the property, adjacent to entrance and buildings 10 and 11. A second courtyard approximately 2,178 square feet in size is proposed to be located on the east side of the property, between buildings 6 and 7. The remainder of the open space locations will be provided as courtyards between buildings and would range from 792 and 1131 square feet. The design and layout of the proposed open spaces would create a unique outdoor area within the development, which function as a passive outdoor space and provide functional amenities to residents (e.g., picnic lounges, fire pits, BBQ, etc.). Lastly, each unit will also contain decks/private balconies for the use of each unit's owners.

The project features a contemporary architectural style similar to many multiple-family or mixed-use residential communities under construction in Santa Ana and the region. The overall design, massing, features, and materials of the new construction will be compatible with, but differentiated from the existing multi-family neighborhood. The contemporary architectural style would include fiber cement lap siding, a light sand finish stucco exterior, fiber cement building trim, metal awnings and decorative columns, and high quality architectural detailing (e.g., exterior lighting, entry doors, fenestration, etc.). Moreover, the residential structures are designed to fully screen all mechanical equipment within the structure and parapet walls. Overall, the project will include a design and solid construction materials that will ensure that the project ages well for the duration of the building's lifetime.

As part of the overall entitlement process, the applicant submitted a vesting tentative tract map application to subdivide the project site into a condominium lot with fifty-one condominium units, which would allow each unit to be sold for individual ownership. The applicant prepared the required vesting tentative tract map, which clarifies the proposed subdivision for the proposed condominiums.

Table 1: Project and Location Information

Item	Information
Project Address and Council Ward	717 S. Lyon Street – Ward 3

Nearest Intersection	Warren and Lyon streets	
General Plan Designation	Medium Density Residential (MR-15)	
Zoning Designation	General Agriculture (A-1); SB330 – Corridor District zoning designation within the Harbor Mixed Use Transit Corridor Plan (SP-2)	
Surrounding Land Uses	North	Multi-Family Residences (Saddleback Park Villas)
	East	Multi-Family Residences (Tustin Parc Apartments)
	South	Multi-Family Residences (Las Fuentes Apartments)
	West	Multi-Family Residences (Warwick Square Apartments)
Property Size	2.3 acres	
Existing Site Development	Two existing structures and asphalt parking lot. Structures include a one-story structure in the northwest corner and one-story commercial structure on the southwest corner.	
Use Permissions	Multi-Family Residential (permitted under Harbor Mixed Use Transit Corridor Plan, as part of SB330 request)	
Zoning Code Sections Affected	Uses	Article XVI.I (Density Bonus); Corridor District within the Harbor Mixed Use Transit Corridor Plan (SP-2); and Chapter 34 (Subdivisions)

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. 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.

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., 15 du/ac). Moreover, the State density bonus 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 2.3-acre site at 15 du/ac is 35 units. Of the total units in the development, eight units are proposed to be affordable. Therefore, the project would have a 23-percent affordability rate. As such, State density bonus law allows the developer to request a maximum density bonus of 46.25-percent (46.25%).

Due to the project’s 23-percent affordability rate, the developer can seek one density bonus concession and unlimited waivers, pursuant to Section 65915 et al. of the California Government Code (Density Bonuses and Other Incentives). In addition, California

Assembly Bill No. 2345, approved September 28, 2020, revised the State Density Bonus Law originally adopted in 1979 to provide additional benefits for projects that include qualifying affordable housing. Pursuant to Section 65915 et al. of the California Government Code, the developer is requesting a 46.25-percent (46.25%) state density bonus. As such, the maximum unit yield for the 2.3-acre site using the MR-15 general plan density and the State density bonus is 52 units, as outlined in Table 2. However, the applicant is only proposing to develop 51 units on the site.

Table 2: Density Bonus Calculation

Affordable Unit – 23% (8 units – Low Income)*	Density Bonus Calculation	Units Allowed
Base Density – Medium Density Residential (MR-15)	2.3 acres x 15 du/ac	35 Units
46.25-Percent State Density Bonus	(35 units x 0.4625)	+17 units
Total Units		52 units allowed, 51 proposed
*Affordable unit percentage is calculated excluding units added by a density bonus.		

The purpose of 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 potential impacts, the conditions of approval proposed for the project are intended to address any of the project's potential impacts.

Pursuant to SB 330 and the General Plan Land Use Element, the developer has selected the Harbor Mixed Use Transit Corridor Specific Plan (SP-2) development standards for a tuck-under building type to design the projects. However, pursuant to the Density Bonus Law, the developer is seeking specific concessions and waivers from certain SP-2 standards to facilitate development of the project. Table 3 below outlines the incentives/concessions and waivers requested by the applicant.

Table 3: Requested Incentives/Concessions

Standard	Required by the SP-2 or SAMC	Provided
Open Space (Tuck-Under building type)	<ul style="list-style-type: none"> Common Open Space - 15% of lot (15,028 square feet) Private Open Space - 90 square feet per dwelling unit (4,590 square feet) Total – 19,618 square feet SP-2, Table 3-9. Onsite Open Space Requirements	<ul style="list-style-type: none"> Common Open Space - 7% of lot (6,949 square feet) Private Open Space – Average of 213 square feet per dwelling unit (10,841 square feet) – some units providing 0-82 sq. ft. Total – 17,790 square feet Requires Concession (1 of 1), Cal. Gov't Code Sec. 65915 (d)(2)(A)

Standard	Required by the SP-2 or SAMC	Provided
Maximum Building Setback	Maximum building setback from the public street right-of-way and/or easement is 8'-0" SP2, Table 3-5. Building Placement	Building 1 is located 9'-7" from the utilities easement line and Building 2 is located 11'-4" from the same easement line. Requires Waivers, Cal. Gov't Code Sec. 65915 (e)(1)
Fencing Height	Fencing height within the front yard setback is limited to 3'-0" Sec. 41-610 of SAMC	6'-0" tall tubular fencing proposed within the front yard setback Requires Waivers, Cal. Gov't Code Sec. 65915 (e)(1)
Building Frontage and Minimum Ground Floor Height	<ul style="list-style-type: none"> Building frontage type required to be identified in the elevations/design Minimum floor heights required pursuant to chosen frontage type SP2, Table 3-4. Frontage Floor Height Minimums and Districts	<ul style="list-style-type: none"> Design does not provide a frontage type Ground floor heights below minimum required of 10'-0" to 15'-0". As designed, ground floor types designed as 9'-1" Requires Waivers, Cal. Gov't Code Sec. 65915 (e)(1)

Onsite Parking

In addition, the site is parked in compliance with California Government Code Section 65915 (p)(1)(B)(C) and provides 2.1 spaces per unit. The California Density Bonus Law allows 1.5 parking spaces per two to three bedroom units, inclusive of handicapped and guest parking. The site is also parked in compliance with the Corridor District subsection of the Harbor Mixed Use Transit Corridor Plan (SP-2), which requires 1.75 parking spaces, inclusive of guest parking. The site provides 105 total parking spaces or 2.1 spaces per unit, which includes two covered parking spaces for each townhouse unit and three open/guest parking stalls.

To proactively address any neighborhood parking impacts that could result from the project, the conditions of approval for the VTTM and terms of the DBA include provisions requiring the following parking management practices, to be incorporated into the final, recorded CC&Rs, and applied 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;
- 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; and
- Routine garage inspections to ensure garages are available for vehicle parking.

Analysis of the Issues

Pursuant to Section 41-1607 of the SAMC, an application for a density bonus agreement is required to be recommended for approval 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.

Table 4: Analysis of the Requested Incentives/Concessions (1) and Waivers (3)

Standard	Analysis
Open Space (Incentive/Concession)	<p>The total common open space required for the project site is equal to 15 percent of the lot, or approximately 15,028 square feet. Instead, the project provides a 6,949-square-foot of common open space (7 percent), which is a difference of 8,079 square feet or 8 percent.</p> <p>Providing the required open space standard would lead to the elimination of three or more units, which would affect the feasibility to construct the project. In order to maintain the current proposed unit count, the developer would be required to construct additional floor levels, which would exceed the maximum allowable height as part of the Harbor Mixed Use Transit Corridor Plan (SP-2), and would further increase development costs. To help alleviate the open space deficiency, the project proposes an average of 213 square feet of private open space per unit, through use of private balconies/decks. This would exceed the minimum required private open space of 90 square feet per unit.</p>
Maximum Building Setback (Waiver)	<p>Pursuant to SP-2, the maximum building setback from the public right-of-way and/or easement is 8'-0". As proposed, the project is designed to exceed the maximum allowed setback, as two of the proposed buildings would be located 9'-7" and 11'-4" from a utilities easement line.</p> <p>The maximum setback outlined in SP-2 was originally intended for a more urban corridor of Santa Ana (Harbor Boulevard), as a means of regulating land development to achieve a specific urban form and which envisioned a more multi-modal boulevard. The proposed project is located in a suburban area of the City, with multi-family low- to medium-density developments. The existing multi-family residential developments immediately adjacent to the project site provide average front setbacks that exceed 10'-0" and extend to 20'-0". Although exceeding the maximum allowable setback, the proposed development is consistent with the existing multi-family residences. Moreover, the design is focused on the placement of the proposed buildings as a way to continue the existing character and overall neighborhood pattern along Lyon Street.</p>

Standard	Analysis
Fencing Height (Waiver)	<p>For residentially zoned properties, the fencing height within the front yard setback is limited to 3'-0" in height. The development proposes a 6'-0" tall tubular fencing proposed within the front yard setback.</p> <p>Maintaining the fencing height limit of 3'-0" would affect the feasibility of the proposed units to be sold to prospective buyers, and would therefore affect the feasibility of the project to be constructed. The proposed fence provides security for the proposed townhouse community, which provides a sense of comfort and safety to prospective homebuyers. In addition, the fencing would be in keeping with the existing character and overall neighborhood pattern along Lyon Street, specifically the multi-family developments to the north and south of the project site. Las Fuentes multi-family community to the south has existing fencing and gates, while the Saddleback Park Villas have existing perimeter block walls. Moreover, the proposed design is further improved with additional small hedges and/or shrubs that will be between the public right-of-way and the proposed fencing, to soften the transition of the future sidewalk.</p>
Building Frontage and Minimum Ground Floor Height (Waiver)	<p>The development standards in SP-2 require a specific building frontage (e.g., forecourt, shop front, stoop, etc.) and minimum floor heights, based on a frontage type. As proposed, the project design does not provide a frontage type and the ground floor heights are proposed below the minimum required of 10'-0" to 15'-0". The ground floor height is designed at a minimum of 9'-1"</p> <p>Maintaining the required frontage type minimum floor heights would result in a complete site and architectural redesign, involving more of the site area dedicated the frontages designs. In order to maintain the current proposed unit count, the developer would be required to redesign the site and elevation design construct, further increasing development costs and potentially leading to a loss of residential units, and a loss of further open space.</p> <p>Moreover, SP-2 was originally intended to achieve a specific urban form. The existing multi-family residential developments immediately adjacent to the project site do not provide a frontage type, nor do they maintain a minimum building floor height. Therefore, the proposed design is consistent with the existing multi-family residences.</p>

When analyzed cumulatively, the requested concessions and waivers could be avoided if the project were designed on a different site or using a different site plan. If the project was 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 the minimum required open space and the required frontage and ground floor heights. However, these changes would increase development costs and result in a project that would exceed the maximum permitted building height, resulting in the housing project becoming financially infeasible due to the significantly increased financial implications of an alternative construction type compared to the relatively smaller scale of the project. Moreover, the changes would result in the loss of the eight affordable townhouse units.

Based on the analysis provided within this report, the proposed development will materially assist in accomplishing the goal of providing additional affordable and market-rate ownership housing stock in the city and will be consistent with the 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.

Affordable Housing Opportunity and Creation Ordinance

The project exceeds the affordable housing goal for the ownership category of the City's Affordable Housing Opportunity and Creation Ordinance (AHOCO) by providing eight (8) onsite units in place of three (3) for sale units, which will target low-income (50-80%) in place of moderate-income households. These two factors significantly enhance the opportunity for income-eligible Santa Ana households to own a home in the City at a lower cost. The units will be dispersed throughout the community. Seven of the affordable units will be three-bedroom units while the last unit will be a two-bedroom unit. The proposed units will range in size between 1,300 to 1,992 square feet in size and will contain full kitchens, bedrooms, bathrooms, in-unit storage, and open/common (living) areas. The developer's Inclusionary Housing Plan has been reviewed and approved by the City's Housing Division.

Public Notification and Community Outreach

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. At the time this report was printed, no issues of concern were raised regarding the proposed development.

The applicant also held two community meetings in conformance to the Sunshine Ordinance notification requirements in place at the time the application was submitted, January 5, 2022. The first meeting was a virtual community meeting on March 2, 2022. 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. Participants asked questions about the cost and site security. However, no issues of concern were raised regarding the proposed development. Approximately 10-15 individuals attended the meeting.

On June 1, 2022, the applicant held a second virtual Sunshine Ordinance community meeting. This meeting was also publicly noticed in the OC Register, posted on the City's website, and invitation mailers were sent to all addresses within a 1000-foot radius of the project site, as well as local community organizations. The meeting included a brief presentation and summary on the project as well as a question and answer period to

address concerns and collect feedback. Participants asked questions about the project timing and construction impacts, affordability levels, project density, and about potential traffic and parking impacts to the community. Approximately 12-15 individuals attended the meeting. Materials from both the March 2nd and June 1st meetings were posted to the project's City webpage.

ENVIRONMENTAL IMPACT

In accordance with the California Environmental Quality Act (CEQA), the recommended action is exempt from further review under Section 15195 (Residential Infill Exemption), as this project meets all the threshold criteria set forth in Section 15192 (Threshold Requirements for Exemptions). This exemption applies to projects or sites that:

1. Meet the threshold criteria set forth in section 15192; provided that with respect to the requirement in section 15192(b) regarding community-level environmental review, such review must be certified or adopted within five years of the date that the lead agency deems the application for the project to be complete pursuant to Section 65943 of the Government Code.
2. Meet both of the following size criteria:
 - A. The site of the project is not more than four acres in total area.
 - B. The project does not include any single level building that exceeds 100,000 square feet.
3. Meet both of the following requirements regarding location:
 - A. The project is a residential project on an infill site.
 - B. The project is within one-half mile of a major transit stop.
4. Meet both of the following requirements regarding number of units:
 - A. The project does not contain more than 100 residential units.
 - B. The project promotes higher density infill housing. The lead agency may establish its own criteria for determining whether the project promotes higher density infill housing except in either of the following two circumstances:
 - 1) A project with a density of at least 20 units per acre is conclusively presumed to promote higher density infill housing.
 - 2) A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density infill housing unless the preponderance of the evidence demonstrates otherwise.
5. Meets the following requirements regarding availability of affordable housing: The project would result in housing units being made available to moderate, low, or very low income families as set forth in either A or B below:
 - A. The project meets one of the following criteria, and the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units as set forth

below at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.

- 1) At least 10-percent of the housing is sold to families of moderate income, or
 - 2) Not less than 10-percent of the housing is rented to families of low income, or
 - 3) Not less than 5-percent of the housing is rented families of very low income.
- B. If the project does not result in housing units being available as set forth in subdivision (A) above, then the project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

The project site is not more than four acres in area, the project does not include any single level building exceeding 100,000 square feet, and the project is an infill development within one-half mile of a major transit stop. Moreover, the development promotes higher density infill housing, does not contain more than 100 residential units, and results in housing units made available to low income families. Based on this analysis, a Notice of Exemption, Environmental Review No. 2022-08 will be filed for this project.

FISCAL IMPACT

There is no fiscal impact associated with this action.

EXHIBIT(S)

1. Resolution – Density Bonus Agreement
2. Draft Density Bonus Agreement
3. September 26, 2022 - Planning Commission Staff Report and Exhibits

Submitted By: Minh Thai, Executive Director of Planning and Building Agency, and Michael L. Garcia, Executive Director of Community Development Agency

Approved By: Kristine Ridge, City Manager