

ORDINANCE NO. 2011-06

AN ORDINANCE OF THE CITY OF LA PALMA AMENDING CHAPTER 26 OF THE LA PALMA MUNICIPAL CODE PERTAINING TO THE PROVISION OF DENSITY BONUSES AND OTHER INCENTIVES FOR AFFORDABLE HOUSING PROJECTS AND OTHER QUALIFYING HOUSING DEVELOPMENTS

WHEREAS, the City Council of the City of La Palma ("City") wishes to protect and preserve the quality of the residential and non-residential areas of the City, as well as the quality of life throughout the City, through effective land use and planning; and

WHEREAS, California Government Code Section 65915 requires every city and county to adopt an ordinance providing a density bonus and other incentives or concessions to persons wishing to develop affordable housing projects and other qualifying housing projects; and

WHEREAS, in accordance with Government Code Section 65915, the City previously adopted Chapter 26, Article III, Division 2 (Affordable Housing) of the La Palma Municipal Code ("Division 2"); and

WHEREAS, Government Code Section 65915 has been amended multiple times since the City enacted Division 2, and the City Council now desires, in accordance with the Action Plan set forth in the Housing Element of the La Palma General Plan, to modify Division 2 to conform to State law; and

WHEREAS, City staff recommends that the City Council determine that this Ordinance does not constitute a "project" as that term is defined by the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000, et seq.; and

WHEREAS, City staff recommends that the City Council find and determine that the amendments to the Municipal Code proposed by this Ordinance are consistent with the General Plan of the City of La Palma.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA PALMA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The City Council finds and determines that adoption of this Ordinance does not constitute a "project" as that term is defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, and, therefore, in accordance with Section 15061(b)(3) of Title 14 of the CEQA, no environmental review is merited.

SECTION 2: The City Council finds and determines that the amendment to the La Palma Municipal Code proposed by this Ordinance is consistent with the General Plan of the City of La Palma.

SECTION 3: Section 26-60 of the La Palma Municipal Code is hereby amended to read, in its entirety, as follows:

“Sec. 26-.60.- Eligibility for bonuses and incentives or concessions.

- (a) **Housing development.** When an applicant for a housing development seeks and agrees to construct a housing development that qualifies the applicant for receiving a density bonus and incentives or concessions pursuant to Government Code Section 65915 et seq., as may be amended from time to time, the City shall grant the applicant one density bonus and the number of incentives or concessions mandated by State law.
- (b) **Condominium conversion.** When an applicant for a project proposing to convert apartments into condominiums seeks and agrees to construct the project in a manner that qualifies the applicant for receiving a density bonus or other incentives pursuant to Government Code Section 65915 et seq., as may be amended from time to time, the City shall grant the applicant either one density bonus or other incentives of equivalent financial value. In granting the density bonus or other incentives, the City may place such reasonable conditions on the grant as it finds appropriate, including without limitation conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households. If the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives or concessions were granted by the City pursuant to this division, then the condominium conversion shall not be eligible for an additional density bonus or other incentives of equivalent financial value.”

SECTION 4: Section 26-61 of the La Palma Municipal Code is amended to read, in its entirety, as follows:

“Sec. 26-61.- Types of bonuses and incentives or concessions allowed.

A housing development project or condominium conversion project that satisfies all applicable provisions of this division and is entitled to a density bonus and/or incentives or concessions pursuant to Government Code Section 65915 et seq., as may be amended from time to time, shall be entitled to one density bonus and/or other incentives or concessions as provided by State law.

- (a) **Density bonus.** The density bonus to be granted shall be calculated pursuant to Government Code Section 65915 et seq., as may be amended from time to time. Unless otherwise required by law, such density bonus shall consist of an increase of no more than thirty-five percent in the maximum density allowed by the zoning district and general plan designation applicable to the relevant parcel(s) as of the date of the development project’s land use permit application. For a qualifying condominium conversion project, the density bonus shall be no

greater than an increase in units of 25 percent over the number of apartments. A single development project shall not be granted more than one density bonus in compliance with this division and nothing in this division shall be construed to require the City to grant a density bonus to a housing development or condominium project that does not meet the requirements of Government Code Section 65915 et seq. and this division.

(b) *Incentives and concessions.* The number of incentives or concessions to be granted shall be as prescribed by Government Code Section 65915 et seq., as may be amended from time to time. Such incentives or concessions may include any of the following:

(1) A reduction in the parcel development standards or zoning code requirements provided for in this Development Code that exceed the minimum building standards approved by the California Building Standards Commission.

(2) A maximum vehicular parking ratio, inclusive of handicapped and guest parking, as set forth in Government Code Section 65915.

(3) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and are compatible with the housing project and the existing or planned development in the surrounding area.

(4) Other regulatory incentives or concessions proposed by the developer or the City that will result in identifiable, financially sufficient, and actual cost reductions.

(c) *Waiver of development standards.* If a density bonus and/or incentive or concession cannot be accommodated on a parcel due to development standards contained in the City's Development Code, and an applicant submits a proposal for the waiver or reduction of such development standards, the City shall waive or modify such development standards as necessary to accommodate bonus units and other incentives or concessions to which the development is entitled. However, the City may refuse to waive or reduce development standards if it finds that the waiver or reduction would have a specific, adverse impact upon health, safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the impact.

(d) *Approval of incentives and concessions.* If an applicant timely submits to the City a proposal requesting specific incentives and/or concessions, pursuant to Section 26-64 of this Code, and the applicant is otherwise qualified to receive incentives or concessions, the City shall grant the requested incentive(s) and concession(s) unless it makes a written finding, based upon substantial evidence, of any one of the following:

(1) the incentive or concession is not required in order for the affordable housing costs or rent for the targeted dwelling units to be set in compliance with state affordable housing law;

(2) the incentive or concession would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the impact without rendering the development unaffordable to low- and moderate-income households; or

(3) the incentive or concession would be contrary to state or federal law.”

SECTION 5: Section 26-62 of the La Palma Municipal Code is amended to read, in its entirety, as follows:

“Sec. 26-62. – Continued availability.

(a) *Development projects with City funding.* The applicant of a project qualifying for a density bonus and receiving a direct financial contribution from the City through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction shall, prior to the issuance of a building permit for any dwelling unit, enter into a written agreement with the City to ensure and guarantee the continued availability for low- and moderate-income units for a minimum of 30 years. Such agreement shall be recorded in the office of the Orange County Clerk-Recorder, and its terms shall run with the land and be binding upon all of the applicant’s successors in interest.

(b) *Low and very low income units.* Prior to the issuance of a building permit for any dwelling unit in a housing development project receiving no financial contribution from the City, an applicant qualifying for a density bonus shall enter into a written agreement with the City to ensure and guarantee the continued affordability of all low and very low income units that qualified the applicant for a density bonus for a minimum of 30 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Such agreement shall be recorded in the office of the Orange County Clerk-Recorder, and its terms shall run with the land and be binding upon all of the applicant’s successors in interest.

(c) *Moderate income units.* Prior to the issuance of a building permit for any dwelling unit in a common interest development, an applicant qualifying for a density bonus shall agree that the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus are persons and families of moderate income and that the units are offered at an affordable housing cost. Unless it is in conflict with the requirements of another public funding source or law, the applicant shall enter into, and the City shall enforce, an equity-sharing

agreement in accordance with Government Code Section 65915 et seq., as may be amended from time to time.”

SECTION 6: Section 26-64 of the La Palma Municipal Code is amended to read, in its entirety, as follows:

“Sec. 26-64.- Processing of density bonus requests.

Requests for a density bonus and incentives or concessions pursuant to Government Code Section 65915 et seq. shall require the approval of a precise plan by the City planning commission in accordance with State law.

(a) Density bonus proposal. In accordance with Section 65915 (d) of the California Government Code, the applicant of a project wishing to obtain a density bonus shall first submit to the Community Development Department a written proposal for a density bonus and/or specific incentives or concessions. The written proposal shall consist of a completed density bonus application form, which form shall be available in the Community Development Department, any supporting documentation and information requested by the City, and any additional information that the applicant believes would be helpful to the City in making its determination, including without limitation information that would enable the City to reliably estimate the cost per unit of the proposed development.

(b) Findings for approval. In addition to the findings required for the approval of a precise plan in Section 26-152 of this Code, the approval of a density bonus or other incentives or concession by the City planning commission shall require the following additional findings:

- (1) The project would not be a hazard or nuisance to the City at large.
- (2) Adequate evidence exists to ensure that the development of the property would result in the provision of affordable housing in a manner consistent with the purpose and intent of applicable state law and this division.
- (3) There are sufficient provisions to guarantee that the dwelling units would remain affordable in the future.

SECTION 7: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each, section subdivision, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that one or more sections,

subdivisions, sentences, clauses, phrases, or portions of this Ordinance be declared invalid.

SECTION 8: All required proceedings and considerations precedent to the adoption of this Ordinance have been regularly taken in accordance with applicable law.

SECTION 9: The City Clerk shall certify as to the adoption of this Ordinance and is directed to publish this Ordinance or a summary thereof in the manner provided by law and in accordance with procedures normally taken, and this Ordinance shall take effect as provided by law.

APPROVED AND ADOPTED by the City Council of the City of La Palma at a regular meeting held on the 6th day of December 2011.

Ralph D. Rodriguez
Mayor

ATTEST:

Laurie A. Murray, CMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF LA PALMA)

I, LAURIE A. MURRAY, City Clerk of the City of La Palma, California, DO HEREBY CERTIFY that the foregoing Ordinance was adopted by the City Council of said City at a regular meeting of said City Council held on the 6th day of December 2011, and that it was so adopted by called vote as follows:

AYES: Charoen, Hwangbo, Rodriguez, Shanahan, and Waldman

NOES: None

Laurie A. Murray, CMC
City Clerk