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# W10a



**Prepared November 20, 2008 (for December 10, 2008 hearing)**

**To:** Commissioners and Interested Persons

**From:** Dan Carl, Central Coast District Manager  
Mike Watson, Coastal Planner

**Subject: City of Carmel LCP Amendment Number 2-07 (Affordable Housing Density and Exceptions).** Proposed major amendment to the City of Carmel-by-the-Sea certified Local Coastal Program to be presented for public hearing and California Coastal Commission action at the Commission's December 10, 2008 meeting to take place at the San Francisco City Hall Legislative Chamber (Room 250) at 1 Dr. Carlton Goodlett Place in San Francisco.

## Summary

The City of Carmel is proposing to amend its Local Coastal Program (LCP) Land Use Plan (LUP) and Implementation Plan (IP, also known as the LCP zoning ordinance) to allow design and scale exceptions for projects involving affordable housing. The amendment is in response to recent State law requiring local governments to provide certain affordable housing density bonuses (Government Code Section 65915) in their communities provided that such an increase in densities does not adversely impact the environment, and in this case Coastal Act and LCP protected coastal resources. The LUP amendment would establish a new maximum density limit for projects consisting exclusively of housing for low and very low income households. The IP amendment would add proposed Sections 17.14.230 and 17.64.220 that would establish the applicable rules and eligibility requirements for such projects, and would identify the exceptions to LCP development standards (i.e., for setbacks, height, coverage, and density) that would be allowed as a means to promote affordable housing projects in the City's residential-limited commercial (R-C) and multi-family (R-4) zone districts. There are several dozen properties within the R-C and R-4 zone districts that meet the new criteria and would thus be directly affected by the proposed amendment.

The proposed changes are fairly straight-forward and narrowly focused on establishing the parameters for density and mass/scale exceptions for projects involving one-hundred percent affordable housing. However, the amendment as proposed could lead to coastal resource impacts with respect to protecting and preserving the unique character of Carmel's built and natural environment. Specifically, although the increased density proposed would probably have less than significant impacts (e.g., on public services, etc.), allowing exceptions that would provide for increased bulk and scale would be expected to adversely impact village character, a character whose preservation is the primary focus of the certified LCP. As such, the mass and bulk exceptions are not approvable under the Coastal Act and LCP (and their approval is not mandated by Government Code Section 65915). With respect to density, the increase up to 88 units per acre in the R-C and R-4 districts to encourage affordable housing in Carmel, a fairly unaffordable community in that respect overall, will allow for an increase in the number affordable housing units within the limits of the certified LCP development standards without



sacrificing the character of the community and can be found Coastal Act and LCP consistent.

In short, the increase in allowable density in the R-C and R-4 zone districts (essentially the area surrounding the downtown commercial core) is appropriate, but allowing mass and scale over and above certified LCP standards specifically crafted to ensure the village retains its special character, including in this transition area between downtown and the City's residential neighborhoods, is not appropriate. **Staff recommends that the Commission approve the LCP amendment only if it is modified to eliminate the mass and scale exceptions. The four necessary motions and resolutions can be found on pages 3 through 5 below.**

Staff Note: LCP Amendment Action Deadline

The Coastal Act requires proposed LCP amendment submittals to contain materials sufficient for a thorough and complete review, and provides that such amendment submittals are to be deemed submitted (also referred to as "filed") on the date that that requirement is deemed satisfied ("file date"). The Coastal Act then requires the Commission to act on IP amendments within 60 days of their file date, and on LUP amendments or combined LUP/IP amendments within 90 days of their file date ("action deadline"); these action deadlines can be extended up to one year. If the Commission does not act by the action deadline so established for an amendment, then the amendment is deemed approved and certified. (Coastal Act Sections 30510, 30512, 30513, and 30517)

This proposed LCP amendment was filed as complete on September 17, 2008. It is a combined LUP/IP amendment and the 90-day action deadline is December 16, 2008. If the Commission intends to continue this item to a future hearing, then the Commission will need to extend the deadline for Commission action (or have the amendment be approved and certified as submitted). Thus, if the Commission decides not to take action on this item on December 10, 2008, Staff recommends that the Commission extend the deadline for Commission action by one year (i.e., to December 16, 2009). The following motion is provided only for this contingency (and is not applicable otherwise):

**Motion.** I move that the Commission extend the time limit to act on City of Carmel LCP Major Amendment Number 2-07 to December 16, 2009.

**Staff Recommendation.** Staff recommends a **YES** vote. Passage of the motion will result in a new deadline for Commission action on this proposed LCP amendment of December 16, 2009. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.



Staff Report Contents	page
I. Staff Recommendation – Motions and Resolutions.....	3
II. Suggested Modifications.....	5
III. Findings and Declarations .....	7
A. Proposed LCP Amendment.....	7
B. Consistency Analysis.....	9
C. California Environmental Quality Act (CEQA) .....	15
IV. Exhibits	
Exhibit A: City Council Ordinance and Proposed LCP Amendment	
Exhibit B: Residential-Limited Commercial (R-C) and Multi-Family (R-4) Designated Property	

## I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make four motions in order to act on this recommendation.

### 1. Denial of Land Use Plan Major Amendment Number 2-07 as Submitted

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**Motion (1 of 4).** I move that the Commission **certify** Land Use Plan Major Amendment 2-07 as submitted by the City of Carmel-by-the-Sea.

**Resolution to Deny Land Use Plan as Submitted.** The Commission hereby denies certification of the Land Use Plan Major Amendment 2-07 as submitted by City of Carmel-by-the-Sea and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

### 2. Approval of Land Use Plan Major Amendment Number 2-07 if Modified

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

**Motion (2 of 4).** I move that the Commission **certify** Land Use Plan Major Amendment 2-07 if it is modified as suggested in this staff report.



**Resolution to Certify with Suggested Modifications.** The Commission hereby certifies Land Use Plan Major Amendment 2-07 to the City of Carmel-by-the-Sea Local Coastal Program if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

3. Denial of Implementation Plan Major Amendment Number 2-07 as Submitted  
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (3 of 4).** I move that the Commission **reject** Implementation Plan Major Amendment Number 2-07 as submitted by the City of Carmel-by-the-Sea.

**Resolution to Deny.** The Commission hereby **denies** certification of Implementation Plan Major Amendment Number 2-07 as submitted by the City of Carmel-by-the-Sea and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

4. Approval of Implementation Plan Major Amendment Number 2-07 if Modified  
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (4 of 4).** I move that the Commission **certify** Implementation Plan Major Amendment Number 2-07 if it is modified as suggested in this staff report.

**Resolution to Certify with Suggested Modifications.** The Commission hereby **certifies** Implementation Plan Major Amendment Number 2-07 to the City of Carmel-by-the-Sea Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and



adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

## II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act and Land Use Plan consistency findings. If the City of Carmel accepts each of the suggested modifications within six months of Commission action (i.e., by June 10, 2009), by formal resolution of the City Council, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added.

### 1. Modify the new LUP language on page 1-14 as follows:

#### *Multi-Family Residential.*

...

*Allow for a maximum density of 88 units per acre ~~and a maximum building intensity of up to 150%~~ for projects that consist exclusively of housing for low or very low income households, as defined ~~by the Association of Monterey Bay Area Governments (AMBAG)~~ in Municipal Code Section 17.10.*

### 2. Modify the new LUP language on page 1-15 as follows:

#### *Commercial / Residential.*

...

*Allow for a maximum density of 88 units per acre ~~and a maximum building intensity of up to 150%~~ for projects that consist exclusively of housing for low or very low income households, as defined ~~by the Association of Monterey Bay Area Governments (AMBAG)~~ in Municipal Code Section 17.10.*

### 3. Delete the following from new IP Section 17.14.230(C):

*C. Development Standards. New development shall comply with the standards applicable to the underlying zoning district of the site except as provided in this section. Due to the overall public*



*benefit of affordable housing, the Planning Commission may allow exceptions to the following development standards in order to provide for increased flexibility in design:*

- *Setbacks*
- *Height (not to exceed 30 feet and not to exceed two stories)*
- *Floor area ratio (not to exceed 150%)*
- *Building Coverage*
- *Density (not to exceed 88 units per acre)*

**4. Add the following new Subsection E to new IP Section 17.14.230:**

*E. Land Use Requirements. New developments which qualified the applicant for the award of the density bonus pursuant to this Title, shall be offered for rent at affordable rates as defined in Municipal Code Section 17.10, for a period of 30 years or longer if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. The City shall ensure continued affordability and protection of all low and very low income units via a written agreement, deed restriction, or housing easement granted to an appropriate public or quasi-public agency involved in affordable housing programs. Easements, agreements, or deed restrictions shall be approved prior to commencement of construction and recorded prior to sale or occupancy.*

**5. Modify the new IP Section 17.14.230 language as follows:**

*17.14.230 – Affordable Housing*

*A. Affordable Housing Projects. Projects located in the Residential and Limited Commercial (RC) and Multi-family (R-4) Districts that comply with the following requirements shall be eligible for, and subject to, the standards of this section:*

...

*3. All residential housing units qualify as housing for low-income or very-low income individuals or families, as defined by ~~the association of Monterey Bay Area Governments (AMBAG)~~ in Municipal Code Section 17.70.*

...

**6. Modify the new IP Section 17.64.220 language as follows:**

*17.64.220 – Affordable Housing (Residential Construction at densities between 44 and 88 units per acre.)*

*The following special findings are required for approval of exceptions to zoning standards for projects consisting entirely of affordable housing:*



- A. *That the project consists entirely of affordable housing units for low and/or very-low income households, as defined ~~by the association of Monterey Bay Area Governments (AMBAG)~~ in Municipal Code Section 17.10.*

...

**7. Modify existing IP Section 17.14.14 D as follows:**

*D. Floor Area Bonus.*

1. *Affordable Housing Bonuses – A floor area bonus may be granted for projects in all commercial districts and the R-4 districts in the following instances:*
- a. *Moderate Income. Up to 5 percent for projects if at least 25 percent of the units in a housing project are reserved for persons of moderate income as defined ~~by AMBAG~~ in Municipal Code Section 17.10.*
  - b. *Low Income. Up to 10 percent for projects if at least 20 percent of the units in a housing project are reserved for persons of low income as defined ~~by AMBAG~~ in Municipal Code Section 17.10.*
  - c. *Up to 15 percent for projects if at least 10 percent of the units in a housing project are reserved for persons of very low income as defined ~~by AMBAG~~ in Municipal Code Section 17.10.*

### III. Findings and Declarations

The Commission finds and declares as follows:

#### A. Proposed LCP Amendment

##### 1. Government Code Section 65915 Affordable Housing Background

Section 65915 of the Government Code is particularly significant for the purposes of reviewing the proposed affordable housing amendment to the City of Carmel's certified LCP. Section 65915 provides in relevant part:

- 1) *A city, county, or city and county shall adopt an ordinance that specifies the incentives or concessions for the production of housing units and child care facilities that will be made available to an applicant;*
- 2) *A city, county, or city and county shall grant one density bonus (i.e., density increase over*



*the otherwise maximum allowable residential density established under the applicable land use or zoning ordinance) when an applicant for a housing development agrees to construct a housing development that will contain at least any one of the following: a) a minimum of 10 percent of the total units for lower income households; b) a minimum of 5 percent of the total units for very low income households; c) a senior citizen housing development; and d) a minimum of 10 percent of the total dwelling units in a common interest development.*

- 3) *The amount of density bonus to which the applicant is entitled shall vary according to the percentage of affordable housing units proposed, up to a maximum combined mandated density increase of 35 percent;*
- 4) *An applicant for a density bonus may submit to a city, county, or city and county a proposal for the specific incentives or concessions requested and the city, county, or city and county shall grant the concession or incentives requested by the applicant unless said agency makes a written finding based on substantial evidence of either of the following:*
  - a. *The concession or incentive is not required to provide for affordable housing costs;*
  - b. *The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property listed in the California Register of Historical Resources, and for which there is no feasible method to mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households.*
- 5) *Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact upon the health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.*
- 6) *Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property listed in the California Register of Historical Resources.*
- 7) *An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low and very low income units that qualified the applicant for the award of the density bonus for 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.*

Thus, Section 65915 describes a mechanism for providing incentives for density bonuses provided such incentives/bonuses do not adversely impact the City's environment, including listed historical resources. In short, Section 65915 requires a density bonus be provided, but not at the expense of the physical environment.



## 2. Description of Proposed LCP Amendment

The City of Carmel LCP currently echoes State law and provides a 35% density bonus for affordable projects. The proposed amendment would increase the density bonus to 100% (by doubling the maximum number of units allowed), and would allow exceptions to setbacks, height, coverage, and floor area ratio (FAR) for affordable projects. Height exceptions would be capped at 30 feet/2 stories, and FAR exceptions would be capped at 150%, but setbacks and coverage exceptions would not be limited. Specifically, the amendment would modify the LUP's residential-limited commercial (R-C) and multi-family (R-4) designations to increase the density allowance and maximum building intensity; add new Section 17.14.230 to establish an affordable housing element, and to identify the development standards that would apply to such units; and add new Section 17.64.220 that requires specific findings be made in support of residential construction at densities and scales greater than allowed by the LCP. The proposed amendment would be applicable to all R-C and R-4 zoned parcels that are 8,000 square feet or less in size.

See exhibit A for the City Council ordinance and text of the proposed amendment; see Exhibit B for all residential-limited commercial (R-C) and multi-family (R-4) zoned properties in the City's coastal zone.

## 3. Effect of Proposed Amendment

Applications for development that are comprised entirely of affordable housing units would be processed similar to any other coastal development permit application. If the amendment were approved as submitted, such projects in R-C and R-4 zones would be allowed up to a maximum of 88 units per acre, where the existing standards currently provide for a maximum of 44 units per acre. In other words, residential densities could be doubled for such affordable housing projects. Such projects would also be allowed exceptions to LCP maximum mass and scale standards which would allow for larger and more intensive developments in the affected areas. Other than floor area ratio (FAR) that would be capped at 150% and height/stories (that would be capped at 30-feet/2 stories), maximum limits for coverage and setbacks would not be identified for such projects, rather the amendment only states that exceptions of some unknown magnitude could be applied. Since the affected areas are generally in the transition area surrounding the commercial core, the effect of the proposed changes would be that development of this area, if affordable, would be allowed at a much greater scale and intensity, effectively expanding the downtown scale and intensity toward the City's residential neighborhoods.

## B. Consistency Analysis

### 1. Standard of Review

The proposed amendment affects the LUP and IP components of the City of Carmel-by-the-Sea LCP. The standard of review for the LUP amendments is that they must be consistent with and adequate to carry out the Coastal Act; the standard of review for IP amendments is that they must be consistent with



and adequate to carry out the policies of the certified LUP.

## 2. LUP Amendment Consistency Analysis

### A. Applicable Policies

Section 30250 of the Coastal Act protects coastal resources by requiring new development to be located in areas that are able to accommodate it and where it will not have any individual or cumulative impacts on said resources. It states in relevant part:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. ...*

Section 30251 of the Coastal Act requires new development to be visually compatible with character of the surrounding area:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Section 30253 of the Coastal Act requires new development to protect special communities and their unique characteristics:

*(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

And Sections 30604(f) and (g) of the Coastal Act provides for new affordable housing opportunities along the coast and states:

*(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the*



*commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.*

*(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.*

Thus, the Coastal Act protects the character and visual qualities of Carmel against individual and cumulative adverse impacts. The Coastal Act also encourages affordable housing if it doesn't impact these resources in this way. For the affected area generally surrounding the City's commercial core, these policies dictate that affordable housing should be encouraged but not at the expense of degrading Carmel's community character, the protection of which was the fundamental issue when the LCP was certified in 2004.

#### B. Analysis

The area to which the amendment would apply generally rings downtown Carmel and acts as a buffer/transition zone between the City's high density commercial core (CC) and the outlying low-density residential (R-1) neighborhoods. This area is generally characterized by a mix of less intensively developed residential and commercial uses. Currently the applicable development standards in the R-4 district provides for a 15 percent FAR increase if a project involves affordable or senior housing, up to a 105% FAR maximum. The R-C district provides for the same 15 percent bonus, up to a maximum of 95% FAR. The central core districts (i.e., central commercial and service commercial) have a maximum FAR standard of 135 percent with a 15 percent allowance for project involving affordable housing (up to 150% FAR in the downtown core area). The single family residential (R-1) neighborhoods surrounding these districts have a maximum FAR standard of 45 percent.

The proposed increase in FAR would allow the R-4 and R-C transition area to expand up to the commercial core scale for affordable housing projects. Increasing the building intensity in this manner will likely result in oversized buildings of a mass and scale that is incompatible with adjacent residential areas, effectively reducing (and possibly eliminating) the effectiveness of the transition zone between dense downtown development and the City's low density single-family neighborhoods. In other words, development would be allowed at a central core level, essentially expanding this scale outwards towards the residential zone.

The Coastal Act requires new development to protect special communities and neighborhoods and their characteristics. At the time the LCP was certified in mid-2004, there was concurrence between the City and the Commission regarding the character defining features of this small coastal village. Chief among them were a forested landscape, primarily residential oriented community, small scale and artistically inspired architecture, a thriving central business district, and a transition or buffer district between the residential neighborhoods and the commercial core. In the end, the multi-year planning exercise resulted



in the specific development standards that would protect and preserve the character defining features of this popular visitor serving destination. The proposed amendment has the potential to eliminate or significantly reduce the extent of the transition or buffer to the main commercial core. The City argues that the amendment would have only limited application, i.e., to sites that are 8,000 square feet in size or less. However, this is the lions share of existing parcels to which the amendment would be applicable, and there is no restriction on subdividing existing larger parcels into smaller (i.e., 8,000 square feet or less) building sites. These mass and scale exceptions are not approvable under the Coastal Act in light of the significance of the potential character impacts that would be associated with such development.

The proposed increase to the density standard on the other hand, although greater than that provided for in Section 65915 of the Government Code, is not as problematic. Such an increase on its own simply means that more units could be built in the same space. Although there would be some increased need for public services for such projects, the LCP is equipped to address such impacts appropriately. It is the increase in allowed mass and scale when combined with the density increase that will adversely impact the character of Carmel and must be modified. The density increase by itself is approvable. See Suggested Modifications 1 and 2.

As modified, the proposed LUP amendment can be found consistent with the Coastal Act.

### 3. IP Amendment Consistency Analysis

#### A. Applicable Policies

The following certified LUP policies require that new development protect the well-defined and unique character of Carmel-by-the-Sea:

*G-1 Continue to preserve and maintain the predominance of the residential character in Carmel through appropriate zoning and land development regulations in all districts;*

*P1-5 Preserve the development pattern established in the commercial area with a central core area of ground floor retail and service activities surrounded by a less intensive buffer area of residential, motels, offices, and other uses; (emphasis added)*

*P1-6 Monitor the mix of permitted and conditional uses in the commercial and multi-family land use districts in order to maintain a transition of land use to the single family residential district; (emphasis added)*

*P1-40 Residential designs shall maintain Carmel's enduring principles of modesty and simplicity and preserve the City's tradition of simple homes set amidst a forest landscape. Buildings shall not present excess visual mass or bulk to public view or to adjoining properties. Buildings shall relate to a human scale in their forms, elements and in the detailing of doors, windows, roofs, and walkways. Oversized design elements make structures appear dominating and monumental. This out-of-scale character represents a poor fit to the human form, vitiates the*



more intimate, rural charm and village character of Carmel-by-the-Sea and should be avoided.  
(emphasis added)

*P1-48 Establish maximum limits on site coverage and floor area in order to preserve open space and avoid excess mass and bulk...* (emphasis added)

*P1-70 Retain a less intensively developed buffer area surrounding the core that provides a transition to the residential neighborhoods. Ensure that design standards for this buffer area reflect more open space, landscaping, setbacks, and on-site parking typically needed for the uses in this area.* (emphasis added)

As might be expected, the LUP policies thus amplify the same types of protections as the Coastal Act as described above, and explicitly refer to using a transition area (between the more densely developed downtown and the outlying residential neighborhoods of the City) that is less intense than the downtown core, and in which excess mass and scale is to be avoided.

## B. Analysis

### **Density Bonuses and Development Standard Exceptions**

The IP currently provides density bonuses for the provision of affordable housing units in all commercial and multi-family residential zone districts (i.e., Central Commercial, Service Commercial, Residential-Limited Commercial, and Multi-Family). The existing LCP standard provides for a 35% density bonus (similar to State law requirements) and a 15% FAR bonus when projects involve housing for low and very low income households.

The proposed IP amendment provides that all new development must conform to the development standards of the underlying zone district except that the Planning Commission may grant exceptions (i.e., including to setbacks, height, site coverage, FAR, and density) to said development standards in order to facilitate increased flexibility in design. The proposed amendment language further sets a limit on the maximum applicable lot size (i.e., 8,000 square feet) and requires that for all new development greater than 5 units, laundry facilities and a common community room a minimum of 250 square feet in size be provided. The proposed amendment does not place any limits on how, or in what combination, the exceptions may be granted. Thus, it is possible that one or all of the development exceptions may be applied to any individual project.

As noted in the LUP consistency findings above, the existing development standards were certified as necessary to implement Coastal Act policies that require that new development protect special communities and neighborhoods and their characteristics. The City's LUP is premised on requiring the City to maintain the appropriate land use designations; embracing the enduring principles of modesty and simplicity of design, human scale, appropriate mass, and open space; and preserving the established pattern of dense urban development at the City's core and successively less development intensity as one radiates out from the central commercial district. The area surrounding the central core is required



by the LUP to function as a transition buffer area, where excess mass and scale is to be avoided.

By contrast however, the proposed amendment will allow development in this LUP-identified transition area at mass, scale, and intensities associated with commercial development in the City's central core districts. This in turn will reduce or eliminate the intended buffer or "transition" from the central commercial to the low-density residential zone districts. In sum, with the proposed amendment much greater development intensity in these zone districts would be expected than that allowed under existing standards. Such greater development intensity would be to the detriment of the LUP protected community character of Carmel, and cannot be found LUP consistent.

On the other hand, the density increase alone to encourage affordable housing is not so problematic in terms of the LUP. Such increased density would essentially allow for more units in the same space. Although there would be some increase in public service needs for the additional units (e.g., water, sewer, circulation, etc.), the LCP is already equipped to address such needs appropriately and this component can be found LUP consistent. In other words, the proposed exception for increased density may be allowed provided that all new development otherwise conforms to the LCP development standards (including setbacks, height, coverage, and floor area ratio) of the applicable zone district. See Suggested Modification 3.

### **Ensuring Affordable Projects Stay Affordable**

The proposed amendment is silent with respect to ensuring that new affordable housing development will continue to be offered at rates considered affordable for all low and very low income households for the period of time required by Government Code Section 65915. Pursuant to Section 65915, all low and very low income units that qualified the applicant for the award of the density bonus must remain affordable, as that term is defined in Section 50053 of the California Health and Safety Code, for a period of 30 years (or longer if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program). The amendment does not reflect this requirement of state law. Accordingly, modifications are necessary to conform the LCP in this respect to state law, and to make clear the process in this respect for ensuring that new development will continue to remain affordable. See Suggested Modification 4.

### **Defining Low Income Housing**

The existing LCP and the amendment's proposed affordable housing language refer to the Association of Monterey Bay Area Governments' (AMBAG's) definition of "housing for low and very low income households". However, AMBAG does not provide such a definition, and this reference could lead to LCP implementation confusion over what standards apply. Such confusion could exacerbate the types of impacts to Carmel's special character identified in the preceding findings if it resulted in more projects meeting the "low and very low income" criteria that is undefined. Fortunately, the LCP does include a definition for low and very low income (in LCP Implementation Plan (IP) Section 17.10), and the proposed LCP language can be modified to reflect the LCP definition. Thus, suggested modifications



are attached (see suggested modifications 1, 2, 4, 5, 6, and 7) that replace the AMBAG reference with the LCP definition reference (both in the proposed LCP amendment language and in existing LCP text). These changes clarify and refine the LCP so that it adequately defines low and very low income, and so that it is internally consistent with respect to this definition and its applicability within the LCP.

## **Conclusion**

The Commission must determine whether the IP changes proposed are consistent with and adequate to carry out the LUP. There are portions of the proposed IP text where there are inconsistencies and/or other issues that would affect the proposed amendment's ability to carry out LUP policies, and ultimately to ensure that coastal resources are protected as directed by the LUP. Fortunately, there are modifications that can be made to address the identified issues and thus achieve LUP consistency.

In conclusion, if so modified in all of the ways outlined here according to the cited modification texts, then the IP as amended by the proposed amendment, and as further modified as suggested above and in the cited modification texts, is approved as being consistent with and adequate to carry out the certified LUP as amended.

## **4. LCP Amendment Conclusion**

The Commission is supportive of encouraging affordable housing in the City of Carmel, but not at the expense of its defining community character. Towards this end, the proposed density increase is approvable under the Coastal Act and LUP, but the proposed exceptions to the certified development standards are not. That said, there may be cases where some exceptions to certain development standards may be appropriate in order to facilitate meaningful affordable housing development in the City, provided character is not adversely affected by such deviation. However, such potential deviation is more appropriately pursued on a case by case basis through the LCP's Specific Plan process which would ensure that such deviations are LUP consistent. In other words, the LUP currently provides an appropriate mechanism in this respect, one that is fact and project specific and contingent on LUP consistency as opposed to a blanket allowance, and the Commission encourages the City and potential applicants to use this existing mechanism to pursue exceptional affordable housing projects that can enhance and protect the City's unique and special community character consistent with the Coastal Act and LUP.

## **C. California Environmental Quality Act (CEQA)**

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed



action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The City, acting as lead CEQA agency, prepared a negative declaration for the proposed amendment under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

