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**Prepared April 16, 2009 (for May 7, 2009 hearing)**

**To:** Commissioners and Interested Persons

**From:** Dan Carl, Central Coast District Manager  
Susan Craig, Coastal Planner

**Subject: Santa Cruz County LCP Amendment Number 1-06 Part 3 (Affordable Housing Density Bonus).** Proposed major amendment to the Santa Cruz County certified Local Coastal Program to be presented for public hearing and California Coastal Commission action at the Commission's May 7, 2009 meeting to take place at the Hyatt Regency Embarcadero located at 5 Embarcadero Plaza in San Francisco.

### Summary

Santa Cruz County is proposing to amend its Local Coastal Program (LCP) Implementation Plan (IP) to delete Sections 13.10.390 through 13.10.397 of the IP. These IP sections provide the parameters for providing density bonuses to encourage the development of affordable housing in Santa Cruz County. The County is instead proposing to place standards for affordable housing density bonuses (consistent with the requirements of Government Code Section 65915) in a section of the County's zoning code that is not part of the certified LCP. The County has indicated that the reason for removing the density bonus language from the LCP is because the State's requirements regarding density bonuses are frequently amended and the County wants to avoid the need for regular LCP amendments in this regard. As proposed by the County, however, the affordable housing density bonuses placed in a non-LCP section would not apply in the coastal zone. As a result, LCP Land Use Plan (LUP) provisions encouraging affordable housing would not be adequately implemented, and other potential problems are engendered to the extent the non-LCP sections were applied to development in the coastal zone. To remedy these issues, Staff recommends that the Commission approve the LCP amendment only if the IP is modified to provide for density bonuses for affordable housing in the coastal zone consistent with Government Code Section 65915 and Coastal Act Section 30604(f) to the extent that such increases in density do not adversely impact coastal resources. Staff has worked closely with the County on the appropriate language to insert in the LCP in this respect, and County staff and Commission staff are in agreement on the recommended modifications. The two necessary motions and resolutions are found on pages 2-3 below.

### Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on April 8, 2008. The proposed amendment affects the IP only, and the original 60-day action deadline was June 8, 2008. On May 9, 2008, the Commission extended the action deadline by one year to June 8, 2009. Thus, the Commission has until June 8, 2009 to take a final action on this LCP amendment.



Staff Report Contents	page
I. Staff Recommendation – Motions and Resolutions.....	2
II. Suggested Modification .....	3
III. Findings and Declarations .....	4
A. Proposed LCP Amendment.....	4
B. Consistency Analysis.....	5
C. California Environmental Quality Act (CEQA) .....	9
IV. Exhibit	
Exhibit A: IP Sections Proposed for Deletion	

## 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 two motions in order to act on this recommendation.

1. Denial of Implementation Plan Major Amendment Number 1-06 Part 3 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 (1 of 2).** I move that the Commission **reject** Implementation Plan Major Amendment Number 1-06 Part 3 as submitted by Santa Cruz County.

**Resolution to Deny.** The Commission hereby **denies** certification of Implementation Plan Major Amendment Number 1-06 Part 3 as submitted by the Santa Cruz County 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.

2. Approval of Implementation Plan Major Amendment Number 1-06 Part 3 if Modified  
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with the suggested modification 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 (2 of 2).** I move that the Commission **certify** Implementation Plan Major Amendment Number 1-06 Part 3 if it is modified as suggested in this staff report.



**Resolution to Certify with Suggested Modification.** The Commission hereby **certifies** Implementation Plan Major Amendment Number 1-06 Part 3 to the Santa Cruz County 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 Modification

The Commission hereby suggests the following modification to the proposed LCP amendment, which is necessary to make the requisite Land Use Plan consistency findings. If Santa Cruz County accepts the suggested modification within six months of Commission action (i.e., by November 7, 2009), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Text in underline format denotes text to be added.

**1. Add new IP section 13.10.326 to the “Zoning Regulations for Residential Districts” section of the IP as follows:**

13.10.326 Residential Density Bonus for Affordable Housing

The Approving Body (or the Coastal Commission on appeal) may approve a density greater than that allowed by the underlying land use and zone district designations for affordable residential projects if the following criteria are met:

- (a) The proposed increased density is consistent with Coastal Act Section 30604(f), Government Code Section 65915 and Chapter 17.12;
- (b) Any affordable requirements applicable to the project, such as inclusionary units under Chapter 17.10, non-residential to residential designation conversion requirements of Section 13.01.060(d), Combining District or specific General Plan policies are first met. A project will qualify for density bonus when adding affordable units beyond those required for the project; and
- (c) If located within the Coastal Zone, the project is found to be in conformity with the Local Coastal Program (including but not limited to sensitive habitat, agriculture, public viewshed,



public recreational access and open space protections), with the exception of the density provisions.

### 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 provides standards and requirements pertaining to affordable housing density bonuses. 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 County's environment. Such a density bonus must be consistent with the applicable Coastal Act/LCP requirements. In other words, Section 65915 does not trump coastal resource protections of the Coastal Act or the LCP. In short, Section 65915 requires that a density bonus be provided, but not at the expense of the physical environment, including coastal resources within the coastal zone.

## 2. Description of Proposed LCP Amendment

The proposed LCP amendment deletes sections 13.10.390 through 13.10.397 of the IP, which provide the parameters for density bonuses to encourage the development of affordable housing in Santa Cruz County. These IP sections were last updated in 1994 and do not reflect the State's current affordable housing density bonus standards described by Government Code Section 65915. The County has placed the new density bonus and affordability regulations (that are consistent with Government Code Section 65915) in a section of the zoning code that is not part of the LCP. Thus, under the proposed amendment, the affordable housing density bonus regulations would no longer apply in the coastal zone.

See Exhibit A for the certified LCP text proposed for deletion.

## B. Consistency Analysis

### 1. Standard of Review

The proposed amendment affects the IP component of the Santa Cruz County LCP. 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. IP Amendment Consistency Analysis

### A. Applicable Policies

The following certified LUP policies encourage the provision of affordable housing in the coastal zone of Santa Cruz County:

***Land Use Policy 2.1.10 – Annual Limitation of Building Permits:*** Control the County’s rate of growth through an annual limitation on the approval and issuance of building permits. Allow exemptions from the building permit allocation quotas for residential projects specifically operated, restricted, and permanently maintained for affordable housing or temporary visitor accommodations. Affordable housing units, as defined in the County Code ordinance titled “Annual Population Growth Goals for Santa Cruz County” shall also be exempt from permit allocation limitations and shall, to the extent feasible, equal an average of not less than 15% of newly constructed units.

***Land Use Policy 2.23.1 - Lower and Moderate Income Housing in the Coastal Zone:*** Restrict conversion or demolition of existing residential units occupied by persons or families of lower or moderate income, unless provision has been made for replacement of those units. Replacement units shall be available to persons of lower or moderate income, and if the units which are converted or demolished are in the Coastal Zone, replacement units shall be located elsewhere in the Coastal Zone, if feasible.

The Santa Cruz County LUP also contains numerous policies requiring that development, including affordable housing development, protect coastal resources, including, but not limited to, visual resources, environmentally sensitive habitat, open space, agriculture, and water resources. In addition, Land Use Policy 2.1.4 specifically requires that the siting of new development, including residential development, will not have significant adverse effects on coastal resources and states:

***Land Use Policy 2.1.4 – Siting of New Development:*** Locate new residential, commercial, or industrial development within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.

### B. Analysis

The IP currently provides density bonuses generally up to 25%<sup>1</sup> for the provision of affordable housing units in all zoning districts that allow residential development if the project is otherwise consistent with

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<sup>1</sup> The existing IP allows a 50% increase over the 25% density bonus if all the units in a density-bonus eligible development will be affordable to persons of low or very low income.



all other applicable certified LCP policies and development standards. The current IP density bonus language was last updated in 1994. Since that time, the State's requirements have changed such that the current IP density bonus language is no longer consistent with the provisions in State law. Generally, the new State regulations (pursuant to Government Code Section 65915) allow for a greater density bonus (up to 35%), establish a lower threshold for triggering a density bonus (5% for very low income, 10% for low and moderate income, and 100% for senior affordable housing), define a clearer process for pursuing certain development standard variations, offer an option for a waiver of development standards, define prescribed reduced parking standards, and provide more opportunities for density bonuses through land donation and the construction of childcare centers.

The proposed amendment would delete the outdated density bonuses provisions from the IP (see Exhibit A) and place the new density bonus provisions that comply with Government Code Section 65915 in a section of the County Code that is not part of the IP. The County has indicated that the reason for not placing the new density bonus provisions in the IP is to avoid the need for regular LCP amendments, because the County indicates that Government Code Section 65915 is frequently amended by the State. As submitted by the County, however, the proposed LCP amendment would remove all density bonus provisions from the LCP, so the County would no longer have the authority to allow any density bonuses in the coastal zone. Thus, any proposed project in the coastal zone that includes an increased density for affordable housing above the density allowed by the underlying zoning district would be inconsistent with the certified LCP.

The County has stated that it intends to apply the new non-LCP density bonus provisions in the coastal zone to allow for affordable housing development at densities greater than the LCP would allow. However, these density bonus provisions would not be part of the LCP and thus would not be applicable in the coastal zone. If they were applied to coastal zone development to allow increased density and related measures that did not comply with underlying LCP policies, then such density and related measures would be inconsistent with the LCP. Because the LCP is the standard of review for coastal permits, some subset of such projects would be subject to challenge through appeal to the Commission, and all could be subject to legal challenge for failure to comply with the LCP. Affordable housing projects in Santa Cruz County have historically been controversial, and thus it seems clear that the potential for such challenges of County decisions is more likely, and perhaps even reasonably foreseeable. These circumstances do not encourage the provision of affordable housing, and if approved as submitted, the IP would no longer adequately implement the LUP's affordable housing provisions. Thus, the IP Amendment should be rejected as submitted.

One way to resolve these issues is to make the new zoning code sections that implement the affordable housing provisions of Section 65915 part of the LCP. This would require some changes to the new sections to ensure LCP consistency in that respect, but it is a valid option. However, County staff has indicated that the County will not support modifications that add the updated density bonus provisions to the LCP. Another option is to deny the amendment outright and retain the existing LCP provisions. That option, however, is both not supported by the County and would result in the retention of provisions that have not been updated to conform as applicable to State law. A third option is to include



a suggested modification to the IP Amendment that would add a section allowing affordable housing density bonuses if such increased densities were otherwise consistent with the LCP.

In this way, the IP would still be adequate to implement LUP policies 2.1.10 and 2.23.1, which encourage the construction of affordable housing in the Coastal Zone. Although the Commission must consider whether the proposed amendment is adequate to implement the LUP, not the Coastal Act, it is still important to note that Coastal Act Section 30604(f) encourages affordable housing and requires local governments to approve greater densities for affordable housing projects, as long as those projects are otherwise in conformity with the certified LCP. Coastal Act Section 30604(f) states:

*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.*

The suggested modification thus allows increased densities for affordable housing projects if they are consistent with Coastal Act Section 30604(f), Government Code Section 65915, the County's density bonus provisions, and the certified LCP. Although the Commission does not generally support the use of cross-referencing in LCPs, given the inherent difficulties in ensuring coastal resources are protected when other cross-referenced provisions may be outside of the Commission's purview, in this case the Coastal Act's cross-reference to the densities of Government Code Section 65915 provides a foundation for addressing the issues described above. In other words, replacement LCP text can be added that includes a similar cross-reference as the Coastal Act to ensure that affordable housing continues to be encouraged and additional densities provided for consistent with Government Code Section 65915. Of course, such addition must also ensure that any such increased density is otherwise in conformity with the LCP<sup>2</sup> (including with respect to LCP provisions protecting sensitive habitats, agriculture, views, public recreational access, and open space). See suggested modification 1.

In addition, to the extent that any such project is located seaward of the first through public road and the

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<sup>2</sup> Similar to the requirement for Coastal Act and LCP conformance explicitly identified in Coastal Act Section 30604(f), Government Code Section 65915(m) includes a similar explicit requirement, namely that "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 commencing with Section 30000) of the Public Resources Code." In other words, both the Coastal Act and Government Code recognize that such increased densities may only be allowed if the resultant projects adequately protect coastal resources consistent with the Coastal Act and/or the LCP.



sea, it will also need to be consistent with the public access and recreation policies of the Coastal Act.<sup>3</sup> On this latter point, County staff has indicated that the County is not supportive of a modification to add this required Coastal Act access and recreation finding to the suggested modification text. Although it would provide a valid reference within the new text, it is true that it is redundant because this requirement applies whether it is identified in the text or not. In that respect, the Commission intends that such finding be made in terms of any future density bonus pursuant to the new LCP text because it is a fundamental requirement of the Coastal Act that applies to development seaward of the first public road whether it is stated explicitly in this new LCP text or not.

In conclusion, the suggested modification will allow for increased densities consistent with State law to encourage affordable housing in certain situations, and will at the same time ensure that coastal resources are protected from inappropriate increases in density above that allowed by the underlying zoning district. Thus, as modified, the proposed amendment can be found consistent with and adequate to carry out the certified 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 County, acting as lead CEQA agency, determined that the proposed LCP amendment was categorically exempt from the requirements of CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended an appropriate suggested modification 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. As such, there are no additional feasible alternatives or feasible mitigation measures available that 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).

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<sup>3</sup> Pursuant to Coastal Act Section 30604(c), this requirement applies to all development within the coastal zone, whether in a local government jurisdiction where there is a certified LCP or not.



TEXT OF SECTIONS 13.10.390 THROUGH 13.10.397  
DELETED BY ORDINANCE 4814

**~~13.10.390 Residential density bonuses and affordability incentives.~~**

~~(a) Purpose. Sections 13.10.390 through 13.10.397 provide for density bonuses and other incentives to encourage the production of affordable housing in Santa Cruz County. These sections shall be known as the county Residential Density Bonus and Affordability Incentives provisions.~~

~~(b) Definitions. When used in Sections 13.10.390 through 13.10.397, the following terms shall have the following meanings:~~

~~(1) "Density Bonus law" shall mean California Government Code sections 65915 and 65917, and any successor provisions, as amended from time to time and if amended into the Local Coastal Program.~~

~~(2) "Housing development" shall mean one or more groups of projects for residential units constructed in the planned development of the County, as defined in Government Code section 65915(g) and any successor provisions, as amended from time to time and if amended into the Local Coastal Program.~~

~~(3) "Qualifying resident" shall mean a person 62 years or older, or a person 55 or older residing in a residential development of at least 150 dwelling units which is developed for, or substantially rehabilitated or renovated for, senior citizens, as referred to in Government Code section 65915 and defined in Civil code section 51.3, and any successor provisions, as amended from time to time and if amended into the Local Coastal Program.~~

**~~13.10.391 Density bonus authorized.~~**

~~(a) 25% Bonus. Subject to Section 13.10.392, the maximum residential density allowable under the applicable zoning designation shall be increased by 25 percent for any density bonus eligible development. In the coastal zone, a residential development which includes a density bonus in excess of 25 percent shall not be considered a principal permitted use and shall be appealable to the Coastal Commission. If there is an inconsistency between the density allowed under the land use element of the General Plan and the applicable Zone District, the density allowed under the land use element of the General Plan shall prevail. The density bonus shall be calculated based on the otherwise maximum allowable residential density under the applicable zoning ordinance and land use elements of the general plan as they apply to the project site. The otherwise maximum allowable residential density shall mean the maximum potential density modified by applying all site specific environmental development constraints identified within the zoning ordinances and land use element, including all applicable Local Coastal Program policies and implementing ordinances as certified by the Coastal Commission. In the coastal zone, any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable certified local coastal program policies and development standards. Approval of development proposed under this section shall require a finding that the development, if it had been proposed without the 25 percent density increase, would have been fully consistent with the policies and development standards of the certified local coastal program. In cases where a 25 percent density increase is granted pursuant to~~

~~Government Code Section 65915 which results in development inconsistent with otherwise applicable certified local coastal program policies and development standards, such as height, parking and setback requirements, the relief grant from such standards shall be considered an additional incentive under Government Code Section 65915(h).~~

~~(b) Eligible Developments. A density bonus eligible development shall be a housing development consisting of five or more dwelling units, where:~~

~~(1) At least 20 percent of the total housing development units, before the density bonus is applied, will be affordable to lower income households, as defined~~

~~California Health and Safety Code Section 50093 (or a successor provision); or~~

~~(2) At least 10 percent of the total housing development units, before the density bonus is applied, will be affordable to very low income household, as defined in California Health and Safety Code Section 50093 (or a successor provision); or~~

~~(3) At least 50 percent of the units will be for qualifying residents.~~

~~(c) Additional Bonus for 100% Affordable Projects for Qualifying Residents. If all the units in a density bonus eligible development will be: (1) affordable to persons of lower or very low income, and (2) reserved for occupancy by qualifying residents, the 25 percent density bonus provided by Subsection (a) shall be increased to 50 percent.~~

~~(d) Units Not Counted. Units required to be affordable to lower or very low income households pursuant to Chapter 12.06 (the County Demolition Ordinance) of this Code or California Government Code Section 65590 (or a successor provision) shall not be counted in computing the minimum percentages required for a density bonus.~~

### **13.10.392 Alternative incentives in place of bonus.**

~~In lieu of the density bonus provided by Section 13.10.391, the County may provide other incentives for a density bonus eligible development if the County determines that the other incentives can reasonably be expected to reduce the development cost per unit by the same amount as would a 25 percent density bonus.~~

### **13.10.393 Additional concessions or incentives.**

~~(a) Concessions or Incentives. In addition to the density bonus, the County shall either:~~

~~(1) Provide at least one additional concession or incentive within the meaning of the State Density Bonus law. In the Coastal Zone, any incentives must be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable certified Local Coastal Program policies and standards. In choosing between incentives, priority shall be given to that incentive most protective of coastal resources so as to avoid any development within or adjacent to wetlands or other environmentally sensitive areas, or any development within or adjacent to geologic hazard areas, or any development which would result in any significant adverse impacts on coastal access and recreation.~~

~~(i) a reduction of site development standards;~~

~~(ii) a modification of zoning code requirements or architectural design requirements;~~

~~(iii) mixed use zoning;~~

~~(iv) use of Redevelopment Agency and other public funds; or~~

~~(v) priority processing (pursuant to written guidelines established by the Planning Department), which, in order to qualify as an "additional~~

concession or incentive," shall significantly assist the economic feasibility of the development (but need not make feasible an otherwise infeasible development); or

(2) ~~Make a written finding that the additional concession(s) or incentive(s) are not required in order to provide affordable housing meeting the requirements of Section 13.10.391(b).~~

(b) ~~Additional Affordability. When a density bonus eligible development before the density bonus is applied, contains at least 35 percent of its units affordable to lower or very low income households, it shall be entitled to priority processing.~~

**13.10.394 ~~Waiver or modification of standards.~~**

(a) ~~In considering proposed density bonus eligible developments, the County may modify or waive one or more of the development and zoning standards from County Code Chapter 13.10, consistent with section 13.10.393, other than those being sought, with a finding in keeping with Section 18.10.230(a) that the modification or waiver will make economically feasible an otherwise economically infeasible development. No waiver or modification authorized by this Chapter shall permit a use prohibited by the applicable provisions of the County's General Plan or Local Coastal Program Land Use Plan.~~

**13.10.395 ~~Determination of feasibility.~~**

(a) ~~Information to Be Considered. The county shall determine economic feasibility as discussed under Sections 13.10.393 and 13.10.394 and the financial equivalency of any alternative incentive(s) as discussed under Section 13.10.392 only after review of economic analysis and information supplied by the applicant, and other interested parties, and County staff. The applicant may be required to submit financial information, including without limitation a statement showing sources and uses of funds and/or a complete development pro forma, on a standardized form provided by the County Planning Department.~~

(b) ~~Basis of Decision. The County may consider a development feasible without any additional concession, incentive, modification, or waiver of development standards if the net economic burden of providing the affordable units necessary for the density bonus does not adversely affect the overall feasibility of the development.~~

(c) ~~Fee. Applications requesting a waiver or modification under Section 13.10.394, shall be accompanied by a fee reflected in the Unified Fee Schedule, to compensate for the cost of determining development feasibility. In addition, where the County proposes to provide a concession or incentive that the Applicant contends does not significantly assist the economic feasibility of the proposed development, the Applicant shall submit a fee reflected in the Unified Fee Schedule, to compensate for the cost of the County's determination of economic impact.~~

**13.10.396 ~~Additional application and notice requirements.~~**

(a) ~~Applications. An application for a development or a Development Review Group submission which seeks a density bonus shall so state on its face, or in such other place as is indicated on forms provided by the County. Such application shall similarly state whether any additional incentive or concession or modification or waiver of development standards is sought and specify each requested additional incentive or concession and each requested modification or waiver of development standards.~~

~~(b) Notice.—Where notice is required by any other provision of law to be given with respect to an application for a proposed density bonus eligible development, that notice shall specify that the development is seeking a density bonus and shall also specify any additional incentive or concession or modification or waiver of development standards which is sought.~~

**~~13.10.397 Enforcement of affordability requirements.~~**

~~—The affordability requirements of Section 13.10.391(b) and 13.10.393(b) shall be applied and enforced in the same manner as is provided for in the County's Affordable Housing Ordinance at Chapter 17.10 of the County Code and the Income, Asset and Unit Price Guidelines adopted pursuant thereto, except that in the case of any conflict with State law, State standards shall prevail.~~

**CCC Exhibit A**  
**(page 4 of 4 pages)**