

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



W27b

Prepared August 23, 2013 for September 11, 2013 Hearing

To: Commissioners and Interested Persons
From: Madeline Cavalieri, District Manager
Daniel Robinson, Coastal Planner
Subject: San Luis Obispo County LCP Amendment Number 1-13 (Inclusionary Housing Ordinance)

SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County proposes to amend Local Coastal Program (LCP) provisions related to inclusionary housing. The changes affect both the LCP's Coastal Zone Land Use Element - Framework for Planning (CZLUE) and the Coastal Zone Land Use Ordinance (CZLUO), where these constitute the LCP's Land Use Plan (LUP) and Implementation Plan (IP) respectively. The goal of the amendment is to strengthen and clarify the LCP's existing inclusionary housing provisions by: making it clear that on-site bonus density units are allowed under certain circumstances within the Urban Services Line (USL); by adding to the list of exemptions under certain criteria in certain land use designations; and by reorganizing some text (e.g., moving the definition section to the main IP definition section) to make it, and the whole of the IP, easier to use and understand.

The Commission previously certified the existing LCP inclusionary housing provisions in 2010, and the net effect of the proposed amendment is to simply refine the approach certified at that time. The LCP should continue to be able to encourage affordable housing units at the same time as protecting coastal resources under the amendment, including because density bonuses and incentives for affordable housing would continue to only be allowed if the project is found to be in conformity with the coastal resource protection policies of the LCP (including but not limited to LCP policies and provisions protecting sensitive habitats, agriculture, public views, community character, public recreational access and related coastal resources).

Staff recommends that the Commission approve the LCP amendment as submitted. The motions and resolutions are found on page 3.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 26, 2013. The proposed amendment affects both the LCP's CZLUE (LUP) and CZLUO (IP), and the original 90-day

action deadline is September 24, 2013. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until September 24, 2013 to take a final action on this LCP amendment.

TABLE OF CONTENTS

I. MOTIONS AND RESOLUTIONS.....	3
II. FINDINGS AND DECLARATIONS	4
A. DESCRIPTION OF PROPOSED LCP AMENDMENT	4
B. PUBLIC PARTICIPATION.....	5
C. STANDARD OF REVIEW	5
D. CONSISTENCY ANALYSIS	6
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	8

EXHIBITS

Exhibit A: Proposed IP Amendment and Proposed LUP Amendment

Exhibit B: Applicable Policies

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LUP amendment as submitted and approve the proposed Implementation Plan as submitted. Thus, to follow the staff recommendation, the Commission needs to make two motions, one on the LUP amendment and one on the IP amendment, in order to act on this recommendation.

A. Certify the LUP Amendment As Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in the certification of the LUP amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of the majority of the appointed Commissioners.

Motion: *I move that the Commission **certify** Land Use Plan Amendment SLO-1-13 as submitted by San Luis Obispo County, and I recommend a yes vote.*

Resolution: *The Commission hereby certifies Land Use Plan Amendment 1-13 as submitted by San Luis Obispo County and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment 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.*

B. Certify the IP Amendment As Submitted

Staff recommends a **YES** vote on the following motion. Passage of this motion will result in certification of the IP and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission **certify** Implementation Plan SLO 1-13 for San Luis Obispo County if it is modified as suggested in this staff report. I recommend a yes vote.*

Resolution: *The Commission hereby certifies the Implementation Plan for San Luis Obispo County and adopts the findings set forth below on grounds that the Implementation Plan conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan 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 Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

II. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

San Luis Obispo County proposes to amend both the Coastal Land Use Element – Framework for Planning (CZLUE), and Coastal Zone Land Use Ordinance (CZLUO) portion of its certified LCP to: 1) add introductory and clarifying language related to inclusionary housing and density bonus provisions for affordable housing; 2) update inclusionary housing-related zoning ordinance provisions including adding exemptions related to certain subdivisions, mobilehome parks, and condo conversions; and 3) clarify and reorganize portions of the existing language.

Land Use Plan Amendment

Three individual sections are proposed to be added to Chapter 6 (Land Use Designations and Allowable Uses) of the CZLUE. An introductory overview section entitled “Inclusionary Housing Ordinance” would appear on page 6-2 between “Land Use Categories” and “Population Density.” This overview section outlines inclusionary housing background information (including with respect to State Housing Law); inclusionary housing requirements (including housing impact fees for commercial development); inclusionary housing implementation (including alternative methods of meeting requirements and incentives to encourage affordable housing units); and other inclusionary housing overview information. Additionally, a new section would be added to an existing section entitled “Parcel Size Ranges,” to make it clear that on-site density bonuses for residential projects are allowed provided the project design conforms to the standards and criteria for the granting of density bonus unit(s) in the CZLUO. Similarly, the “Notes” section associated with Table N on page 6-5, which is entitled “Typical Population Densities, Building Intensities And Parcel Size Ranges For Land Use Categories,” would be amended to add a seventh note to make it clear that a project may be approved at a density higher than otherwise allowed for an applicable land use category by Table N, where the residential project design conforms to the standards and criteria for the use of inclusionary housing density bonus units in the CZLUO Sections 23.04.096 and 23.04.097.

See Exhibit A, page 20-21, for proposed LUP changes.

Implementation Plan Amendment

The County proposes to amend Sections 23.01.034.d, 23.04.082.b(2), 23.04.094.a(3), 23.04.094.f(2), 23.11.030, and 23.04.096 of the CZLUO. Section 23.01.034.d would be amended to include conflict resolution provisions regarding additional density bonuses. Section 23.04.082.b(2) would be amended to include language regarding what applicable sections of the IP determine the number of dwelling units allowed. Section 23.04.094.a(3), which involves deferment of public facilities fees, would be deleted, and 23.04.094.f(2) would simply replace the title words “Inclusionary housing units” with “Near market value units” and replace all references to the word “inclusionary” with “affordable.” Section 23.04.096.o, which is the definition portion of the existing section on inclusionary housing would be deleted and moved, with minor modifications, to Section 23.11.030, Definitions, which is the main definition section in the IP.

Changes to Section 23.04.096 represent the bulk of the proposed amendment changes. In general, Section 23.04.096, entitled Inclusionary Housing, provides the purpose statement; applicable and exempted projects; requirements for residential, commercial, industrial, and

mixed use development; information on fees schedules and payments of the housing impact fee; development standards; eligibility; compliance; relevant definitions; and alternative methods to satisfy the inclusionary housing requirement including specific incentives and regulatory concessions offered by the County for affordable housing consistent with current State Density Bonus law (California Government Code Section 65915). The proposed amendments to Section 23.04.096 would add certain projects to the list of exempted projects from inclusionary housing requirements based on certain criteria in certain land use categories. Specifically, the list of exempted projects would be extended to include projects that create vacant lots in certain zones (multi-family residential as well non-residential land use categories),¹ condominium conversions that do not add more usable floor space, mobilehome parks (since they tend to be affordable housing), condominium conversions that do not add new development, and residential subdivisions that create only one new lot. Finally, the amendment would also make it more clear that on-site bonus units are allowed under certain circumstances in certain land use categories within the USL, and in general to clarify and reorganize the Section to make it easier for the public to use and understand.

See Exhibit A, page 1-20, for the proposed IP changes.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires that maximum opportunities for public input be provided in preparation, approval, certification, and amendment of any LCP. The County Planning Commission held a public hearing to discuss the proposed LCP amendment on October 11, 2012 in the County Government Center in San Luis Obispo. The notice of the public hearing was printed in a local newspaper on September 26, 2012. In addition, the staff report and draft amendment language were made available at the County's Department of Planning and Building, and on the Department's website. The County Board of Supervisors held public hearings on the proposed amendment on November 13, 2012 and December 18, 2012 in the County Government Center in San Luis Obispo. Notice of the Board of Supervisors' public hearing appeared in the local newspaper on November 2, 2012. In addition, the staff report and draft amendment were again available at the County Department of Planning and Building, and on the Department's website. These hearings were noticed to the public consistent with Sections 13552 and 13551 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. STANDARD OF REVIEW

The proposed amendment affects both the LUP and IP components of the San Luis Obispo County LCP. The standard of review for LUP amendments is that they must conform with the requirements of Chapter 3 of 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.

¹ The reason for exempting the vacant subdivision lots is that the vacant RMF and commercial lots could be developed with any number of different uses, and the County oftentimes does not know what the lots will ultimately be developed with. Therefore the inclusionary housing requirement will be applied at the time that vacant lots are developed. Residential lots with single family dwellings are different. The County knows how these lots will be developed and so the inclusionary housing requirements are applied at the time of the subdivision.

D. CONSISTENCY ANALYSIS

LUP Amendment Consistency Analysis

The Coastal Act requires that coastal resources be protected at the same time as encouraging affordable housing (see Exhibit B).

As indicated above, the LUP would be amended to include three new sections within CZLUE Chapter 6. The first new section would include an introductory overview section on page 6-2, between the section, “Land Use Categories” and “Population Density.” The new overview section explains the inclusionary housing concept, including what inclusionary housing requires (including the housing impact fee requirement for commercial development); the reason for inclusionary housing (including with respect to State Housing Law); what inclusionary housing provides for, including alternative methods of meeting the requirements and incentives to encourage the production of affordable housing units; and other overview information on inclusionary housing. It also describes the authority to establish the inclusionary housing ordinance, the host of local and state laws that it is consistent with, and that it is adopted in, and carried out by, the CZLUO. This section simply provides additional background and detail, and only serves to make the LCP more robust in terms of the way in which it addresses inclusionary housing requirements.

The second new section would be added to an existing section entitled “Parcel Size Ranges” to make it clear that on-site density bonuses for residential projects are allowed provided the project design conforms to the standards and criteria for the granting of density bonus unit(s) in the CZLUO. This section is designed to make it more clear that on-site bonus units are allowed in certain circumstances provided the project as a whole conforms to the coastal resource protection policies of the LCP (see, for example, Section 23.04.097). This section, too, only refines the way in which the LCP addresses inclusionary housing requirements.

Finally, the third addition is to the “Notes” section associated with Table N on page 6-5, which is entitled “Typical Population Densities, Building Intensities And Parcel Size Ranges For Land Use Categories,” would be amended to add a seventh note to make it clear that a project may be approved at a density higher than otherwise allowed for an applicable land use category by Table N, where the residential project design conforms to the standards and criteria for the use of inclusionary housing density bonus units in the CZLUO Sections 23.04.096 and 23.04.097.

The Commission previously certified the existing inclusionary housing provisions that are now a part of the LCP in 2010 (SLO-2-09 Part 2), establishing CZLUO Sections 23.04.096 and 23.04.097, which implement applicable LCP LUP policies. The Commission found in 2010 that the proposed inclusionary housing language was consistent with and adequate to carry out the policies of the certified LUP. The net effect of the proposed amendment, in terms of the proposed three LUP sections, is to include broad overview language that describes inclusionary housing in the CZLUE, and clarify, in two places, that density bonuses are allowed under certain circumstances. Adding this language is an after effect of simply refining the inclusionary housing approach and process certified in 2010.

The LCP should continue to be able to encourage affordable housing units at the same time as protecting coastal resources under the amendment, including because density bonuses greater

than that allowed by the underlying land use designations would continue to be allowed only if the project is found to be in conformity with the coastal resource protection policies of the LCP (including but not limited to LCP policies and provisions protecting sensitive habitats, agriculture, public views, community character, public recreational access and related coastal resources).

As the Coastal Act provides policies protecting coastal resources, staff finds that the amended LUP conforms with the requirements of Chapter 3 of the Coastal Act.

IP Amendment Consistency Analysis

As with the Coastal Act, the LCP LUP requires that coastal resources be protected at the same time as encouraging affordable housing (see Exhibit B).

As described above, the Commission approved LCP amendment SLO-2-09 Part 2 in 2010, and this amendment established CZLUO Sections 23.04.096 and 23.04.097. These sections include guidelines designed to foster affordable housing by requiring it to be provided for in many different types of development projects (i.e., “inclusionary housing”), and by providing density bonuses and exceptions from normal zoning requirements for projects that construct affordable housing either on- or off-site. They also require that certain measures are taken (commensurate with the level of development) to provide for affordable housing in certain commercial developments, residential developments subdivisions, and mixed use developments. Such measures include building affordable units into a project, building off-site affordable units, providing land for future development of affordable units, paying in-lieu fees, or combining all of these approaches. These sections also include methods for verifying eligibility, including compliance procedures to ensure that applicants meet inclusionary housing requirements and that verified low income residents can gain access to these units efficiently. The special findings section dictates that off-site inclusionary housing must be in the same housing area, that density bonuses will not be granted with inadequate water supply, and that waivers may be given for projects that can demonstrate that they have no connection to the requirements of the amendment.

Both the existing LCP and the proposed amendments to it are intended to encourage and facilitate the creation of affordable housing within the County, consistent with the requirements of State housing laws. Such housing is encouraged in two main ways: 1) a density bonus which would provide an increase in the number of allowable units established by the zoning regulations in exchange for providing a certain percentage of affordable housing units; and 2) additional incentives for developers, depending on the level of affordability and the percentage of affordable units provided. Incentives may include reductions in the site development standards, modifications of zoning requirements, design criteria modifications, approval of mixed use zonings, or other regulatory concessions that result in benefits that aid in the financial feasibility of a project to create affordable housing. At the same time, as described above, bonuses and incentives can only be allowed if coastal resources are protected. The net effect is to encourage affordable housing at the same time as ensuring that it is not at the expense of inappropriate resource impacts.

The changes proposed reorganize and slightly adjust these existing IP sections. The changes do not substantively alter the basic framework of the LCP in this respect, but rather clarify these

sections, including changes emanating from lessons learned by the County in its implementation to date (e.g., exempting projects from inclusionary requirements where they already provide affordable housing or modifying the timing of inclusionary housing requirements).

In short, the proposed amendment refines the existing LCP provisions certified by the Commission in 2010. The changes proposed will make such provisions clearer, but will not lead to new or different coastal resource issues as compared to the existing LCP. The proposed amended LCP will continue to encourage affordable housing consistent with Coastal Act Section 30604(f) and Government Code Section 65915, at the same time as including appropriate coastal resource safeguards (including with respect to LCP provisions protecting sensitive habitats, agriculture, views, public recreational access, and open space).

The amended IP is in conformity with, and adequate to carry out, the certified LUP.

E. 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. 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.

In this case, San Luis Obispo County, acting as the lead agency, adopted an Environmental Impact Report (EIR) addendum for the proposed LCP amendment, which is based upon the original EIR done for the original inclusionary housing ordinance back in 2008. After considering the environmental impacts of the proposed changes and comparing them to the 2008 EIR, the County determined that no new significant environmental impacts will occur or environmental mitigation be required.

This report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, 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).

EXHIBIT LRP 2006-00003:B

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE, CHAPTER 22.01, CHAPTER 22.10, AND CHAPTER 22.12

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 23.01.034.d of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

- d. Conflicts with other requirements.** If conflicts occur between a Land Use Element planning area standard and other provisions of this title, the Land Use Element planning area standard shall prevail, except in cases where additional density is granted pursuant to Section 23.04.96 – Inclusionary Housing, and Section 23.0.097 – Affordable Housing Density Bonus and Development Standard Modifications.

SECTION 2: Section 23.04.082.b(2) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

- b. Density bonus projects.** The number of dwelling units allowed in a project that proposes affordable housing pursuant to Section 65915 of the Government Code shall be as determined by Section 23.04.090. The number of dwelling units allowed pursuant to Section 23.04.096 – Inclusionary Housing, shall be as determined by Section 23.04.096.d – Determining base density, and by Section 23.04.097 – Affordable Housing Density Bonus and Development Standard Modifications.

SECTION 3: Section 23.04.096 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

23.04.096 – Inclusionary Housing

- a. Purpose statement.** The purpose and intent of this Section is to:

- (1) Implement Housing Element Program HE 1.9 - Require Development of Affordable Housing.
- (2) Fulfill the responsibility of the County under State Housing Law (California Government Code Section 65580 et seq.) to provide housing opportunities for all economic segments of the County.
- (3) Address the shortage of affordable housing in the County for households with incomes below 160 percent of median.
- (4) Provide opportunities for persons who work throughout the County to live closer to employment centers in order to reduce the length and number of vehicle trips.
- (5) Promote the vitality of local businesses by ensuring that housing affordable to their employees is available near the place of business.

- b. **Applicability and Exemptions and Applicability.** When development is subject to the provisions of this Section or Section 23.04.092 (Affordable Housing Required in the Coastal Zone), the applicant shall comply with the more restrictive code. The more restrictive code shall be the one that requires the highest number of affordable housing units to be provided. Should a conflict arise between this Section or Section 23.04.092 or with a community planning standard regarding the number of affordable housing units to be provided, then the section or standard that requires the highest number of affordable housing units shall prevail.

When development is subject to the provisions of this Section or Section 23.04.092, the applicant may choose instead to comply with the density bonus provisions of Government Code 65915 or Section 23.04.090 (Affordable Housing Density Bonus). If a conflict arises between the state and county density bonus codes, the state code shall prevail.

Nothing in this Section shall be construed to supersede or in any way alter or lessen the effects or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code.

~~This Section shall apply to all residential development with two or more dwelling units and to all commercial or industrial development with 5,000 square feet of floor area or more, except as follows:~~

- (1)-(2) **Applicability.** The following development is subject to the requirements of this Section:

- (i) Residential development with two or more dwelling units.
- (ii) Commercial/industrial development with a cumulative floor area of 5,000 s.f. or more.
- (iii) Mixed-use development.
- (iv) Subdivision of land.
- ~~(v) Construction of two or more new housing units on existing parcels.~~

- (2)-(4) **Exemptions.** The following development is exempt from the requirements of this Section:

- (i) Development that is non-residential or non-commercial in nature, such as educational facilities (i.e., schools and museums), religious institutions, public facilities and public infrastructure.
- (ii) Rental housing ~~secured for a period of 10 years or longer, to the satisfaction of the County.~~
- ~~(iii) (vi)~~ Dwelling unit(s) of less than 900 square feet in size (each).
- ~~(vi) (vii)~~ Residential addition, repair or remodel work that does not increase the number of existing residential dwellings.
- ~~(v) (viii)~~ Commercial structure repair or maintenance. Commercial structure addition or conversion to different commercial uses, cumulatively not exceeding 5,000 square feet.
- ~~(vi) (ix)~~ Reconstruction of any structures destroyed by fire, flood, earthquake or other acts of nature provided that the reconstruction of the site does not increase the number of residential units or size of non-residential floor area beyond County approved pre-existing conditions.

~~(vii) (iii)~~ Affordable housing development ~~secured for a period of 30 years or longer, to the satisfaction of the County where all housing units will conform to Section 23.04.094 – Housing Affordability Standards for low and very low income households.~~

~~(viii) (v)~~ Residential development that ~~complies with California Government Code Section 65915 et seq. (the “State density bonus law”). Any provides~~ affordable housing units ~~provided in conformance with the State density bonus law California Government Code Section 65915 et seq. (the “State density bonus law”)~~ will simultaneously satisfy the requirements of this Section.

~~(vi) Any residential condominium conversion that is subject to the provisions of Section 23.04.028 – Residential Single Family and Multi Family Categories.~~

~~(ix).~~ A condominium conversion of an existing residential structure that does not increase the number of dwelling units.

~~(x)~~ A condominium conversion of an existing commercial or industrial structure that does not increase the structural floor area or convert to a more intensive commercial use (i.e. convert to a commercial use that would require payment of a higher fee amount as set forth in the housing impact fee schedule).

~~(xi).~~ A subdivision of land in a residential land use category that creates only one vacant parcel (a vacant parcel that has no dwelling units).

~~(xii).~~ A subdivision of land in any non-residential land use category or in the Residential Multi-Family land use category that creates vacant, undeveloped parcel(s).

~~(xiii).~~ A subdivision of developed non-residential or developed Residential Multi-Family zoned land if the subdivision does not increase the non-residential floor area or number of dwelling units, or create a more intensive non-residential use (e.g., a commercial use with a higher fee amount in the housing impact fee schedule). All future development or change of use on the subdivided parcels shall be subject to this Section.

~~(x) Live-work units secured for a period of 10 years or longer, to the satisfaction of the County.~~

~~(xiv) (xi)~~ Residential care-taker units.

~~(xv) (xii)~~ Residential care facilities.

~~(xvi) (xiii)~~ Farm support quarters.

~~(xvii) (xiv)~~ Employee housing units (deed restricted for very low, low, moderate and/or workforce households).

~~(xviii) (xv)~~ Secondary dwelling units.

~~(xix)~~ Residential mobilehome park development and/or expansion, or the condominium conversion of a rental mobilehome park into to a resident ownership mobilehome park.

(2) Applicability. ~~The following development is subject to the requirements of this Section:~~

~~(i) Residential development with two or more dwelling units.~~

~~(ii) Commercial/industrial development with a floor area of 5,000 s.f. or more.~~

~~(iii) Mixed-use development.~~

~~(iv) Subdivision of land.~~

~~(v) Construction of two or more new housing units on existing parcels.~~

- c. **Inclusionary housing requirements for residential development.** For all residential development subject to this Section, the base density shall be determined at the time of application submittal pursuant to ~~Subsection d~~ Subsection c(6), and a portion of that base density shall be restricted for occupancy by workforce, moderate, low or very-low income households as follows:

- (1) **Required ~~Inclusionary~~ inclusionary housing by income group.** Inclusionary housing units shall be provided for each income group as follows:

Percentage of Base Density that shall be Inclusionary Housing Units

Income Group	Year 1	Year 2	Year 3	Year 4	Year 5 and thereafter
Workforce households	1%	2%	3%	4%	5%
Moderate income households	1%	2%	3%	4%	5%
Low income households	1%	2%	3%	4%	5%
Very Low income households	1%	2%	3%	4%	5%
Project Total	4%	8%	12%	16%	20%

~~Year 1 shall begin on the 31st day following the adoption of this Section by the Board of Supervisors. This phase-in period shall coincide with the five-year phase-in period for the affordable housing fee schedules of Title 29 – Affordable Housing Fund, Section 29.04.040.~~

- (2) **~~Establishing the Inclusionary~~ inclusionary housing requirement and fee schedule.** For all residential development the ~~Inclusionary~~ inclusionary housing requirement is established at the time of the following events, whichever occurs first: ~~When the applicant proposes to pay in-lieu fees, pursuant to Subsection E.2 below, the appropriate in-lieu fee schedule to use will be determined as follows:~~

(i) ~~Upon~~ upon approval of the land use permit; or

(ii) ~~or tentative approval of the subdivision map, whichever comes first. At the time of tentative map approval for a residential subdivision when such approval is granted after January 10, 2009 (the effective date of this Section).~~

- (3) **Determining the fee schedule.** When the applicant proposes to pay in-lieu fees, pursuant to Subsection d(2) below, the appropriate in-lieu fee schedule to use will be determined as follows:

(i) Projects subject to ministerial permit or discretionary permit approval shall be subject to the in-lieu fee schedule in effect at the time that the construction permit for each single family dwelling unit or each multi-family structure is issued.

(ii) For residential subdivisions in which the subdivider pays the in-lieu fee at the time of map recordation, the subdivision shall be subject to the in-lieu fee schedule in effect at the time the final map is recorded. The subdivided parcels resulting from the original subdivision map and subsequent development of the subdivided parcels shall not be subject to further Inclusionary

housing requirements, unless the parcels are subject to further subdivisions ~~that eliminate the boundaries of the subdivided parcel.~~

- (iii) For residential subdivisions, including residential condominium subdivisions, in which the subdivider defers fee payment until the occupancy or sale of the parcel or unit, the subdivided parcels or units shall be subject to the in-lieu fee schedule in effect at the time that the residential construction permit(s) for the parcel or unit is issued.

~~(4)~~ **(3) Sequence of income groups applicable to required Inclusionary inclusionary housing units.** The first required Inclusionary inclusionary housing unit shall be for Workforce households, the second for moderate-income households, the third for lower-income households and the fourth for very low-income households. This sequence is repeated for each additional required Inclusionary inclusionary housing unit(s).

~~(5)~~ **(4) Fraction of Inclusionary inclusionary housing units.** If the number of Inclusionary inclusionary housing units required includes a fraction of a unit then the applicant shall pay a pro-rated in-lieu fee for the fractional unit, pursuant to ~~Subsection e(2)~~ Subsection d(2), or provide a whole unit.

~~(5) Subdivision of land.~~ The subdivision of land is subject to this Section. ~~Alternative methods may be used to satisfy the inclusionary housing requirements, pursuant to Subsections c, f(1) and f(3). If in-lieu fees or housing impact fees are used, the fees may be paid prior to map recordation or deferred. If the fees are deferred then an Inclusionary Housing Agreement and/or trust deed(s) shall be recorded at the time the subdivision map is recorded, pursuant to Subsections j(3) and j(4).~~

~~(6)~~ **d. Determining base density.** For the purposes of determining inclusionary housing requirements and density bonuses pursuant to this Section, the concept of base density is applied. Base density is the theoretical maximum number of dwellings, or in the case of a residential land division, the theoretical maximum number of residential parcels that may be allowable on the potentially developable portion of a given site under this Title, not including any density bonuses as provided under this Title or state statute. For purposes of calculating base density, any area of land on a given site that is not potentially developable due to hazards or other environmental and resource factors (including, but not limited to, areas of sensitive habitat, steep slopes, significant public views, public access ways, or geologic instability) shall not be considered potentially developable and shall be excluded from the base density calculations (i.e., base density shall be determined based only on the potentially developable portion of a given site). Establishing the base density is necessary for purposes of determining whether a housing development is eligible for the density bonus, how many affordable dwellings must be provided in exchange for the density bonus, and the total number of dwellings that may be allowable including the density bonus units. However, base density as determined under this Section does not affect the provisions of the county code for review of proposed developments or land divisions which are not proposed to include the density bonus provided under this Section, and such developments or land divisions may not necessarily be approved by the County at a density equal to this base density. Base density is determined as follows:

~~(i)~~ **(4) Residential Multi-Family category.** The base density for ~~a~~ the potentially developable portion of the site in the Residential Multi-Family land use category is the number of multi-family dwellings that are allowable on the site in compliance with Section 23.04.084 - Multi-Family Dwellings.

~~(ii)~~ **(2) Residential Single-Family category.** The base density for ~~a~~ the potentially developable portion of the site in the Residential Single-Family land use category is equal to the total usable site area divided by the applicable minimum parcel size in compliance with Subsections

23.04.028a, b and c, except that average slope for the entire site may be used for the slope test under Subsection 23.04.028b instead of the average slope for each proposed parcel.

(iii) (3) Other land use categories. The base density for a the potentially developable portion of the site in a land use category other than Residential Single-Family or Residential Multi-Family is the maximum number of residential parcels that are allowable under this Title, not including any density bonus as provided under this Title.

(iv) Planning area standards. If conflicts occur between a planning area standard of Article 9 and the provisions of this subsection, the base density shall be calculated pursuant to subsection 22.01.070.D - Conflicts with other requirements.

(v) Less than base density. If the County approves the proposed residential development at an overall density lower than the base density, then the inclusionary housing requirement of this Section shall be applied only to the actual number of market-rate units approved, not to a larger base density number.

d. e. Alternative methods for residential projects. One or more alternative methods, such as constructing the ~~Inclusionary~~ inclusionary housing units on-site or off-site, payment of an in-lieu fee or donation of land may be used to satisfy the requirements of this Section. Pursuant to Subsection j below the applicant shall submit a statement that includes a description of the required number of ~~Inclusionary~~ inclusionary housing units and any alternative methods proposed to meet the requirements of this Section.

(1) On-site ~~Inclusionary~~ inclusionary housing units. The applicant may choose to provide all or a portion of the required ~~Inclusionary~~ inclusionary housing units on-site, provided that the ~~Inclusionary~~ inclusionary housing units are not constructed on prime agricultural soil.

(2) In-lieu fee. The applicant may propose to pay an in-lieu fee instead of providing ~~Inclusionary~~ inclusionary housing unit(s). The fee may be paid when construction permits are issued or be deferred. An Inclusionary Housing Agreement is required when fee payment is deferred until after construction permit issuance or subdivision map recordation, pursuant to Subsections j(3) and j(4). Fee payment may be deferred until the time of sale of individual ownership residential units or prior to final permit approval for occupancy for individual ~~rental~~ residential units. ~~Where feasible, the cost of the in-lieu fee shall be spread evenly among the project's residential units.~~ The in-lieu fee schedule is updated annually by resolution of the Board of Supervisors, and can be found in ~~the Implementation Guidelines Manual.~~ Title 29.

(3) Off-site construction.. To the extent allowed by this Title and the applicable County ordinances, the applicant may propose to build ~~Inclusionary~~ inclusionary housing units off-site. The number and sequence of ~~Inclusionary~~ inclusionary housing units built off-site shall be equivalent to what is required for on-site ~~Inclusionary~~ inclusionary housing units. Off-site unit(s) shall meet all the applicable standards and criteria of this Section, including but not limited to the standards of Subsection h(5) – Off-site construction.

(4) Land donation. The applicant may donate land located on-site or off-site. Such land donation(s) shall meet all of the standards and criteria that apply to land donation offers, including but not limited to the standards of Subsection h(6) – Land donation.

e. f. Inclusionary requirements for commercial, industrial and mixed-use development. Commercial and industrial development of 5,000 square feet or more of floor area for commercial or industrial use requires the payment of a housing impact fee or construction of ~~Inclusionary~~ inclusionary housing units.

~~(1)(2).~~ **Establishing the inclusionary housing requirement and fee schedule.** For all commercial, industrial, and mixed-use development the inclusionary housing requirement is established at the time of the following events, whichever occurs first: upon approval of the land use permit or tentative approval of the subdivision map, whichever comes first. When the applicant proposes to pay housing impact fees, pursuant to Subsection F.1 above, the appropriate housing impact fee schedule to use will be determined as follows:

- (i) Upon approval of the land use permit; or
- (ii) At the time of tentative map approval for a commercial/industrial subdivision when such approval is granted after January 10, 2009 (the effective date of this Section).

~~(2)(4)~~ **Payment of housing impact fee.** The fee may be paid when the construction permit is issued. An Inclusionary Housing Agreement is required when fee payment is deferred until after construction permit issuance or subdivision map recordation, pursuant to Subsections j(3) and j(4). The housing impact fee may be paid prior to final permit approval for occupancy. Fee payment may be deferred until final permit approval for occupancy for new structures, structural additions, and/or for any remodel work or conversion of existing structures to a new or different commercial or industrial use. For commercial subdivisions, fee payment may be deferred no later than the occupancy or sale of individual units. If no construction permit is issued then the housing impact fee shall be paid prior to approval of any land use permit for new or converted commercial or industrial structure(s). The housing impact fee schedule is updated annually by resolution of the Board of Supervisors, and can be found in the Implementation Guidelines Manual: Title 29.

~~(2)~~ **Establishing the inclusionary requirement and fee schedule.** ~~For all commercial, industrial, and mixed-use development the Inclusionary requirement is established upon approval of the land use permit or tentative approval of the subdivision map, whichever comes first. When the applicant proposes to pay housing impact fees, pursuant to Subsection F.1 above, the appropriate housing impact fee schedule to use will be determined as follows:~~

~~(3)~~ **Determining the fee schedule.** When the applicant proposes to pay housing impact fees, the appropriate housing impact fee schedule to use will be determined as follows:

- (i) Projects subject to ministerial permit or discretionary permit approval shall be subject to the housing impact fee schedule in effect at the time that the construction permit for each structure is issued. Projects for which no construction permit will be issued shall use the housing impact fee schedule in effect at the time that the land use permit is approved.
- (ii) For commercial/industrial subdivisions in which the subdivider pays the housing impact fee at the time of map recordation, the subdivision shall be subject to the housing impact fee schedule in effect at the time the final map is recorded. The subdivided parcels resulting from the original subdivision map and subsequent development of the subdivided parcels shall not be subject to further Inclusionary housing requirements, unless the parcels are subject to further subdivisions that eliminate the boundaries of the subdivided parcel.
- (iii) For commercial/industrial subdivisions, including condominium subdivisions, in which the subdivider defers fee payment until the occupancy or sale of the parcel or unit, the subdivided parcels or units shall be subject to the housing impact fee schedule in effect at the time that the construction permit(s) for the parcel or unit is issued.

(4) Mixed-use projects. In any mixed-use project the commercial and industrial floor areas are exempt from this Section and the residential areas are subject to Subsection C – Inclusionary housing requirements for residential development. A mixed-use project shall have at least 25% of its total floor area designated for habitable residential use.

~~f. (3)~~ **Alternative methods for commercial/industrial projects.** As an alternative to paying the housing impact fee, the applicant may propose to satisfy the ~~Inclusionary~~ inclusionary housing requirement by using any one or a combination of the following alternative methods:

(1) **Construction of housing units.** To the extent allowed by this Title and County ordinances, the applicant may propose to build ~~Inclusionary~~ inclusionary housing units on-site or off-site. The required number of ~~Inclusionary~~ inclusionary housing units shall be determined as follows:

- (i) Calculate the required amount of housing impact fee(s).
- (ii) The housing impact fee shall produce the same number of inclusionary housing units that an equal amount of in-lieu fees would produce for a residential project.
- (iii) Refer to the in-lieu fee schedule and find the fee amount for a median sized dwelling unit. The median sized dwelling unit is determined annually by the Department of Planning and Building. The in-lieu fee schedule is in ~~the Implementation Guidelines Manual~~ Title 29.
- (iv) The fee amount for each whole inclusionary housing unit is indicated by the in-lieu fee schedule. Refer to the whole unit cost associated with the median sized dwelling unit.
- (v) When the fee collected from the project would produce a fraction of an inclusionary housing unit, the applicant shall pay a pro-rated housing impact fee or provide a whole unit.

The sequence of ~~Inclusionary~~ inclusionary housing units by income level for both commercial and residential projects shall comply with ~~Subsection c(3)~~ Subsection c(4) above. Off-site unit(s) shall meet all of the applicable standards and criteria of this Section, including but not limited to the standards of Subsection h(5) – Off-site construction. ~~Any additional residential units built shall be subject to Subsection c – Inclusionary requirements for residential development.~~

(2) **Land donation.** The applicant may offer to donate land located on-site or off-site. Such land donation(s) shall meet all of the standards and criteria of this Section, including but not limited to the standards of Subsection h(6) – Land donation.

(3) **Employee housing.** The applicant may offer to provide employee housing units located on-site or off-site. Such units may be rental units or ownership units, and shall be deed restricted pursuant to Section 23.04.094 – Housing Affordability Standards. The number of employee housing units and the sequence of units by income level shall comply with the standards of ~~Subsection f(1)(i)~~ Subsection f(1) above.

(4) **Employee housing program.** The applicant may provide an affordable housing program(s) to its employees. Examples of such programs include, but are not limited to, a rental assistance program or a first-time homebuyer program. The number of employee housing units and the sequence of units by income level shall comply with the standards of Subsection f(3)(i) above.

(5) **Credit for alternative methods.** Credit towards satisfying the ~~Inclusionary~~ inclusionary housing requirement of a commercial/industrial project by using any of the alternative methods listed above shall be based on the monetary value of the proposed alternative method(s), at a one-to-one dollar value. The applicant shall describe all proposed alternative methods in an ~~Inclusionary~~ inclusionary housing proposal that is submitted with the initial project application. The Planning Director, at his or her sole discretion shall determine the monetary value of the proposed alternative method(s) and whether the proposal provides the required amount of fee(s) and/or inclusionary housing units in conformance with this Section. No credit will be awarded for any surplus value, and any deficit balance shall be met through payment of a housing impact fee. All affordable housing that results from the use of alternative methods shall be located in the same Housing Market Area as the commercial/industrial project. Refer to the ~~Implementation Guidelines Manual~~ Section 23.11 – Definitions, for the Housing Market Area map.

(4) ~~Mixed-use projects.~~ In any mixed-use project the commercial and industrial floor areas are exempt from this Section and the residential areas are subject to Subsection e – ~~Inclusionary requirements for residential development.~~ A mixed-use project shall have at least 25% of its total floor area designated for habitable residential use.

g. **Development incentives for residential and commercial/industrial projects.** When the ~~Inclusionary~~ inclusionary housing units required by this Section are to be constructed on-site or off-site the following incentives shall be available:

(1) **Density bonus.** Within any approved residential development one density bonus unit shall be granted for each required ~~Inclusionary~~ inclusionary housing unit that is constructed on-site or off-site. Such density bonus units are exempt from affordable housing standards. Any residential development that complies with California Government Code Section 65915 (“State density bonus law”) is exempt from this Section. If a residential development qualifies for a density bonus under both the California Government Code and this Section, then the applicant may use either the state or local density bonus benefits, but not both. The granting of density bonus benefits shall not, in and of itself, require a general plan amendment, zoning change or other separate discretionary approval. The base density and density bonus increase shall be granted in any approved residential development unless the decision making body finds that the proposed development would have a specific adverse impact on the physical environment or on public health and safety that cannot be satisfactorily mitigated or avoided without rendering the development unaffordable.

(2) ~~Less than base density.~~ If the County approves the proposed residential development at an overall density lower than the base density, then the ~~Inclusionary~~ inclusionary requirement of this Section shall be applied only to the actual number of market-rate units approved, not to a larger base density number.

(2) (3) **On-site housing for residential projects.** When all of a project’s ~~Inclusionary~~ inclusionary requirements are met by providing ~~Inclusionary~~ inclusionary housing units on-site then the ~~Inclusionary~~ inclusionary requirement of Subsection c shall be reduced by 25%. The standards of ~~Subsection e~~ Subsection c(4) regarding the sequence of the ~~Inclusionary~~ inclusionary housing units by income group shall be adjusted evenly to reflect the 25% reduction.

(3) (4) **On-site housing for commercial/industrial projects.** When all of a project’s ~~Inclusionary~~ inclusionary requirements are met by providing ~~Inclusionary~~ inclusionary housing units on-site then the ~~Inclusionary~~ inclusionary requirement of ~~Subsection f(3)(4)~~ Subsection f(1) shall be reduced by 25%. The sequence of the ~~Inclusionary~~ inclusionary housing units by income group shall be adjusted evenly to reflect the 25% reduction.

(4) (5) Modification of development standards for residential projects. If the number of dwellings constructed on-site, in compliance with this Section, will exceed the base density amount then at the applicant's request the County shall grant at least one of the following additional incentives: a modification of the residential development standards for parking, height, private yard space, ~~or~~ setback ~~or~~ parcel size. The minimum parcel size may be decreased at most by the same percentage that the density may be increased under this Section. Requests shall be submitted along with the first application for a proposed project. The requested modification shall be granted unless the County finds that the proposed development would have a specific adverse impact on the physical environment or on public health and safety that cannot be satisfactorily mitigated or avoided without rendering the development unaffordable.

(5) (6) Modification of development standards for commercial/industrial projects. To assist with the placement of ~~Inclusionary~~ inclusionary housing units within a commercial/industrial project, at the applicant's request the County shall grant at least one of the following additional incentives: modification of the development standards for parking, height, or setback. This incentive(s) shall be applied only to on-site ~~Inclusionary~~ inclusionary housing units but not to any commercial portion of the project. Requests shall be submitted along with the initial application for a proposed project. The requested modification shall be granted unless the County finds that the proposed development would have a specific adverse impact on the physical environment or on public health and safety that cannot be satisfactorily mitigated or avoided without rendering the development unaffordable.

(6) (7) Development of affordable housing within incorporated city limits. Whenever an applicant uses an alternative method to satisfy the requirements of this Section, such as providing off-site ~~Inclusionary~~ inclusionary housing units or a donation of land for affordable housing, and this results in the development of new affordable housing units within the urban limits of an incorporated city within this County, then the ~~Inclusionary~~ inclusionary housing requirement of the applicant's project shall be reduced by 25%. If a portion, but not all, of a project's ~~Inclusionary~~ inclusionary housing requirement is met in this manner, then a proportionate amount of the project's ~~Inclusionary~~ inclusionary housing requirement will be reduced.

h. Development standards for ~~Inclusionary~~ inclusionary housing. Inclusionary housing units and land donation(s) that are provided in compliance with this Section are subject to the following standards:

(1) Affordability. The selection of eligible households, calculation of sales prices and rental rates, and preparation of long term affordability agreements shall be in conformance with the provisions of Section 23.04.094 – Housing Affordability Standards. Inclusionary housing units shall be and shall remain affordable pursuant to Section 23.04.094.

(2) Inclusionary housing design in residential and mixed use projects.

- (i) The ~~Inclusionary~~ inclusionary housing units shall have compatible exterior designs and finishes to the development's market-rate units.
- (ii) The ~~Inclusionary~~ inclusionary housing units may be smaller in size and have different interior finishes, features, and appliances so long as the interior components are durable, of good quality and consistent with contemporary standards for new housing.
- (iii) In 50 percent or more of the ~~Inclusionary~~ inclusionary units the average number of bedrooms shall be equal to or greater than the average number of bedrooms in the development's market-rate units.

- (iv) Up to 30 percent of the ~~Inclusionary~~ inclusionary housing units may be secondary dwelling units, pursuant to Section 23.08.169 – Residential-Secondary Dwellings.
- (3) **Inclusionary housing design in commercial/industrial projects.** Inclusionary housing units within commercial/industrial development shall be designed to include the following:
- (i) An equal mix of one and two bedroom sized units, except where the County determines that other unit size(s) are suitable.
 - (ii) Exterior designs and finishes that are compatible with the development's commercial/industrial units.
 - (iii) Convenient unit location(s) that provide safe pedestrian, vehicular and emergency response access.
 - (iv) Placement within the commercial/industrial project to avoid noise, lighting and traffic conflicts.
- (4) **Existing housing units as ~~Inclusionary~~ inclusionary housing units.** Existing housing units on the site of a new development may be designated as ~~Inclusionary~~ inclusionary housing units if they meet the design standards of this Section. Existing housing units off-site shall not qualify as ~~Inclusionary~~ inclusionary housing units. Existing affordable/deed restricted housing units shall not be used to satisfy the requirements of this Section.
- (5) **Off-site construction.** The applicant may propose to construct the required ~~Inclusionary~~ inclusionary housing unit(s) at an off-site location in the same Housing Market Area. Refer to ~~the Implementation Guidelines Manual~~ Section 23.11 – Definitions, for the Housing Market Area map.
- (i) Prior to approval of such off-site units the County shall find either that the off-site units will not create an adverse concentration of affordable housing units within any certain area or that the public benefit of providing affordable housing justifies the adverse concentration.
 - (ii) The transferred unit(s) and receiver site shall comply with this Title and all applicable County ordinances.
 - (iii) The transferred ~~Inclusionary~~ inclusionary housing unit(s) shall not be included when calculating the required number of ~~Inclusionary~~ inclusionary housing units for the receiver site, nor shall the receiver site qualify for any density increase in residential units on the basis of the transferred ~~Inclusionary~~ inclusionary housing unit(s) that it receives.
- (6) **Land donation.** The applicant may donate land that is located on-site or off-site of the proposed development. The County shall evaluate such donations based on the following criteria:
- (i) Value of the land is of equal or greater value than the amount of the in-lieu fees or housing impact fees that otherwise would be required. An appraisal shall be submitted as prepared by qualified appraiser acceptable to the County. Costs associated with the appraisal, title insurance, property transfer, document recordation and related costs shall be borne by the applicant.
 - (ii) The land shall be donated to a nonprofit or for-profit developer acceptable to the County that is willing to develop affordable housing on the land.

- (iii) The land must be acceptable to the Planning Director who will review to determine if the land is capable of being developed with residential units in conformance with the Coastal Zone Land Use Element and Coastal Zone Land Use Ordinance, and that such development of the land would not be significantly restricted by environmental constraints, hazardous materials, public service constraints, or public health and safety concerns.
 - (iv) Applicants/Developers may pool land to meet the ~~Inclusionary~~ inclusionary housing requirements for multiple developments subject to County approval.
 - (v) The donated land shall be located in the same Housing Market Area as the development project. Refer to ~~the Implementation Guidelines Manual~~ Section 23.11 – Definitions, for the Housing Market Area map.
- i. **Eligible residents.** The prospective residents of ~~Inclusionary~~ inclusionary housing units that are developed in conformance with this Section are subject to the following standards and requirements:
- (1) **Income categories.** Only households that qualify as very low, low, moderate or workforce households pursuant to Section 23.04.094 – Housing Affordability Standards shall be eligible to rent, purchase or occupy an ~~Inclusionary~~ inclusionary housing unit.
 - (2) **Income verification.** The County or other organization designated by the County shall verify the household income of prospective ~~renters~~ occupants or buyers prior to occupancy of any ~~Inclusionary~~ inclusionary housing units. In addition to satisfying the income eligibility requirements of this Title, prospective residents shall also:
 - (i) Prove that total household assets do not exceed one-half of the purchase price of the desired ownership unit.
 - (ii) Prove that they do not currently own a home.
 - (3) **Primary Residence.** Any household that purchases an ~~Inclusionary~~ inclusionary housing unit or occupies a ~~rental Inclusionary~~ an inclusionary housing unit shall occupy that unit as its primary residence, and shall not rent out any portion of the unit.
 - (4) **Eligibility list.** The County may, at its discretion, maintain an active list of households that are eligible to ~~rent~~ occupy or buy ~~Inclusionary~~ inclusionary housing units.
- j. **Compliance procedures.**
- (1) **Residential development application.** For any project with an ~~Inclusionary~~ inclusionary housing requirement the applicant shall submit the standard permit application along with a statement describing the ~~Inclusionary~~ inclusionary housing proposal. The applicant's statement shall include the following information:
 - (i) A brief description of the proposed project, including its ~~Inclusionary~~ inclusionary housing requirements, the number, type and location of ~~Inclusionary~~ inclusionary housing units (on-site, off-site, or existing designated units), ~~proposed tenure (for sale or rental)~~, targeted income category for each unit, size comparison of market-rate and ~~Inclusionary~~ inclusionary housing units, any alternative method(s) chosen to meet the ~~Inclusionary~~ inclusionary housing requirements, calculation of in-lieu fee, an offer of land donation in conformance with the criteria described in Subsection h(6) above, or any combination thereof.

- (ii) A description of any development incentives, as described in Subsection g above, that are requested of the County.
- (2) **Commercial development application.** Applicants of (non-mixed-use) commercial and industrial development projects may pay the housing impact fee described in ~~Subsection f(1)~~ Subsection e(2) above, or propose an alternative method(s) pursuant to ~~Subsection f(3)~~ Subsection f and submit an Inclusionary housing proposal. All applications shall include the following (1) the total floor area to be constructed, added or remodeled, (2) the intended use or uses for the project (i.e., square feet of commercial/retail, office, and /or industrial/warehouse floor area); and (3) a statement by the applicant that describes his proposal for satisfying the project's inclusionary housing requirement.
- (3) **Payment of fees.** Whenever a fee payment will be deferred to a time after the issuance of a construction permit or after recordation of a final map an Inclusionary Housing Agreement and/or trust deed shall be executed, pursuant to Subsection j(4).
- (4) **Inclusionary Housing Agreement and/or trust deed.** The provision of ~~Inclusionary~~ inclusionary housing units on-site or off-site, or the deferment of fees as described in Subsection j(3) – Payment of fees, or the use of any alternative method(s) described in ~~Subsection e~~ Subsection d – Alternative methods for residential projects, or in ~~Subsection f(3)~~ Subsection f – Alternative methods for commercial/industrial projects, are subject to this Subsection. Project compliance shall be secured with an Inclusionary Housing Agreement, except that deferred fees on vacant, subdivided parcels shall be secured by trust deed(s). The Inclusionary Housing Agreement or trust deed(s) shall be prepared by County Counsel.
- (i) The Inclusionary Housing Agreement shall be executed and recorded to the County's satisfaction prior to any construction permit issuance or subdivision map recordation, whichever comes first. If no construction permit or subdivision map is required, then the Inclusionary Housing Agreement shall be executed and recorded prior to the approval of any land use permit. Any deferred fee amount shall be based on the fee schedule described above in ~~Subsections e(2) and f(2) – Establishing the Inclusionary requirement and fee schedule~~ Subsections c(3) and c(3) – Determining the fee schedule.
- (ii). The relevant terms and conditions of the Inclusionary Housing Agreement shall be recorded as deed restrictions on ~~owner-occupied Inclusionary housing units and projects containing rental Inclusionary~~ the inclusionary housing units. All deferred fee amount(s) shall be recorded as a lien against the project site. In cases where the requirements of this Section are satisfied through a donation of land or development of off-site ~~Inclusionary inclusionary~~ inclusionary housing units the Inclusionary Housing Agreement must simultaneously be recorded against the property to be donated or where the off-site units are to be developed.
- (iii) If a subdivision will create vacant parcels for sale and the payment of in-lieu or housing impact fee(s) will be deferred to a time after map recordation, then a trust deed shall be recorded on each parcel when the map is recorded. The deferred fee amount shall be determined at the time that construction permit(s) are issued on the parcel and fee payment shall occur prior to final permit approval for occupancy or unit sale. The trust deed(s) shall indicate that future fee schedule(s) will be used to calculate deferred fee amounts. ~~Where feasible the fee requirements shall be spread evenly among the parcels.~~ Pursuant to Title 29, future fee schedules will be approved annually by resolution of the Board of Supervisors.
- (5) **Timing of construction and land donations.** Completion of ~~Inclusionary~~ inclusionary housing units and securing of donated land shall occur as follows:

- (i) On-Site ~~Inclusionary~~ inclusionary housing units.
 - a. Small projects. For all projects with a total of five units or less, the on-site ~~Inclusionary~~ inclusionary housing unit shall be available for occupancy prior to or concurrently with final permit approval for occupancy of any on-site market-rate housing units.
 - b. Large projects. For projects with a total of six or more residential units, whenever an individual ~~Inclusionary~~ inclusionary housing unit is available for occupancy then a single group of up to five market-rate units may also be made available for occupancy. The project may have separate phases of unit occupancy wherein each phase includes one ~~Inclusionary~~ inclusionary unit and up to five market-rate units.
 - c. Commercial/industrial projects. Project(s) providing inclusionary and/or employee housing unit(s) to satisfy the inclusionary housing requirement shall obtain final permit approval for occupancy of the inclusionary/employee housing unit(s) prior to or concurrently with final permit approval for any commercial/industrial unit that is in the same phase of the project development.
 - d.e. Alternative timing. The County may agree to an alternative timing arrangement, and if so then an agreement with a nonprofit housing development organization or a bond shall be provided to the County's satisfaction. If a bond is used, the bond shall secure a dollar amount adequate to cover the total cost of the bonded on-site units.
 - (ii) Off-site ~~Inclusionary~~ inclusionary housing units shall be available for occupancy prior to final permit approval for occupancy for any on-site housing unit. The County may agree to an alternative timing arrangement, and if so then an agreement with a nonprofit housing development organization or a bond shall be provided to the County's satisfaction. If a bond is used, the bond shall secure a dollar amount adequate to cover the total cost of the bonded off-site units.
 - (iii) Any donation of land shall be secured by a trust deed that is recorded to the County's satisfaction prior to any construction permit issuance or subdivision map recordation, whichever comes first. If no construction permit or subdivision map is required, then the deed shall be recorded prior to the approval of any land use permit. The County may agree to an alternative timing arrangement, and if so then a bond shall be posted to the County's satisfaction. The bond shall secure a dollar amount adequate to cover the total cost of the land to be donated.
- k. **Special findings for inclusionary housing development.** Approval of any development pursuant to this Section is subject to the following findings:
- (1) **Housing Market Area** All off-site inclusionary housing development and land donation(s) proposed by the applicant shall be located within the same Housing Market Area unless the Review Authority determines that there are compelling public benefits for locating such development in an adjacent Housing Market Area. One such benefit may be improvement of the job-housing balance within the same geographical area.
 - (2) **Level of Severity III (LOS III) for water supply.** In communities with a certified Level of Severity III (LOS III) for the water supply, whenever the use of inclusionary density bonus units will cause a development to exceed the residential density otherwise allowed by County ordinances, then prior to project approval the decision-making body shall find substantial evidence to support a conclusion that the local water purveyor can supply adequate water for the project and for full community build-out within ~~its~~ its service area as provided for in the General Plan. If there is an

inadequate water supply to support density bonus units then the developer shall use other options to satisfy the inclusionary housing requirement, such as payment of fees or donation of land.

- l. **Adjustment or waivers.** The requirements of this Section may be adjusted or waived (in whole or in part) if the applicant demonstrates to the County that a reasonable relationship does not exist between the impact of a proposed development and the requirements of this Section, or that applying the requirements of this Section would take property in violation of the United States or California Constitutions. At the time of submittal of a project's first development application the applicant shall also make an initial request for an adjustment or waiver and shall submit evidence to adequately demonstrate the appropriateness of the request. The request shall include financial and other information that the County deems necessary to perform an independent evaluation of the applicant's rationale for the request. In making a determination the County may assume each of the following when applicable; (i) that the applicant is subject to the ~~Inclusionary~~ inclusionary housing requirements of this Section; (ii) the extent to which the applicant may benefit from development incentives provided pursuant to Subsection g above; and (iii) that the applicant will be obligated to provide the most economical ~~Inclusionary~~ inclusionary housing units feasible in terms of construction, design, location and tenure. The Director of Planning and Building will consider the request and issue a written decision. The Director's decision may be appealed in the manner and within the time set forth in Section 23.01.042 – Appeals. If the Planning Director determines requirements of this Section may be adjusted or waived (in whole or in part) then the ~~Inclusionary~~ inclusionary housing requirement(s) of the proposed development shall be modified, adjusted or waived to reduce the obligations under this Section.
- m. **Severability.** If any clause, sentence, section, part or provision of this Section that is imposed upon any person or entity is found to be unconstitutional, illegal, or invalid, then such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, subsection, part, provision, or such person or entity, and shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, parts, provisions, or the effect of this Section on other persons or entities.
- n. **Annual Report.** The Planning Director shall prepare an annual report for the Planning Commission and the Board of Supervisors, and present the report at an agenda meeting. The report shall describe the progress made during the prior reporting period with regards to providing affordable housing pursuant to this ordinance. The Planning Commission may make recommendations regarding the ordinance or its implementation.
- o. **Definitions.** . [This subsection O. – Definitions, shall be moved entirely and incorporated into the Coastal Zone Land Use Ordinance Chapter 11 – Definitions.]
 - (1) **Affordable, means housing** ~~Housing~~ Housing which can be purchased or ~~rented~~ occupied by a household with very low, low, moderate or workforce income, as described in Section 23.04.094 – Housing Affordability Standards.
 - (2) **Affordable Housing Fund, means the** ~~The~~ fund established by the County to receive all in-lieu fees and housing impact fees contributed pursuant to ~~this Section~~ Section 23.04.096 – Inclusionary Housing. See Title 29 – Affordable Housing Fund.
 - (3) **Affordable housing unit, —see** See “Affordable.”
 - (4) **Applicant or Developer** ~~means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks County approval(s) for all or part of a residential or commercial development.~~

~~(4)~~ **(5) Building valuation** means the total value of all construction work for which a construction permit is required, as determined by the Chief Building Official.

~~(5)~~ **(6) Commercial/ industrial development,** ~~means a~~ When implementing Section 23.04.096 – Inclusionary Housing, “commercial/industrial development” is a development project involving primarily non-residential uses, including, but not limited to, retail, office, commercial-service, industrial and manufacturing uses as described in Title 23 – Coastal Zone Land Use Ordinance for which a land use permit application, construction permit application or subdivision application was submitted to the County. Development includes any of the following: new construction, structural additions, or conversion to a more intensive use (i.e. a commercial use that would require payment of a higher fee amount as set forth in the housing impact fee schedule).

~~(7)~~ **County** means the County of San Luis Obispo.

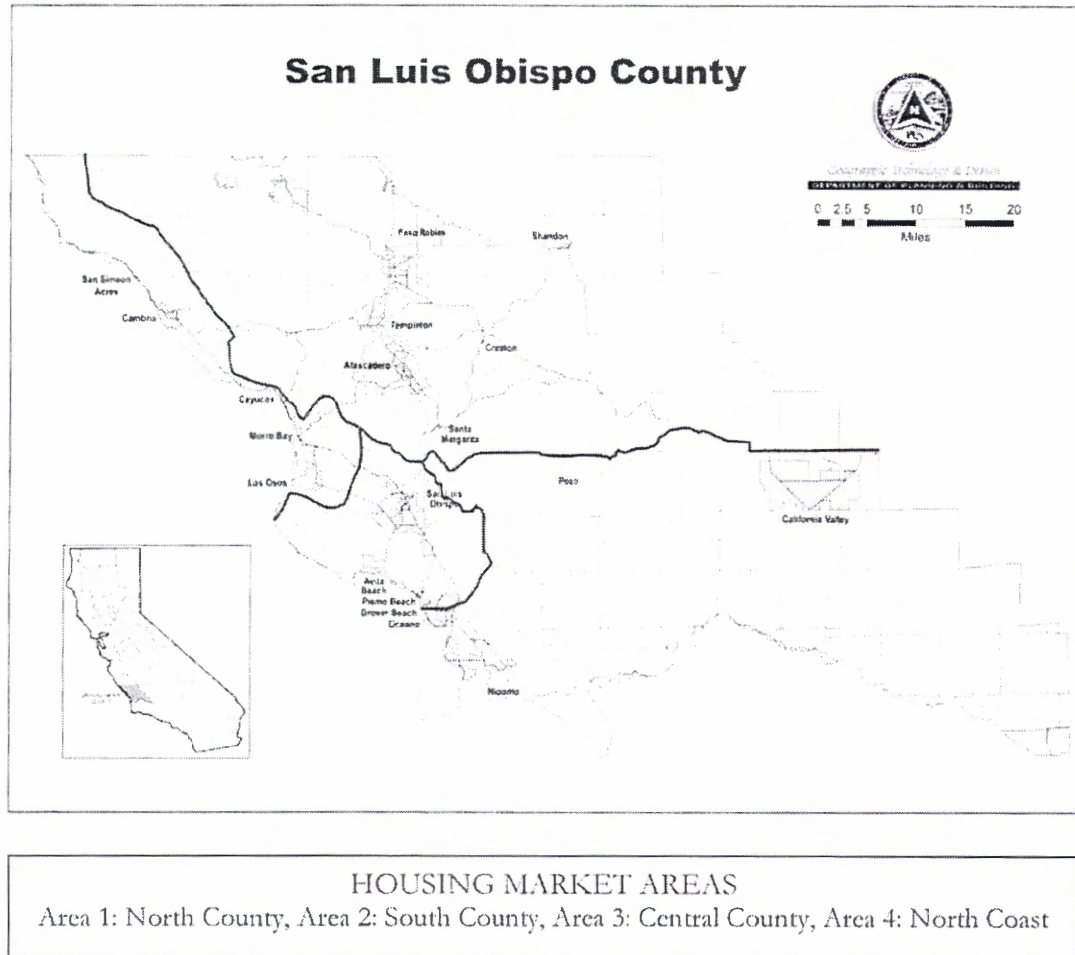
~~(6)~~ **Floor area.** When implementing Section 23.04.096 – Inclusionary Housing, “floor area” shall mean all work and/or living area inside the perimeter of the exterior walls of the building under consideration, without deduction for corridors, stairways, toilet rooms, mechanical rooms, closets, or other features.

~~(7)~~ **(8) Household,** ~~means all~~ When implementing Section 23.04.096 – Inclusionary Housing, “household” shall mean all of the persons who occupy a housing unit.

~~(8)~~ **(9) Housing impact fee,** ~~means a~~ A fee paid to the County to off-set the demand for housing created by commercial development, in conformance with Section 23.04.096 – Inclusionary Housing.

~~(10)~~ **Implementation Guidelines Manual** means ~~the guidelines manual that is produced and updated by the Department of Planning and Building. This manual includes current in-lieu and housing impact fee schedules, and the Housing Market Area Map.~~

(9) Housing Market Area. One of four geographical areas within which a permitted development or subdivision and all subsequent off-site inclusionary housing units and/or land donations shall be located. The Housing Market Area Map is located below.



Housing Market Area Map

Area 1: North County – includes Santa Margarita, Atascadero, Creston, Templeton, Paso Robles and Shandon.

Area 2: South County – includes Oceano, Nipomo, Woodlands, Pozo and California Valley

Area 3: Central County – includes San Luis Obispo, Avila Beach and Arroyo Grande

Area 4: North Coast – includes Los Osos, Morro Bay, Cayucos, Cambria and San Simeon

- (10) ~~(11)~~ **Inclusionary Housing Agreement**, means ~~a~~ A recorded agreement executed by the County and applicant or developer as provided by Subsection J – Section 23.04.096.- Inclusionary Housing, Subsection J – Compliance procedures.
- (11) ~~(12)~~ **Inclusionary housing unit**, means ~~a~~ A dwelling unit which is developed under the provisions of this Section-Section 23.04.096.- Inclusionary Housing, and which is and remains affordable to households of very low-income, lower-income, moderate income or workforce pursuant to this Section and Section 23.04.094 – Housing Affordability Standards.
- (12) ~~(13)~~ **In-lieu fee**, means ~~a~~ A fee paid to the County as an alternative to the production of Inclusionary inclusionary housing units, in conformance with Section 23.04.096 – Inclusionary Housing.
- (13) ~~(14)~~ **Low or lower income household**, means ~~a~~ A household whose annual income does not exceed 80 percent of the median income of the County of San Luis Obispo, pursuant to Coastal Zone Land Use Ordinance Section 23.04.094 – Housing Affordability Standards.
- (14) ~~(15)~~ **Market-rate unit**, means ~~a~~ When implementing Section 23.04.096 – Inclusionary Housing, a “market-rate unit” is a dwelling unit in a residential development or mixed-use development that is not an Inclusionary inclusionary housing unit.
- (15) ~~(16)~~ **Mixed-use development**, means ~~a~~ When implementing Section 23.04.096 – Inclusionary Housing, “mixed development” is a development project that combines residential and non-residential uses on the same site, where the proposed residential unit(s) is in addition to any on-site residential caretaker unit(s) developed pursuant to Section 23.08.161. For the purposes of this Section, a mixed-use project shall have at least 25% of its total floor area designated for habitable residential use.
- (16) ~~(17)~~ **Moderate income household**, means ~~a~~ A household whose annual income does not exceed 120 percent of the median income of the County of San Luis Obispo, pursuant to Coastal Zone Land Use Ordinance Section 23.04.094 – Housing Affordability Standards.
- (17) ~~(18)~~ **Off-site unit**, means ~~a~~ When implementing Section 23.04.096 – Inclusionary Housing, an “off-site unit” is an Inclusionary inclusionary housing unit that will be built separately or at a different location than the main development.
- (18) ~~(19)~~ **On-site unit**, means ~~a~~ When implementing Section 23.04.096 – Inclusionary Housing, an “on-site unit” is an Inclusionary inclusionary housing unit that will be built as part of the main development.
- (20) **Planning Director** means ~~the director of the Department of Planning and Building or his authorized representative.~~
- (19) ~~(21)~~ **Residential development**, means ~~a~~ When implementing Section 23.04.096 – Inclusionary Housing, a “residential development” is a development project which results in the subdivision of land or real property for residential use and/or the construction or conversion of dwelling(s), including but not limited to: detached residential single family dwellings, multi-family dwelling units, apartments, condominiums and mobilehomes, but excluding condominium conversion mobilehome park conversion, and mixed-use development.
- (22) **Review Authority** means ~~the County representative or decision-making body that has administrative permit and/or discretionary permit review authority over the application for subdivision and/or development project(s).~~

20. Title 29 - Affordable Housing Fund. The fund established by the County to receive all in-lieu fees and housing impact fees collected pursuant to this Section 22.12.080 – Inclusionary Housing. See San Luis Obispo County Code Title 29 – Affordable Housing Fund.

(21) ~~(23)~~ Very-low income household . means a Δ household whose annual income does not exceed 50 percent of the median income of the County of San Luis Obispo, pursuant to Coastal Zone Land Use Ordinance Section 23.04.094 – Housing Affordability Standards.

(22) ~~(24)~~ Workforce household or Workforce income household . means a Δ household whose annual income does not exceed 160 percent of the median income of the County of San Luis Obispo, pursuant to Coastal Zone Land Use Ordinance Section 23.04.094 – Housing Affordability Standards.

SECTION 4: Section 23.04.094.a(3) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

a. **Applicability.** Affordable housing units provided as a result of one or more of the following County actions shall be subject to the standards of this Section:

~~(3). Deferment of the public facilities fees as described in subsection 18.04.010a(1) of the Public Facilities Fees Ordinance, Title 18 of the County Code, or~~

SECTION 5: Section 23.04.094.f(2) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

23.04.094 – Housing Affordability Standards

f. **Continued availability of affordable housing:** Affordable housing units which are subject to the standards of this section shall continue to be reserved as affordable housing as follows:

(2) Near market value units ~~Inclusionary housing units~~: For any affordable ~~Inclusionary~~ housing unit that is subject to Section 23.04.090 or Section 23.04.096 of this title and will be sold as an ownership unit, if there is a sales price difference of 10% or less between the current appraised market value of the unit and the affordable sales price established by this Section then that affordable ~~Inclusionary~~ housing unit shall be reserved as affordable housing for a period of thirty (30) years in the following manner. When the affordable ~~Inclusionary~~ housing unit is first sold to an eligible buyer, or when the owner-builder of a designated affordable ~~Inclusionary~~ housing unit requests final permit approval for occupancy of his residence, the buyer and the County or the owner-builder and the County shall enter into an Option to Purchase at Restricted Price Agreement which shall be recorded as an encumbrance on the property and secured by a recorded deed of trust. The said Agreement and deed of trust shall establish the monetary difference between the initial affordable purchase price and the initial appraised market value as a loan payable to the County. Said loan shall accrue interest at a rate equal to 4.5 points added to the 11th District Cost of Funds as currently published by the Federal Home Loan Bank, amortized over 30 years. The monthly payments of principal and interest shall be waived by the County as long as the owner who was previously approved by the County as an eligible buyer or as an owner-builder continues to own and reside in the affordable ~~Inclusionary~~ unit as his or her principal residence, and also continues to be a legal resident of the County of San Luis Obispo. Upon resale to a non-eligible buyer the County loan amount shall be determined by the Planning and Building

Department and shall be adjusted to ensure that the resale price is not lower than the original affordable price, and to allow recovery of any downpayment and value of structural improvements.

SECTION 6: Chapter 6 of the Coastal Zone Land Use Element – Framework for Planning Coastal Zone, of the San Luis Obispo County Code, is hereby amended as follows:

Chapter 6: LAND USE CATEGORIES AND ALLOWABLE USES

A. INTRODUCTION

(No change to existing text.)

GOALS FOR LAND USE

(No change to existing text.)

Land Use Categories

(No change to existing text.)

Inclusionary Housing Ordinance

The inclusionary housing ordinance requires residential and commercial development to contribute towards the provision of affordable housing. Project applicants can choose from a variety of options to satisfy the ordinance requirements. Incentives are offered that encourage the production of affordable housing, including the granting of on-site density bonus units to residential projects.

Consistent with the applicable goals in Chapter 1 of this element, with the Housing Element, and with state Housing Law (California Government Code Section 65580 et. Seq.), the inclusionary housing ordinance generates housing opportunities for all economic segments of the County. There is a need to provide safe, affordable housing that is conveniently located near employment and public services, and away from areas of sensitive natural resources or known environmental hazards. The ordinance addresses the housing needs of employees who will come to work in new commercial developments, and of the employees who come to support and serve the population of new residential developments. The authority to establish the inclusionary housing ordinance is within the scope of police power established in Article XI, Section 7 of the California Constitution. The establishment of the ordinance is also an exercise of the county's planning and zoning authority as set forth in the California Planning and Zoning Law, Title 7, Division One of the California Government Code.

The inclusionary housing ordinance supports the development of housing that is affordable to both senior and young households with incomes below 160 percent of median income. It also promotes the vitality of local businesses by ensuring that affordable housing is nearby.

The inclusionary housing ordinance is adopted in the Coastal Zone Land Use Ordinance. The ordinance establishes the affordable housing requirements for residential development, and also the housing impact fee requirement for commercial development. The ordinance provides alternative methods of meeting the requirements along with Incentives to encourage the production of affordable housing units. One such incentive is the granting of on-site density bonus housing units to residential development, which may allow the project to exceed the density

limit set by the applicable land use category. The ordinance provides the standards for developing affordable housing, or housing alternatives, and for securing long term affordability.

Population Density

(No change to existing text.)

Building Intensity

(No change to existing text.)

Parcel Size Ranges

(No change to existing text.)

Residential projects that meet the standards of the Inclusionary Housing Ordinance and qualify for on-site density bonus housing unit(s), and that solely because of the addition of the density bonus housing unit(s) will exceed the residential density limit set for the project site by the applicable land use category as shown in Table N, may be allowed to exceed the density limit where the project design conforms to the standards and criteria for the granting of density bonus unit(s) in the Coastal Zone Land Use Ordinance.

Table N

(No change to existing table.)

Notes to Table N

7. A project may be approved at a density higher than otherwise allowed for the applicable land use category by Table N, where the residential project design conforms to the standards and criteria for the use of inclusionary housing density bonus units in the Coastal Zone Land Use Ordinance.

SECTION 7. On December 9, 2008, The Board of Supervisors certified the Final Environmental Impact Report in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et. seq., and adopted the findings of the Final Environmental Impact Report, which finds that there is evidence that the project may have a significant effect on the environment, and therefore a Environmental Impact Report was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) Mitigation measures were identified to, agricultural resources, air quality, cultural resources, hydrology and water quality, geologic hazards, noise, public services and utilities, and transportation/circulation. Significant and unavoidable impacts to biological resources and water resources were identified and a Statement of Overriding Considerations was adopted.

SECTION 8. The Board of Supervisors approves the Environment Impact Report Addendum (August 2012) as the proposed changes to the project would not result in new significant impacts not previously identified. No substantial changes are proposed or have occurred with respect to the project that will require major revisions of the previously-certified Final Environmental Impact Report due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts. No new information will have a significant effect on the environment that was not discussed in the previously-certified Final Environmental Impact Report, or shows that significant effects previously examined will be substantially more severe. No mitigation measures or alternatives considerably different from those analyzed in the previously-certified Final Environmental Impact Report have been identified that would substantially reduce one or more significant effect of the environment, but are declined by the applicant.

SECTION 9. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 10: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 20_____, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN.
County Counsel

By: _____
Deputy County Counsel

Dated: _____

SLO-1-13 (Inclusionary Housing) Coastal Act and LCP Applicable Policies

Coastal Act Policies

Access:

- 30210 Access; recreational opportunities; posting*
- 30211 Development not to interfere with access*
- 30212 New development projects*
- 30212.5 Public facilities; distribution*
- 30213 Lower cost visitor and recreational facilities; encouragement and provision, overnight room rentals*
- 30214 Implementation of public access policies; legislative intent*

Recreation:

- 30220 Protection of certain water-oriented activities*
- 30221 Oceanfront land; protection for recreational use and development*
- 30222 Private lands; priority of development purposes*
- 30222.5 Oceanfront land; aquaculture facilities; priority*
- 30223 Upland areas*
- 30224 Recreational boating use; encouragement; facilities*

Marine Environment:

- 30230 Marine resources; maintenance*
- 30231 Biological productivity; waste water*
- 30232 Oil and hazardous substance spills*
- 30233 Diking, filling or dredging continued movement of sediment and nutrients*
- 30234 Commercial fishing and recreational boating facilities*
- 30234.5 Economic, commercial, and recreational importance of fishing*
- 30235 Construction altering natural shoreline*
- 30236 Water supply and flood control*

Land Resources.

- 30240 Environmentally sensitive habitat areas; adjacent developments*
- 30241 Prime agricultural land; maintenance in agricultural production*
- 30241.5 Agricultural lands; determination of viability of uses; economic feasibility evaluation*
- 30242 Lands suitable for agricultural use; conversion*
- 30243 Productivity of soils and timberlands; conversions*
- 30244 Archaeological or paleontological resources*

Development.

- 30250 Location, existing developed areas*
- 30251 Scenic and visual qualities*
- 30252 Maintenance and enhancement of public areas*
- 30253 Minimization of adverse impacts (amended Ch. 179, Stats. 2008)*
- 30254 Public works facilities*

30254.5 Terms or conditions on sewage treatment plant development; prohibition
30255 Priority of coastal-dependent developments 30

Industrial Development.

30260 Location or expansion
30261 Tanker facilities; use and design
30262 Oil and gas development
30263 Refineries or petrochemical facilities
30264 Thermal electric generating plants
30265 Legislative findings and declarations; offshore oil transportation
30265.5 Governor or designee; coordination of activities concerning offshore oil transport and refining; duties

Section 30604(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.

LCP Policies

Public Works Policy 1: Availability of Service Capacity

New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable...

Public Works Policy 10: Encouraging Development within the Urban Services Line

*During the periodic update of the Local Coastal Program, including area plan updates, the County and California Coastal Commission should require new or expanded urban development to be located within the Urban Services Line (USL) of coastal communities. The USL defines areas where the capital improvement program and community plans should schedule extensions of public services and utilities needed for urban development. Proposals to increase urban density or intensity of urban land uses outside of the USL should be discouraged. Other nonregulatory methods to encourage infilling of development within communities may include greenbelt programs, transfer of development credits programs, agricultural conservation easements, and open space initiatives.
[THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]*

Agriculture Policy 1: Maintaining Agricultural Lands

Prime agricultural land shall be maintained, in or available for, agricultural production unless: 1) agricultural use is already severely limited by conflicts with urban uses; or 2) adequate public services are available to serve the expanded urban uses, and the conversion would preserve prime agricultural land or would complete a logical and viable neighborhood, thus contributing to the establishment of a stable urban/rural boundary; and 3) development on converted agricultural land will not diminish the productivity of adjacent prime agricultural land.

Other lands (non-prime) suitable for agriculture shall be maintained in or available for agricultural production unless: 1) continued or renewed agricultural use is not feasible; or 2) conversion would preserve prime agricultural land or concentrate urban development within or contiguous to existing urban areas which have adequate public services to serve additional development; and 3) the permitted conversion will not adversely affect surrounding agricultural uses...

Agriculture Policy 2: Divisions of Land

Land division in agricultural areas shall not limit existing or potential agricultural capability. Divisions shall adhere to the minimum parcel sizes set forth in the Coastal Zone Land Use Ordinance...

Agriculture Policy 3: Non-Agricultural Uses

In agriculturally designated areas, all non-agricultural development which is proposed to supplement the agricultural use permitted in areas designated as agriculture shall be compatible with preserving a maximum amount of agricultural use...

Agriculture Policy 5: Urban-Rural Boundary

To minimize conflicts between agricultural and urban land uses, the urban service line shall be designated the urban-rural boundary. Land divisions or development requiring new service extensions beyond this boundary shall not be approved. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.432 AND 23.04.021 OF THE CZLUO.]

Environmentally Sensitive Habitats Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats

New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.

Visual and Scenic Resources Policy 1: Protection of Visual and Scenic Resources

Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.

Visual and Scenic Resources Policy 2: Site Selection for New Development

Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Visual and Scenic Resources Policy 4: New Development in Rural Areas

New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.021 OF THE CZLUO.]

Visual and Scenic Resources Policy 6: Special Communities and Small-Scale Neighborhoods

Within the urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CHAPTER 23.11 (DEFINITIONS) OF THE CZLUO.]

Shoreline Access Policy 1: Protection of Existing Access

Public prescriptive rights may exist in certain areas of the county. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights shall be protected through public acquisition measures or through permit conditions which incorporate access measures into new development.

Shoreline Access Policy 2: New Development

Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as those accessways that provide for public access and use along the shoreline. Vertical access is defined as those accessways which extend to the shore, or perpendicular to the shore in order to provide access from the first public road to the shoreline. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.420 a. AND c. OF THE CZLUO.]

Non-LCP Guidance: Housing Element Program

HE 1.P: Implement the Inclusionary Housing Ordinance requiring development of affordable housing.

Description: Implement the Inclusionary Housing Ordinance approved in December 2008 by the Board of Supervisors, requiring affordable housing in conjunction with new market-rate housing development and non-residential projects. Staff will prepare a report on an annual basis for the Board of Supervisors to discuss the schedule for phasing-in the inclusionary requirement (currently at 4% of the ultimately 20% requirement), annual increases or decreases of fees (i.e. to reflect the cost of construction), and uses/activities undertaken with the fees collected. The report allows the Board to make annual adjustments to the inclusionary requirements based on market conditions. Developers can comply through flexible standards including building units on-site or offsite, by paying in lieu fees, or by donating land. Purposes: Inclusionary housing will

ensure that some affordable housing will be provided in the unincorporated areas of the county to meet a portion of the identified housing need. Desired Result: Facilitate development of an additional 225 housing units for extremely low, very low, low, and moderate-income households over the next five years. The inclusionary ordinance will be phased in over five years, and is projected to produce more housing units in subsequent Housing Element cycles.

HE 1.9. *Encourage the use of Strategic (smart) Growth principles in development that create a range of housing choices, mix land uses, preserve open space, and focus development in urban areas.*

HE 1.14. *Provide flexibility in meeting the Inclusionary Housing Ordinance requirements. Homebuilders can best decide which options they should choose to comply with this ordinance.*

HE 1.15. *Work with developers to encourage development of housing for local workers to meet the needs of the workforce and their families. Providing housing of the appropriate type, location, and price for local workers can improve the success of local businesses through dependable employees.*