

**CALIFORNIA COASTAL COMMISSION**

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**Th12a**

July 24, 2014

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
RICK CASSWELL, COASTAL PLANNER, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD LCP  
AMENDMENT NO. LCP-6-CAR-14-0596-2 (Density Bonus Amendments) for  
Commission Meeting of August 12-15, 2014**

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**SYNOPSIS**

The City of Carlsbad's Local Coastal Program (LCP) Amendment request #LCP-6-CAR-14-0596-2 involves an amendment to the City's certified Implementation Plan (IP) for text changes to the City's Zoning Ordinance to make the City's regulation of density bonuses consistent with recent changes in state and case law. The proposed amendment would therefore be applicable citywide.

The subject request was submitted with LCP Amendment #LCP-6-CII-14-0597-1 (Car Country Initiatives 2 and 4) on April 16, 2014, and filed as complete on June 16, 2014. Both of these requested LCP Amendments involve revisions to the City's certified IP, which must be acted upon by the Commission within 60 days of filing. Therefore, the Commission must act on these amendment requests by no later than the August 2014, hearing. However, in a separate report on this agenda, Commission staff is requesting a one year time extension for LCP Amendment #LCP-6-CII-14-0597-1 due to insufficient staff time to adequately review both of these LCP amendments ahead of the August 2014 hearing.

**SUMMARY OF AMENDMENT REQUEST**

The City of Carlsbad is requesting an amendment to the City's IP (which, in this case, is the City of Carlsbad's Zoning Ordinance) in order to implement text revisions in the municipal code chapters that regulate density bonuses. Specifically, ordinance amendments are proposed to Chapters 21.45/Planned Developments, 21.47/Nonresidential Planned Developments and 21.86/Residential Density Bonus and Incentives or Concessions. These revisions will ensure consistency of the City's density bonus ordinance with state and case law which have been enacted in recent years. Specifically, the proposed amendment would bring the City's density bonus ordinance into compliance with California State Legislative Assembly Bills 2280 (Saldana, 2008) and 806 (Torres, 2012). Additionally, the amendment would revise the City's density

bonus regulations pertaining to inclusionary housing in order to become consistent with the July, 2013, California appellate court ruling on *Latinos Unidos del Valle de Napa y Solano v. County of Napa* (“LUNA”). The assembly bills and the court case do not affect the Coastal Commission’s regulatory program. However, notably, the intent and major policies/standards of the City’s currently certified density bonus ordinance will not be modified by this amendment.

Assembly Bill 2280 (AB 2280) requires cities to grant a concession or incentive requested by developers of residential housing projects unless a city can make a written finding, based upon substantial evidence, that, among other things, the concession or incentive would be contrary to state or federal law. AB 2280 also deletes a previous requirement that developers requesting a concession or reduction of development standards show that the waiver or modification is necessary to make the proposed housing units economically feasible. Additionally, AB 2280 requires, as a condition of approval, that in order for a city to grant a density bonus to a developer who is donating land to that city for very low income housing, that the city first identify a source of funding for the very low income units.

Assembly Bill 806 (AB 806) makes various technical conforming changes to reflect revision and recodification of the Davis-Stirling Common Interest Development Act, which governs condominium, cooperative, and planned unit development communities in California. The proposed amendments to the Zoning Ordinance include non-substantive changes to correctly reference and apply language and terms consistent with state law.

In July, 2013, a California appellate court held in a ruling on “LUNA”, that cities and counties must count affordable housing units developed pursuant to local inclusionary housing requirements toward satisfying density bonus standards set forth in state law. Currently, the City of Carlsbad’s regulations pertaining to inclusionary housing are inconsistent with this ruling, in that the City specifies that affordable dwelling units that qualify for a density bonus are in addition to, and do not count toward, satisfying the City’s inclusionary housing requirements. The proposed amendments to the Zoning Ordinance include a revision to eliminate this requirement.

### **SUMMARY OF STAFF RECOMMENDATION**

Coastal resources such as public views, sensitive habitats and public access have the potential to be affected by modifications to the density bonus ordinance, especially when relief from certain development standards could be allowed as an incentive to a developer proposing a new housing development. This is because development standards such as building height limits, parking requirements, setback distances, and floor area ratio dictate a development’s footprint and bulk/massing. In addition, reducing setbacks that provide buffers from identified resources, such as wetlands, could result in both direct and indirect impacts to those resources. Increased density could impact levels of service along major coastal access routes in the absence of available and interconnected multi-modal transit opportunities. Without these standards, or even with

relief from just one development standard, new development has the potential to result in larger construction (such as high rises), which can negatively impact visual resources (such as scenic public views) or even public access if off-street parking requirements are reduced.

However, the proposed amendment only involves procedural modifications to the application and approval process of the density bonus ordinance, in order to comply with density bonus laws pursuant to AB 2280, AB 806, and the "LUNA" court decision, none of which affect the Coastal Commission's regulatory program. Moreover, Section 21.86.120.A.6. will not be modified by the subject LCP amendment. This section ensures that, for all development within the Coastal Zone, any requested density bonus, incentive, concession, and/or waiver/reduction of development standards can only be approved by the City if it is consistent with all applicable requirements of the certified Carlsbad LCP Land Use Plan, with the exception of density. Consequently, while the density of a development project could be increased beyond the numbers established as part of the underlying land use designations, the proposed development would still have to meet all development standards established as part of the certified LCP. Therefore, the proposed amendment should not result in any adverse impacts to community character, visual resources/public views, sensitive biological resources or coastal (public) access. In addition, the City is well-served by alternate transit, including the downtown Village Area transit center, Poinsettia transit station, and established bus services, as well as bikeways and pedestrian routes, such as the Coastal Rail Trail. These existing services and amenities would accommodate smart growth and higher densities while maintaining coastal access opportunities for the broader public. The proposed amendment request is also consistent with the respective certified Land Use Plans (LUPs).

Staff is therefore recommending that the amendment be approved as submitted by the City. The appropriate resolution and motion may be found on Page 5. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 6.

## **BACKGROUND**

LCP Amendment #LCP-6-CAR-14-0596-2 was submitted with LCP Amendment #LCP-6-CII-14-0597-1 (Car Country Initiatives 2 and 4) on April 16, 2014, and filed as complete on June 16, 2014. Staff worked with City planners to address needed filing material, notably some visual analysis for the Car Country component, and the items are now ready for public review.

## **ADDITIONAL INFORMATION**

Further information on the City of Carlsbad's LCP Amendment #LCP-6-CAR-14-0596-2 may be obtained from Rick Casswell, Coastal Planner, at (619) 767-2370.

**PART I. OVERVIEW**

**A. LCP HISTORY**

The City of Carlsbad's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties, and Village Redevelopment. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. This amendment modifies the City's Implementation Plan (IP) only.

**B. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject Zoning Ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified Land Use Plan(s). The Commission shall take action by a majority vote of the Commissioners present.

**C. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

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**PART II. LOCAL COASTAL PROGRAM SUBMITTAL – RESOLUTION**

Following a public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided.

**MOTION:** *I move that the Commission approve the Implementation Program Amendment No. LCP-6-CAR-14-0596-2 for City of Carlsbad as submitted.*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Following the staff recommendation will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the City of Carlsbad as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plans, and certification of the Implementation Program Amendment will meet the requirements of 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 Program Amendment on the environment; or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

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**PART III. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD  
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

**A. AMENDMENT DESCRIPTION**

This request involves a city-initiated LCP amendment to the City's Zoning Ordinance (Municipal Code), which is certified as part of its LCP Implementation Plan (IP). No changes to the City's certified LCP Land Use Plans (LUPs) are proposed herein.

The City of Carlsbad is requesting an amendment to the City's IP in order to implement text changes to the City's Zoning Ordinance to make the City's regulation of density bonuses consistent with recent state and case law.

Specifically, the proposed amendment would bring the City's density bonus ordinance into compliance with AB 2280 and AB 806. Additionally, the amendment would revise the City's density bonus regulations pertaining to inclusionary housing in order to become consistent with the "LUNA" court decision. Specific changes are proposed to Chapters 21.45, 21.47 and 21.86 of the municipal code and the amendment would be effective citywide.

**B. FINDINGS FOR APPROVAL**

The standard of review for IP submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUPs.

1) **Purpose and Intent of the Ordinance.** The purpose and intent of the City's density bonus regulations is to support the public interest in having housing appropriate to meet the needs of, and affordable to, all the City's population. As stated in Section 21.86.010, "it is in the public interest for the city to promote the construction of such additional housing through the exercise of its powers and the utilization of its resources."

2) **Major Provisions of the Ordinance.**

- Text changes to Chapter 20.04 (Subdivision Map Act), Chapter 21.45 (Planned Developments), Chapter 21.47 (Nonresidential Planned Developments), and Chapter 21.86 (Residential Density Bonus and Incentives or Concessions) to update with new California Civil Code section numbers.
- Text changes to Chapter 21.86 (Residential Density Bonus and Incentives or Concessions) to clarify language, consolidate policies, and renumber sections numbers where appropriate.
- Revise Section 21.86.020.A.9. (Residential Density Bonus and Incentives or Concessions: Definitions) to add more specific language to the definition of "Development standard.

City of Carlsbad LCPA #LCP-6-CAR-14-0596-2  
Density Bonus Amendments

- Text revisions to Section 21.86.030.A. (Residential Density Bonus and Incentives or Concessions: Inclusionary Housing) to replace existing language, stating that affordable dwelling units do not count towards the inclusionary housing requirements, with new language, stating that affordable dwelling units shall count towards the City's inclusionary housing requirements (i.e. bringing this Section into compliance with the "LUNA" court decision).
- Section 21.86.040.C.3.h. (a subsection of Density Bonus for Housing Developments) to add an additional requirement (i.e. a proposed source of funding for very low income units shall be identified by the developer prior to the approval of the final subdivision map) for density bonus housing applications.
- For Section 21.86.040.H. additional language has been added to the density bonus calculation, requiring residential units to be located on contiguous sites if only one development application is being proposed by the developer.
- Addition of a new finding (under Section 21.86.050.A.2.c. – Incentives and Concessions for Housing Developments) for the City to potentially deny a concession/incentive to a developer if that concession/incentive would be contrary to state or federal law. This new finding also applies to Sections 21.86.060.B.3. (Waiver or Reduction of Development Standards) and 21.86.120.A.7. (Findings for Approval).
- Removal of requirement/finding that the developer demonstrates (typically through a pro forma) that the requested waiver/reduction of development standards is necessary to make the proposed housing units economically feasible. Applies to Sections 21.86.060.A.1. (Waiver of Development Standards), 21.86.110.C.2.f. (Application Process), and 21.86.120.A.3. (Findings for Approval). Alternatively, the City has re-drafted the necessary findings to require that the requested waiver or reduction of development standard(s) is necessary to "avoid physically precluding the construction of a housing development at the densities or with the incentives or concessions permitted by this chapter."
- Notably, Section 21.86.120.A.6. will not be modified by this LCP Amendment. This section states that, "For development located in the coastal zone, the requested density bonus, and any requested incentive(s), concession(s), and /or waivers or reduction(s) of development standards, are consistent with all applicable requirements of the certified Carlsbad Local Coastal Program Land Use Plan(s), with the exception of density."

3) **Adequacy of the Ordinance to Implement the Certified LUP Segments.**

As noted above, the standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUPs (i.e. Mello I, Mello II, Village Area, East Batiquitos Lagoon, and West Batiquitos Lagoon LUPs). The most applicable LUP policies are as follows:

**Mello I**

**Policy 4 – Parking**

Parking shall be in conformance with the requirements of the City of Carlsbad Zoning Ordinance.

**Visual/Land Resources**

Sections 30244, 30251 and 30252 of the Coastal Act address the visual resource issues. In response to these Sections of the Coastal Act, PRC Toups recommends several actions, including:

- Sign control
- Parking requirements  
[...]
- The purpose of these recommendations is to ensure that visual...resources are protected, preserved or where necessary mitigated prior to construction and that new development will not visually degrade the area. This is of particular concern to...land...adjacent to Interstate 5, a major coastal access route....

**Mello II**

**Policy 1-1: Allowable Land Uses (Mello II)**

Allowable uses are those that are consistent with both the General Plan and the Local Coastal Program.

**Policy 3-1 Carlsbad Habitat Management Plan**

...The Carlsbad Habitat Management Plan (HMP) is a comprehensive, citywide program to identify how the City, in cooperation with federal and state agencies, can preserve the diversity of habitat and protect sensitive biological resources within the City and the Coastal Zone...

**Policy 3-1.9 No Net Loss of Habitat**

There shall be no net loss of Coastal Sage Scrub, Maritime Succulent Scrub, Southern Maritime Chaparral, Southern Mixed Chaparral, Native Grassland, and Oak Woodland within the Coastal Zone of Carlsbad...



### **3-1.12 Buffers and Fuel Modification Zones**

Buffers shall be provided between all preserved habitat areas and development.

Minimum buffer widths shall be provided as follows:

- a. 100 ft. for wetlands
- b. 50 ft. for riparian areas
- c. 20 ft. for all other native habitats (coastal sage scrub, southern maritime chaparral, maritime succulent scrub, southern mixed chaparral, native grassland, oak woodland)

Any proposed reductions in buffer widths for a specific site shall require sufficient information to determine that a buffer of lesser width will protect the identified resources... The California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the Coastal Commission staff shall be consulted in such buffer determinations.

#### **Policy 7-10: Parking**

Parking standards set forth within the City of Carlsbad Zoning Ordinance are appropriate for the future development of various land uses.

#### **Policy 7-13: Visual Access**

Visual access over more than 80% of the Carlsbad coastline is unobstructed because of public ownership. No future public improvements which would obstruct this visual access shall be permitted.

#### **East Batiquitos Lagoon**

#### **Policy 6: Scenic and Visual Qualities**

The scenic and visual qualities of the area are of great value to the region. Again, the focal point for these qualities is Batiquitos Lagoon. The viewshed to the lagoon and from the lagoon shoreline are important resources. Many of the requirements previously established by this document address visual quality components....

A number of policies within the certified LUPs for the City of Carlsbad have the potential to be affected by modifications to the density bonus ordinance, especially when relief from certain development standards could occur as a form of incentive to a developer proposing a new housing development. This is because development standards such as building height limits, parking requirements, setback distances, and floor area ratio dictate a development's footprint and bulk/massing – which impacts visual resources, especially, as well as potentially impacting public access and sensitive habitat areas. Without development standards, or even with relief from just one development standard, new development has the potential to result in larger construction (such as high rises), which can negatively impact visual resources (including public views) or even public access if off-street parking requirements are reduced. In addition, and more significantly, critical coastal habitats, such as wetlands, could be adversely affected if required buffers were reduced.

City of Carlsbad LCPA #LCP-6-CAR-14-0596-2  
Density Bonus Amendments

However, the City is not proposing to alter the existing development standards established as part of the underlying zoning designations. Rather, the proposed amendment involves procedural modifications to the application and approval process of the density bonus ordinance, in order to comply with AB 2280, AB 806, and the “LUNA” court decision. Most notably, Section 21.86.120.A.6. will not be modified by the subject LCP amendment. Therefore, in order for any density bonus, incentive, concession, and/or waiver/reduction of development standards request to be approved by the City for development within the Coastal Zone, consistency with all applicable requirements of the certified Carlsbad LUPs must be achieved, with the exception of density. This provision is retained consistent with the Commission’s action to approve the City’s density bonus regulations back in March 2008. As such, while the density of a development project could be increased beyond the numbers established as part of the underlying land use designations, the proposed development would still have to meet all development standards established as part of the certified LCP. Therefore, the proposed amendment should not result in any adverse impacts to community character, visual resources/public views, sensitive coastal resources or coastal (public) access, and the proposed amendment request is found to be consistent with the respective certified LUPs.

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**PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL  
QUALITY ACT (CEQA)**

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. The Commission's Local Coastal Program (LCP) review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for its review of an LCP or LCP amendment submittal.

At the local level, in connection with the revisions to its Zoning Ordinance, the City determined that the subject LCP amendment is exempt from environmental review pursuant to CEQA Section 15061(b)3, where it exempts projects, "...where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." The City asserts that the changes proposed by this amendment are primarily procedural in nature, are not substantial, and will not significantly affect the existing development standards in the Zoning Ordinance; therefore, the project will not result in a significant effect on the environment.

Nevertheless, the Commission is required in an LCP amendment submittal, such as in this case, to find that the approval of the proposed LCP, or LCP, as amended, does conform with CEQA. The proposed amendment would not result in any adverse impacts on coastal resources. Further, the Commission finds that the proposed amendment is unlikely to have any significant adverse effect on the environment as a whole. Therefore, the Commission finds that the subject LCP implementation plan amendment conforms to the provisions of CEQA.

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RESOLUTION NO. 2014-032

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, A LOCAL COASTAL PROGRAM AMENDMENT TO MAKE THE CITY'S REGULATION OF DENSITY BONUSES CONSISTENT WITH STATE AND CASE LAW.

CASE NAME: DENSITY BONUS REGULATIONS

CASE NO.: LCPA 13-02

The City Council of the City of Carlsbad, California, does hereby resolve as follows:

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did on December 4, 2013, hold a duly noticed public hearing as prescribed by law to consider the Zone Code Amendment (ZCA 13-01), and Local Coastal Program Amendment (LCPA 13-02), both of which are referenced in Planning Commission Resolution No. 7026; and


WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7026 recommending to the City Council that ZCA 13-01 and LCPA 13-02 be approved; and

WHEREAS, the City Council of the City of Carlsbad on the 25th day of February, 2014, held a duly noticed public hearing to consider the Zone Code Amendment and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to the Local Coastal Program Amendment.

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Carlsbad, as follows:

1. That the foregoing recitations are true and correct
2. That the findings of the Planning Commission in Resolution No. 7026 constitute the findings of the City Council in this matter

EXHIBIT NO. 1
APPLICATION NO. <b>LCP-6-CAR-14-0596-2</b>
(Density Bonus Amendments)
Resolution  California Coastal Commission

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PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 25th day of February 2014, by the following vote to wit:

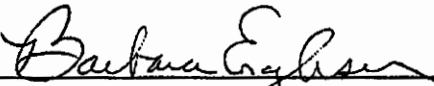
AYES: Council Members Hall, Packard, Wood, Blackburn.

NOES: None.

ABSENT: None.

  
MATT HALL, Mayor

ATTEST:

  
BARBARA ENGLESON, City Clerk



**DENSITY BONUS REGULATIONS  
ZCA 13-01/LCPA 13-02  
PROPOSED TEXT CHANGES TO THE ZONING ORDINANCE (TITLE 21)  
SHOWN IN STRIKETHROUGH/UNDERLINE FORMAT**

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**Section 21.45.030**

**21.45.030 Definitions.**

A. Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

1. "Condominium project" means a common interest development defined by Section ~~4351-4100~~ of the California Civil Code, and which consists of two or more attached or detached dwelling units on one lot.

2. "Driveway" means an improved surface on private property intended for exclusive vehicular access from a public/private street or drive-aisle to open/enclosed parking for a single residential unit (attached or detached).

3. "Drive-aisle" means an improved surface on private property intended for shared vehicular access (serving two or more residential units, attached or detached) from a public/private street to a driveway(s) or open/enclosed parking.

4. "Net pad area" means the building pad of a lot excluding all natural or manufactured slopes greater than 3 feet in height except intervening manufactured slopes between split-level pads on a single lot.

5. "Planned development" means a form of development usually characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, recreation and streets.


6. "Twin-home" means two dwellings attached by a common wall where each dwelling is on a separate lot that allows for separate ownership.

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**Section 21.47.020**

**21.47.020 Nonresidential planned development permit.**

The city council, planning commission or city planner, as provided in ~~the~~ the ordinance shall approve a permit for a nonresidential planned development in any industrial, office zone, or combination of zones subject to the requirements thereof ~~and~~ and modified in accord with this chapter.

EXHIBIT NO. 2
APPLICATION NO. LCP-6-CAR-14-0596-2
(Density Bonus Amendments)
 Strikeout/Underline California Coastal Commission

DENSITY BONUS REGULATIONS (ZCA 13-01/LCPA 13-02)  
PROPOSED TEXT CHANGES TO THE ZONING ORDINANCE

The application for a nonresidential planned development shall state whether the applicant intends to develop the project as a planned unit development, condominium project or stock cooperative project. For purposes of this chapter, a planned unit development is defined by Section 11003 of the Business and Professions Code of the state and a condominium project is defined by Section ~~4354-4100~~ of the California Civil Code of the state.

**RESIDENTIAL DENSITY BONUS AND INCENTIVE REGULATIONS**

**Section 21.86.010**

**21.86.010 Purpose and intent.**

A. The public good is served when there exists in a city, housing which is appropriate for the needs of and affordable to all members of the public who reside within that city. Among other needs, there is in Carlsbad a need for housing affordable to lower-income households and senior citizens. Therefore, it is in the public interest for the city to promote the construction of such additional housing through the exercise of its powers and the utilization of its resources.

B. It is the purpose of this chapter to provide a means for granting density bonuses and incentives or concessions to developers for the production of housing affordable to lower- and moderate-income households, and senior citizens.

C. It is the purpose of this chapter to implement the goals, objectives and policies of the housing element of the city's general plan.

D. It is the purpose of this chapter to implement Sections 65915 through ~~66947~~ 65918 of the California Government Code.

E. Nothing in this chapter is intended to create a mandatory duty on behalf of the city or its employees under the Government Tort Claims Act and no cause of action against the city or its employees is created by this chapter that would not arise independently of the provisions of this chapter.

F. Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act.

**Section 21.86.020**

**21.86.020 Definitions.**

A. Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

1. "Affordable housing" means housing for which the allowable housing expenses paid by a qualifying household shall not exceed a specified fraction of the county median income, adjusted for household size, as follows:



DENSITY BONUS REGULATIONS (ZCA 13-01/LCPA 13-02)  
PROPOSED TEXT CHANGES TO THE ZONING ORDINANCE

a. Extremely low-income, rental and for-sale units: the product of thirty percent times thirty percent of the county median income, adjusted for household size.

b. Very low-income, rental and for-sale units: the product of thirty percent times fifty percent of the county median income, adjusted for household size.

c. Low-income, rental units: the product of thirty percent times sixty percent of the county median income, adjusted for household size.

d. Low-income, for-sale units: the product of thirty percent times seventy percent of the county median income, adjusted for household size.

e. Moderate-income, for-sale units: allowable housing expenses shall not be less than twenty-eight percent of the gross income of the household, nor exceed the product of thirty-five percent times one hundred ten percent of the county median income, adjusted for household size.

2. "Allowable housing expense" means the total monthly or annual recurring expenses required of a household to obtain shelter. For a for-sale unit, allowable housing expenses include loan principal and interest at the time of initial purchase by the homebuyer, allowances for property and mortgage insurance, property taxes, homeowners' association dues and a reasonable allowance for utilities as defined by the Code of Federal Regulations (24CFR982). For a rental unit, allowable housing expenses include rent and a utility allowance as established and adopted by the city of Carlsbad housing authority, as well as all monthly payments made by the tenant to the lessor in connection with use and occupancy of a housing unit and land and facilities associated therewith, including any separately charged fees, utility charges, or service charges assessed by the lessor and payable by the tenant.

3. "Child day care center" shall have the same meaning as defined in Section 21.83.020(D) of this title.

4. "Common interest development" means any of the following (as defined in Section ~~4354~~ 4100 of the California Civil Code):

- a. A community apartment project;
- b. A condominium project;
- c. A planned development;
- d. A stock cooperative.

5. "Conversion" means the change of occupancy of a dwelling unit from owner-occupied to rental or vice versa.

6. "Density bonus" means an increase over the maximum allowable residential density as specified by the land use element of the general plan in effect at the time of application submittal.

DENSITY BONUS REGULATIONS (ZCA 13-01/LCPA 13-02)  
PROPOSED TEXT CHANGES TO THE ZONING ORDINANCE

7. "Density bonus dwelling units" means those residential units granted pursuant to the provisions of this chapter, which are above the maximum allowable residential density of the project site.

8. "Density bonus housing agreement" means a legally binding agreement between a developer and the city to ensure that the density bonus requirements of this chapter are satisfied. The agreement establishes, among other things, the number of target dwelling units and density bonus dwelling units, the unit sizes, location, affordability tenure, terms and conditions of affordability and unit production schedule.

9. "Development standard" means a site or construction conditions/requirements that apply/applies to a housing development pursuant to any ordinance, general plan element, master or specific plan, or other city requirement, law, policy, resolution or regulation. A "development standard" may include, but is not limited to a height limitation, a setback requirement, a floor area ratio, an onsite open space requirement or a parking ratio.

10. "Extremely low-income household" means those households whose gross income is equal to or less than thirty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

11. "Housing development" means one a development project for five or more groups of projects for residential units, including, consisting of the following:

- a. ~~The construction of five or more residential units;~~
- b. ~~—A subdivision or common interest development consisting of five or more residential units or unimproved lots; or~~
- eb. A project to either substantially rehabilitate and convert an existing commercial building to residential use; or
- c. A project to substantially rehabilitate an existing two-family or multiple-family dwelling structure(s), where the result of rehabilitation would be results in a net increase to five or more in available residential units.

12. "Incentives or concessions" means such regulatory incentives or concessions as stipulated in ~~State California~~ Government Code Section ~~65915(d)~~ 65915(k), to include, but not be limited to, the reduction of site development standards or zone code requirements, approval of mixed use zoning in conjunction with the housing project, or any other regulatory incentive which would result in identifiable, financially sufficient, and actual cost reductions to enable the provision of housing affordable to the designated income group or qualified (senior) resident.

13. "Income" means any monetary benefits that qualify as income in accordance with the criteria and procedures used by the city of Carlsbad housing and neighborhood services department for the acceptance of applications and recertifications for the tenant based rental assistance program, or its successor.

14. "Low-income household" means those households whose gross income is more than fifty percent but does not exceed eighty percent of the median income for San

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Diego County as determined annually by the U.S. Department of Housing and Urban Development.

15. "Lower-income household" means low-income, very low-income and extremely low-income households, whose gross income does not exceed eighty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

16. "Market-rate unit" means a dwelling unit where the rental rate or sales price is not restricted either by this chapter or by requirements imposed through other local, state or federal affordable housing programs.

17. "Maximum allowable residential density" means the maximum density of the density range allowed by the residential general plan land use designation(s) applicable to a project site. All environmentally constrained lands identified as undevelopable in the general plan, local coastal program, and zoning ordinance shall be excluded from the total area of the project site when calculating maximum density.

18. "Moderate-income household" means those households whose gross income is more than eighty percent but does not exceed one hundred twenty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

19. "Qualifying resident" means a resident as defined in Chapter 21.84 of this title and Section 51.2 of the California Civil Code.

20. "Target dwelling unit" means a dwelling unit that will be offered for rent or sale exclusively to and which shall be affordable to the designated income group or qualified (senior) resident, as required by this chapter.

21. "Total units" means the number of dwelling units in a housing development, excluding the density bonus dwelling units awarded pursuant to this chapter or any other local ordinance granting a greater density bonus.

22. "Very low-income household" means a household earning a gross income equal to fifty percent or less of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

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**[REDACTED]**

21.86.030 Inclusionary Housing.

A. All housing development projects are required to provide affordable housing units in accordance with Chapter 21.85 (Inclusionary Housing) of this title. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of this chapter, those affordable dwelling units ~~that qualify a housing development for a density bonus are in addition to, and do not count toward satisfying the inclusionary housing requirements of Chapter 21.85 of this title~~ 1354 provided to meet the inclusionary requirement

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established pursuant to Chapter 21.85 of this title shall be counted toward satisfying the density bonus requirements of this chapter.

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**21.86.040 Density bonus for housing developments.**

A. The decision-making body shall grant one density bonus, as specified in subsection B of this section, and incentives or concessions, as set forth in Section 21.86.050 of this chapter, when an applicant of a housing development of at least five units seeks and agrees to construct at least any one of the following:

1. A minimum of ten percent of the total units of the housing development as restricted and affordable to lower-income households;
2. A minimum of five percent of the total units of the housing development as restricted and affordable to very low-income households;
3. A senior citizen housing development as defined in Section 21.84.030(A)(7) of this title and Section 51.3 of the California Civil Code, or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code; or
4. A minimum of ten percent of the total units in a common interest development restricted and affordable to moderate-income households, provided that all units in the development are offered to the public for purchase.

B. When an applicant seeks and agrees to construct a housing development meeting the criteria specified in subsection A of this section, the decision-making body shall grant a density bonus subject to the following:

1. The amount of density bonus to which a housing development is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentages established in subsection A of this section, as follows:
  - a. For housing developments meeting the criteria of subsection (A)(1) of this section, the density bonus shall be calculated as follows:

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**Table A  
Density Bonus for Housing Developments with Units Affordable to Low-Income Households**

Percentage of Low-Income Units (Minimum 10% required)	Percentage of Density Bonus to be Granted (Additional 1.5% density bonus for each 1% increase above the 10% minimum)
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

b. For housing developments meeting the criteria of subsection (A)(2) of this section, the density bonus shall be calculated as follows:

**Table B  
Density Bonus for Housing Developments with Units Affordable to Very Low-Income Households**

Percentage of Very Low-Income Units	Percentage of Density Bonus to be Granted
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

c. For housing developments meeting the criteria of subsection (A)(3) of this section, the density bonus shall be twenty percent of the number of senior housing units.

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d. For housing developments meeting the criteria of subsection (A)(4) of this section, the density bonus shall be calculated as follows:

**Table C  
Density Bonus for Common Interest Developments with Units Affordable to Moderate-Income Households**

<b>Percentage of Moderate-Income Units</b>	<b>Percentage of Density Bonus to be Granted</b>
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31

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37	32
38	33
39	34
40	35

2. The amount of density bonus to which a housing development is entitled shall not exceed thirty-five percent.

3. The applicant may elect to accept a lesser percentage of density bonus than specified in subsection B of this section.

4. If a housing development includes a combination of target dwelling unit types that meet two or more of the criteria specified in subsection A of this section, the applicant shall elect one applicable density bonus.

C. When an applicant for a tentative subdivision map, parcel map, or other housing development approval donates land to the city, ~~as provided for in~~ accordance with this subsection, the applicant shall be entitled to a density bonus for the entire development, as follows:

**Table D  
Density Bonus for Land Donation**

Percentage of Very Low-Income Units	Percentage of Density Bonus to be Granted
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30

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26	31
27	32
28	33
29	34
30	35

1. A density bonus granted pursuant to this subsection shall not exceed thirty-five percent.

2. If an applicant seeks both the density bonus required pursuant to this subsection and subsection A of this section, both density bonuses shall be granted up to a maximum combined density bonus of thirty-five percent.

3. An applicant shall be eligible for the density bonus described in this subsection only if all of the following conditions are met:

a. The land is donated and transferred to the city no later than the date of approval of the final subdivision map, parcel map or housing development application.

b. The developable acreage, zoning classification and general plan land use designation of the land being donated are sufficient to permit construction of the units affordable to very low-income households in an amount not less than ten percent of the number of residential units of the proposed development.

c. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty units, and has the appropriate: 1) general plan land use designation; 2) zoning classification with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2 of the California Government Code, and general plan land use designation, and 3) is or will be served by adequate public facilities and infrastructure.

~~d. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.~~

~~eg. No later than the date of approval of the final subdivision map, parcel map, or housing development,~~ The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low-income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or housing development, except that the city may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the California Government Code if the design is not reviewed by the city prior to the time of transfer.

fe. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 21.86.100 of this chapter, which shall be recorded on the property at the time of ~~dedication~~ the transfer.



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gf. The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to the developer.

hg. The transferred land shall be within the boundary of the proposed development or, if the city agrees, within one-quarter mile of the boundary of the proposed development.

h. Prior to the approval of the final subdivision map, parcel map or housing development application, the developer shall identify a proposed source of funding for the very low income units.

D. In cases where an applicant requests a density bonus of more than what is specified in this section, the city council may grant the requested additional density bonus, subject to the following:

1. The project meets the requirements of this chapter.
2. The additional density bonus shall be considered an incentive, in accordance with Section 21.86.050 of this chapter.
3. The city council may require some portion of the additional density bonus units to be designated as target dwelling units.

E. The city council may grant a proportionately lower density bonus than what is specified by this section for developments that do not meet the requirements of this chapter.

F. The density bonus dwelling units granted pursuant to this chapter shall not be included when determining the number of housing units required by this chapter to be reserved for income-restricted households.

G. When calculating the density bonus, or the required number of target dwelling units, any calculations resulting in fractional units shall be rounded up to the next whole unit.

H. For the purposes of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application in a housing development, but do not have to be based upon individual subdivision maps or parcels.

I. The density bonus units shall be permitted in geographic areas of the housing development other than the areas where the units for lower-income households are located.

J. A density bonus housing agreement shall be made a condition of the discretionary permits (i.e., tentative maps, parcel maps, planned unit developments, condominium permits, site development plans and redevelopment permits) for all housing developments that request a density bonus and incentives or concessions. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project development which are designated for the location of target dwelling units. The density bonus housing agreement shall be consistent with Section 21.86.130 of this chapter.

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21.86.050 Incentives and concessions for housing developments.

A. When an applicant requests a density bonus pursuant to Section 21.86.040(A) of this chapter, the decision-making body shall grant incentives or concessions, subject to the following:

1. An applicant shall submit a proposal for any specific incentives or concessions requested pursuant to this section.

2. The decision-making body shall grant the incentive(s) or concession(s) requested by the applicant unless, based upon substantial evidence, either any of the following findings are made in writing:

a. The incentive or concession is not required in order to provide for affordable housing as defined in Section 21.86.020(A)(1) of this chapter.

b. The incentive or concession would have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. As used in this paragraph, and as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, a "specific, adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

c. The incentive or concession would be contrary to state or federal law.

3. The applicant shall receive the following number of incentives or concessions:

a. One incentive or concession for projects that include at least ten percent of the total units for lower-income households, at least five percent for very low-income households, or at least ten percent for persons and families of moderate income in a common interest development.

b. Two incentives or concessions for projects that include at least twenty percent of the total units for lower-income households, at least ten percent for very low-income households, or at least twenty percent for persons and families of moderate income in a common interest development.

c. Three incentives or concessions for projects that include at least thirty percent of the total units for lower-income households, at least fifteen percent for very low-income households, or at least thirty percent for persons and families of moderate income in a common interest development.

4. An incentive or concession may include any of the following:

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a. A reduction in site development standards or a modification of zoning code or architectural design requirements (excluding State Building Standards), that results in identifiable, financially sufficient and actual cost reductions. A reduction/modification to standards or requirements may include, but is not limited to, a reduction in minimum lot size, setback requirements, and/or in the ratio of vehicular parking spaces that would otherwise be required.

b. Approval of mixed use zoning in conjunction with the housing development if: i) commercial, office, industrial or other land uses will reduce the cost of the housing development; and ii) the commercial, office, industrial, or other land uses are compatible with the housing development and the existing or planned future development in the area where the proposed project will be located.

c. Other regulatory incentives or concessions that result in identifiable, financially sufficient and actual cost reductions.

d. The city council may, but is not required to, provide direct financial incentives, including the provision of publicly owned land, or the waiver of fees or dedication requirements.

5. The applicant shall show that the requested incentive(s) or concession(s) will result in identifiable, financially sufficient, and actual cost reductions.

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**21.86.060 Waiver or reduction of development standards.**

A. In addition to the incentives or concessions permitted by Section 21.86.050 of this chapter, an applicant may seek a waiver or reduction of development standards that will have the effect of physically precluding the construction of a housing development meeting the criteria of Section 21.86.040(A) of this chapter at the densities or with the incentives or concessions permitted by this chapter.

~~1. The applicant shall show that the requested waiver or reduction of development standards is necessary to make the housing units economically feasible.~~

1. The applicant shall provide evidence that the development standard(s) requested to be waived or reduced will have the effect of physically precluding the construction of a housing development at the densities or with the incentives or concessions permitted by this chapter.

2. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 21.86.050 of this chapter.

B. The decision-making body shall grant the requested waiver or reduction of development standards, unless, based upon substantial evidence, any of the following findings are made in writing:

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~~1. The waiver or reduction of development standards is not necessary to make the housing units economically feasible.~~

21. The development standard(s) requested to be waived or reduced will not have the effect of physically precluding the construction of a housing development at the densities or with the incentives or concessions permitted by this chapter.

32. The requested waiver or reduction of development standards would have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. As used in this subsection, and as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

3. The waiver or reduction of development standards would be contrary to state or federal law.

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21.86.090 Density bonus housing standards.

A. Required target dwelling units shall be constructed concurrent with market-rate dwelling units unless both the final decision-making authority of the city and the developer/applicant agree within the density bonus housing agreement to an alternative schedule for development.

B. Whenever feasible, target dwelling units and density bonus dwelling units should be built on-site (within the boundary of the proposed development) and, whenever reasonably possible, be distributed throughout the project site.

C. Whenever feasible, target dwelling units should be located on sites that are in proximity to, or will provide access to, employment opportunities, urban services, or major roads or other transportation and commuter rail facilities (i.e., freeways, bus lines) and that are compatible with adjacent land uses.

D. Whenever feasible, target dwelling units should vary in size and number of bedrooms, in response to affordable housing demand priorities of the city.

E. Density bonus projects shall comply with all applicable development standards, except those which may be modified as an incentive or concession, or as otherwise provided for in this chapter. In addition, all units must conform to the requirements of the applicable building and housing codes. The design of the target dwelling units shall be reasonably consistent or compatible with the design of the total project development in terms of appearance, materials and finished quality.

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F. No building permit shall be issued, nor any development approval granted, for a development which does not meet the requirements of this chapter. No target dwelling unit shall be rented or sold except in accordance with this chapter.

G. Upon the request of the applicant, the parking ratio (inclusive of handicap and guest parking) for a housing development that conforms to the requirements of Section 21.86.040(A) of this chapter shall not exceed the ratios specified in Table E, below. If the applicant does not request the parking ratios specified in Table E or the project does not conform to the requirements of Section 21.86.040(A) of this chapter, the parking standards specified in Chapter 21.44 of this code shall apply.

1. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

2. For purposes of this section, a housing development may provide "on-site" parking through tandem parking or uncovered parking, but not through on-street parking.

3. The applicant may request additional parking incentives or concessions beyond those provided in this section, subject to the findings specified in Section 21.86.050(A)(2) of this chapter.

Table E  
Parking Ratio for Housing Developments

Dwelling Unit Size	On-Site Parking Ratio
0-1 bedrooms	1 space per unit
2-3 bedrooms	2 spaces per unit
4 or more bedrooms	2.5 spaces per unit

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**21.86.100 Affordability tenure.**

A. All low- and very low-income dwelling units that qualified the housing project for a density bonus shall remain restricted and affordable to the designated group for a period of at least thirty years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

B. All moderate-income dwelling units directly related to the receipt of a density bonus for a common interest development shall be subject to the following:

1. The initial occupant(s) of the target dwelling unit(s) shall be persons and families of moderate income, and the units shall be offered at an affordable housing cost that does not exceed the allowable housing expenses for a moderate-income household.

2. Unless in conflict with the requirements of another public funding source or law, the target dwelling unit(s) shall be subject to an equity sharing agreement that specifies:

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a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.

b. Upon resale, the city shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within ~~three~~ five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership.

i. For the purposes of this subsection, the city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

ii. For the purposes of this subsection, the city's proportionate share of appreciation shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of initial sale.

3. If the city provides a direct financial contribution to a common interest development through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the target dwelling unit(s) shall remain affordable to the designated income group for at least thirty years.

C. For rental projects, the city or its designee shall have a one-time first right of refusal to purchase any project containing affordable units offered for sale at the end of the minimum tenure of affordability. The first right of refusal to purchase the rental project shall be submitted in writing to the housing and neighborhood services director. Within ninety days of its receipt, the city shall indicate its intent to exercise the first right of refusal for the purpose of providing affordable housing.

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21.86.110 Application process.

A. The granting of a density bonus, incentive or concession, pursuant to this chapter, shall not be interpreted, in and of itself, to require a general plan amendment, zone code amendment, local coastal plan amendment, zone change or other discretionary approval.

B. Preliminary Application. A preliminary application may be submitted prior to the submittal of any formal development application for a housing project that includes a request for a density bonus, incentive(s) or concession(s). The preliminary application should include the following information:

1. A brief description of the proposal including the number of target dwelling units and density bonus units proposed;
2. The zoning, general plan designations and assessors parcel number(s) of the project site;

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3. A site plan, drawn to scale, which includes: building footprints, driveway and parking layout, existing contours and proposed grading;

4. A letter identifying what specific density bonus, incentives or concessions (e.g., standards modifications, additional density bonus, or fee waiver, etc.) are being requested of the city; and

5. The planning division shall provide to an applicant/developer, a letter that identifies project issues of concern and the procedures for compliance with this chapter.

C. Formal Application. A request for a density bonus, incentive(s) or concession(s), pursuant to this chapter, does not require a discretionary approval. The request shall be processed as part of the development applications for a housing development, as otherwise required in other sections of this code (e.g., site development plan, tentative map, parcel map, planned unit development, conditional use permit, redevelopment permit, etc.).

1. If the project involves a request for direct financial incentives from the city, then any action by the planning commission on the application shall be advisory only, and the city council shall have the authority to make the final decision on any discretionary permits related to the project.

2. The following information shall be included with the development application(s) required for the project:

a. A legal description of the total site proposed for development of the target dwelling units including a statement of present ownership and present and proposed zoning;

b. A letter signed by the present owner stating what specific density bonus, incentives, or concessions (e.g., standards modifications, additional density bonus, or fee waiver, etc.) are being requested from the city;

c. A detailed vicinity map showing the project location and such details as the location of the nearest commercial retail, transit stop, potential employment locations, park or recreation facilities or other social or community service facilities;

d. Site plans, designating the total number of units proposed on the site, including the number and location of target dwelling units and density bonus dwelling units, and supporting plans per the application submittal requirements;

e. In the case of a request for any incentive(s) or concession(s), a pro forma for the proposed project to justify the request, in accordance with the provisions of Section 21.86.050 of this chapter;

f. In the case of a request for a waiver or reduction of development standards, pursuant to Section 21.86.060 of this chapter, ~~a pro forma for the proposed project showing that the waiver or reduction is necessary to make the housing units economically feasible, and evidence that the development standard being waived or reduced will have the effect of physically precluding the construction of the development at the densities or with the concessions or incentives permitted by this chapter;~~

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g. In the case of a condominium conversion request, a report documenting the following information for each unit proposed to be converted:

- i. The monthly income of tenants of each unit throughout the prior year,
- ii. The monthly rent for each unit throughout the prior year, and
- iii. Vacancy information for each unit throughout the prior year.

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21.86.120 Findings for approval.

A. When a project involves a request for a density bonus, incentive(s) or concession(s), the following findings shall be made as part of the approval of the development application(s) required for the project:

1. The project is consistent with the provisions of this chapter.
2. The requested incentive(s) or concession(s) will result in identifiable, financially sufficient, and actual cost reductions;
3. In cases where an applicant requests a waiver or reduction of development standards, pursuant to Section 21.86.060, the requested waiver or reduction of development standard(s) is necessary to make the housing units economically feasible ~~avoid physically precluding the construction of a housing development at the densities or with the incentives or concessions permitted by this chapter.~~
4. The requested incentive(s) or concession(s), and/or waiver(s) or reduction(s) of development standards, if any, will not result in an adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, to the public health and safety, the environment, or on any real property that is listed in the California Register of Historical Resources; or, if the request will result in an adverse impact, then the request may be approved if the following finding is made:
  - a. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
5. In cases where an applicant requests to convert apartment units to condominiums, the condominium conversion project shall not result in a reduction in the affordable housing stock for lower-income groups, as of most recent inventory.
6. For development located in the coastal zone, the requested density bonus, and any requested incentive(s), concessions(s), and/or waivers or reduction(s) of development standards, are consistent with all applicable requirements of the certified Carlsbad Local Coastal Program Land Use Plan(s), with the exception of density.



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7. The requested incentive(s) or concession(s), and/or waiver(s) or reduction(s) of development standards would be contrary to state or federal law.