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Prepared November 18, 2016 for December 9, 2016 Hearing

To: Commissioners and Interested Persons
From: Susan Craig, Central Coast District Manager
Yair Chaver, Coastal Program Analyst
Subject: Morro Bay LCP Amendment Number LCP-3-MRB-16-0056-2-Part A (Density Bonuses)

SUMMARY OF STAFF RECOMMENDATION

The City of Morro Bay is requesting to amend its Land Use Plan (LUP) and Implementation Plan (IP) of its certified Local Coastal Program (LCP) to modify the LCP's policies and standards to encourage affordable housing, including through inclusionary housing requirements and density bonuses. Consistent with the density bonus requirements specified in the State's Density Bonus law (Government Code Section 65915) and as referenced in Coastal Act Section 30604(f), the proposed amendment provides for increases in otherwise allowed density for affordable housing in residentially designated areas in the coastal zone, while ensuring that doing so protects coastal resources. The proposed density bonus language would ensure that the increase in density is otherwise consistent with the LCP, including its requirements for adequate public services, protection of visual resources and public coastal access, and protection of sensitive habitats including wetlands and streams. The proposed LCP amendment therefore allows for density bonuses for the provision of affordable housing, while ensuring that such housing is built in a manner consistent with the LCP's coastal resource protection standards, and is therefore consistent with the Land Use Plan and the Coastal Act as submitted. Finally, the proposed inclusionary housing requirements of this LCP amendment do not modify substantive LCP resource protection requirements, but rather specify that a certain portion of otherwise LCP-compliant residential development must be reserved as affordable housing, either on-site, off-site, or through a requisite in-lieu fee. The proposed inclusionary housing program will thus allow for affordable housing in a manner that meets LCP requirements and can be found consistent with and adequate to carry out the certified LUP in conformance with the Coastal Act.

In sum, the proposed amendments foster and encourage affordable housing while protecting coastal resources. Staff recommends that the Commission find that the proposed LUP amendment is in conformance with the requirements of Chapter 3 of the Coastal Act and that the IP amendments are consistent with and adequate to carry out the policies of the certified LUP, and approve the amendments 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 October 31, 2016. The proposed amendment affects both the LCP's Land Use Plan (LUP) and Implementation Plan (IP). The 90-day action deadline for the LUP amendment is January 29, 2017. Thus, unless the Commission extends the action deadline (it may be extended by up to one year per Pub. Res. Code § 30517), the Commission has until January 29, 2017 to take a final action on this LCP amendment.

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EXHIBITS

Exhibit 1: Proposed LUP Amendment

Exhibit 2: Proposed IP Amendment

Exhibit 3: Land Use Map

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LUP and IP amendments as submitted. Thus, to follow the staff recommendation, the Commission needs to make two motions 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 LCP-3-MRB-16-0056-2-Part A as submitted by the City of Morro Bay, and I recommend a yes vote.*

Resolution: *The Commission hereby certifies Land Use Plan Amendment LCP-3-MRB-16-0056-2-Part A as submitted by the City of Morro Bay 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 **NO** vote on the motion below. Failure of the motion will result in certification of the IP 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.

Motion: *I move that the Commission reject Implementation Plan Amendment Number LCP-3-MRB-16-0056-2-Part A as submitted by the City of Morro Bay, and I recommend a no vote.*

Resolution: *The Commission hereby certifies Implementation Plan Amendment Number LCP-3-MRB-16-0056-2-Part A as submitted by the City of Morro Bay and adopts the findings set forth below on the grounds that the amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation 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 which could substantially lessen any significant adverse impact which the Implementation Plan Amendment may have on the environment.*

II. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The City of Morro Bay proposes to amend the Land Use Plan (LUP) and Implementation Plan (IP) of its certified Local Coastal Program (LCP) to allow for density bonuses for affordable housing in conformance with the State's Density Bonus law (Government Code Section 65915). In addition, the amendment adds "inclusionary housing" standards, requiring as a condition of development that residential developments of five or more units to provide one unit or ten percent of the units, whichever is greater, to be affordable to families with very low-, low-, or moderate-incomes.

Land Use Plan Amendment

The proposed LUP amendment provides for increased densities within residentially designated areas of the City (see **Exhibit 3** for the LCP's land use designation map) to encourage affordable housing. The proposed amendment states:

Consistent with Government Code Section 65915 and Coastal Act Section 30604(f), density bonuses for affordable housing shall be granted in the Coastal Zone to the extent that they have access to adequate water and sewer services and do not lead to adverse coastal resource impacts, and that notwithstanding the density bonus, the resultant development is consistent with all other provisions of the LCP.

The LUP currently specifies a range of potentially allowable densities within each residential land use designation, ranging from up to two dwelling units per acre for "Limited Density" designations to 27 units per acre for "High Density" designations. To encourage affordable housing development, this amendment will allow the City to increase housing density beyond what is currently allowed in any given residential zone, with the amount of density increase dependent on the amount of affordable housing provided (up to a 35% maximum density increase, as specified in Government Code Section 65915 in this regard), as long as such density increase can be found consistent with all other provisions of the LCP.

See **Exhibit 1** for the proposed LUP amendment text.

Implementation Plan Amendment

The proposed IP amendments are meant to implement the above-described LUP density bonus allowance, including inserting relevant definitions, bonus calculations, affordability covenants, and specific incentives and regulatory concessions for the provision of affordable housing units, mirroring the requirements specified in California Government Code Section 65915.

Specifically, the IP amendments allow for a density bonus (up to 35%) for residential projects with five or more units if certain triggers are meant (i.e. if at least 5% of the units are very low income, or if 10% of the units are designated as low and moderate income, or if 100% of the units are designated for senior affordable housing). The proposed amendment also defines the process for pursuing certain development standard variations and incentives, and requires that any allowed density bonus and development incentive be otherwise in conformity with the LCP.

Finally, the IP amendment adds inclusionary housing standards, requiring new housing developments of five units or more to provide a minimum amount of housing affordable to families with very low-, low-, or moderate-incomes either on-site, off-site, or by paying an in-lieu fee.

See **Exhibit 2** for the proposed IP amendment text.

B. STANDARD OF REVIEW

The proposed amendment affects both the LUP and IP components of the Morro Bay LCP. The standard of review for LUP amendments is that they must be in conformance with the requirements of Chapter 3 of the Coastal Act. (*See* Pub. Res. Code §§ 30512(a)(1), 30514(b).) 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. (*See* Pub. Res. Code §§ 30513, 30514(b).)

C. CONSISTENCY ANALYSIS

LUP Consistency Analysis

Coastal Act Section 30250(a) provides for new development in areas with adequate public services that are able to accommodate new development, and states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30250(a) of the Coastal Act requires that new development, in general, must be directed toward existing development or limited to locations that would not lead to negative impacts on coastal resources.

While not an applicable standard of review for an LUP amendment, it should be noted that Section 30604 of the Coastal Act encourages the provision of affordable housing, including density bonuses:

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 (emphasis added).

Section 30604(g). *The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.*

The proposed LUP amendment allows for increased density for affordable housing in residentially designated areas. Allowing for increased density for affordable housing within existing residential areas furthers, supports, and promotes the Coastal Act's encouragement of affordable housing in existing developed areas able to accommodate it, including areas with adequate public services. The proposed amendment makes it clear that any such increases in density must not negatively impact coastal resources and must be otherwise consistent with the rest of the LCP, but for the increased density. The amendment limits density bonuses to levels that do not result in coastal resource impacts because any such increases would still require adherence with the LCP's coastal resource protection policies. In other words, an increase in density bonus for residentially designated areas would not *in and of itself* result in coastal resource impacts, and the LUP amendment is drafted such that a grant of density bonus must otherwise comply with the LCP's coastal resource policies.

The proposed policy language is therefore consistent with Coastal Act Section 30250(a) because it offers a tool for the provision of affordable housing if such housing meets all other LCP coastal resource protections. The proposed LUP amendment is therefore consistent with the Coastal Act as submitted.

IP Amendment Consistency Analysis

The Land Use Plan allows for increased density for affordable housing consistent with Government Code Section 65915 (the State's Density Bonus law) and Coastal Act Section 30604(f), and includes policy language that supports opportunities to provide more affordable housing. Specifically, the current LUP Land Use Plan Section II.C1 states:

Five residential land use categories are established to provide for a wide range of densities. The purpose is to ensure that residential land is developed to a density suitable to its location and physical characteristics.

One type of residential development that the City would encourage is cluster development. Some of the advantages include increased open space, better visual qualities, additional preservation of sensitive sites, decreased cost of municipal services and an opportunity to provide more affordable housing.

Density ranges area as follows:

Limited Density - up to 2 dwelling units per acre

Low Density - up to 4 dwelling units per acre

Low-Medium Density - 4 - 7 dwelling units per acre

Medium Density – 7 - 15 dwelling units per acre

High Density – 15 - 27 dwelling units per acre

Consistent with Government Code Section 65915 and Coastal Act Section 30604(f), density bonuses for affordable housing shall be granted in the Coastal Zone to the extent that they have access to adequate water and sewer services and do not lead to adverse coastal resource impacts, and that notwithstanding the density bonus, the resultant development is consistent with all other provisions of the LCP.

The proposed IP amendments establish the guidelines for requiring affordable inclusionary units where feasible, what to do if infeasible, and provide for an in-lieu fee schedule in case of infeasibility. Further, the amendments provide for density bonuses and incentives including the applicability of these incentives, calculation of the density bonuses, and clarification and articulation of developer incentives. In addition, the amendments require developer assurances of the affordability of any inclusionary units over the long term and into the future. Thus, these amendments to the IP set out the process by which the City can implement the LUP's affordable housing policies.

The proposed affordable housing and density bonus and incentive provisions are intended to encourage the voluntary creation of affordable housing, consistent with the requirements of State housing laws. In general, State regulations (pursuant to Government Code Section 65915, and reflected in the proposed amendment) allow for a density bonus of up to 35% additional housing units above that which the underlying land use and zoning designation would ordinarily allow depending on the percentage of housing units that qualify as affordable. The law and the proposed amendment also define a process for pursuing certain development incentives in order to further encourage affordable housing opportunities. The incentives include certain development standard variations and financial concessions that result in project cost reductions.

The Commission has, in general, found that the allowance for density bonuses can be an effective tool to provide for affordable housing. In fact, Coastal Act Section 30604(f) specifically encourages the Commission to approve an increase in density for affordable housing when such housing can be accommodated in a manner otherwise consistent with the resource protection policies of the Coastal Act or a local government's certified LCP. In this case, the proposed IP amendment implements the corresponding proposed LUP density bonus policy language by requiring all such affordable housing density bonuses to be granted unless the additional density cannot be accommodated in a manner that is otherwise in conformance with the LCP. Therefore, the housing must have adequate public services, including water and sewer, cannot be located within significant public view corridors, and cannot be located on lands designated as ESHA, among other LCP standards. Furthermore, the amendment requires any allowed incentives to also be LCP consistent, thereby ensuring that any additional regulatory measures to incentivize and accommodate an affordable housing development do not violate LCP standards.

In conclusion, the proposed density bonus amendment will allow for increased densities consistent with State law, the Coastal Act, and LUP policies that encourage affordable housing, and will do so in a manner that protects coastal resources. Finally, the proposed inclusionary housing requirements do not modify substantive LCP coastal resource protection requirements, but rather specify that a certain portion of otherwise LCP-compliant residential development must be reserved as affordable housing, either on-site, off-site, or through a requisite in-lieu fee.

The proposed inclusionary housing program will thus allow for affordable housing in a manner that meets LCP coastal resource protection requirements. Thus, the proposed amendment as submitted can be found consistent with and adequate to carry out the certified LUP.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Although local governments are not required to undertake environmental analysis of proposed LCP amendments (*see* Pub. Res. Code § 21080.; *see also* 14 CCR § 15265(a)(1)), the City, acting as lead CEQA agency, adopted a Negative Declaration for the proposed amendments. Still, the Commission can and does use any environmental information that the local government submits in support of the LCP amendment when the Commission certifies LCP amendments consistent with the Coastal Act and CEQA requirements. This staff report has discussed the relevant coastal resource issues with the proposal. All above findings are incorporated herein in their entirety by reference.

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. (*See* 14 CCR § 15251(f).) Nevertheless, the Commission is required, in approving an LCP amendment submittal, to find that the approval of the proposed LCP, as amended, does conform with certain CEQA provisions, including the requirement in CEQA Section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. (*See also* 14 CCR Sections 13542(a) and 13540(f)).

The City's LCP amendment consists of both a Land Use Plan (LUP) and Implementation Plan (IP) amendment. The Commission incorporates its findings on LUP and IP conformity into this CEQA finding as it is set forth in full. As discussed herein, the proposed amendment as originally submitted conforms with and is adequate to carry out the policies of the Coastal Act and certified LUP. There are no feasible alternatives or mitigation measures which would substantially lessen any significant adverse impacts which the activity may have on the environment beyond as proposed in the LCP amendment. The Commission, therefore, finds that approval of the LUP and IP amendment will not result in significant adverse environmental impacts within the meaning of CEQA.

Thus, the proposed amendment is consistent with CEQA Section 21080.5(d)(2)(A).

EXHIBIT 1 - PROPOSED LUP AMENDMENTS:

Amendment of Coastal Land Use Plan Section II.C1

Whereas underlined text is new language

II. Land Use Plan Map and General Land Policies

C. Land Use Designation

1. Residential Land Uses

Five residential land use categories are established to provide for a wide range of densities. The purpose is to ensure that residential land is development to a density suitable to its location and physical characteristics.

One type of residential development that the City would encourage is cluster development. Some of the advantages include increased open space, better visual qualities, additional preservation of sensitive sites, decreased cost of municipal services and an opportunity to provide more affordable housing.

Density ranges area as follows:

Limited Density – up to 2 dwelling units per acre

Low Density – up to 4 dwelling units per acre

Low-Medium Density – 4-7 dwelling units per acre

Medium Density – 7-15 dwelling units per acre

High Density – 15-27 dwelling units per acre

Consistent with Government Code Section 65915 and Coastal Act Section 30604(f), density bonuses for affordable housing shall be granted in the Coastal Zone to the extent that they have access to adequate water and sewer services and do not lead to adverse coastal resource impacts, and that notwithstanding the density bonus, the resultant development is consistent with all other provisions of the LCP.

EXHIBIT 2 - PROPOSED IP AMENDMENTS:

Section 17.12.432 Low, very low, extremely low, and moderate household income.

“Low, very low, and moderate household income” means, for the purpose of evaluating housing affordability, housing need, and eligibility for housing assistance, State Income Limits as defined by guidelines adopted annually by the California Department of Housing and Community Development (HCD) for San Luis Obispo County.

Section 17.12.433 Low, ~~very-low, extremely low,~~ and moderate income housing..

"Low, ~~very-low, extremely-low~~ and moderate income housing" means housing for which the rent or monthly mortgage payment, together with taxes and basic utilities, does not exceed 30% of total household income. ~~the current fair market rent for existing housing standards applicable to San Luis Obispo County as established for Section 8, Housing Assistance Payments Programs by the United States Department of Housing and Urban Development.~~

Section 17.12.504 Residential Density.

“Residential density” is the maximum number of dwelling units allowed per acre by the Local Coastal Program for each zoning district. All residential development, including but not limited to single-family, multi-family, residential care facilities, supportive and transitional housing is subject to the residential density established by the parcel’s zoning district and cannot exceed the LCP’s density restrictions, except as provided for elsewhere in this Chapter.

Chapter 17.50 Affordable Housing, Density Bonuses and Incentives

Sections:

17.50.010 - Purpose.

17.50.020 - General affordable housing requirements.

17.50.030 - In-lieu fees for affordable housing.

17.50.040 - Density bonuses and incentives.

17.50.050 – Assurance of continued availability.

17.50.060 – Consistency with State Law.

17.50.010 - Purpose.

The purpose of this chapter is to:

- A. Meet the requirements to provide affordable housing contained in Government Code Sections 65580-65589.8 through inclusionary housing; and
- B. Promote and facilitate the provisions of very low, low, and moderate-income housing consistent with the provisions of Government Code Sections 65915-65918 and the Housing Element of the General Plan.

17.50.020 General affordable housing requirements.

- A. Pursuant to the requirements of Government Code Sections 65580-65589, all new residential developments of five or more for-sale units shall provide a minimum of one inclusionary unit or ten percent of the total number of units, whichever is greater, to be affordable to families with incomes in the very low-, low-, or moderate-income ranges, depending on the needs of the City at the time of approval. The lower-income units may be either for rent or for sale, but shall remain affordable for at least 30 years, or such other term approved by the City, consistent with state law.
- B. In accordance with Government Code Section 65590, the City shall require the developer to provide affordable housing on-site where feasible. If the City determines that this is not feasible based on a detailed economic analysis prepared by a City-contracted consultant at the cost of the applicant, the City shall require the developer to provide such housing at another location in Morro Bay. If the City determines that it is not feasible for the developer to provide such affordable housing off-site, the developer shall pay a fee in lieu of providing such housing. Said fee shall be as prescribed in 17.50.030.
- C. For the purposes of calculating the number of affordable inclusionary units required by this Section, any additional units authorized as a density bonus will not be counted in determining the required number of inclusionary units.

17.50.030 In-lieu fees for affordable housing.

In cases where the provisions for the required affordable housing are not being met on-site or off-site, the applicant may contribute in-lieu fees. Said fees shall be paid prior to issuance of a building permit or final tract map. Fees shall be established on a project basis using the following method:

Construction Cost X % of Fee based on Project Size, where construction costs include all expenses related to the development of housing units, including land, construction, on- and off-site infrastructure, and associated soft costs.

<u>Project Size</u>	<u>% of each 1 unit cost or fraction thereof</u>
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<u>8 Units</u>	<u>10%</u>
<u>9 Units</u>	<u>15%</u>
<u>10 Units</u>	<u>20%</u>
<u>11 Units</u>	<u>30%</u>
<u>12 Units</u>	<u>40%</u>
<u>13 Units</u>	<u>50%</u>
<u>14 Units</u>	<u>60%</u>
<u>15 Units</u>	<u>70%</u>
<u>16 Units</u>	<u>80%</u>
<u>17 Units</u>	<u>90%</u>
<u>18 Units</u>	<u>100%</u>

- A. Fees accepted for affordable housing shall be used by the city to construct or assist in the construction of housing for rent or sale to very low, low and moderate income families or to purchase land for the purpose of affordable housing or to assist very low, low and moderate income families to afford adequate housing or for other measures to provide housing for low and moderate income families. The city may, at its option, transfer in-lieu fees to another public agency as a nonprofit housing provider for the purpose of providing affordable housing in the city of Morro Bay.

17.50.040 Density bonuses and incentives.

- A. Applicability. Pursuant to the requirements of Government Code Sections 65915-65918, the provisions of this Section apply to the construction of five or more housing units that satisfy one or more of the following criteria:
1. At least 10% of the units are designated for low-income households;
 2. At least 5% of the units are designated for very low-income households;
 3. At least 10% of the units are designated for moderate-income households, provided that all units in the development are offered to the public for purchase;
 4. 100% of the units are designated for seniors citizens as defined in Section 51.3 and 51.12 of the Civil Code or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Government Code Section 798.76 or 799.5;
 5. Donation of land to the city consisting of at least one acre, or of sufficient developable acreage and zoning classification to permit construction of at least 40 units, and not less than 10% of the residential units in the proposed development, that are affordable to very-low income households.
- B. Calculating the density bonus. A density bonus shall be calculated on a sliding scale based upon the amount by which the percentage of affordable housing units exceeds the minimum number of affordable units required to qualify for a density

bonus established in Section 17.50.020. The density bonus shall be calculated as follows:

1. A 20% density bonus, increasing by an additional 1.5% for each additional 1% increase in low-income units above the initial 10% threshold, per Section 17.50.040A1, above.
2. A 20% density bonus, increasing by an additional 2.5% for each additional 1% increase in very low-income units above the initial 5% threshold , per Section 17.50.040A2, above.
3. A 20% density bonus for senior citizen housing developments pursuant Government Code Section 65915(g)(3).
4. A 5% density bonus, increasing by an additional 1% for each additional 1% increase in moderate-income units above the initial 10% threshold, per Section 17.50.040A4, above.
5. When an applicant proposes to construct a housing development that is eligible for a density bonus under Section 17.50.030 A and includes a childcare facility that will be located on the premises of, or adjacent to, the housing development, the city shall grant either:
 - a. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the square footage of the childcare facility; or
 - b. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.
6. Maximum density bonus. The maximum density bonus authorized by this section, Section 17.50.030A, and Section 17.50.030 B, collectively, is 35% when a project provides either 11% very low-income units, 20% low-income units, or 40% moderate-income units. All density bonus calculations resulting in fractional units shall be rounded up to the next whole number of housing units.

C. Developer incentives.

1. Restrictions. When an applicant seeks a density bonus as prescribed by Government Code Section 65915, the City will grant the number of developer incentives as required by Section 17.50.040C2, below, unless it makes any of the following findings:
 - a. The developer incentives are not required in order to provide affordable housing, as defined in Section 50052.3 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).
 - b. The developer incentives would have a specific adverse impact, as defined in paragraph (2) of Subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or an 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 without rendering the development unaffordable to low- and moderate-income households.
- c. The developer incentives would be contrary to State or Federal law.
2. Number of developer incentives. A developer eligible to receive a density bonus shall receive the following number of concessions or incentives, in addition to a density bonus:
- a. One concession or incentive for projects that provide either 10% of the units affordable to low-income households, 5% of the units affordable to very low-income households, 10% of the units affordable to moderate-income households, or childcare facilities.
 - b. Two concessions or incentives for projects that provide either 20% of the units affordable to low-income households, at least 10% of the units affordable to very low-income households, or 20% of the units affordable to moderate-income households.
 - c. Three concessions or incentives for projects that provide either 30% of the units affordable to low-income households, at least 15% of the units affordable to very low-income households, or 30% of the units affordable to moderate-income households.
3. Parking. Upon request of a developer eligible to receive a density bonus, the city shall grant the following parking standards, inclusive of handicapped and guest parking, for the entire project as required by Government Code Section 65915(p)(1):
- a. Zero to 1-bedroom units – 1 on-site parking space per unit
 - b. Two or more-bedroom units – 2 on-site parking spaces per unit
4. Developer incentives defined. For the purposes of this Section, concession or incentive means any of the following:
- a. Reduced site development standards or modified zoning code or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.
 - b. Approval of mixed-use zoning if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project.
 - c. A density bonus greater than the amount required by this section.
 - d. Deferred or waived planning, plan check, construction permit, and/or development impact fees, in accordance with any fee deferral and waiver process and policies adopted by the city.

- e. Direct financial aid in the form of a loan or grant to subsidize off-site improvements, land or construction costs.
- f. Other regulatory developer incentives proposed by the developer or the City that result in identifiable, financially sufficient, and actual cost reductions.

5. Waivers and modifications of development standards.

- a. Proposal. In accordance with Government Code Section 65915(e), an applicant may propose a waiver or modification of development standards if they would physically preclude the construction of a development meeting the criteria for Applicability, at the densities or with the developer incentives permitted by this Section.

A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of developer incentives to which the applicant is entitled pursuant to Section 17.50.040D, above.

- b. Grounds for denial. In accordance with Government Code Section 65915(e), the City Council, or the Coastal Commission on appeal, may deny an applicant's request to waive or modify the City's development standards in any of the following circumstances:
 - 1. The application does not conform with the requirements of this Section, Government Code Section 65915-65918, or Coastal Act Section 30604(f).
 - 2. The applicant fails to demonstrate that the City's development standards physically preclude the utilization of a density bonus on a specific site.
 - 3. The waiver or reduction would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
 - 4. The waiver or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
 - 5. The waiver or reduction would be contrary to State or Federal law.
 - 6. If in the coastal zone, the project is found to be inconsistent with the Local Coastal Program (including but not limited to sensitive habitat, agriculture, public view shed, public services, public recreational access and open space protections), with the exception of the density bonus.

D. Application and Evaluation.

1. All applications. All applications for a density bonus, developer incentive, or waiver or modification of development standards must include the following information:
 - a. The total number of base units and affordable housing units;
 - b. The specific developer incentive(s) sought, if any, and documentation regarding the necessity of the incentive in order to provide affordable housing costs or rents;
 - c. The specific waiver or modification to development standard(s), if any, and documentation regarding the necessity of the waiver or modification, including documentation demonstrating that the City's development standards physically preclude the utilization of a density bonus.
2. Land Donations. If requesting a density bonus based on land donation in accordance with Government Code Section 65915(g), in addition to the above listed information, the application must:
 - a. Demonstrate the developable acreage and zoning classification is compliant with eligibility criteria of 17.50.030A, and that the site is, or will be served by adequate public facilities and infrastructure;
 - b. Verify that all permits and approvals, other than building permits, necessary for the development of the very low-income housing units have been secured prior to the date of approval of the final subdivision map, parcel map, or other development permits;
 - c. Verify that the developer can donate and transfer land no later than the date of approval of the final subdivision map, parcel map, or residential development application; and
 - d. The land will be transferred to the city or to a housing developer approved by the city. The city may require the developer to identify and transfer the land to the affordable housing developer.
3. Childcare Facilities. If requesting a density bonus based on the provision of a child day care facility in accordance with Government Code Section 65915 (h), in addition to the above listed information, the application must:
 - a. Provide the location of the proposed child day care facility and the proposed operator;
 - b. Agree to operate the child day care facility for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable;
 - c. Agree to have contracted with a child day care facility operator for operation of the child day care facility before the first building permit is issued;
 - d. Agree that the child day care facility will be in operation when the first certificate of occupancy is issued; and
 - e. Of the children who attend the childcare facility, the children of very low-income households, low-income households and moderate-income households shall equal a percentage that is equal to or greater than the

percentage of affordable units in the housing development that are required for very low-, low- or moderate-income households.

The city shall not be required to provide a density bonus or concession or incentive for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

17.50.050 Assurance of continued availability.

- A. Term of Availability. Where affordable housing units have been provided per the requirements of 17.50.020, or where a density bonus, incentives, or waivers of development standards has been made pursuant to this chapter, the developer shall assure both of the following:
1. Continued availability of affordable units for a minimum of thirty years.
 2. Project phasing, including timing of completion, and rental or sale of affordable housing units shall occur concurrently with non-restricted units.
- B. Long Term Affordability. A developer of affordable units shall enter into an affordable housing agreement with the city prior to the recordation of the final map, or the issuance of a grading permit or a building permit where approval of a map is not requested. The agreement shall be recorded against the parcel(s) designated for construction of the affordable units. The agreement shall run with the land and shall be binding upon the successor(s) in interest. At a minimum, the agreement shall include:
1. Total number and size of affordable units.
 2. Maximum qualifying household incomes for the affordable units.
 3. Standards for calculating affordable rents or affordable sales prices.
 4. Enforcement mechanisms, including annual reporting and monitoring to ensure affordable units are continuously occupied by eligible households and remedies for breach of the agreement.
 5. Affordability term.

17.50.060 Consistency with State Law.

The provisions of this subchapter are intended to comply with Government Code Section 65915 and related state laws. In the event that any provision of this section conflicts with Government Code Section 65915 or any related state laws, the state law shall apply.

RESIDENTIAL

- Low Density
- Moderate Density
- Medium Density
- High Density
- Residential, Medium Density / Neighborhood Commercial

COMMERCIAL

- Commercial / Recreational Fishing
- District
- Service
- Visitor Serving

INDUSTRIAL

- Coastal Development
- General (Light)

OTHER

- Agriculture
- Environmentally Sensitive Habitat
- Navigational Ways
- Mixed Use
- Mixed Uses (Harbor)
- Open Space / Recreation
- School

OVERLAYS

- PD PLANNED DEVELOPMENT
- R RESTRICTED
- P PARK
- S SCHOOL (e) Elementary (h) High School
- P/I PUBLIC/INSTITUTIONAL
- I INTERIM OPEN SPACE
- City Limits

0 0.1 0.2 0.4 0.6 0.8 Miles

Exhibit 3
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