

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370



November 17, 2016

**W13a****TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
GABRIEL BUHR, LCP MANAGER, SAN DIEGO COAST DISTRICT  
ERIC STEVENS, COASTAL ANALYST, SAN DIEGO COAST DISTRICT****SUBJECT: PROPOSED MINOR AMENDMENT #LCP-6-ENC-16-0058-2 (Part A) (Density Bonus Rounding) TO THE CITY OF ENCINITAS LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN**

The City of Encinitas is requesting that its certified Local Coastal Program Implementation Plan (IP) be amended through minor revisions to the text of the City's Municipal Code (Section 30.16.020.C) to make the City's regulation of density bonuses consistent with recent changes in state law. The proposed amendment would therefore be applicable citywide. As proposed, when determining the total number of units to be granted on a site subject to a density bonus, both base density and bonus density fractional units would be rounded up to the next whole number. The proposed amendment involves changes to the certified LCP Implementation Plan only. The amendment request was received and filed complete on October 18, 2016; therefore, the date by which the Commission must take action, absent an extension of the time limits by the Commission, is December 17, 2016.

Pursuant to Section 30514(c) of the Coastal Act and Section 13554(a) of the Commission's Regulations (Cal. Code of Regs., tit. 14), the Executive Director has determined that the proposed amendment is "minor" in nature. Section 13554(a) defines a minor amendment as changes in wording which make the use as designated in the zoning ordinances, maps or other implementing actions more specific and which do not change the kind, location, intensity or density of use and are consistent with the certified land use plan.

Pursuant to Section 13555, the Executive Director will report this determination to the Coastal Commission at the following date and location:

DATE and TIME: December 7, 2016 9:00 a.m. LOCATION: Ventura City Council Chambers  
501 Poli Street  
Ventura, CA 93001

At that time, any objections to this determination, received within ten days of the transmittal of this notice, will also be reported to the Commission. This proposed minor amendment will be deemed approved unless one-third of the appointed members of the Commission request that it be processed in accordance with Section 13555(b) of the Code of Regulations as a major amendment. Otherwise, the minor amendment will

become effective ten days from the date the Commission concurs with the Executive Director's designation.

If you have any questions or need additional information regarding this proposed amendment, please contact Eric Stevens at the above office. Any objections to the "minor" amendment determination must be received within ten working days of the date of this notice.

### **Amendment Description**

The subject amendment proposes revisions to the density bonus ordinance of the City's certified implemental plan (30.16.20C) to make the City's regulation of density bonuses consistent with recent changes in state law. State density bonus law allows a property owner to increase the density (number of new, market-rate residential units) on their property above the maximum set under the city's local land use plan and zoning. In exchange for these additional units, a certain percentage of the proposed development must be reserved for very low, low, or moderate-income households. The proposed amendment requires that when determining the number of density bonus units to be granted, any fractions of dwelling units shall be rounded up to the next whole number for both the base density and the bonus density. In addition, the proposed amendment replaces the word 'evidence' with the word 'information' in the ordinance, and the text has been modified to require that any proposed incentives actually reduce housing costs for the applicant, in place of the current text, which requires that incentives provide "identifiable, financially sufficient, and actual cost reductions," a standard which the City has found difficult to implement.

On May 11, 2016, the Commission approved a more extensive LCPA related to density bonus requirements, which addressed LCP consistency, long-term affordability requirements, and design and quality standards (Ref: LCP-6-ENC-15-0042-2). The current LCPA is considered minor because it only results in a change to the way density calculations are rounded. While the density of a development project within the Coastal Zone could be increased beyond the numbers established as part of the underlying land use designations, the proposed development would still have to be consistent with all applicable development standards in the certified LCP. Development standards dictate a development's footprint and bulk/massing through, for example, buffer and setback distances, use restrictions on steep slopes and floodplains, and requirements to protect designated viewsheds. Since the City is not proposing to alter existing development standards, the proposed amendment should not result in any adverse impacts to wetlands, sensitive habitat, designated viewsheds, or coastal access and recreation, and is found to be consistent with the certified LUP.

Therefore, as proposed, the amendment would not result in any impacts to public access or coastal resources and would not change the kind, location, intensity or density of use and can be found in conformance with the certified Land Use Plan as amended herein.

## ORDINANCE 2016-07

### AN ORDINANCE OF THE CITY OF ENCINITAS AMENDING CHAPTER 30.16.020.C (DENSITY BONUS REGULATIONS) OF THE ENCINITAS MUNICIPAL CODE

**SECTION ONE.** The City Council of the City of Encinitas does hereby finds and declares as follows:

**WHEREAS**, California Government Code Section 65915(a) requires that all cities adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented; and,

**WHEREAS**, the City finds that the proposed amendments to the City's Municipal Code are exempt from environmental review pursuant to General Rule, Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment. The ordinance being considered specifies how the City will comply with and implement State density bonus law, and adoption is required pursuant to Government Code §65915(a). The bonuses, incentives, and waivers permitted by the ordinance are required by State law, and this ordinance does not permit any bonuses, incentives, or waivers other than those required by State law.

**WHEREAS**, a Public Notice of Availability of proposed Local Coastal Plan Amendments (LCPA) was issued which opened a six-week public review period that ran from July 8, 2016 to August 19, 2016; this public notice of availability replaced the original notice of availability, published on July 1, 2016, to allow for required mailings; and

**WHEREAS**, the Planning Commission conducted a Public Hearing on July 21, 2016 for the purpose of considering amendments to Section 30.16.020.C, Density Bonus Regulations, of the Encinitas Municipal Code and considered public testimony and made a recommendation to the City Council to adopt the proposed amendments; and,

**WHEREAS**, the City Council conducted a Public Hearing on August 17, and September 14, 2016 for the purpose of considering amendments to Section 30.16.020.C, Density Bonus Regulations, of the Encinitas Municipal Code; and,

**WHEREAS**, the City Council has duly considered all evidence, including testimony and the evaluation and recommendations by staff, presented at said hearing; and,

**WHEREAS**, notices of said public hearings were made at the time and in the manner required by law; and,

**WHEREAS**, the City Council finds that this Ordinance is intended to be carried out in a manner in full conformance with the California Coastal Act of 1976 and the Planning and Building Director is hereby authorized to submit this Ordinance as part of the Local Coastal Program Amendment to the California Coastal Commission for their review and adoption, and,

**NOW, THEREFORE**, the City Council of the City of Encinitas does hereby ordain, enact, and pass this Ordinance, which shall take effect immediately, as follows:



**SECTION TWO.** The following provisions of Chapter 30.16.020.C of the Encinitas Municipal [Zoning] Code shall be amended to read as follows.

**Section 30.16.020.C.4 Application Requirements.**

- a. Any applicant requesting a density bonus and any incentive(s), waiver(s), or parking reductions provided by State Density Bonus Law shall submit a Density Bonus Report as described below concurrently with the filing of the planning application for the first discretionary permit required for the housing development. The requests contained in the Density Bonus Report shall be processed concurrently with the planning application.
- b. The Density Bonus Report shall include the following minimum information:
  - i. Requested Density Bonus.
    - (A) Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.
    - (B) A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.
    - (C) The zoning and general plan designations and assessor's parcel number(s) of the housing development site.
    - (D) Calculation of the maximum number of dwelling units permitted by the City's zoning regulations and general plan for the housing development, excluding any density bonus units.
    - (E) A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.
    - (F) Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low or lower income households in the five-year period preceding the date of submittal of the application.
    - (G) If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and information that each of the requirements included in Government Code Section 65915(g) can be met.
  - ii. Requested Incentive(s). In the event an application proposes incentives pursuant to State Density Bonus Law, the Density Bonus Report shall include the following minimum information for each incentive requested, shown on a site plan if appropriate:

- (A) The City's usual development standard and the requested development standard or regulatory incentive.
  - (B) Except where mixed-use zoning is proposed as an incentive, in order to ensure that the granted incentives have value to the applicant, provide information that any requested incentive will reduce the cost of the housing development.
  - (C) If approval of mixed use zoning is proposed, provide information that nonresidential land uses will reduce the cost of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed use zoning will provide for affordable rents or affordable sales prices.
- iii. Requested Waiver(s). In the event an application proposes waivers of development standards pursuant to State Density Bonus Law, the Density Bonus Report shall include the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:
- (A) The City's usual development standard and the requested development standard.
  - (B) Information that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by Government Code Section 65915.
- iv. Requested Parking Reduction. In the event an application proposes a parking reduction pursuant to Government Code Section 65915(p), a table showing parking required by the zoning regulations and parking proposed under Section 65915(p).
- v. Child Care Facility. If a density bonus or incentive is requested for a child care facility, information that all of the requirements included in Government Code Section 65915(h) can be met.
- vi. Condominium Conversion. If a density bonus or incentive is requested for a condominium conversion, information that all of the requirements included in Government Code Section 65915.5 can be met.
- vii. Fee. Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the Density Bonus Plan with State Density Bonus Law.

**Section 30.16.020.C.5 Density Bonus.**

- a. In determining the total number of units to be granted, each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number.
- b. When calculating the number of affordable units needed for a given density bonus, any fractions of affordable dwelling units shall be rounded up to the next whole number.
- c. Each housing development is entitled to only one density bonus. If a housing development qualifies for a density bonus under more than one income category or additionally as senior housing, the applicant shall select the category under which the density bonus is granted. Density bonuses from more than one category may not be combined.

- d. The density bonus units shall not be included in determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law.
- e. The applicant may elect to accept a lesser percentage of density bonus than the housing development is entitled to, but no reduction will be permitted in the percentages of required affordable units contained in Government Code Sections 65915(b), (c), and (f). Regardless of the number of affordable units, no housing development shall be entitled to a density bonus of more than 35%.

#### **Section 30.16.020.C.8 Review Procedures.**

All requests for density bonus, incentives, parking reductions, or waivers shall be considered and acted upon by the approval body with authority to approve the housing development, with right of appeal to the City Council.

- a. Eligibility for Bonus, Incentive(s), Parking Reduction, and/or Waiver(s). To ensure that the application conforms with the provisions of State Density Bonus Law and the Coastal Act, the staff report presented to the decision-making body shall state whether the application conforms to the following requirements of state law::
  - i. The housing development provides the affordable units or senior housing required by State Density Bonus Law to be eligible for the density bonus and any incentives, parking reduction, or waivers requested, including the replacement of units rented or formerly rented to low and very low income households.
  - ii. Any requested incentive will reduce the cost of the housing development; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of Government Code Section 65915(k)(2).
  - iii. The development standards for which a waiver is requested would have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by Government Code Section 65915.
  - iv. If the housing development is in the coastal zone, the requested density bonus and any requested incentive(s) or waiver(s) are consistent with all applicable requirements of the certified Encinitas Local Coastal Program, with the exception of density.
  - v. If the density bonus is based all or in part on donation of land, all of the requirements included in Government Code Section 65915(g) have been met.
  - vi. If the density bonus or incentive is based all or in part on the inclusion of a child care facility, all of the requirements included in Government Code Section 65915(h) have been met.
  - vii. If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, all of the requirements included in Government Code Section 65915.5 have been met.
- b. The decision-making body shall grant the concession or incentive requested by the applicant unless it makes a written finding, based upon substantial evidence of any of the following:

- i. The proposed incentive is not required to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety code, or for affordable rents, as defined in Section 50053 of the Health and Safety Code; or,
  - ii. The proposed incentive would be contrary to state or federal law; or
  - iii. The proposed incentive would have a specific, adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, "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 that the application for the housing development was deemed complete.
- c. The decision-making body shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
- i. The proposed waiver would be contrary to state or federal law; or
  - ii. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
  - iii. The proposed waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, "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 that the application for the housing development was deemed complete.
- d. If any density bonus, incentive, parking reduction, or waiver is approved pursuant to this chapter, the applicant shall enter into an Affordable Housing Agreement or Senior Housing Agreement with the City pursuant to subsection C.9.

**SECTION THREE: Severability.** If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

**SECTION FOUR: Public Notice and Effective Date.** The City Clerk is directed to prepare and have published a summary of the ordinance no less than five days prior to consideration of its adoption, and again within 15 days following adoption, indicating the votes cast. For property located within the Coastal Zone, this Ordinance will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas and California Coastal Act. For property located outside the Coastal Zone, this Ordinance shall take effect 30 days after its adoption by the City Council.

**SECTION FIVE:**

This Ordinance was introduced on September 14, 2016.

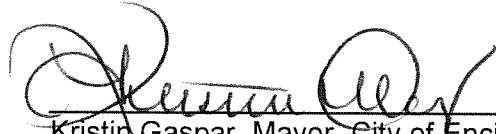
**PASSED AND ADOPTED** this 28<sup>th</sup> day of September, 2016 by the following vote to wit:

AYES: Blakespear, Gaspar, Kranz, Muir, Shaffer

NAYS: None

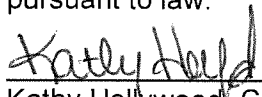
ABSTAIN: None

ABSENT: None

  
\_\_\_\_\_  
Kristin Gaspar, Mayor, City of Encinitas

**ATTESTATION AND CERTIFICATION:**

I hereby certify that this is a true and correct copy of Ordinance No. 2016-07 which has been published pursuant to law.

  
\_\_\_\_\_  
Kathy Hollywood, City Clerk



**DRAFT ORDINANCE 2016-07**  
**Proposed Code Revisions**  
**In ~~Strikeout~~/Underline Format**

Draft Ordinance 2016-07 proposes amendments to Chapter 30.16.020.C of Title 30, Zoning, of the Encinitas Municipal Code.

The proposed code revisions included in draft Ordinance 2016-07 are found below in Strikeout/Underline Format.

**SECTION TWO.** The following provisions of Chapter 30.16.020.C of the Encinitas Municipal [Zoning] Code shall be amended to read as follows.

**Section 30.16.020.C.4 Application Requirements.**

- a. Any applicant requesting a density bonus and any incentive(s), waiver(s), or parking reductions provided by State Density Bonus Law shall submit a Density Bonus Report as described below concurrently with the filing of the planning application for the first discretionary permit required for the housing development. The requests contained in the Density Bonus Report shall be processed concurrently with the planning application.
- b. The Density Bonus Report shall include the following minimum information:
  - i. Requested Density Bonus.
    - (A) Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.
    - (B) A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.
    - (C) The zoning and general plan designations and assessor's parcel number(s) of the housing development site.
    - (D) Calculation of the maximum number of dwelling units permitted by the City's zoning ~~ordinance-regulations~~ and general plan for the housing development, excluding any density bonus units.
    - (E) A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.

Draft Ordinance 2016-07 Strikeout Underline Version





- (F) Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low or lower income households in the five-year period preceding the date of submittal of the application.
  - (G) If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and evidence information that each of the requirements included in Government Code Section 65915(g) can be met.
- ii. Requested Incentive(s). In the event an application proposes incentives pursuant to State Density Bonus Law, ~~to ensure that each incentive contributes significantly to the economic feasibility of the proposed affordable housing,~~ the Density Bonus Report shall include the following minimum information for each incentive requested, shown on a site plan if appropriate:
- (A) The City's usual development standard and the requested development standard or regulatory incentive.
  - (B) Except where mixed-use zoning is proposed ~~as an incentive, demonstrate that any requested incentive results in identifiable, financially sufficient, and actual cost reductions to the housing development and is required in order to provide for affordable rents or affordable sales prices~~ in order to ensure that the granted incentives have value to the applicant, provide information that any requested incentive will reduce the cost of the housing development.
  - (C) If approval of mixed use zoning is proposed as an incentive, provide evidence information that nonresidential land uses will reduce the cost of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed use zoning ~~is required in order to~~ will provide for affordable rents or affordable sales prices.
- iii. Requested Waiver(s). In the event an application proposes waivers of development standards pursuant to State Density Bonus Law, the Density Bonus Report shall include the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:
- (A) The City's usual development standard and the requested development standard.
  - (B) Information that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by Government Code Section 65915. Evidence that each development standard for which a waiver is requested will have the effect of physically precluding the construction of the housing development with the density and incentives that the applicant is entitled to.
- iv. Requested Parking Reduction. In the event an application proposes a parking reduction pursuant to Government Code Section 65915(p), a table showing parking required by the zoning ~~ordinance regulations~~ and parking proposed under Section 65915(p).



- v. Child Care Facility. If a density bonus or incentive is requested for a child care facility, evidence information that all of the requirements included in Government Code Section 65915(h) can be met.
- vi. Condominium Conversion. If a density bonus or incentive is requested for a condominium conversion, evidence information that all of the requirements included in Government Code Section 65915.5 can be met.
- vii. Fee. Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the Density Bonus Plan with State Density Bonus Law.

#### **Section 30.16.020.C.5 Density Bonus.**

- a. ~~In determining the total number of units to be granted, each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. A density bonus for a housing development means a density increase over the otherwise maximum allowable residential density under the applicable zoning and land use designation as of the date a Density Bonus Plan is submitted to the City. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element, the maximum density allowed under the land use element shall prevail.~~
- b. ~~In determining the number of density bonus units to be granted, any fractions of dwelling units obtained by multiplying the maximum allowable residential density by the allowable percentage density increase shall be rounded up to the next whole number.~~ When calculating the number of affordable units needed for a given density bonus, any fractions of affordable dwelling units shall be rounded up to the next whole number.
- c. Each housing development is entitled to only one density bonus. If a housing development qualifies for a density bonus under more than one income category or additionally as senior housing, the applicant shall select the category under which the density bonus is granted. Density bonuses from more than one category may not be combined.
- d. The density bonus units shall not be included in determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law.
- e. The applicant may elect to accept a lesser percentage of density bonus than the housing development is entitled to, but no reduction will be permitted in the percentages of required affordable units contained in Government Code Sections 65915(b), (c), and (f). Regardless of the number of affordable units, no housing development shall be entitled to a density bonus of more than 35%.

#### **Section 30.16.020.C.8 Review Procedures.**

All requests for density bonus, incentives, parking reductions, or waivers shall be considered and acted upon by the approval body with authority to approve the housing development, with right of appeal to the City Council.

- a. Eligibility for Bonus, Incentive(s), Parking Reduction, and/or Waiver(s). To ensure that the application conforms with the provisions of State Density Bonus Law and the Coastal Act, the staff



report presented to the decision-making body shall state whether the application conforms to the following requirements of state law:

- i. The housing development provides the affordable units or senior housing required by State Density Bonus Law to be eligible for the density bonus and any incentives, parking reduction, or waivers requested, including the replacement of units rented or formerly rented to low and very low income households.
- ii. Any requested incentive ~~would result in identifiable, financially sufficient, and actual cost reductions based upon the documentation provided~~will reduce the cost of the housing development; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of Government Code Section 65915(k)(2).
- iii. The development standards for which a waiver is requested would have the effect of physically precluding the construction of ~~the housing development with the density bonus and incentive(s) that the housing development is eligible for a development at the densities or with the concessions or incentives permitted by Government Code Section 65915~~.
- iv. If the housing development is in the coastal zone, the requested density bonus and any requested incentive(s) or waiver(s) are consistent with all applicable requirements of the certified Encinitas Local Coastal Program, with the exception of density.
- v. If the density bonus is based all or in part on donation of land, all of the requirements included in Government Code Section 65915(g) have been met.
- vi. If the density bonus or incentive is based all or in part on the inclusion of a child care facility, all of the requirements included in Government Code Section 65915(h) have been met.
- vii. If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, all of the requirements included in Government Code Section 65915.5 have been met.
- b. The decision-making body ~~may deny an application for an incentive only if it makes one of the following written findings, supported by substantial evidence~~shall grant the concession or incentive requested by the applicant unless it makes a written finding, based upon substantial evidence of any of the following:
  - i. The proposed incentive is not required to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety code, or for affordable rents, as defined in Section 50053 of the Health and Safety Code; or,
  - ii. The proposed incentive would be contrary to state or federal law; or
  - iii. The proposed incentive would have a specific, adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, "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 that the application for the housing development was deemed complete.

- c. The decision-making body ~~may deny an application for a waiver only if it makes one of the following written findings, supported by substantial evidence~~shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
  - i. The proposed waiver would be contrary to state or federal law; or
  - ii. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
  - iii. The proposed waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, "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 that the application for the housing development was deemed complete.
- d. If any density bonus, incentive, parking reduction, or waiver is approved pursuant to this chapter, the applicant shall enter into an Affordable Housing Agreement or Senior Housing Agreement with the City pursuant to subsection C.9.