

**CALIFORNIA COASTAL COMMISSION**

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August 29, 2019

**W18b****TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
TONI ROSS, COASTAL PROGRAM ANALYST, SD COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE LOCAL  
COASTAL PROGRAM AMENDMENT NO. LCP-6-OCN-19-0054-1 (Affordable  
Housing Update) for Commission Meeting of September 11-13, 2019**

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**SYNOPSIS**

The subject LCP implementation plan amendment was submitted and filed as complete on July 25, 2019. The date by which the Commission must take action, absent an extension of the time limits by the Commission is October 21, 2019. This report, regarding affordable housing/density bonus requirements, addresses one of two components of the City's submittal. The other item is LCP-6-OCN-19-0053-1, which provides exceptions to maximum building heights. Both items are scheduled for the September 2019 Commission meeting. This amendment request affects the City's certified implementation plan only.

**SUMMARY OF AMENDMENT REQUEST**

The City of Oceanside is proposing to amend Section 3032 of the certified IP, to regulate density bonuses in a manner consistent with current provisions of state density bonus law. These regulations were last updated in 2015; however, since that time, there have been nine additional Assembly/Senate bills revising the requirements for affordable housing/density bonus requests. As the Legislature modifies existing density bonus laws or enacts new laws, local governments need to update their density bonus ordinance(s) to conform to the changes in state law. As proposed, Section 3032 (Affordable Housing Density Bonus) of Article 30 (Site Regulations) will be revised to include: 1) a number of new definitions related to affordable housing; 2) require applicants to submit a density bonus addendum request at the time of application submittal; 3) reduced parking requirements when located within ½ mile from major transit; 4) further reductions in parking when units are for special needs housing; 5) requirements that any density bonus, concessions, incentives, waivers or reductions of development standards or parking ratios to be consistent with the Coastal Act; 6) additional development rights to commercial developments when proposed in connection with an affordable housing project; and, 7) extension on the terms for the affordable units from 30 to 55 years. The changes

proposed by the City will bring the Local Coastal Program (LCP) into conformance with current state housing law.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending approval of the proposed LCP amendment as submitted. The Commission may reject IP amendments only if the amendment would be inconsistent with the certified Land Use Plan (LUP) or render the IP inadequate to carry out the LUP. The primary concerns regarding density bonus requests are the potential impacts to coastal resources associated with the increased density and/or incentives and concessions granted to promote the inclusion of affordable housing into development proposals. However, in this case, the amendment includes a provision that requires any density bonus or associated concessions, waivers or reductions of development standards to be consistent with the Coastal Act, and will therefore provide adequate protection of coastal resources consistent with the certified LCP as submitted.

The appropriate resolutions and motions begin on Page 5. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 6.

### **BACKGROUND**

The City of Oceanside originally proposed regulation of Affordable Housing/Density Bonus proposals in 2012 (ref. LCPA No. OCN-MAJ-1-12). The Commission approved the amendment request at its November 2013 hearing with the inclusion of one modification. The modification clarified that for development within the coastal zone, requested density bonuses and any associated incentive(s), concession(s), and/or waiver(s) or reduction(s) of development standards must be consistent with all applicable requirements of the certified LUP with the exception of density. However, the City failed to accept this revision within the required time frame. The City proposed certification of the Affordable Housing/Density Bonus regulations again in 2015 and incorporated the Commission's modification into its proposal. The Commission approved the amendment as submitted in January 2016 (ref. LCP-6-OCN-15-0040-3). Since that time, a number of revisions have been made to State Density Bonus Law and the subject amendment request will update the City's LCP to include these revisions. One major distinction between the language approved in 2015 and the subject amendment request is that the City has revised the regulation that required all incentive(s), concession(s), and/or waiver(s) or reduction(s) of development standards to be consistent with the LUP to consistency with the Coastal Act.

### **ADDITIONAL INFORMATION**

Further information on the City of Oceanside LCP Amendment No. LCP-6-OCN-19-0054-1 may be obtained from **Toni Ross**, Coastal Planner, at (619) 767-2370.

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**EXHIBITS**

[Exhibit 1 – Resolution No. 19-R0255-1](#)

[Exhibit 2 – Ordinance No. 19-OR0323-1](#)

[Exhibit 3 –Text Changes in Strike-out/Underline](#)

## **PART I. OVERVIEW**

### **A. LCP HISTORY**

The City of Oceanside first submitted its Land Use Plan (LUP) to the Commission in July 1980, and it was certified with suggested modifications on February 19, 1981. This action, however, deferred certification on a portion of the San Luis Rey River valley where an extension of State Route 76 was proposed. On January 25, 1985, the Commission approved with suggested modifications the resubmitted LUP and Implementing Ordinances. The suggested modifications for this approval were related to the guaranteed provision of recreation and visitor-serving facilities, assurance of the safety of shorefront structures, and the provision of an environmentally sensitive routing of the proposed Route 76 east of Interstate 5. The suggested modifications to the Zoning/Implementation phase resulted in ordinances and other implementation measures that were consistent with the conditionally certified LUP policies.

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for “Commercial” use; the Commission's suggested modification designated it as “Open Space.” On July 10, 1985, the Commission certified the City's LCP as resubmitted by the City, including deferred certification on the above parcel.

### **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. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

The City held a Planning Commission meeting on this matter on April 8, 2019. The City also held a City Council meeting on May 8, 2019. Both of the local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS**

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

- I. **MOTION:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-OCN-19-0054-1 for the City of Oceanside as submitted.*

### **STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a **NO** vote. Failure of this motion 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 Oceanside 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 Plan, 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.

## **PART III. FINDINGS FOR APPROVAL OF THE OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

### **A. AMENDMENT DESCRIPTION**

The City of Oceanside is proposing to update Section 3032 (Affordable Housing Density Bonus) of Article 30 (Site Regulations), a part of its certified IP, to: 1) incorporate a number of new definitions related to affordable housing; 2) require applicants to submit a density bonus addendum request at the time of application submittal; 3) reduce parking requirements when located within ½ mile from major transit; 4) allow further reductions in parking when units are for special needs housing; 5) require that any density bonus, concessions, incentives, waivers or reductions of development standards or parking ratios to be consistent with the Coastal Act; 6) provide additional development rights to commercial developments when proposed in connection with an affordable housing

project; and 7) extend the terms for the affordable units from 30 to 55 years. The changes proposed by the City will bring the Local Coastal Program (LCP) into conformance with current state housing law.

**B. FINDINGS FOR APPROVAL**

a) **Purpose and Intent of the Ordinance.** The purpose of Section 3032 (Affordable Housing Density Bonus) is to establish policies which facilitate the development of affordable housing to serve a variety of economic needs within the City through the inclusion of a density bonus or additional incentives or concessions.

b) **Major Provisions of the Ordinance.** State density bonus law allows a property owner to increase the density (number of new, market-rate residential units) on the property above the maximum set under a local government's land use plan and zoning ordinances. In exchange for these additional units, a percentage of the proposed development must be reserved for very low, low, or moderate-income households. The proposed text changes throughout Section 3032 incorporate recent revisions to state housing law, and include the following:

- AB 222 – Extends affordability terms to 55 years and requires affordable unit replacement;
- AB 744 – Requires local governments to allow reduced parking requirements;
- AB 1934 – Includes a density bonus option for commercial projects with affordable housing;
- AB 2442 – Expands the housing categories that could qualify for a density bonus to include housing for Transitional Foster Youth, Disabled Veterans, and Homeless Persons;
- AB 2501 – Streamlines density bonus processing and clarified application requirements;
- AB 2556 – Provides clarifying language on addressing replacement units;
- SB 1227 – Provide a density bonus for qualifying dedicated student housing projects;
- AB 2753 – Requires cities to provide an application with a determination as to the amount of density bonus and any parking ratios requested by the applicant for which the development is eligible and whether the applicant has provided adequate information to make a determination as to any incentives, concessions, or waivers or reductions to development standards requested by the applicant;
- AB 2797 – Requires that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the Density Bonus Law will be permitted in a manner that is consistent with the Coastal Act,

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

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The City's LUP contains a number of policies that address protection of public views, preservation of community character, the provision of adequate parking, protection for sensitive habitats and protection of and improvements to public access and state, in part:

**City of Oceanside LCP Land Use Policies for Visual Resources**

*VI. Visual Resources and Special Communities*

- 1. In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment. [...]*
- 3. All new development shall be designed in a manner which minimizes disruption of natural land forms and significant vegetation.*
- 4. The City shall maintain existing view corridors through public rights-of-way.  
[...]*
- 8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.*

**City of Oceanside LCP – Design Standards for Preserving and Creating Views**

*The visual orientation to the Pacific Ocean is a major identity factor for the City of Oceanside. Traditional view corridors should be preserved and reinforced in the placement of buildings and landscaping. Additionally, some views not presently recognized deserve consideration in the design and location of further coastal improvements.*

**City of Oceanside LCP Land Use Policies for Coastal Access**

*I. Coastal Access*

*Objective: Adequate access to and along the coast shall be provided and maintained*

*VII. New Development and Public Works*

- 1. The City shall deny any project which diminishes public access to the shoreline, degrades coastal aesthetics, or precludes adequate urban services for coastal-dependent, recreation, or visitor serving uses.*

## **City of Oceanside LCP Land Use Policies for Environmentally Sensitive Habitat**

### *IV. San Luis Rey River Specific Plan*

*Objectives – The City shall protect, maintain and enhance the river’s existing sensitive habitats*

### *V. Environmentally Sensitive Habitat Areas*

*2. Prior to approving any development on dry lands adjacent to Buena Vista Lagoon, the City shall consult the State Department of Fish and Game to ensure that adequate measures are provided to protect and enhance the lagoon’s sensitive resources. Such measures shall include:*

*a. Provision of adequate buffers between development and the lagoon.*

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.

Generally speaking, coastal resource concerns can occur when the granting of an increased density would facilitate a structure that could impact public views (such as high rises), or permit a development that could adversely affect public access (congestion or traffic due to a higher intensity type of project). In addition, incentives, concessions or waivers/reductions in development standards could also result in adverse impacts to coastal resources. For example, when incentives, concessions or deviations are granted to new development adjacent to wetlands or environmentally sensitive habitat areas (ESHA), there is the possibility that development could encroachment into the sensitive habitat or result in a reduced biological buffer. If waivers were provided to the required height limit, coastal views may be impacted. If parking reductions were granted, potential impacts to public access could occur.

Previously, Section 3032 included the requirement that any affordable housing/density bonus project located in the coastal zone needed to be consistent with the certified Land Use Plan. However, as proposed, the City will revise this regulation to mirror the policies of Assembly Bill (AB) 2797, which require that density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios be permitted in a manner that is consistent with the Coastal Act. Through the inclusion of this requirement, any density bonus or affordable housing project will be not be approved if the development includes significant coastal resource impacts similar to those described above. Additionally, because the City’s LCP is a direct extension of the Coastal Act, and has been previously certified as adequate to carry out the Chapter 3



policies of the Coastal Act, this language will also assure that all proposals will be consistent with the City's certified Land Use Plan.

In summary, the proposed LCP amendment allows for density bonuses and associated incentives for the provision of affordable housing, but will also ensure that such housing is built in a manner consistent with the coastal resource protection standards of the Coastal Act, and; as extension of the Coastal Act, the City's certified Land Use Plan. The LCP amendment can therefore be approved as submitted.

#### **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 local coastal program. The Commission's 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 each LCP submission. The City of Oceanside found that the LCPA proposal is exempt, pursuant to Section 15061(b)(3) of CEQA [no significant effect on the environment].

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. This report has discussed the relevant coastal resource issues with the proposed amendment and found that the amendment would not result in an adverse intensification of land uses, or have significant impacts on coastal resources. The proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).