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Date: July 29, 2021

To: COMMISSIONERS AND INTERESTED PERSONS

From: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DIANA LILLY, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
ALEX LLERANDI, COASTAL PLANNER, SAN DIEGO COAST DISTRICT

Subject: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR AMENDMENT NO. LCP-6-SAN-20-0045-2 (Inclusionary Housing) for Commission Meeting of August 13, 2021

SYNOPSIS

The subject City of San Diego (City) Local Coastal Program (LCP) Implementation Plan (IP) amendment was submitted and filed as complete on July 16, 2020. A one-year time extension was granted by the Coastal Commission on September 10, 2020. The date by which the Coastal Commission must take action is October 9, 2021.

SUMMARY OF AMENDMENT REQUEST

The City proposes to amend the certified inclusionary housing regulations that require the development of on-site affordable housing units as part of new residential and mixed-use development and condominium conversions, so as to apply the regulations to both for-rent as well as for-sale residential development, as well as to update the affordable housing requirement and fees. The amendment also includes a selection of alternative compliance measures, incentives, and other amendments to address implementation, including an allowance for the conversion of existing hotels and motels to affordable residential housing.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the IP amendment as submitted and approval with suggested modifications.

The City is proposing this amendment pursuant to Assembly Bill (AB) 1505 (Bloom et. al, 2017), which went into effect in January 2018. The law allows cities to require, as a development condition, that a certain percentage of rental units be included in the development for moderate, low, very low, or extremely low-income households. The intent of the amendment is to facilitate building a larger percentage of affordable housing for all

income levels on the same site as market-rate development and generally to encourage more balanced communities.

Overall, the goals of the proposed amendment align with and promote those of the Coastal Act and certified Land Use Plans (LUPs), which call for balanced communities comprised of a range of people, a goal facilitated by the provision of affordable housing. However, several aspects of the proposed amendment may actually reduce the creation of new affordable housing or raise issues of environmental justice with regard to the provision of such housing. Specifically, the proposed amendment would raise the threshold of development that triggers the applicability of the inclusionary housing regulations from two dwelling units to ten, and would allow the off-siting of the required affordable dwelling units without sufficient criteria to ensure that the affordable units are located in a part of the city that has comparable transit, employment, educational, and income resources to the initial site.

The City has indicated that feedback from development industry members suggest that applying the inclusionary housing regulations to developments as small as two units is too great a financial burden and discourages new development. However, increasing the threshold for applying the inclusionary housing regulations from two-unit residential development to ten-unit residential developments would exclude the majority of residential development in the coastal zone from having to contribute toward the city's need for affordable housing. In part due to the City's thirty-foot coastal zone height limit, the scale of development that occurs in the coastal zone makes residential developments of ten or more units very rare. As proposed, the amendment would essentially exempt development in the coastal zone from inclusionary housing requirements.

Therefore, staff is recommending that in the coastal zone, the threshold be lowered to development of five dwelling units or higher. Compared to the current threshold of two units, this will give some relief for the smallest scale residential projects, such as single family, duplex, and triplex projects, but would still capture more projects than the ten-unit threshold proposed by the City. Five units is similar to the recently approved inclusionary housing ordinances for the nearby cities of Carlsbad (LCP-6-CAR-20-0033-1) and Oceanside (LCP-6-OCN-20-0091-4), which set their thresholds for application of the inclusionary housing requirements at seven dwelling units and three dwelling units, respectively. With its substantially larger size and greater need for affordable housing, the City of San Diego's requirements should not be lesser than other coastal cities in San Diego County. Furthermore, the five-unit threshold is consistent with the City's affordable housing density bonus regulations, which have a threshold of projects located in zones that allow five or more dwelling units.

While the primary aim of the inclusionary housing ordinances is to require that a certain percentage of a new residential development be allocated for on-site affordable housing, the proposed amendment provides alternative means of complying with the ordinance, including providing the affordable units at a site other than the primary market-rate development. However, while the proposed amendment allows the affordable dwelling units to be located off-site so long as they are within the same community planning area or within a mile of the primary development, by providing an additional 5% affordable dwelling units above the regulatory requirement, a developer could locate the affordable dwelling units anywhere in the City, without any siting criteria for those affordable units. This

creates the potential issue of applicants siting the affordable units in less desirable areas with inferior access to transit, employment, and education than the primary market-rate development. These areas are also likely to be exposed to greater natural and artificial hazards, such as flooding, noise, and pollution, giving rise to environmental justice impacts.

Therefore, suggested modifications add location criteria for affordable units constructed outside of the same community planning area and farther than one mile of the primary market-rate development. The suggested modification lists four criteria that the off-site location must meet, for transit, employment, education, and community income level, as well as the variables that are to be looked at in determining whether those criteria are comparable between the primary market rate development location and the off-site affordable housing. These criteria are identical to the certified LCP's current requirements for affordable housing constructed under the density bonus provisions and will ensure that the inclusionary housing affordable units are not concentrated in less desirable areas of the City.

The proposed amendment would allow conversion of guest rooms in motels or hotels into affordable dwelling units as a means of alternative compliance with the inclusionary housing regulations. One of the primary means of providing and expanding public access to the shoreline is the provision of overnight accommodations. Guest rooms in motels and hotels allow members of the public who do not live in close proximity to the coast to be able to undertake extended visits to coastal destinations. The proposed raises concerns that the supply of overnight accommodations in the coastal zone could be reduced. The proposed program especially places lower cost overnight accommodations at risk of conversion to residential use, as it would be those facilities that would be more attractive targets for conversion rather than the more profitable, higher cost overnight accommodations. This would place further pressure on the already dwindling options available to lower income visitors to the coast and deter visitation by a broader spectrum of the public.

Therefore, staff is recommending a suggested modification prohibiting the conversion of guest rooms in hotels and motels in the coastal zone to dwelling units. The conversion can still occur outside of the coastal zone, which constitutes over three-quarters of the city. Thus, the impact on affordable housing by eliminating this one option in the coastal zone should be negligible on the City's efforts to increase affordable housing supply.

Thus, if approved as modified in this staff report, the City's amendment to its inclusionary housing regulations can be found consistent with the balanced communities, affordable housing, and public access policies of the certified LUPs.

The appropriate resolutions and motions begin on Page 6. The suggested modifications begin on Page 7. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 9. The findings for approval of the plan, if modified, begin on Page 16.

BACKGROUND

The City of San Diego's first LCP was certified in 1988, and the City then assumed permit authority. The City as a whole is organized such that each separate community within its boundaries is covered by its own distinct community plan. Thus, the City's LCP consists of the certified LUPs for its community segments located within the coastal zone and the certified IP. The IP consists of portions of the City's Municipal Code, along with some Planned District Ordinances (PDOs) and Council Policies. In 1999, the Commission certified the City's Land Development Code (LDC), which primarily consists of Chapters 11 through 15 of the municipal code. It replaced the first certified IP and took effect in the coastal zone on January 1, 2000.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment No. LCP-6-SAN-20-0045-2 may be obtained from Alexander Llerandi, Coastal Planner, at alexander.llerandi@coastal.ca.gov or (619) 767-2370.

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I. OVERVIEW

A. LCP HISTORY

The City of San Diego has a long history of involvement with the community planning process, and in 1977 requested that the Coastal Commission permit segmentation of its LUP into twelve parts in order to conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time, but some have since been certified as LCP amendments. Other areas of deferred certification still remain today and will be acted on by the Coastal Commission in the future.

Since the effective certification of the City's LCP, there have been numerous major and minor amendments processed by the Commission. These have included everything from land use revisions in several segments, to the rezoning of single properties, to modifications of citywide ordinances. In November 1999, the Commission certified the City's Land Development Code (LDC) and associated documents as the City's IP, replacing the original IP adopted in 1988. The LDC became effective in January 2000.

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

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

II. MOTION AND 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.

1. MOTION:

I move that the Commission reject the Implementation Program Amendment No. LCP-6-SAN-20-004502 for the City of San Diego certified LCP as submitted.

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program 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 DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of San Diego certified LCP and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan(s). Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

2. MOTION:

I move that the Commission certify the Implementation Program Amendment No. LCP-6-SAN-20-0045-2 for the City of San Diego if it is modified as suggested in this staff report.

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications 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 THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego certified LCP is it is modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plan(s).

Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan amendment be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Revise Section 142.1302 as follows:

   Section 142.1302 When Inclusionary Affordable Housing Regulations Apply

   This Division applies to all residential development of ~~two~~ 10 or more dwelling units outside of the Coastal Zone, five or more dwelling units within the Coastal Overlay Zone, and to all condominium conversion development of two or more dwelling units, except as provided in Section 142.1303. The requirements of this Division shall not be cumulative to state or other local affordable housing requirements where those dwelling units are subject to an affordability restriction recorded against the property by the state or local agency. To the extent that state or local regulations are inconsistent with the requirements of this Division for the amount of the fee, length of the restriction or the level of affordability, the more restrictive shall apply.

2. Revise Section 142.1305 as follows:

   Section 142.1305 Methods of Compliance

   a. The requirement to provide inclusionary dwelling units may be met in any of the following ways:

      […]

      3 On different premises from the development that does not meet the locational criteria in Section 142.1305(a)(2) but within the City of San Diego, if the applicant provides five percent more inclusionary dwelling units than required for the development pursuant to Section 142.1304(a) or Section 142.1304(b), subject to the following criteria:

         i. The location of the off-site affordable dwelling units will provide comparable or superior access to transit. Factors to be considered include, but are not limited to, the number,

frequency, and destination of transit routes within one-half mile of the development;

ii. The location of the off-site affordable dwelling units will provide comparable or superior access to employment opportunities. Factors to be considered include, but are not limited to, distances and transit availability to regional centers, subregional employment areas and industrial areas;

iii. For non-age restricted development, the location of the off-site affordable dwelling units will provide comparable or superior access to schools. Factors to be considered include, but are not limited to, the number of schools, the educational levels of the schools, whether the schools are private or public, whether the schools are vocational, and the travelling distances between the schools and the development; and

iv. The off-site affordable dwelling units are located in a census tract with an average income level that is no more than 5% lower than the census tract of the development.

[…]

5. By rehabilitation of existing dwelling units or SRO hotels rooms, or by the conversion of guest rooms in a motel or hotel located outside the coastal zone to inclusionary dwelling units in accordance with Section 142.1307; or

[…]

3. Revise Section 142.1307(d) as follows:

Section 142.1307 Rehabilitation of Existing Dwelling Units, SRO Hotel Rooms, or Conversion of Guest Rooms

[…]

(d) The requirements of this Division may be satisfied by the conversion of existing guest rooms in a motel or hotel located outside of the coastal zone to inclusionary dwelling units affordable to very low income household or low income households at a cost, including an allowance for utilities, that does not exceed 30 percent of 60 percent of median income, if the City Manager determines all of the following:

IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The proposed amendment is to the City's existing certified inclusionary affordable housing regulations. The purpose of these regulations is to encourage diverse and balanced neighborhoods with housing available for households of all income levels. The intent is to ensure that when developing the limited supply of developable land, housing opportunities for persons of all income levels are provided. The City is proposing this amendment pursuant to Assembly Bill (AB) 1505 (Bloom et al, 2017), which went into effect in January 2018 (See Gov. Code, §65850.01). The law authorizes cities and counties to require residential housing developments to include a specified percentage of affordable units as a condition of development.

The proposed amendment establishes regulations that require the development of on-site affordable housing units as part of most new residential and mixed-use development. The inclusionary housing regulations will require that rental development provide at least 10% of the total dwelling units in the development for rent to very low income households at a cost that does not exceed 30% of 60% of the area median income, while for-sale development must provide 10% of dwelling units in the development for purchase at a cost affordable to median income households (those earning median income) or at least 15% of total dwelling units be made available for purchase at a cost affordable to moderate income households (those earning 120% of median income), or a combination thereof. The inclusionary dwelling units must be constructed at the same time as the market-rate units, be comparable in design and quality, and remain affordable for a period of not less than 55 years. The new regulations would be implemented over the course of three years so that developers will be required to provide one-third of the units during the first year of implementation, two-thirds during the second year, with full implementation in effect by the third year.

As proposed by the City, the amendment increases the threshold where the regulations apply from the current two dwelling unit projects to ten dwelling unit projects and makes condominium conversion projects (some of which were previously excluded or paid half of the in-lieu fee) of two or more units subject to the requirements. Other changes include revising the definition of median income and net building area, removing development impact fees and future benefit assessment district fees for inclusionary housing units provided on the same site as market rate units, and eliminating existing exemptions to the regulations.

While the primary method of compliance with the proposed inclusionary housing regulations is to provide the affordable dwelling units on the same development site as the market rate units, the amendment does allow several alternative methods of compliance that may be used, either solely or in combination, by the developer.

The amendment allows the following methods of alternative compliance:

1. Off-Site Units. The inclusionary units may be built on a different site than the market-rate development, but within the same community planning area, or within one mile of the premises of the development. If the inclusionary units are provided on a site further than one mile and not within the same community planning as the market-rate development, then the developer must provide additional inclusionary units equal to 5% of the total units in the development.

2. Inclusionary In-Lieu Fee. The initial fee would be $25 per square foot of net building area of unrestricted market-rate residential development. The fee would be updated annually based on the annual increase in the Construction Costs Index published by Engineering News Record for the City of Los Angeles, or similar construction industry index selected by the City Manager in the event the index is discontinued.

3. Rehabilitation of Existing Units/SROs. The developer may rehabilitate existing dwelling units into affordable dwelling units at a 1:1 ratio if the value of the rehabilitation work is 25% or more than the value of the unit prior to rehabilitation, inclusive of land value. The existing units may be market-rate units or affordable units with expiring affordability restrictions. The developer may rehabilitate existing affordable dwelling units at a 1:1 ratio if the value if the agreement restricting the use of that unit for low-income households expires within 10 years of completion of the rehabilitation and the affordable dwelling unit has a remaining useful life of 55 years. The developer may rehabilitate existing Single Room Occupancy (SRO) hotel rooms at 1:1 ratio if the value of the rehabilitation work is 25% or more than the value of the SRO prior to rehabilitation.

4. Motel/Hotel Conversion. Guest rooms in an existing motel or hotel may be converted to affordable dwelling units at a 1:1 ratio if the hotel is located in the appropriate residential zone and has at least an additional 55 years of useful life.

5. Land Dedication. The developer may dedicate land for affordable housing. The donation of land shall be completed according to California Government Code Section 65915(g) and Chapter 14, Division 7, Article 3 of the City's LCP, and the value of the land upon the date of donation is equal to or greater than the Inclusionary In-Lieu Fee, in effect at the date of donation, applicable to the applicant's development.

Applicants may also use affordable units constructed by another developer, including contracting with an affordable housing developer with experience obtaining tax-exempt bonds, low-income housing tax credits, and other competitive sources of financing, to satisfy the inclusionary housing requirements.

B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN(S)

The standard of review for LCP IP submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP(s). The certified LUPs have a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

La Jolla LCP Land Use Plan

- Introduce opportunities for the production of more affordable housing within La Jolla to meet the housing needs of all income levels.

Balanced Communities

a. The City should promote opportunities for the development of affordable housing by allowing a density bonus, provided that this extra density is allowed only for projects certified by the Housing Commission. To qualify, a portion of the additional units would need to be restricted as affordable housing to "low-income, "or "very low-income" persons under applicable state statutory standards for the affordable housing density bonus and implementing City regulations.

b. The City should pursue replacement of demolished affordable housing units within the community in order to maintain affordable housing units that exist in La Jolla, consistent with the locational priorities stated in the Coastal Overlay Zone Affordable Housing Replacement regulations.

c. The City should encourage the use of affordable housing programs administered by the Housing Commission to promote the development of affordable housing. These programs include both land use and financial incentives.

d. The City should seek to locate higher density housing principally along transit corridors and in proximity to emerging lower income employment opportunities.

Mission Beach Precise Plan and Local Coastal Program Addendum

- The promotion of a wider variety of dwelling unit sizes including studios, one, two or more bedroom houses and apartments.

- The encouragement of all types of individuals and family sizes to live in Mission Beach.

- The promotion of an economically balanced community through the investigation of individual and community rehabilitation efforts, changes in taxing and assessment procedures, and the use of subsidy funds where applicable.

Ocean Beach Community Plan and Local Coastal Program

- Reduce vehicular traffic demand placed on the street network by encouraging the use of alternative modes of transportation, including public transit, bicycles, and walking.

- Enhance transit patron experience by improving transit stops and increasing transit service frequency.

- Support transitional housing uses in Ocean Beach.

- Provide housing for all economic levels.

- Enforce the Coastal Zone Affordable Housing Replacement Program to facilitate replacement of existing affordable housing units and the retention of existing affordable units. Required replacement housing should be constructed in Ocean Beach.

- 2.1.2 Utilize the Affordable Housing Density Bonus Program to assist the building industry in providing adequate and affordable housing for all economic segments of the community.

- 2.1.3 Ensure that new residential development is constructed within the density ranges identified in this Plan and meets adopted parking standards.

- 2.1.4 Support existing and new transitional housing projects in Ocean Beach.

- 2.1.5 Retain and expand the number of affordable housing units in Ocean Beach.

- 2.2.3 Maintain the inventory of lower cost rental rooms for visitors and expand the inventory should the opportunity arise… Prioritize provision of lower-cost visitor serving recreation and marine-related development.

- 2.4.1 Preserve existing hotel/motel/hostel facilities from removal or conversion to residential units.

- 2.4.2 Encourage the addition of overnight accommodations particularly serving the low/moderate cost range in the community.

- Rehabilitate existing hotel/motel/hostel facilities where feasible.

C. FINDINGS FOR REJECTION

The proposed amendment potentially conflicts with policies of the certified LUPs regarding promoting balanced communities within the City's coastal zone and protecting lower cost visitor serving accommodations. As proposed, the scope of projects subject to the inclusionary housing regulations would be revised from two to ten dwelling units as follows.

> § 141.1302 When Inclusionary Affordable Housing Regulations Apply
>
> This Division applies to all residential development of ~~two~~ 10 or more ~~units~~ dwelling units and to all condominium conversion development of two or more dwelling units, except as provided in Section 142.1303…

As currently certified, the City's inclusionary housing regulations apply to all residential development of two or more dwelling units, meaning that the current regulations cover almost every size of residential development and maximize both the ordinance's goal of

promoting the provision of affordable dwelling units, and the LUP goals of providing adequate and affordable housing for all economic segments of the community. While the City's proposed increase of the threshold for applying the inclusionary housing regulations from two units to ten units would still capture a large segment of residential development within the City, it would substantially narrow its scope, especially in the coastal zone.

The Commission recently approved the inclusionary housing ordinances for the nearby cities of Carlsbad (LCP-6-CAR-20-0033-1) and Oceanside, (LCP-6-OCN-20-009104), which set their thresholds for application of inclusionary housing requirements at seven dwelling units and three dwelling units, respectively. With its substantially larger size and greater need for affordable housing, the City of San Diego's proposal to raise the threshold for inclusionary housing from two to ten could limit its effectiveness in supplying affordable housing in the coastal zone, particularly because the City has a coastal height limit overlay zone applying a 30-foot height limit to all structures within its entire coastal zone. Thus, compared to the rest of the city outside the coastal zone, the opportunity in the coastal zone of San Diego to undertake larger scale residential development of ten or more dwelling units is constrained due to the inability to build higher than 30 feet. The majority of the residential projects in the City's coastal zone processed by the Commission and the City's Development Services Department are for less than ten dwelling units, meaning they would be exempted from the requirements of the inclusionary housing ordinances. This would limit the City's ability to require affordable housing in the coastal zone, where the existing supply of affordable housing is under constant market pressure and the need is among the greatest due to the high cost of land in that area.

The City has indicated that the reason for lowering the threshold is that representatives of the housing development community have argued the current inclusionary housing threshold of two-dwelling unit projects places too great a burden on smaller development, namely those under ten dwelling units, as it is harder for those projects to provide affordable housing units or spread the cost of the in-lieu fee across the market rate units and still be competitively priced. However, the City did not provide any data or analysis demonstrating that the current threshold is depressing new development. The City has also noted that under the new regulation, the fee required in lieu of developing inclusionary housing will increase from $12.73 to $25 per square foot of market rate units, which could offset lowering the threshold of development subject to the fee. The City believes the higher fee coupled with the higher threshold will generate equivalent or greater fees or affordable housing units than the current lower fee and lower threshold. However, the City has not provided substantial evidence to demonstrate that the increased fee will offset the reduction in units brought about by increasing the threshold from two dwelling units to ten. Thus, the proposed amendment is not in conformance with the certified LUP policies promoting affordable housing and balanced communities.

Regarding methods of compliance with the inclusionary housing regulations' requirements, while the primary aim of the inclusionary housing ordinances is to require that a certain percentage of a new residential development be allocated for on-site affordable housing, the proposed amendment provides alternative means of complying with the ordinance, including providing the affordable units at a site other than the primary market-rate development:

§ 142.1305 Methods of Compliance

(a) The requirement to provide inclusionary dwelling units may be met in any of the following ways:

1) On the same premises as the development;

2) On different premises from the development, but within the same community planning area, or within one mile of the premises of the development, as measured in a straight line from the property lines of the development premises to the property lines of the proposed premises where the inclusionary dwelling units will be constructed;

3) On different premises from the development that does not meet the locational criteria in Section 142.1305(a)(2) but within the City of San Diego, if the applicant provides five percent more inclusionary dwelling units than required for the development pursuant to Section 142.1304(a) or Section 142.1304(b);

[…]

Regardless of the location of the affordable units, the proposed amendment requires that the affordable units be constructed at the same time as the market rate units and be comparable in bedroom mix, design, and overall quality of construction in order to ensure that the affordable units are not of lesser standard or quality than the market rate units. However, if a developer exercises the option to locate the affordable units off-site, the amendment provides two alternatives – locating the units within the same community planning area or within one mile of the primary development or providing an additional 5% of affordable units than what is required by the inclusionary housing regulations while being able to locate the units anywhere else in the city. The proposed amendment lacks criteria that would ensure that the off-site location of the affordable units offers equivalent community resources such as transit, employment, education, and income level, compared to the primary market rate development. The lack of such siting criteria increases the likelihood that the developer will locate the affordable housing in parts of the City substantially dissimilar in community character and resources, inconsistent with the LUP policies that promote balanced coastal communities as well potentially raising environmental justice issues. Lower-income residences may become clustered in less desirable parts of the City that already face challenges such as lower quality schooling or greater exposure to natural or artificial hazards such as flooding, noise, or pollution.

Inclusionary Housing is not the only set of regulations in the certified LCP that promote affordable housing. In August 2018, the Commission certified amendments to the City's affordable housing density bonus regulations (LCP-6-SAN-18-0048-1). While inclusionary housing requirements are mandates applicable to the base development, density bonus incentives are options for developers that seek dwelling unit density above the underlying zoning. Similar to the proposed inclusionary housing regulations, the certified density bonus regulations allow the developer to site the affordable units off-site, either within the same community planning area and City Council District or within one mile of the primary market rate development. However, in the event that the developer proposes to place the

off-site units elsewhere in the City that is not within the same community planning area and City Council District or within one mile of the primary market-rate development, the affordable housing density bonus regulations require approval of a Planned Development Permit that includes clearly delineated siting criteria for the affordable housing site, requiring that the off-site location have comparable or superior access to transit, employment, schooling, and general area income. The inclusionary housing regulations as proposed contain no such criteria, merely requiring that the developer supply an additional 5% of affordable units above the housing requirement, in exchange for being able to place the affordable units elsewhere in the City, outside the same community planning area and more than one mile of the primary market rate development.

Not all development subject to the proposed inclusionary housing regulations would require a Planned Development Permit and thus not all development would be required to meet the strict off-site comparability requirements required for affordable housing development under the existing LCP. Thus, as proposed, the lack of siting criteria does not conform to the affordable housing and balanced community policies of the certified LUPS.

Besides constructing new affordable dwelling units, the proposed amendment offers additional alternative methods of compliance, including conversion of guest rooms in motels and hotels to affordable dwelling units. As proposed, Section 142.1307 states in relevant part:

> § 142.130507 ~~Election to Provide For Sale Affordable Housing Units in a For Sale Development~~ Rehabilitation of Existing Dwelling Units, SRO Hotel Rooms, or Conversion of Guest Rooms
>
> […]
>
> (d) The requirements of this Division may be satisfied by the conversion of existing guest rooms in a motel or hotel to inclusionary dwelling units affordable to very low income households or low income households as a cost, including an allowance for utilities, that does not exceed 30 percent of 60 percent of median income, if the City Manager determines all of the following:
>
> […]

One of the primary means of providing and expanding public access to the shoreline is the provision of overnight accommodations. Guest rooms in motels and hotels allow members of the public who do not reside in close proximity to the coast to be able to undertake extended visits to coastal destinations. Equally as important as the availability of these rooms, the cost of such overnight accommodations also plays a substantial factor in the public's ability to visit the coast, the specific choice of destination, and length of that visit. Due to the popularity of visiting the coast and large volume of annual visitors, many overnight accommodations in the city often charge higher costs to stay, placing pressure on existing lower cost overnight accommodations, such as motels, to convert to higher priced accommodations. The Coastal Act and the certified LUPs have long had policies prioritizing and protecting the provision of lower cost overnight accommodations so as make visiting the coast feasible for as broad a socio-economic spectrum of the public as possible. The proposed amendment's allowance for a developer to convert guest rooms

raises concerns that the supply of overnight accommodations in the coastal zone could be reduced. The proposed program especially places lower cost overnight accommodations at risk for conversion to residential uses, as it would be those facilities that would be the more attractive for conversion than the more profitable, higher cost overnight accommodations.

The proposed amendment would allow conversion of existing hotels located only in zones that allow both visitor uses (e.g., overnight accommodations) and multi-family residential uses. However, an inventory supplied by the City's tax authority showed over 6,100 guest rooms located on such lands, which represents a substantial inventory that could potentially be converted to dwelling units, impacting the overall guest room supply and by extension public access to the coast.

The Commission acknowledges that given California's lack of affordable housing, affordable residential uses can serve as a means of expanding access to the shoreline for a range of the population. In some cases, where affordable accommodations are in extremely short supply, and overnight accommodations are plentiful, some conversion of hotel rooms to affordable housing could help expand access to the coast. In those circumstances, conversion might be appropriate if Land Use Plan policies were developed, for example, to limit conversion to only those guest rooms that do not provide prime coastal access due to their distance from the shoreline, to protect existing lower-cost overnight accommodation from conversion, or to place a cap on the number of conversions. However, because the proposed amendment would allow the conversion of overnight accommodation to residential uses without limit, it does not conform to the LUP policies preserving affordable overnight accommodation and maximizing public access.

FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

Because the City of San Diego has a 30-foot height limit for all structures located outside of its coastal zone, the opportunity to construct large scale multi-family residential development there is much more constrained compared to the remainder of the city located outside the coastal zone. This limitation engenders limited residential densities compares to the rest of the city that, coupled with the high desirability of living in a coastal community, places pressure on housing costs in the coastal neighborhoods and severely limits the existing supply of affordable housing and the opportunity to add further affordable housing.

However, because the coastal communities have lower rates of affordable housing compared to many other communities outside the coastal zone, and the certified LUPs have policies promoting the creation and continuance of balanced communities, it is important that a fairly broad range of development projects be subject to inclusionary housing regulations in the coastal zone to ensure that residential development projects therein contribute toward the Coastal Act's and certified LCP's goal of promoting balanced communities, affordable housing, and public access.

As modified by Suggested Modification No. 1, the threshold for projects subject to the inclusionary housing regulations would be five dwelling units in the coastal zone; an

increase over the existing two units, but fewer than the ten units proposed by the City. The five-unit threshold is appropriate for several reasons. In the context of past Commission action on other nearby jurisdictions LCP amendments to their inclusionary housing regulations, the Commission recently certified the City of Carlsbad's amendment with a seven-unit threshold (LCP-6-CAR-), while the City of Oceanside was certified with a three-unit threshold (LCP-6-OCN-). Thus, a five-unit threshold for the City of San Diego would be firmly within the range of past Commission action and consistent with other coastal cities in San Diego County. Furthermore, the five-unit threshold promotes greater internal consistency within the City's LCP, as the similar affordable housing density bonus regulations have a threshold of projects located in zones that allow five or more dwelling units. Finally, five dwelling units more closely resembles the character of residential development within the City's coastal zone and would more effectively apply to greater development projects while allowing the smallest of residential projects, such as single family, duplex, and triplex projects, to not be overly burdened by the requirement to provide affordable housing.

Regarding the ability of developers to site the required affordable units off site from the primary market-rate development, Suggested Modification No. 2 imposes clear siting criteria that mirror the certified siting criteria already contained in the similar affordable housing density bonus regulations in order to avoid the potential environmental justice issue of developers concentrating the affordable units in less desirable segments of the city, such as areas with inferior access to transit, employment, and education or greater exposure to natural or artificial hazards. The suggested modification lists four criteria that the off-site location must address: transit, employment, education, and community income level, as well as the variables that are to be looked at in determining whether those criteria are comparable between the primary market rate development location and the off-site affordable housing. These criteria are an improvement over the City's proposal because the proposal allows the affordable housing to be placed anywhere else in the City that was not in the same community plan and within the mile of the primary market rate development, so long as the developer provides an additional five percent of affordable dwelling units.

Finally, the proposed amendment allows a developer to conduct alternative compliance instead of providing affordable dwelling units, and one of the alternative measures is the conversion of existing guest rooms in motels and hotels to dwelling units. As described above under the findings for denial, this could lead to the public access impact of affordable overnight accommodations, which are in limited supply and under constant pricing pressure in popular destination areas such as the coastal zone, being permanently removed from the market, limiting options for lower income visitors to the coast. Because the certified LUPs contain several policies calling for the protection of overnight accommodations from conversion to alternate uses, the allowance for their conversion to dwelling units is inconsistent with the certified LCP, and the suggested modification prohibiting such conversion in the coastal zone removes this inconsistency. The conversion may still occur outside the coastal zone, and as over three-quarters of the city is located outside of the coastal zone, the suggested modification still leaves such conversion as a viable option for developers while avoiding adverse impacts to public access.

Thus, as modified, the amendment to the City of San Diego's certified LCP IP can be found consistent with the community character and public access policies of the certified LUP for the City of San Diego.

V. 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 San Diego determined the proposed amendments to the Land Development Code to be exempt from CEQA under CEQA Guidelines Sections 15061(b)(3), 15378, and 15183. Under Section 15061(b)(3), CEQA review is not required because there is no possibility that the ordinance as revised may have a significant effect on the environment, as the amendment would not change any zoning or allowable housing densities. Under Section 15378, the proposed amendment is not a project under CEQA because it will not cause a direct physical change in the environment or reasonably foreseeable indirect physical change in the environment because they do not authorize any specific development activity or promote new construction or growth. Under Section 15183, projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review.

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. In this particular case, as modified to set the existing threshold for application of the inclusionary housing regulations at five dwelling units in the coastal zone, adding location criteria for off-site affordable units, and prohibiting the conversion of guest rooms in the coastal zone, the LCP amendment as modified will not have any significant adverse effect on the environment, and there are no feasible alternatives or feasible mitigation measures available with would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan, as amended, conforms to CEQA provisions.