



AGENDA

VALLEJO PLANNING COMMISSION REGULAR MEETING – 7:00 P.M. VIA TELECONFERENCE

Diosdado "J.R." Matulac, Chair
Kathleen Diohep, Vice-Chair
Peggy Cohen-Thompson
Jamar Stamps
Charles Palmares
Melissa Bowman
Donald Douglass

VIA TELECONFERENCE

www.cityofvallejo.net

May 17, 2021

IMPORTANT NOTICE

Until further notice, meetings of the Planning Commission are being conducted using teleconference and electronic means, consistent with State of California Executive Order N-29-30 regarding the COVID-19 pandemic. The live stream of the meeting may be viewed on television or online. Details may be found at www.cityofvallejo.net. In accordance with Executive Order N-29-30, the public may only view the meetings on television and/or online and not in the Council Chamber.

PUBLIC COMMENT: Members of the Public may provide public comments during the Planning Commission Meeting via ZOOM (<https://zoomregular.cityofvallejo.net>), or via phone, by dialing (669) 900-6833, enter meeting id: 914 0075 0676#

For additional instructions on how to speak during public comment, please visit, www.cityofvallejo.net/publiccomment

VIEW THE MEETING: There are three different ways you can view this public meeting:

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- Stream from the City website: www.cityofvallejo.net/Streaming
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This AGENDA contains a brief general description of each item to be considered. The posting of the recommended actions does not indicate what action may be taken. If comments come to the Planning Commission without prior notice and are not listed on the AGENDA, no specific answers or response should be expected at this meeting per State law.

Notice of Availability of Public Records: All public records relating to an open session item, which are not exempt from disclosure pursuant to the Public Records Act, that are distributed to a majority of the Planning Commission will be available on the City of Vallejo website at www.cityofvallejo.net subject to staff's ability to post the documents prior to the meeting.

Disclosure Requirements: Government Code Section 84308 (d) sets forth disclosure requirements which apply to persons who actively support or oppose projects in which they have a "financial interest", as that term is defined by the Political Reform Act of 1974. If you fall within that category, and if you (or your agent) have made a contribution of \$250 or more to any commissioner within the last twelve months to be used in a federal, state or local election, you must disclose the fact of that contribution in a statement to the Commission.

Appeal Rights: The applicant or any party adversely affected by the decision of the Planning Commission may, within ten days after the rendition of the decision of the Planning Commission, appeal in writing to the City Council by filing a written appeal with the City Clerk. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or City holiday, then the deadline shall be extended until the next regular business day.

Notice of the appeal, including the date and time of the City Council's consideration of the appeal, shall be sent by the City Clerk to all property owners within two hundred or five hundred feet of the project boundary, whichever was the original notification boundary.

The Council may affirm, reverse or modify any decision of the Planning Commission which is appealed. The Council may summarily reject any appeal upon determination that the appellant is not adversely affected by a decision under appeal.



The Council Chambers in City Hall is ADA compliant. Devices for the hearing impaired are available from the City Clerk. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

If you have any questions regarding any of the following agenda items, please call the assigned planner or project manager at (707) 648-4326.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF MINUTES

A. March 29, 2021

B. April 19, 2021

5. WRITTEN COMMUNICATIONS

6. REPORT OF THE SECRETARY

A. Upcoming Meetings

June 7, 2021

Meeting Cancelled

June 21, 2021

2601 Springs Road – Use Permit, Site Development, Minor Exception, Sign Permit for AM/PM Gas Station Renovation (tentative)

7. CITY ATTORNEY REPORT

8. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION

9. REPORT OF THE SUBCOMMITTEES

10. REPORT OF THE CITY COUNCIL LIAISON

11. COMMUNITY FORUM

Due to the current Shelter at Home Order and in conformance with the Governor's Executive Order N-29-30, the City of Vallejo has opted to hold Planning Commission meetings via teleconference. Any interested members of the public desiring to communicate with the Planning Commission as part of the Community Forum may do so via ZOOM (<https://zoomregular.cityofvallejo.net>), or via phone, by dialing (669) 900-6833, enter meeting id: 914 0075 0676#

12. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

Due to the current Shelter at Home Order and in conformance with the Governor's Executive Order N-29-30, the City of Vallejo has opted to hold Planning Commission meetings via teleconference. Any interested members of the public desiring to communicate with the Planning Commission as part of the Consent Calendar and Approval of the agenda may do so via ZOOM (<https://zoomregular.cityofvallejo.net>), or via phone, by dialing (669) 900-6833, enter meeting id: 9140075 0676#

A. General Plan Conformance Review for Fiscal Year 2021-2022 Capital Improvement Program.

RECOMMENDATION: Adopt Resolution 21-XX finding that the proposed Fiscal Year (FY) 2021-2022 Capital Improvement Program conforms with the City of Vallejo's General Plan 2040.

13. PUBLIC HEARING

Due to the current Shelter at Home Order and in conformance with the Governor's Executive Order N-29-30, the City of Vallejo has opted to hold Planning Commission meetings via teleconference. Any interested members of the public desiring to communicate with the Planning Commission as part of the Public Hearing may do so via ZOOM (<https://zoomregular.cityofvallejo.net>), or via phone, by dialing (669) 900-6833, enter meeting id: 914 0075 0676#

A. None

14. ACTION CALENDAR

NOTICE: Members of the public wishing to address the Planning Commission on Action Calendar Items may do so via ZOOM (<https://zoomregular.cityofvallejo.net>), or via phone, by dialing (669) 900-6833, enter meeting id: 914 0075 0676#. For additional instructions on how to speak during public comment, please visit, www.cityofvallejo.net/publiccomment.

15. OTHER

Due to the current Shelter at Home Order and in conformance with the Governor's Executive Order N-29-30, the City of Vallejo has opted to hold Planning Commission meetings via teleconference. Any interested members of the public desiring to communicate with the Planning Commission as part of the Other item may do so via ZOOM (<https://zoomregular.cityofvallejo.net>), or via phone, by dialing (669) 900-6833, enter meeting id: 914 0075 0676#

A. Staff Informational Presentation: Density Bonus Regulations Overview

16. ADJOURNMENT

I, Narcissa Wilson, Planning Executive Secretary, do hereby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the Vallejo Planning Commission, at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 5:00 p.m. Tuesday, May 11, 2021.

Dated May 11, 2021



Narcissa Wilson, Planning Executive Secretary

Minutes

**CITY OF VALLEJO PLANNING COMMISSION
SPECIAL MEETING MINUTES
COUNCIL CHAMBERS
March 29, 2021**

1. CALL TO ORDER

The meeting was called to order by Chair Matulac at 7:07 p.m.

2. PLEDGE OF ALLEGIANCE

3. OATH OF OFFICE OF NEWLY APPOINTED COMMISSIONER

4. ROLL CALL

Present: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Cohen-Thompson, Stamps, Bowman and Douglass

Absent: None

Staff present: Interim Deputy City Manager Hayes, Interim Planning and Development Services Director Ratcliffe, City Attorney Nebb, Senior Planner Hightower

5. PUBLIC HEARING

A. New Zoning Code Project: Environmental Document (ED) #21-0001, Zoning Code Text Amendment (CTA) #21-0001, Zoning Code Map Amendment (ZMA) #21-0001, General Plan Amendment (GPA) #21-0001, and Specific Plan Amendments (SPA) #21-0002, #21-0003, and #21-0004

Interim Deputy City Manager Hayes introduced the item and introduced Interim Deputy Planning and Development Director Ratcliffe and Senior Planner Hightower.

Interim Deputy Planning and Development Director Ratcliffe and Senior Planner Hightower presented the item.

Commissioner asked questions and staff responded.

Chair Matulac opened for public comment.

Speakers – Robert Schussel, Anne Carr, Nancy Petroski, Brandon Riley, Roscoe K.

Chair Matulac closed the public comment.

Commissioners commented on the item, asked questions and staff responded.

Action: Moved by Vice-Chair Diohep, seconded by Commissioner Cohen-Thompson, to Adopt Resolution PC21-03, Recommending that the City Council Adopt the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the New Zoning Code Project with the amendment that the Residential View District is included in the project description of the Initial Study.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass
NOES: None
ABSENT: None
ABSTAIN: None

Action: Moved by Vice-Chair Diohep, seconded by Commissioner Cohen-Thompson, to Adopt Resolution No. PC21-04A, Intent to Amend the General Plan 2040 Text and Land Use Map as part of the New Zoning Code Project with the exception that the most recent housing edit proposed in the Retail/Entertainment General Plan Land Use Designation is not included.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners, Bowman, Cohen-Thompson, Stamps and Douglass
NOES: None
ABSENT: Commissioner Palmares (due to technical difficulties)
ABSTAIN: None

Action: Moved by Vice-Chair Diohep, second by Commissioner Cohen-Thompson, to Adopt Resolution No. PC 21-04 Recommending that the City Council Adopt Amendments to the General Plan 2040 Text and Land Use Map as part of the New Zoning Code Project that excludes the housing component to Retail/Entertainment for both the Map and Text and includes the Map Amendments that were submitted as a desk item.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass
NOES: None
ABSENT: None
ABSTAIN: None

Action: Moved by Vice-Chair Diohep, second by Commissioner Cohen-Thompson, to Adopt Resolution No. PC 21-05A, Intent to Repeal the Northgate Specific Plan and Planned Unit Developments #575 and #582 as Part of the New Zoning Code Project.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass
NOES: None
ABSENT: None
ABSTAIN: None

Action: Moved by Vice-Chair Diohep, seconded by Commissioner Cohen-Thompson, Adopt Resolution No. PC 21-05 Recommending that the City Council Adopt an Ordinance to Repeal the Northgate Specific Plan/Master Plan and Planned Unit Developments #575 and #582.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass

NOES: None

ABSENT: None

ABSTAIN: None

Action: Moved by Commissioner Cohen-Thompson, seconded by Commissioner Douglass, to Adopt Resolution No. PC 21-06A, Intent to Amend the Downtown Vallejo Specific Plan and White Slough Specific Area Plan as Part of the New Zoning Code Project.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass

NOES: None

ABSENT: None

ABSTAIN: None

Action: Moved by Commissioner Cohen-Thompson, seconded by Commissioner Douglass, to Adopt Resolution No. PC 21-06 Recommending that the City Council Adopt Ordinances to Amend the Downtown Vallejo Specific Plan and White Slough Specific Area Plan.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass

NOES: None

ABSENT: None

ABSTAIN: None

Action: Moved by Commissioner Cohen-Thompson, seconded by Commissioner Diohep, to Adopt Resolution No. PC 21-07A, Intent to Amend the Zoning Code by the Adoption of the New Zoning Code and Zoning Map and directing staff to update changes listed in the Errata and to include all Architectural Heritage and Landmarks Commission (AHLC) recommendations to the Code, revise the noticing so that Commission and Boards receive email notices, add a notation to include square-footage and Floor Area Ratio (F.A.R) in public hearing notices, amend footnote 15 of the Land Use Table to prohibit cannabis cultivation in the White Slough Area except Area 1A and to remove residential from Regional Commercial in the Zoning Code except in General Plan Land Use Designation of Business/Limited Residential.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass

NOES: None

ABSENT: None

ABSTAIN: None

Action: Moved by Commissioner Cohen-Thompson, second by Commissioner Palmares, to adopt Resolution No. PC 21-07 recommending that the City Council Adopt an Ordinance to Repeal the Current Zoning Code, Title 16 of the Vallejo Municipal Code and Repeal the Existing Zoning Map, and Adopt the New Zoning Code and Zoning Map to be Included as Revised Title 16 and directing staff to update changes listed in the Errata and to include all Architectural Heritage an Landmarks Commission (AHLC) recommendations to the Code, revise the noticing so that Commission and Boards receive email notices, add a notation to include square-footage and Floor Area Ratio (F.A.R) in public hearing notices, amend footnote 15 of the Land Use Table to prohibit cannabis cultivation in the White Slough Area except Area 1A and to remove residential from Regional Commercial in the Zoning Code except in General Plan Land Use Designation of Business/Limited Residential.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass

NOES: None

ABSENT: None

ABSTAIN: None

6. ADJOURNMENT

Chair Matulac adjourned the meeting at 10:58 p.m.

DIOSDADO "J.R." MATULAC, CHAIRPERSON

ATTEST:

CESAR OROZCO
ASSOCIATE PLANNER

**CITY OF VALLEJO PLANNING COMMISSION
REGULAR MEETING MINUTES
COUNCIL CHAMBERS
April 19, 2021**

1. CALL TO ORDER

The meeting was called to order by Chairman Matulac at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Stamps, Bowman, Douglass, and Cohen-Thompson (late)

Absent: None

Staff present: Interim Deputy City Manager Hayes, Interim Planning and Development Services Director Ratcliffe, City Attorney Nebb, Planning Manager Kavanaugh-Lynch, Associate Planner Orozco

4. APPROVAL OF MINUTES

A. March 1, 2021

B. March 15, 2021 – Special Meeting

C. March 15, 2021

On a motion of Vice-Chair Diohep, the Commission approved the minutes with the following vote:

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman and Stamps

NOES: None

ABSENT: Commissioner Cohen-Thompson

ABSTAIN: Commissioner Douglass

5. WRITTEN COMMUNICATION – Written Communications were submitted after the packet was published and are available online for review.

6. REPORT OF THE SECRETARY

A. Upcoming Meetings:

May 3, 2021

No items tentatively scheduled.

May 17, 2021

No items tentatively scheduled.

Interim Planning and Development Services Director Ratcliffe commented on Item A and provided an update on the new zoning code.

7. CITY ATTORNEY REPORT – City Attorney Nebb commented on working with Staff to update the zoning code process and taking the project back to City Council.

8. **REPORT OF THE PRESIDING OFFICE, MEMBERS OF THE PLANNING COMMISSION AND LIAISON REPORTS - None**

9. **REPORT OF THE SUBCOMMITTEES – None**

10. **REPORT OF THE CITY COUNCIL LIAISON**

Council Member Miessner thanked the Commission and staff on their work on the new zoning code.

11. **COMMUNITY FORUM – None**

12. **CONSENT CALANDER AND APPROVAL OF THE AGENDA**

- A. General Plan Conformance Review for Water Department Fiscal Year 2021-2022 Capital Improvement Program - New or Modified Projects.

RECOMMENDATION: Adopt Resolution 21-05 finding that the new or modified projects proposed for the Water Department Fiscal Year (FY) 2021-22 Capital Improvement Program conform with the City of Vallejo's General Plan 2040.

Action: Moved by Vice-Chair Diohep, Seconded by Commissioner Bowman, to approve the Consent Calendar and Agenda.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Douglass and Stamps
NOES: None
ABSENT: Commissioner Cohen-Thompson
ABSTAIN: None

13. **PUBLIC HEARING**

- A. Crown Hill Materials; 1888 Broadway (APN:0052-090-170, -210, -220, -230) Site Development (SD)#19-0004

Interim Planning and Development Services Director Ratcliffe introduced the item and Associate Planner Orozco.

Associate Planner Orozco presented the item.

Commissioners asked questions and staff responded.

Chair Matulac opened for public comments.

Public Comments – Amy D. Kyle, Donald Osborne, Liat Meitzenhelmer, Ken Szutu

Chair Matulac closed public comments.

Commissioners asked questions and staff responded.

Commissioners commented on the project.

Action: Moved by Commissioner Cohen-Thompson, Seconded by Commissioner Bowman, to continue the public hearing to a date to be determined and directed staff to work with applicant and consultants to prepare a noise study and an air quality study and bring back the item for formal consideration and possible action.

VOTE:

AYES: Chair Matulac, Vice-Chair Diohep, Commissioners Palmares, Bowman, Cohen-Thompson, Stamps and Douglass.

NOES: None

ABSENT: None

ABSTAIN: None

14. ACTION CALENDAR - None

15. OTHER - None

16. ADJOURNMENT

Chair Matulac adjourned the meeting at 9:05 p.m.

DIOSDADO "J.R." MATULAC, CHAIRPERSON

ATTEST:

CESAR OROZCO
ASSOCIATE PLANNER

Consent



DATE: May 17, 2021
TO: Planning Commission
FROM: Terrance Davis, Public Works Director
SUBJECT: GENERAL PLAN CONFORMANCE REVIEW FOR FISCAL YEAR 2021-2022 CAPITAL IMPROVEMENT PROGRAM

RECOMMENDATION

Adopt Resolution 21-XX finding that the proposed Fiscal Year (FY) 2021-2022 Capital Improvement Program conforms with the City of Vallejo's General Plan 2040.

REASONS FOR RECOMMENDATION

The City's Capital Improvement Program (CIP) is an important planning tool that identifies infrastructure and other public facility projects, cost, funding mechanisms, and priorities for execution. The CIP is adopted for a five-year period and updated annually to show unspent funds for projects not yet completed and to add a new year to the cycle. It also reflects any changes in the priorities for projects that have not yet started. Each year, pursuant to California Government Code Section 65401, the Planning Commission must review the "ensuing fiscal year" of the CIP for conformance with the City's General Plan, and convey its findings to the City Council. The Commission's review is limited to General Plan conformance and does not include recommendations on the projects (except as related to General Plan conformance), priorities or budget projections of the CIP. Following this hearing, the City Council will conduct its own hearing and make a determination as to final adoption of the revised FY21-22 CIP.

BACKGROUND AND DISCUSSION

Capital improvements are those individual construction projects and purchases of land, equipment, and contract services that cost more than \$50,000. Capital improvement planning is one of the main ways communities implement the General Plan. CIP funding priorities reflect community values, needs, desired services and projects and resources to accomplish them.

The objectives of the CIP are as follows:

- To provide increased planning and coordination of CIP projects
- To relate the planning of CIP projects more effectively to general City goals and fiscal capability
- To assist City staff in projecting impacts on future workload requirements, department programs and the City's operating budget
- To ensure conformance of the capital projects with the City's General Plan
- To allocate resources to the City's highest priority projects
- To identify funding shortfalls and develop funding strategies

The CIP forecasts the City's proposed major projects over the next five years. The first year of the CIP includes those projects proposed for funding within the City of Vallejo's FY 2020-21 budget. The capital needs for the City exceed the amount of available (and anticipated) revenue, therefore, the CIP includes both funded and unfunded projects to capture the full needs of the City and enable the City Council to prioritize the projects. Pursuant to California Government Code Section 66002(a), the CIP includes the location, size, time of availability, and estimated costs for all improvements.

On August 29, 2017, the City Council adopted General Plan 2040, a comprehensive statement of the City's land use policies for the next 25 years. The Planning Commission's task relative to the CIP is to review the first year of the CIP and determine whether it conforms with the General Plan.

This fiscal year, the City's Water Department came to the Planning Commission earlier due to their existing deadlines and circumstances. All the attachments presented here are without the Water Department's CIP's.

CONFORMANCE WITH THE GENERAL PLAN

The midyear budget process provides for an opportunity to update the adopted CIP to reflect changes in project priorities and funding availability. Staff has conducted an audit of General Plan policies, and has prepared the attached matrix (Attachment 3) to document how each proposed capital improvement conforms with the City's General Plan. In general, each CIP item implements a program or policy in the General Plan, which are identified by policy number and description for reference in the attached matrix.

The General Plan has a time frame spanning the next 23 years, however, the City Council prioritizes and allocates limited resources every year. Not all General Plan goals or plans may be funded during each year of the CIP. The City Council ultimately decides spending priorities and determines if they are in harmony with the General Plan. Consequently, the proposed CIP does not spread City capital funding equally among all plan areas, but must prioritize funding based on the City Council's assessment of community needs and priorities. While a five-year future cost is forecast, the Council adopts fund allocations for a single-year CIP, so future years are not shown on the attached matrix.

There can sometimes be a concern that the amount budgeted for capital projects may not be adequate to support projected community growth. Conversely, another concern is that capital improvements might facilitate growth that exceeds planned levels, leading to development that is disorderly or adversely impacts the environment. Staff has reviewed the proposed CIP and finds no evidence that it will preclude the City from accommodating the growth envisioned in the General Plan, or cause any growth-management thresholds to be exceeded.

FISCAL IMPACT

The projects identified in the CIP are funded through a variety of mechanisms including grants, fees, gas tax, etc. Each project in the CIP document identifies the funding source(s) for that project to be allocated over the course of the five-year planning period. The City Council will authorize specific funding sources and amounts

as part of the budget process, or at the time of individual project approval.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline Section 15378, therefore no further review is required. CEQA review is conducted for individual projects at the time of project approval.

ATTACHMENTS

1.	Resolution 21-XX
2.	FY 2021-2022 CIP Project List – New Funding List
3.	FY 2021-2022 General Plan-CIP Conformance Matrix
4.	FY 2021-2022 Previous FY General Plan-CIP Conformance Matrix
5.	Text of General Plan Policies Applicable to FY 2021-2022 CIP Projects

CONTACT

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Margaret.Kavanaugh-Lynch@cityofvallejo.net

Melissa L. Tigbao, Assistant Public Works Director / City Engineer, (707) 648-4085
Melissa.Tigbao@cityofvallejo.net

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC 21-XX

A RESOLUTION OF THE PLANNING COMMISSION
FINDING THE PROPOSED CAPITAL IMPROVEMENT PROGRAM
FOR FISCAL YEAR 2021-2022 TO BE IN
CONFORMANCE WITH THE GENERAL PLAN

BE IT RESOLVED by the Planning Commission of the City of Vallejo as follows:

WHEREAS, the City of Vallejo Capital Improvement Program (CIP) is a five-year program adjusted annually that outlines public improvements and estimated expenditures to construct these improvements; and

WHEREAS, a proposed CIP has been developed for the 2021-2026 time period for City Council review and adoption; and

WHEREAS, California Government Code Section 65401 requires the City's Planning Commission to determine whether the "ensuing fiscal year" of the CIP (Fiscal Year, or FY, 2021-22 in this case) is in conformance with the City's General Plan, and to report its determination to the City Council; and

WHEREAS, on May 17, 2021, the Planning Commission held a public hearing on the proposed FY 2021-2022 CIP.

NOW THEREFORE, the Planning Commission of the City of Vallejo hereby finds, determines and resolves as follows:

Section 1: The Planning Commission has duly considered the full record before it on this matter, which includes but is not limited to such things as the City staff report, the FY 2021-2022 CIP, testimony by staff and the public (if any), and any other materials or evidence submitted or provided to the Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2: This action is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378, since it is not a "project" as defined under CEQA.

Section 3: The proposed FY 2021-2022 CIP conforms with the Vallejo General Plan 2040.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the 17th day of May, 2021, by the following vote to-wit:

AYES:

NOES:

ABSENT:

Diosdado Matulac J.R., CHAIRPERSON
City of Vallejo Planning Commission Attest:

Margaret Kavanaugh-Lynch, SECRETARY
City of Vallejo Planning Commission

FY21-22 Public Works CIP Appropriations by Fund

Line #	Fund No.	Fund Name	Project #	Project Name	New Appropriation
Fund 107					
1A	107	Mare Island Preserve	PWC111	Public Building Repairs	\$ 125,000
Fund 107 subtotal					\$ 125,000
Fund 201					
2A	201	Capital Outlay	PWC109	Pavement Maintenance and Rehabilitation	\$ 420,000
1B	201	Capital Outlay	PWC111	Public Building Repairs	\$ 265,000
3	201	Capital Outlay	PWC113	MUTCD Street Sign Upgrades	\$ 100,000
4	201	Capital Outlay	PW9408	EV Chargers at Public Facilities	\$ 30,000
5	201	Capital Outlay	PW9428	Urban Forest Management Plan	\$ 40,000
6	201	Capital Outlay	PW9433	Homeless Navigation Center Public Im	\$ -
7	201	Capital Outlay	PW9434	SMART Train / Light Rail Feasibility	\$ -
8	201	Capital Outlay	PW9435	Hiddenbrooke Parkway	\$ 2,347,413
9	201	Capital Outlay	PW9798	Sacramento Street Bridge	\$ 680,000
Fund 201 subtotal					\$ 3,882,413
Fund 203					
10	203	Traffic Impact Mitigation Fee	PW9416	Vision Zero Plan & Corridor Study	\$ 8,000
11	203	Traffic Impact Mitigation Fee	PW9417	Traffic Calming Toolbox	\$ 36,862
Fund 203 subtotal					\$ 44,862
Fund 219					
2B	219	Gas Sec 2103	PWC109	Pavement Maintenance and Rehabilitation	\$ 350,000
12	219	Gas Sec 2103	PW9745	Citywide Slurry Seal	\$ 900,000
Fund 219 subtotal					\$ 1,250,000
Fund 221					
13	221	Grant / Reimbursements	PW9708	HSIP Cycle 10 Springs Rd Road Diet	\$ 1,260,360
14	221	Grant / Reimbursements	PW9709	HSIP Cycle 10 Pedestrian Crossing at 17 Locations	\$ 249,700
Fund 221 subtotal					\$ 1,510,060
Fund 226					
2C	226	Road Maint Rehab Act / Senate Bill 1	PWC109	Streets/Pavement Maintenance and Rehabilitation	\$ 400,000
15	226	Road Maint Rehab Act / Senate Bill 1	PW9710	Meadows Drive Pavement Rehabilitation Project	\$ 1,400,000
16	226	Road Maint Rehab Act / Senate Bill 1	PW9705	Annual ADA Curb Ramps	\$ 200,000
Fund 226 subtotal					\$ 2,000,000
Fund 415					
17	415	Marina	PWMo6	Marina Dredging	\$ 300,000
Fund 415 subtotal					\$ 300,000
GRAND TOTAL					\$ 9,112,335

Attachment 3
FY21-22 General Plan-CIP Conformance Matrix

#	Category	Project ID	Project Name	Description	Location	Vallejo General Plan 2040		
						Chapter	Topical Area	Applicable Goals/Policies (all are policies unless otherwise noted)
1	Facilities	PWC111	Public Building Repairs	This project includes performing work on facilities owned by the City	Citywide	Economy, Education, & Training	Stewardship of Public Assets	EET-1.9
2	Infrastructure: Transportation	PWC109	Pavement Maintenance and Rehabilitation	Paving of various streets throught the city.	Citywide	Mobility, Transportation, & Connectivity	Citywide Mobility	MTC-2.6
3	Facilities	PWC113	MUTCD Street Signs Upgrades	Upgrade street and traffic signage to meet new manual on uniform traffic control device standards	Citywide	Mobility, Transportation, & Connectivity	Safety First	MTC-2.1
4	Facilities: Other	PW9408	Electric Vehicle (EV) Chargers at Public Facilities	Add Electric Vehicle (EV) chargers at Public Facilities including the Vallejo Station Parking Garage and the Corp Yard.	Citywide	Mobility, Transportation, & Connectivity	Eco-mobility and Sustainable Transportation	MTC-2.13 (Action A)
5	Infrastructure: Other	PW9428	Urban Forest Management Plan	This project will complete a citywide tree inventory and develop an Urban Forest Management Plan to establish a citywide commitment to a healthy, growing urban forest in the City of Vallejo.	Citywide	Nature and Built Environment	Urban Greening	NBE-1.7
6	Facilities	PW9433	Navigation Center Public Improvements	This project allows for the construction of Public Improvements in the Navigation Center for individuals experiencing homelessness, mirrored after other successful models, which provide service-rich temporary shelters and graduates individuals into a myriad of paths to permanent housing options.	Citywide	Community & People	Foster Collaboration, Lifelong Care	CP-4.4, CP-5.2
7	Infrastructure: Transportation	PW9434	SMART Train / Light Rail Feasibility	This project allows for a feasibility study of expanding the Vallejo infrastructure network to be included in the Solano County Hub of the Statewide Rail Network system.	Citywide	Mobility, Transportation, & Connectivity	First/Last Mile Connections, Citywide Mobility	MTC-1.3, MTC-2.4
8	Infrastructure: Transportation	PW9435	Hiddenbrooke Parkway	This proposed project with remove and replace existing landscaping and update irrigation along north and south sides of Hiddenbrooke Parkway, as well as the center medians.	Hiddenbrooke Parkway	Community & People	Urban Greening and Community Health	CP-1.7
9	Infrastructure: Other	PW9798	Sacramento Street Bridge	The Sacramento Street Bridge has been identified by Caltrans as in need of Seismic retrofit. Additional inspection and analysis revealed that the entire bridge requires replacement in order to be seismically sound per current standards. This project utilizes the Federal grants received by the City in order to make this bridge safe.	Citywide	Mobility, Transportation, & Connectivity	Safety First, Sustainable Transportation, Citywide Mobility	MTC-2.1, MTC-2.4, MTC-2.11

Attachment 3
FY21-22 General Plan-CIP Conformance Matrix

#	Category	Project ID	Project Name	Description	Location	Vallejo General Plan 2040		
						Chapter	Topical Area	Applicable Goals/Policies (all are policies unless otherwise noted)
10	Infrastructure: Other	PW9416	Vision Zero Plan and Corridor Study	The purpose of study is to pinpoint factors contributing to traffic deaths and serious injuries, and to identify proven safety countermeasures to address those factors through education, engineering, enforcement, and evaluation in order to eliminate traffic fatalities within the City of Vallejo.	Citywide	Mobility, Transportation, & Connectivity	Safe Streets, Citywide Mobility	MTC-2.1 (Action A), MTC-2.4, MTC-2.7
11	Infrastructure: Transportation	PW9417	Traffic Calming Toolbox	This project is an update of the 2013 Traffic Calming Toolbox, which is a catalog of strategies (physical design and other measures) to improve safety for motorist, pedestrians and cyclists.	Citywide	Mobility, Transportation, & Connectivity	Safe Streets, Citywide Mobility	MTC-2.1 (esp. Action C), MTC-2.4, MTC-2.7
12	Infrastructure: Transportation	PW9745	Citywide Slurry Seal	Preventative maintenance project of existing streets through crack seal and slurry seal. Streets with PCI between 70-85 are considered	Citywide	Mobility, Transportation, & Connectivity	Citywide Mobility	MTC-2.6
13	Infrastructure: Transportation	PW9708	Highway Safety Improvement Program (HSIP) Cycle 10 Springs Rd Road Diet	This project will reduce the number of travel lanes on Springs Road Street between Miller Avenue/Humbolt Street and Rollingwood Drive, from four lanes down to three lanes. Turning lanes and loop detectors at the traffic signals will also be rearranged.	Springs Road between Miller Avenue/Humbolt Street and Rollingwood Drive	Mobility, Transportation, & Connectivity	Safe Streets, Citywide Mobility	MTC-2.1, MTC-2.4, MTC-2.7
14	Infrastructure: Transportation	PW9709	Highway Safety Improvement Program (HSIP) Cycle 10 Pedestrian Crossing at 17 locations	Install high visibility crosswalks, advance warning signs, and ADA ramps at seventeen intersections (Georgia at Rollingwood/Fernwood, Baywood at Rollingwood/Fernwood, Daniels at Rodgers/Selfridge, Mini at Whitney/Corcoran, Cocoran at Arrowhead, Ensign at Shasta/Highland Elm/Mariposa, Nebraska at Shasta/Mariposa/Mid Block, Porter at Magazine, Glen Cove at Regatta).	17 locations	Mobility, Transportation, & Connectivity	Safe Streets, Citywide Mobility	MTC-2.1, MTC-2.4, MTC-2.7
15	Infrastructure: Transportation	PW9710	Meadows Drive Pavement Rehabilitation	This reconstruction project will consist of pavement rehabilitation, removal and replacement of non-compliant ADA curb ramps, sidewalk, curb and gutter and driveways.	Meadows Drive	Mobility, Transportation, & Connectivity	Citywide Mobility	MTC-2.6, MTC-2.7
16	Infrastructure: Transportation	PW9705	ADA Curb Ramps	The purpose of this project is to improve intersecons throughout the City to ensure the curb ramps and sidewalks are ADA accessible & compliant.	Throughout the City	Mobility, Transportation, & Connectivity	Citywide Mobility	MTC-2.7
17	Infrastructure: Marina	PWM06	Marina Dredging	This project provides ongoing dredging within the Marina to allow ingress and egress of vessels to and from berths and fueling docks.	Vallejo Municipal Marina - 42 Harbor Way	Nature & Built Environment; Mobility, Transportation, & Connectivity	NBE: Community Enhancing Uses; MTC: Waterways	NBE-4.1 (Action B), MTC-3.10 (Actions A and B)

**Attachment 4
FY20-21 General Plan-CIP Conformance Matrix**

#	Category	Project ID	Project Name	Description	Location	Vallejo General Plan 2040		
						Chapter	Topical Area	Applicable Goals/Policies (all are policies unless otherwise noted)
1	Infrastructure: Other	CED001	Vallejo Bluffs Trail	The proposed class I Vallejo Bluff Trail, would close a gap in three major regional trails that share an alignment near the northern landing of the Carquinez Bridge in Solono County; the San Francisco Bay Trail, the Bay Area Ridge Trail, and the California Delta Trail.	State Route 29, Lincoln Road East, & Sequoia Ave going south along I-80 to a point near Carquinez Strait at Clearview Drive	Mobility, Transportation, & Connectivity	Citywide Mobility	MTC-1.5
2	Infrastructure: Transportation	PWL001	Hiddenbrooke Parkway	This proposed project with remove and replace existing landscaping and update irrigation along north and south sides of Hiddenbrooke Parkway, as well as the center medians.	Hiddenbrooke Parkway	Community & People	Urban Greening and Community Health	CP-1.7
3	Infrastructure: Other	PWL006	Hiddenbrooke Welcome Center Rehab	This proposed project will rehab the Welcome center at Hiddenbrooke Parkway	Hiddenbrooke Welcome Center	Community & People	Urban Greening and Community Health	CP-1.7
4	Infrastructure: Transportation	PWL002	Glen Gove Parkway Improvements	This project will include public right-of-way improvements from one-time surplus funds from the maturing Glen Cove Improvement District bond, budgeted in 2008. This project will remove and replace existing landscaping along Glen Cove Pkwy from Robles Way to its southern terminus. The project has been divided into six phases. Phase 1 will consist of the area from Robles Way to Wellfleet Drive.	Glen Cove Parkway	Community & People	Urban Greening and Community Health	CP-1.7
5	Infrastructure: Transportation	PWC109	Pavement Maintenance and Rehabilitation	Paving of various streets throught the city.	Citywide	Mobility, Transportation, & Connectivity	Citywide Mobility	MTC-2.6
6	Facilities	PWC111	Public Building Repairs	This project includes performing work on facilities owned by the City	Citywide	Economy, Education, & Training	Stewardship of Public Assets	EET-1.9
7	Infrastructure: Other	PW9428	Urban Forest Management Plan	This project will complete a citywide tree inventory and develop an Urban Forest Management Plan to establish a citywide commitment to a healthy, growing urban forest in the City of Vallejo.	Citywide	Nature and Built Environment	Urban Greening	NBE-1.7
8	Infrastructure: Other	PW9429	Hazardous Material Remediation / Underground Tank Removal	The purpose of this project is to remove underground storage tanks containing hazardous materials, as they are discovered, following the state and federal regulations.	Citywide	Nature and Built Environment	Community Standards	NBE-1.13
9	Facilites	PW9430	ADA Improvements	Improving ADA Accessibility at public facilities, such as the Mare Island Chapel.	Public Facilities	Mobility, Transportation, & Connectivity	MTC: Citywide Mobility	MTC-2.7

**Attachment 4
FY20-21 General Plan-CIP Conformance Matrix**

#	Category	Project ID	Project Name	Description	Location	Vallejo General Plan 2040		
						Chapter	Topical Area	Applicable Goals/Policies (all are policies unless otherwise noted)
10	Infrastructure: Transportation	PW9705	ADA Curb Ramps	The purpose of this project is to improve intersections throughout the City to ensure the curb ramps and sidewalks are ADA accessible & compliant.	Citywide	Mobility, Transportation, & Connectivity	MTC: Citywide Mobility	MTC-2.7
11	Infrastructure: Other	PW9706	Mare Island Bridge Lift Span Repairs	This project is to repair the lift span of the Mare Island Causeway Bridge to ensure that residents have more than one route off the island.	Mare Island Causeway Bridge	Mobility, Transportation, & Connectivity	MTC: Citywide Connetivity	MTC-3.1
12	Infrastructure: Other	PW9739	Sonoma Retaining Wall	This project will reinforce a retaining wall with tiebacks to reduce the risk to pedestrian safety at 602 Capitol Street on the side of the property facing Sonoma Boulevard. Due to this retaining wall being on a major thoroughfare through the City, it is a safety concern that the retaining wall might collapse and needs to be dealt with for the public's safety.	Sonoma Boulevard at Capitol Street	Nature and Built Environment	Community Standards	NBE-1.13
13	Facilities	PW9431	B46 MI Museum Life Safety Brickwork Repair	Repair the failing brickwork of Building 46A, the small building located in the middle of the Mare Island Museum Building 46.	Mare Island Building 46A	Nature and Built Environment	Community Standards	NBE-1.13
14	Infrastructure: Transportation	PW9730	Citywide Road Diet Study	This project is to review which roadways in the City are good candidates for reducing the number of lanes from 4 lanes to 2 lanes.	Citywide	Mobility, Transportation, & Connectivity	Safe Streets, Citywide Mobility	MTC-2.1, MTC-2.4, MTC-2.7
15	Infrastructure: Transportation	PW9731	Redwood Street Road Diet	This project will reduce the number of travel lanes on Redwood Street between Tuolumne Street and Broadway, from four lanes down to two lanes. Turning lanes and loop detectors at the traffic signals will also be rearranged.	Redwood Street between Tuolumne Street & Broadway	Mobility, Transportation, & Connectivity	Safe Streets, Citywide Mobility	MTC-2.1, MTC-2.4, MTC-2.7
16	Infrastructure: Transportation	PW9729	Sacramento Street Road Diet	This project will reduce the number of travel lanes on Sacramento Street between Tennessee Street and Redwood Street, from four lanes down to two lanes. Turning lanes and loop detectors at the traffic signals will also be rearranged.	Sacramento Street between Tennessee Street & Redwood Street	Mobility, Transportation, & Connectivity	Safe Streets, Citywide Mobility	MTC-2.1, MTC-2.4, MTC-2.7
17	Infrastructure: Transportation	PW9703	Springs Road Pavement Rehabilitation	This reconstruction project will consist of pavement rehabilitation, removal and replacement of non-compliant ADA curb ramps, sidewalk, curb and gutter and driveways.	Springs Road between Maywood Drive & Parkwood Drive	Mobility, Transportation, & Connectivity	Citywide Mobility	MTC-2.6, MTC-2.7
18	Infrastructure: Transportation	PW9704	Tennessee Street Pavement Rehabilitation	This reconstruction project will consist of pavement rehabilitation, removal and replacement of non-compliant ADA curb ramps, sidewalk, curb and gutter and driveways.	Tennessee Street between Rollingwood Drive & Curtis Drive	Mobility, Transportation, & Connectivity	Citywide Mobility	MTC-2.6

Attachment 4
FY20-21 General Plan-CIP Conformance Matrix

#	Category	Project ID	Project Name	Description	Location	Vallejo General Plan 2040		
						Chapter	Topical Area	Applicable Goals/Policies (all are policies unless otherwise noted)
19	Infrastructure: Marina	PWM06	Marina Dredging	This project provides ongoing dredging within the Marina to allow ingress and egress of vessels to and from berths and fueling docks.	Vallejo Municipal Marina - 42 Harbor Way	Nature & Built Environment; Mobility, Transportation, & Connectivity	NBE: Community Enhancing Uses; MTC: Waterways	NBE-4.1 (Action B), MTC-3.10 (Actions A and B)
20	Water	WT7093	FLEMING HILL SEDIMENT & FLOCCULATION CHAMBER EQUIPMENT	Replacement and upgrades of the sedimentation and flocculation facilities at the Fleming Hill Water Treatment Plant.	Fleming Hill Water Treatment Plant	Community and People	Healthy Community	POLICY CP-1.13 (Action CP-1.13A, Action CP-1.13B)
21	Water	WT7098	METER REPLACEMENT PROGRAM	Replace water meters and meter reading technology. Total project budget estimated at \$13M to \$18M. Financing TBD - currently exploring options.	Citywide	Community and People	Healthy Community	POLICY CP-1.13 (Action CP-1.13A, Action CP-1.13B)
22	Water	WT7109	NEW ENTERPRISE RESOURCE PLANNING PROJECT (HTE REPLACEMENT)	Annual transfer to Finance Department to support new Enterprise Resource Planning project (HTE replacement)	Citywide	Community and People	Healthy Community	POLICY CP-1.13 (Action CP-1.13A, Action CP-1.13B)
23	Water	WT7116	WATER MAIN REPLACEMENT 20-21	Annual replacement of pipes in the distribution system. FY20-21	Citywide	Community and People	Healthy Community	POLICY CP-1.13 (Action CP-1.13A, Action CP-1.13B)
24	Water	WT7117	GORDON VALLEY WATER MAIN REHAB / REPLACEMENT	Rehab and/or replace the Gordon Valley Water Main that is past its useful life.	Lakes System	Community and People	Healthy Community	POLICY CP-1.13 (Action CP-1.13A, Action CP-1.13B)

**GENERAL PLAN 2040 POLICIES RELATED TO
CAPITAL IMPROVEMENTS, PUBLIC FACILITIES AND
INFRASTRUCTURE**

Chapter 3 – Community & People

POLICY CP-1.7 Green Space. Promote community physical and mental health through provision and preservation of the urban forest, natural areas, and “green” infrastructure (i.e. best practices water management).

- *Action CP-1.7A. Seek funding to develop and implement an Urban Greening Plan that identifies needs, opportunities, projects, and potential funding, in collaboration with community partners.*
- *Action CP-1.7E. Continue to implement green infrastructure practices that draw upon natural processes to address storm water drainage and flood control and potentially add to Vallejo’s network of green spaces.*

POLICY CP-4.4 Foster Collaboration. Foster collaboration between the City, educational institutions, the business community, social service providers, community organizations, and grassroots neighborhood and civic groups.

- *Action CP-4.4A. When feasible, allocate City staff time and resources to volunteer-initiated projects whose activities and actions will help achieve City goals that otherwise could not be accomplished.*
- *Action CP-4.4B. Establish a healthy community consortium, including Solano Public Health and other government agencies, foundations, non-profit and other community and faith-based groups, educational institutions, and businesses to address and promote the community health and wellness topics presented in this Plan.*

POLICY CP-5.2 Lifelong Care. Support community members at all stages of life with programs to improve quality of life.

- *Action CP-5.2A. Coordinate with local and regional agencies and community organizations to address the needs of lower income and unhoused persons, including shelter, food, clothing, health care, mental health, and transportation*
-
- *Action CP-5.2B. Continue to support local community service agencies and organizations in the provision of social services to Vallejoans in need, including special needs services that foster independence for older adults, people with disabilities, and those facing physical or mental challenges*
-
- *Action CP-5.2C. Provide information about shelter and food assistance programs via the range of the City’s communication tools.*

- *Action CP-5.2D. Coordinate with local and regional agencies and organizations to address the welfare of children, through such means as trauma-informed care for children, youth, and families involved with child welfare.*

Chapter 4 – Nature & Built Environment

POLICY NBE-1.7 Green Infrastructure. Encourage the installation of green infrastructure, including tools such as permeable pavement, rain gardens, constructed wetlands, grassy swales, rain barrels and cisterns, and green roofs, to treat stormwater, attenuate floods, increase groundwater recharge, and reduce urban heat islands.

Chapter 5 – Economy, Education, & Training

POLICY EET-1.9 Municipal Services. Provide robust, high-quality municipal services and build revenue to achieve a self-sustaining model of funding.

- *Action EET-1.9A. Continue to partner with public agencies to enhance Vallejo's infrastructure, including active transportation and transit connections and facilities, and services needed for new development and investment.*

Chapter 6 – Mobility, Transportation, & Connectivity

POLICY MTC-1.3 First/Last Mile Connections. Provide enhancements to the local transit network that make it easier and more convenient to use regional transit.

- *Action MTC-1.3A. Pursue One Bay Area grants and other funding to better connect regional transit and the local bicycle and pedestrian network, including through physical infrastructure, wayfinding signage, and real-time information displays.*

POLICY MTC-2.1 Safety First. Prioritize pedestrian, bicycle, and automobile safety over traffic flow.

- *Action MTC-2.1A. Prepare a citywide Bicycle and Pedestrian Master Plan that builds on the 1998 Plan, identifies improvements needed to close gaps in the network and work toward a "Vision Zero" target for eliminating traffic fatalities and reducing non-fatal collisions.*
- *Action MTC-2.1B. Prioritize completion of sidewalk and bicycle projects listed in the Bicycle and Pedestrian Master Plan as City resources allow.*
- *Action MTC-2.1C. Establish a neighborhood traffic-calming program to involve residents in identifying issues on neighborhood streets and actions to address them.*

POLICY MTC-2.4 Citywide Mobility. Maintain a transportation network that provides mobility for all ages and abilities and for all areas of the community.

- *Action MTC-2.4A. Annually update and prioritize the Capital Improvement Program list of roadway and transportation improvements needed to support all modes of travel in Vallejo.*

POLICY MTC-2.6 Pavement Condition. Improve street pavement condition in Vallejo, prioritizing neighborhood corridors and arterials.

- *Action MTC-2.6A. Target neighborhood corridors, commercial corridors, and arterial segments that have a pavement condition index (PCI) of 50 or less and enhance economic development opportunities as top priorities and seek funding for improvements.*

POLICY MTC-2.7 Complete Streets. Increase accessibility for and use of streets by pedestrians, bicyclists, and transit riders.

- *Action MTC-2.7A. Investigate preparing and refining a Complete Streets map, classifying and prioritizing streets for alternative modes of transport.*
- *Action MTC-2.7B. Seek funding to improve sidewalk conditions, including widening of substandard sidewalks and adding street trees and lighting.*
- *Action MTC-2.7D. Adopt the National Association of City Transportation Officials (NACTO) Urban Street Design Guide and Urban Bikeway Design Guide to direct future improvement projects.*
- *Action MTC-2.7E. Factor in bus operational and access needs when considering the location, planning, and design of site improvements, considering such factors as bus operational needs, proximity of building to streets, and provision of sidewalks, supporting an efficient, reliable, and safe transit system accessible to all.*

POLICY MTC-2.11 Sustainable Transportation. Ensure that circulation improvements can be operated and maintained within existing and future resource limitations.

- *Action MTC-2.11A. Annually review transportation projects in the City's Capital Improvement Program to ensure that near-term priorities are achievable given available resources.*

POLICY MTC-2.13 Alternative Fuel Vehicles. Utilize alternative fuel vehicles as much as feasible.

- *Action MTC-2.13A. Work with the Solano Transportation Authority (STA) and other partners to install electric vehicle charging stations in all City-owned parking facilities downtown and at major parking facilities and employment centers.*
- *Action MTC-2.13B. Work with public transportation agencies, such as the Solano Transportation Authority and Soltrans, to develop a strategy to implement a network of public and private alternative fueling stations, such as electric vehicle charging stations and stations providing compressed natural gas (CNG).*

Memos



MEMORANDUM

Date: May 17, 2021

To: Members of the Planning Commission and Interested Parties

From: Margaret Kavanaugh-Lynch, Planning Manager

Subject: Staff Presentation: Density Bonus Regulations Overview

As time allows, Planning Staff will be making informational presentations to the Planning Commission. The first of these presentations will be on the May 17th meeting, and will be an Overview of Density Bonus Regulations.

The purpose of this presentation is to discuss one of the tools that a development team may use to maximize the number of dwelling units in their project, beyond the parameters established in the new Code.

California's Density Bonus Law (California Government Code Sections 65915 – 65918) provides certain developments the ability to increase their density up to a 50% for most projects, depending on the amount of affordable housing provided, and an 80% increase in density for projects which are completely affordable.

The Density Bonus Law is about more than the density bonus itself, however. It is actually a larger package of incentives intended to help make the development of affordable and senior housing economically feasible. Other components include reduced parking requirements, and incentives and concessions such as reduced setback requirements. Often these other tools are even more helpful to project economics than the density bonus itself, particularly the special parking benefits. An excellent overview of California's Density Bonus regulations is included as an Attachment to this memo. Staff will provide a presentation on this topic at the May 17, 2021 meeting.

Attachment: Guide to California Density Bonus Law, by Meyers/Nave, revised January 2021

Guide to the California Density Bonus Law

BY JON GOETZ AND TOM SAKAI

REVISED JANUARY 2021



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Introduction and Overview

Savvy housing developers are taking advantage of California's Density Bonus Law, a mechanism which allows them to obtain more favorable local development requirements in exchange for offering to build or donate land for affordable or senior units. The Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with powerful tools to encourage the development of affordable and senior housing, including up to a 50% increase in project densities for most projects, depending on the amount of affordable housing provided, and an 80% increase in density for projects which are completely affordable. The Density Bonus Law is about more than the density bonus itself, however. It is actually a larger package of incentives intended to help make the development of affordable and senior housing economically feasible. Other tools include reduced parking requirements, and incentives and concessions such as reduced setback and minimum square footage requirements. Often these other tools are even more helpful to project economics than the density bonus itself, particularly the special parking benefits. Sometimes these incentives are sufficient to make the project pencil out, but for other projects financial assistance is necessary to make the project feasible.

In determining whether a development project would benefit from becoming a density bonus project, developers also need to be aware that:

- The Density Bonus is a state mandate. A developer who meets the requirements of the state law is entitled to receive the density bonus and other benefits as a matter of right. As with any state mandate, some local governments will resist complying with the state requirement. But many local governments favor the density bonus as a helpful tool to cut through their own land use requirements and local political issues.
- Use of a density bonus may be particularly helpful in those jurisdictions that impose inclusionary housing requirements for new developments.
- Special development bonuses are available for developers of commercial projects who partner with affordable housing developers to provide onsite or offsite affordable housing. Special bonuses are also available for condominium conversion projects and projects that include childcare facilities.
- The Legislature has recently added density bonuses for housing developments for foster youth, disabled veterans, homeless persons and college students.

How the Density Bonus Works

PROJECTS ENTITLED TO A DENSITY BONUS

Cities and counties are required to grant a density bonus and other incentives or concessions to housing projects which contain one of the following:

- At least 5% of the housing units are restricted to very low income residents.
- At least 10% of the housing units are restricted to lower income residents.
- At least 10% of the housing units in a for-sale common interest development are restricted to moderate income residents.
- 100% of the housing units (other than manager's units) are restricted to very low, lower and moderate income residents (with a maximum of 20% moderate).
- At least 10% of the housing units are for transitional foster youth, disabled veterans or homeless persons, with rents restricted at the very low income level.
- At least 20% of the housing units are for low income college students in housing dedicated for full-time students at accredited colleges.
- The project donates at least one acre of land to the city or county for very low income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.
- The project is a senior citizen housing development (no affordable units required).
- The project is a mobilehome park age-restricted to senior citizens (no affordable units required).

DENSITY BONUS AMOUNT

The amount of the density bonus is set on a sliding scale, based upon the percentage of affordable units at each income level, as shown in the chart on the following page. (Note that maximum density bonus amounts for very low, lower and moderate income housing were increased by legislation approved in 2020.)



DENSITY BONUS CHART*

AFFORDABLE UNIT PERCENTAGE**	VERY LOW INCOME DENSITY BONUS	LOW INCOME DENSITY BONUS	MODERATE INCOME DENSITY BONUS***	LAND DONATION DENSITY BONUS	SENIOR****	FOSTER YOUTH/ DISABLED VETS/ HOMELESS	COLLEGE STUDENTS
5%	20%	-	-	-	20%	-	-
6%	22.5%	-	-	-	20%	-	-
7%	25%	-	-	-	20%	-	-
8%	27.5%	-	-	-	20%	-	-
9%	30%	-	-	-	20%	-	-
10%	32.5%	20%	5%	15%	20%	20%	-
11%	35%	21.5%	6%	16%	20%	20%	-
12%	38.75%	23%	7%	17%	20%	20%	-
13%	42.5%	24.5%	8%	18%	20%	20%	-
14%	46.25%	26%	9%	19%	20%	20%	-
15%	50%	27.5%	10%	20%	20%	20%	-
16%	50%	29%	11%	21%	20%	20%	-
17%	50%	30.5%	12%	22%	20%	20%	-
18%	50%	32%	13%	23%	20%	20%	-
19%	50%	33.5%	14%	24%	20%	20%	-
20%	50%	35%	15%	25%	20%	20%	35%
21%	50%	38.75%	16%	26%	20%	20%	35%
22%	50%	42.5%	17%	27%	20%	20%	35%
23%	50%	46.25%	18%	28%	20%	20%	35%
24%	50%	50%	19%	29%	20%	20%	35%
25%	50%	50%	20%	30%	20%	20%	35%
26%	50%	50%	21%	31%	20%	20%	35%
27%	50%	50%	22%	32%	20%	20%	35%
28%	50%	50%	23%	33%	20%	20%	35%
29%	50%	50%	24%	34%	20%	20%	35%
30%	50%	50%	25%	35%	20%	20%	35%
31%	50%	50%	26%	35%	20%	20%	35%
32%	50%	50%	27%	35%	20%	20%	35%
33%	50%	50%	28%	35%	20%	20%	35%
34%	50%	50%	29%	35%	20%	20%	35%
35%	50%	50%	30%	35%	20%	20%	35%
36%	50%	50%	31%	35%	20%	20%	35%
37%	50%	50%	32%	35%	20%	20%	35%
38%	50%	50%	33%	35%	20%	20%	35%
39%	50%	50%	34%	35%	20%	20%	35%
40%	50%	50%	35%	35%	20%	20%	35%
41%	50%	50%	38.75%	35%	20%	20%	35%
42%	50%	50%	42.5%	35%	20%	20%	35%
43%	50%	50%	46.25%	35%	20%	20%	35%
44%	50%	50%	50%	35%	20%	20%	35%
100%*****	80%	80%	80%	35%	20%	20%	35%

*All density bonus calculations resulting in fractions are rounded up to the next whole number.

**Affordable unit percentage is calculated excluding units added by a density bonus.

***Moderate income density bonus applies to for sale units, not to rental units.

****No affordable units are required for senior units.

***** Applies when 100% of the total units (other than manager's units) are restricted to very low, lower and moderate income (maximum 20% moderate).

REQUIRED INCENTIVES AND CONCESSIONS

In addition to the density bonus, the city or county is also required to provide one or more “incentives” or “concessions” to each project which qualifies for a density bonus (except that market rate senior citizen projects with no affordable units, and land donated for very low income housing, do not appear to be entitled to incentives or concessions). A concession or incentive is defined as:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements; or
- Approval of mixed use zoning; or
- Other regulatory incentives or concessions which actually result in identifiable and actual cost reductions.

The number of required incentives or concessions is based on the percentage of affordable units in the project:

NO. OF INCENTIVES/ CONCESSIONS	VERY LOW INCOME PERCENTAGE	LOWER INCOME PERCENTAGE	MODERATE INCOME PERCENTAGE
1	5%	10%	10%
2	10%	17%	20%
3	15%	24%	30%
4	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)

The city or county is required to grant the concession or incentive proposed by the developer unless it finds that the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to law. The Density Bonus Law restricts the types of information and reports that a developer may be required to provide to the local jurisdiction in order to obtain the requested incentive or concession. The local jurisdiction has the burden of proof in the event it declines to grant a requested incentive or concession. Financial incentives, fee waivers and reductions in dedication requirements may be, but are not required to be, provided by the city or county. The developer may be entitled to the incentives and concessions even without a request for a density bonus.

OTHER FORMS OF ASSISTANCE

A development qualifying for a density bonus also receives two additional forms of assistance which have important benefits for a housing project:

- **Waiver or Reduction of Development Standards.** If any other city or county development standard would physically prevent the project from being built at the permitted density and with the granted concessions/incentives, the developer may propose to have those standards waived or reduced. The city or county is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concessions/incentives. The city or county is not required to waive or reduce development standards that would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. The waiver or reduction of a development standard does not count as an incentive or concession, and there is no limit on the number of development standard waivers that may be requested or granted. Development standards which have been waived or reduced utilizing this section include setback, lot coverage and open space requirements, and should apply to building height limits as well. This ability to force the locality to modify its normal development standards is sometimes the most compelling reason for the developer to structure a project to qualify for the density bonus.

- **Maximum Parking Requirements.** Upon the developer's request, the city or county may not require more than the following parking ratios for a density bonus project (inclusive of parking for persons with disabilities):

Studio	1 space
1 Bedroom	1 space
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

- **Special Parking Requirements.** Lower parking ratios apply to specified projects (although local jurisdictions can require higher parking ratios if supported by a specified parking study):

Rental/for sale projects with at least 11% very low income or 20% lower income units, within 1/2 mile of accessible major transit stop	0.5 spaces per unit
Rental projects 100% affordable to lower income, within 1/2 mile of accessible major transit stop	0 spaces per unit
Rental senior projects 100% affordable to lower income, either with paratransit service or within 1/2-half mile of accessible bus route (operating at least eight times per day)	0 spaces per unit
Rental special needs projects 100% affordable to lower income households, either with paratransit service or within 1/2-half mile of accessible bus route (operating at least eight times per day)	0 spaces per unit
Rental supportive housing developments 100% affordable to lower income households	0 spaces per unit

Onsite spaces may be provided through tandem or uncovered parking, but not onstreet parking. Requesting these parking standards does not count as an incentive or concession, but the developer may request further parking standard reductions as an incentive or concession. This is one of the most important benefits of the density bonus statute. In many cases, achieving a reduction in parking requirements may be more valuable than the additional permitted units. In higher density developments requiring the use of structured parking, the construction cost of structured parking is very expensive, costing upwards of \$20,000 per parking space. While this provision of the density bonus statute can be used to reduce excessive parking requirements, care must be taken not to impact the project's marketability by reducing parking to minimum requirements which lead to parking shortages.

AFFORDABLE HOUSING RESTRICTIONS

- **Rental Units.** Affordable rental units must be restricted by an agreement which sets maximum incomes and rents for those units. As of January 1, 2015, the income and rent restrictions must remain in place for a 55 year term for very low or lower income units (formerly only a 30 year term was required).

Rents must be restricted as follows (continue to page 7):



- For very low income units, rents may not exceed 30% x 50% of the area median income for a household size suitable for the unit.
 - For lower income units, rents may not exceed 30% x 60% of the area median income for a household size suitable for the unit.
 - In 100% affordable housing developments, the rent for at least 20% of the units must meet the rent standards of Health and Safety Code Section 50053, and the remaining units may instead meet Low Income Housing Tax Credit rent standards.
 - Area median income is determined annually by regulation of the California Department of Housing and Community Development, based upon median income regulations adopted by the U.S. Department of Housing and Urban Development.
 - Rents must include a reasonable utility allowance.
 - Household size appropriate to the unit means 1 for a studio unit, 2 for a one bedroom unit, 3 for a two bedroom unit, 4 for a three bedroom unit, etc.
- **For Sale Units.** Affordable for sale units must be sold to the initial buyer at an affordable housing cost. Housing related costs include mortgage loan payments, mortgage insurance payments, property taxes and assessments, homeowner association fees, reasonable utilities allowance, insurance premiums, maintenance costs, and space rent.
 - For very low income units, housing costs may not exceed 30% x 50% of the area median income for a household size suitable for the unit.
 - For lower income units, housing costs may not exceed 30% x 70% of the area median income for a household size suitable for the unit.
 - For moderate income units, housing costs may not exceed 35% x 110% of the area median income for a household size suitable for the unit.
 - Buyers must enter into an equity sharing agreement with the city or county, unless the equity sharing requirements conflict with the requirements of another public funding source or law. The equity sharing agreement does not restrict the resale price, but requires the original owner to pay the city or county a portion of any appreciation received on resale.
 - The city/county percentage of appreciation is the purchase price discount received by the original buyer, plus any down payment assistance provided by the city/county. (For example, if the original sales price is \$300,000, and the original fair market value is \$400,000, and there is no city/county down payment assistance, the city/county subsidy is \$100,000, and the city/county's share of appreciation is 25%).



- The seller is permitted to retain its original down payment, the value of any improvements made to the home, and the remaining share of the appreciation.
- The income and affordability requirements are not binding on resale purchasers (but if other public funding sources or programs are used, the requirements may apply to resales for a fixed number of years).

LOCAL GOVERNMENT PROCESSING OF DENSITY BONUS APPLICATIONS

Under new legislation effective in 2019, local governments are now required to notify developers what information must be submitted for a complete density bonus application. Once a development application is determined to be complete, the local government must notify the developer the level of density bonus and parking ratio the development is eligible to receive. If the developer requests incentives, concessions, waivers or reductions of development standards, the local jurisdiction is required to notify the developer if it has submitted sufficient information necessary for the local government to make a determination on those issues.

HOW THE DENSITY BONUS WORKS FOR 100% AFFORDABLE PROJECTS

2019 legislation requires local governments to grant an 80% density bonus to housing projects in which all of the units (other than manager's units) are restricted to very low, low and moderate income residents, with a maximum of 20% restricted to moderate income units. If a 100% affordable project is located within a half mile of a major transit stop, the local government may not impose any maximum density limits at all, and the project is further entitled to receive a maximum height increase of up to three additional stories or 33 feet. However, if the project receives a waiver from maximum controls on density, it is not eligible for the waiver or reduction of any development standards which would otherwise be available. 100% affordable projects are also entitled to a fourth incentive or concession.

HOW THE DENSITY BONUS WORKS FOR SENIOR PROJECTS

As shown in the Density Bonus Chart on page 4, a senior citizen housing development of at least 35 units meeting the requirements of Section 51.3 or 51.12 of the Civil Code qualifies for a 20% density bonus. This is a very desirable option for senior housing developments. In jurisdictions where the local ordinances do not reduce the parking requirements for senior housing developments, the reduced parking requirements alone may justify applying for a density bonus.

HOW THE DENSITY BONUS WORKS FOR STUDENT HOUSING PROJECTS

New legislation taking effect in 2019 requires cities and counties to grant a 35% density bonus for housing developments that will include at least 20% of the units for low income college students. The housing must be used exclusively for full-time students at accredited colleges, and must be subject to an operating agreement or master lease with one or more colleges. Unlike the maximum income requirements for other forms of affordable housing, resident income levels are determined through the student's eligibility for the state's Cal Grant financial aid program. Affordable rent levels are also specially tailored for a student population, with maximum rents established per bed for individual residents, rather than for the entire apartment unit. Homeless students receive priority for affordable units.

HOW THE DENSITY BONUS WORKS FOR COMMERCIAL PROJECTS

The Density Bonus Law requires that cities and counties provide a "development bonus" to commercial developers who partner with affordable housing developers for the construction of affordable housing on the commercial project site, or offsite within the jurisdiction located near schools, employment and a major transit stop. The commercial developer may participate through the donation of land or funds for the

affordable housing, or direct construction of the housing units. The partnership between the commercial developer and the affordable developer can occur through a newly formed legal entity such as a corporation, LLC or partnership, or can take the shape of a contractual agreement between the parties. To be eligible for the development bonus, at least 30% of the housing units must be restricted to lower income residents or 15% of the housing units must be restricted to very low income residents. Unlike the primary Density Bonus Law, there is no fixed amount of increased density awarded to the developer. Instead, the development bonus can be any mutually agreeable incentive, including up to a 20% increase in development intensity, floor area ratio, or height limits, up to a 20% reduction in parking requirements, use of a limited use elevator, or an exception to a zoning ordinance or land use requirement. Commercial developers who need extra leverage to obtain more favorable development standards for their project may want to consider providing affordable housing in order to take advantage of the benefits of the development bonus.

HOW THE DENSITY BONUS WORKS FOR CONDOMINIUM CONVERSION PROJECTS

The density bonus statute provides for a density bonus of up to 25% for condominium conversion projects providing at least 33% for the total units to low or moderate income households or 15% of the units to lower income households. Many condominium conversion projects are not designed in a manner that allows them to take advantage of the opportunity to construct additional units, but some projects may find this helpful.

HOW THE DENSITY BONUS WORKS FOR CHILDCARE

Housing projects that provide childcare are eligible for a separate density bonus equal to the size of the childcare facility. The childcare facility must remain in operation for at least the length of the affordability covenants. A percentage of the childcare spaces must also be made available to low and moderate income families. A separate statute permits cities and counties to grant density bonuses to commercial and industrial projects of at least 50,000 square feet, when the developer sets aside at least 2,000 square feet in the building and 3,000 square feet of outside space for a childcare facility.

HOW TO OBTAIN A DENSITY BONUS THROUGH LAND DONATION

Many market rate housing developers are uncomfortable with building and marketing affordable units themselves, whether due to their lack of experience with the affordable housing process or because of their desire to concentrate on their core market rate homes. Other developers may have sites that are underutilized in terms of project density. The Density Bonus Law contains a special sliding scale bonus for land donation which allows those developers to turn over the actual development of the affordable units to local agencies or experienced low income developers. The density bonus is available for the donation of at least an acre of fully entitled land, with all needed public facilities and infrastructure, and large enough for the construction of a high density very low income project containing 10% of the total homes in the development. The parcel must be located within the boundary of the proposed development or, subject to the approval of the jurisdiction, within one-fourth mile of the boundary of the proposed development. The more units that can be built on the donated land, the larger the density bonus. Because of the parcel size requirements, this option is only practical for larger developments. The land donation density bonus can be combined with the regular density bonus provided for the development of affordable units, up to a maximum 35% density bonus. A master planned community developer needs to carefully evaluate the land donation option as opposed to engaging an affordable housing developer to fulfill the project's affordable housing obligations. In many cases the master developer will prefer to control the affordable component of the project through a direct agreement with the affordable housing developer, rather than allowing the local government to control the project.

FLOOR AREA RATIO BONUSES

Under new legislation effective in 2019, a local jurisdiction is permitted to grant a floor area ratio bonus rather than a traditional density bonus to certain high density affordable housing projects adjacent to public

transit. Eligible projects are also entitled to special parking ratios of one-tenth of a parking space per affordable unit and one-half space per market rate unit. To be eligible for the floor area ratio bonus, the project must restrict at least 20 percent of the units to very low income tenants, must be located within a transit priority area or near a major transit stop, and must be in compliance with local height limits.

How the Density Bonus Can Help in a Friendly Jurisdiction

While the Density Bonus Law is often used by developers to obtain more housing than the local jurisdiction would ordinarily permit, it can also be a helpful land use tool in jurisdictions which favor the proposed project and want to provide support. Planners in many cities and counties may be disposed by personal ideology or local policy to encourage the construction of higher density housing and mixed use developments near transit stops and downtown areas, but are hampered by existing general plan standards and zoning from approving these sorts of projects. Elected officials often support these projects too, but may find it politically difficult to oppose neighborhood and environmental groups over the necessary general plan amendments, zoning changes and CEQA approvals.

The density bonus can provide a useful mechanism for increasing allowable density without requiring local officials to approve general plan amendments and zoning changes. A project that satisfies the requirements of the Density Bonus Law often can obtain the necessary land use approvals through the award of the density bonus units and requested concessions and incentives, without having to amend the underlying land use requirements. Friendly local officials may encourage the use of the density bonus to “force” the jurisdiction to approve a desired project.



How the Density Bonus Law Can Help in a Hostile Jurisdiction

It is important to know that the density bonus is a state law requirement which is mandatory on cities and counties, even charter cities which are free from many other state requirements. A developer who meets the law's requirements for affordable or senior units is entitled to the density bonus and other assistance as of right, regardless of the locality's desires (subject to limited health and safety exceptions). The density bonus statute can be used to achieve reductions in development standards or the granting of concessions or incentives from jurisdictions that otherwise would not be inclined to grant those items. Examples might include a reduction in parking standards if those standards are deemed excessive by the developer, or other reductions in development standards if needed to achieve the total density permitted by the density bonus.

Developers who nonetheless encounter hostility from local jurisdictions are provided several tools to ensure that a required density bonus is actually granted. Developers are entitled to an informal meeting with a local jurisdiction which fails to modify a requested development standard. If a developer successfully sues the locality to enforce the density bonus requirements, it is entitled to an award of its attorneys' fees. The obligation to pay a developer's attorneys' fees is a powerful incentive for local jurisdictions to voluntarily comply with the state law density bonus requirements, even when the jurisdiction is not in favor of its effects on the project.

CEQA Issues in Density Bonus Projects

Although there is no specific density bonus exemption from the California Environmental Quality Act (CEQA), many density bonus projects are likely candidates for urban infill and affordable housing exemptions from CEQA. One commonly invoked exemption is the Class 32 urban infill exemption found in CEQA Guidelines Section 15332. That exemption is available if the project is consistent with applicable general plan designation and zoning, the site is five acres or less and surrounded by urban uses, is not habitat for endangered, rare or threatened species, does not have any significant effects relating to traffic, noise, air quality or water quality, and is adequately served by utilities and public services. Other exemptions are available for high density housing projects near major transit stops (CEQA Guidelines Section 15195) and affordable housing projects of up to 100 units (CEQA Guidelines Section 15194).

A 2011 case, *Wollmer v. City of Berkeley*, clarified the use of the CEQA infill exemption for density bonus projects. In that case, an opponent of a Berkeley density bonus project challenged the City's use of the urban infill exemption on the grounds that the City's modifications and waivers of development standards, as required under the Density Bonus Law, meant that the project was not consistent with existing zoning. The court rejected that argument, finding that the modifications required by the Density Bonus Law did not disqualify the project from claiming the exemption.

Not all density bonus projects will qualify for one of these CEQA exemptions, however. Sometimes the additional density provided to non-exempt projects may bring the project out of the coverage of an existing CEQA approval for a general plan, specific plan or other larger project. For instance, if a previously approved environmental impact report analyzed a 100 unit project as the largest allowed under existing zoning, but the developer is able to qualify for 120 units with a density bonus, the existing EIR may not cover the larger project. The larger density bonus project may require additional CEQA analysis for approval.

Using the Density Bonus to Satisfy Inclusionary Housing Requirements

Many of California's cities and counties have adopted inclusionary housing ordinances, which typically require that a specified percentage of units in a new housing development be restricted as affordable units. The inclusionary requirements significantly reduce income from rental units and sales prices of for-sale homes. In today's tight housing market, compliance with local inclusionary requirements may make many projects economically infeasible. The density bonus provides one method for developers to improve the economics of their project while still complying with the inclusionary. A 2013 case, *Latinos Unidos del Valle de*

Napa y Solano v. County of Napa, held that inclusionary units qualify as affordable units for purposes of the Density Bonus Law. The case confirmed that the density bonus is a financial tool available to help developers achieve city and county inclusionary housing requirements.

Density Bonus and Replacement Housing

Developers obtaining a density bonus are required to replace existing units which were previously occupied by very low or lower income households or subject to rent control, when those units have been demolished or vacated prior to the density bonus application. The housing development must also meet the applicable affordable housing standards, including the replacement units. As a result of uncertainty about how to apply these standards when the income levels of prior residents is unknown. The Density Bonus Law establishes a rebuttable presumption for the income level of the replacement unit when the income level of the actual prior resident is unknown.

Density Bonus in the Coastal Zone

When affordable housing is proposed in the coastal zone, the Density Bonus Law's focus on encouraging the development of affordable housing could clash with the California Coastal Act's focus on environmental protection. Legislation effective in 2019 now requires the density bonus to be administered in the Coastal Zone in a manner that is consistent and harmonized with the California Coastal Act. This legislation overturns a 2016 appellate court ruling, *Kalnel Gardens, LLC v. City of Los Angeles*, which found that a proposed housing project that violates the Coastal Act as a result of a density bonus could be denied on that basis. The court in *Kalnel Gardens* held that the Density Bonus Law is subordinate to the Coastal Act, but the new language attempts to strike a balance between the state goals of promoting housing and protecting the coast.

Density Bonus – A Flexible Tool

The Density Bonus Law can be a powerful tool for different types of development projects, whether they are traditional affordable housing projects, predominantly market rate housing developments, or senior projects. Obtaining greater density can help the developer of any project bring costs and financing sources into line by putting more homes on the land, reducing the per unit land costs. Use of the favorable parking requirements can reduce the amount of costly land needed for parking. The incentives and concessions to be provided by the local government can provide a helpful way to modify development requirements which may stand in the way of a successful project. Of course there is a price to pay for these benefits—the affordable units needed to earn the density bonus. Developers need to make a cost-benefit determination whether the cost of compliance is worth the benefits. But the Density Bonus Law is unquestionably a useful option for housing developers trying to make financial sense of projects in today's economy.

Density Bonus Statutes

Government Code Sections 65915 – 65918.

Effective as of January 1, 2021

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of

development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata

share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or

city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

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

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low

income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or

city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 17 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 24 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(D) Four incentives or concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this

section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE LOW-INCOME UNITS	PERCENTAGE DENSITY BONUS
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE VERY LOW-INCOME UNITS	PERCENTAGE DENSITY BONUS
5	20
6	22.5

7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE MODERATE-INCOME UNITS	PERCENTAGE DENSITY BONUS
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13

19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

PERCENTAGE VERY LOW-INCOME	PERCENTAGE DENSITY BONUS
10	15
11	16
12	17
13	18
14	19

15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing

units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the

percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or

incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

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

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Located within one-half mile of a major transit stop" means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

(3) "Major transit stop" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(4) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within

one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit.

(B) For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, "natural or constructed impediments" includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets either of the following criteria:

(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or

uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) 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. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments

made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (C) and (D) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

65915.5.

(a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, “density bonus” means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, “other incentives of equivalent financial value” shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

(g) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, and either of the following applies:

(1) The proposed condominium project, inclusive of the units replaced pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, contains affordable units at the percentages set forth in subdivision (a).

(2) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(h) Subdivision (g) does not apply to an applicant seeking a density bonus for a proposed housing development if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

65915.7.

(a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subdivision (c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city, county, or city and county shall grant to the commercial developer a development bonus as prescribed in subdivision (b). Housing shall be constructed on the site of the commercial development or on a site that is all of the following:

(1) Within the boundaries of the local government.

(2) In close proximity to public amenities including schools and employment centers.

(3) Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(b) The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the jurisdiction, that may include, but are not limited to, any of the following:

(1) Up to a 20-percent increase in maximum allowable intensity in the General Plan.

(2) Up to a 20-percent increase in maximum allowable floor area ratio.

(3) Up to a 20-percent increase in maximum height requirements.

(4) Up to a 20-percent reduction in minimum parking requirements.

(5) Use of a limited-use/limited-application elevator for upper floor accessibility.

(6) An exception to a zoning ordinance or other land use regulation.

(c) For the purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city, county, or city and county.

(d) For the purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:

(1) The commercial developer may directly build the units.

(2) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.

(3) The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.

(e) For the purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 shall apply.

(f) Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.

(g) If the developer of the affordable units does not

commence with construction of those units in accordance with timelines ascribed by the agreement described in subdivision (c), the local government may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.

(h) In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low-income households.

(i) Nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under Section 65915.

(j) A development bonus pursuant to this section shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing.

(k) A city or county shall submit to the Department of Housing and Community Development, as part of the annual report required by Section 65400, information describing a commercial development bonus approved pursuant to this section, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements.

(l) For purposes of this section, “partner” shall mean formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing developer for the development of both the commercial and the affordable housing properties.

(m) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

65916.

Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify

the mechanisms and procedures necessary to carry out this section.

65917.

In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

65917.2.

(a) As used in this section, the following terms shall have the following meanings:

(1) “Eligible housing development” means a development that satisfies all of the following criteria:

(A) The development is a multifamily housing development that contains five or more residential units, exclusive of any other floor area ratio bonus or incentive or concession awarded pursuant to this chapter.

(B) The development is located within one of the following:

(i) An urban infill site that is within a transit priority area.

(ii) One-half mile of a major transit stop.

(C) The site of the development is zoned to allow residential use or mixed-use with a minimum planned density of at least 20 dwelling units per acre and does not include any land zoned for low density residential use or for exclusive nonresidential use.

(D) The applicant and the development satisfy the replacement requirements specified in subdivision (c) of Section 65915.

(E) The development includes at least 20 percent of the units, excluding any additional units allowed under a floor area ratio bonus or other incentives or concessions provided pursuant to this chapter, with an affordable housing cost or affordable rent to, and occupied by, persons with a household income equal to or less than 50 percent of the area median income, as determined pursuant to Section 50093 of the Health and Safety Code, and subject to an affordability restriction for a minimum of 55 years.

(F) The development complies with the height

requirements applicable to the underlying zone. A development shall not be eligible to use a floor area ratio bonus or other incentives or concessions provided pursuant to this chapter to relieve the development from a maximum height limitation.

(2) "Floor area ratio" means the ratio of gross building area of the eligible housing development, excluding structured parking areas, proposed for the project divided by the net lot area. For purposes of this paragraph, "gross building area" means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.

(3) "Floor area ratio bonus" means an allowance for an eligible housing development to utilize a floor area ratio over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city or county, calculated pursuant to paragraph (2) of subdivision (b).

(4) "Major transit stop" has the same meaning as defined in Section 21155 of the Public Resources Code.

(5) "Transit priority area" has the same meaning as defined in Section 21099 of the Public Resources Code.

(b) (1) A city council, including a charter city council or the board of supervisors of a city and county, or county board of supervisors may establish a procedure by ordinance to grant a developer of an eligible housing development, upon the request of the developer, a floor area ratio bonus, calculated as provided in paragraph (2), in lieu of a density bonus awarded on the basis of dwelling units per acre.

(2) In calculating the floor area ratio bonus pursuant to this section, the allowable gross residential floor area in square feet shall be the product of all of the following amounts:

(A) The allowable residential base density in dwelling units per acre.

(B) The site area in square feet, divided by 43,560.

(C) 2,250.

(c) The city council or county board of supervisors shall not impose any parking requirement on an eligible housing development in excess of 0.1 parking spaces per unit that is affordable to persons and families with a household income equal to or less than 120 percent of the area median income and 0.5 parking spaces per unit that is offered at market rate.

(d) A city or county that adopts a floor area ratio bonus ordinance pursuant to this section shall allow an applicant seeking to develop an eligible residential

development to calculate impact fees based on square feet, instead of on a per unit basis.

(e) In the case of an eligible housing development that is zoned for mixed-use purposes, any floor area ratio requirement under a zoning ordinance or land use element of the general plan of the city or county applicable to the nonresidential portion of the eligible housing development shall continue to apply notwithstanding the award of a floor area ratio bonus in accordance with this section.

(f) An applicant for a floor area ratio bonus pursuant to this section may also submit to the city, county, or city and county a proposal for specific incentives or concessions pursuant to subdivision (d) of Section 65915.

(g) (1) This section shall not be interpreted to do either of the following:

(A) Supersede or preempt any other section within this chapter.

(B) Prohibit a city, county, or city and county from providing a floor area ratio bonus under terms that are different from those set forth in this section.

(2) The adoption of an ordinance pursuant to this section shall not be interpreted to relieve a city, county, or city and county from complying with Section 65915.

65917.5.

(a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall

be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

65918.

The provisions of this chapter shall apply to charter cities.