PLANNING COMMISSION AGENDA

CHAIRPERSON:
Marvin Hansen

VICE CHAIRPERSON:
Adam Peck

COMMISSIONERS: Mary Beatie, Chris Gomez, Chris Tavarez, Adam Peck, Marvin Hansen

MONDAY, OCTOBER 25, 2021, 7:00 P.M.
VISALIA COUNCIL CHAMBERS
LOCATED AT 707 W. ACEQUIA AVENUE, VISALIA, CA

Citizens may appear at the Planning Commission meeting in person and will be asked to maintain appropriate, physical distancing from others and wear a mask or face shield pursuant to the Governor's Executive Orders and public health guidance during the COVID-19 situation.

1. CALL TO ORDER –
2. THE PLEDGE OF ALLEGIANCE –
3. CITIZEN'S COMMENTS – This is the time for citizens to comment on subject matters that are not on the agenda but are within the jurisdiction of the Visalia Planning Commission. You may provide comments to the Planning Commission at this time, but the Planning Commission may only legally discuss those items already on tonight's agenda.

   The Commission requests that a five (5) minute time limit be observed for Citizen Comments. You will be notified when your five minutes have expired.

4. CHANGES OR COMMENTS TO THE AGENDA –

5. CONSENT CALENDAR – All items under the consent calendar are to be considered routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of the Commission and made a part of the regular agenda.

   a. No Items on Consent Calendar

6. PUBLIC HEARING – Josh Dan, Associate Planner
   Conditional Use Permit No. 2021-26: A request by St. George and St. Bishoy Coptic Orthodox Church to amend Conditional Use Permit No. 2013-30 to refurbish an existing abandoned residence measuring approximately 1,296 square feet into a church office and youth meeting room. The site is zoned R-M-2 (Multi-Family Residential 3,000 sq. ft. per unit) and is located at 1320 South Church Street (APN: 000-014-293). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303, Categorical Exemption No. 2021-43.

7. PUBLIC HEARING – Brandon Smith, Principal Planner
   Conditional Use Permit No. 2021-25: A request by Kaweah Health Medical Center to establish a master sign program for an approximately 21-acre area encompassing the downtown medical center campus in the Downtown Mixed Use (D-MU) and Quasi-Public (QP) zone districts. The master sign program boundaries are generally bound by West Mineral King Avenue, South Locust Street, West Acequia Avenue, and South Johnson Street, and includes the northwest and northeast corners of W. Acequia Avenue and S. Floral Street. The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15311, Categorical Exemption No. 2021-40.

8. PUBLIC HEARING – Brandon Smith, Principal Planner
   Zoning Text Amendment No. 2021-08: A request by the City of Visalia to amend portions of Visalia Municipal Code Title 17 (Zoning Ordinance) as to implement a program contained in the City of Visalia 2020-2023 Housing Element pertaining to regulations for residential uses in Downtown Mixed Use, Commercial Mixed Use, and Office Conversion Zone Districts. The project area is contained within the City of Visalia's Urban Development Boundaries that are illustrated in the Visalia General Plan, Citywide. A previously prepared Program Environmental Impact Report and Negative Declaration adequately analyzed and addresses the project and would recommend that the City Council adopt Environmental Document No. 2021-44 for this project.

9. PUBLIC HEARING – Brandon Smith, Principal Planner
   Zoning Text Amendment No. 2021-07: A request by the City of Visalia to amend Visalia Municipal Code Chapter 17.32, Article 2, to implement a program contained in the City of Visalia 2020-2023 Housing Element pertaining to density bonuses regulations. The project area is contained within the City of Visalia's Urban Development Boundaries that are illustrated in the Visalia General Plan, Citywide. A previously prepared Program Environmental Impact Report and Negative Declaration adequately analyzed and addresses the project and would recommend that the City Council adopt Environmental Document No. 2021-44 for this project.

10. CITY PLANNER / PLANNING COMMISSION DISCUSSION –
    a. Next Planning Commission Meeting is Monday, November 08, 2021.
    b. Mike Olmos is the new Interim City Planner.
    c. Update to City Council on Temporary Signs.

The Planning Commission meeting may end no later than 11:00 P.M. Any unfinished business may be continued to a future date and time to be determined by the Commission at this meeting. The Planning Commission routinely visits the project sites listed on the agenda.

For Hearing Impaired – Call (559) 713-4900 (TTY) 48-hours in advance of the scheduled meeting time to request signing services.

Any written materials relating to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the City Office, 315 E. Acequia Ave. Visalia, CA 93291, during normal business hours.

APPEAL PROCEDURE

THE LAST DAY TO FILE AN APPEAL IS THURSDAY, NOVEMBER 4, 2021, BEFORE 5 PM

According to the City of Visalia Zoning Ordinance Section 17.02.145 and Subdivision Ordinance Section 16.04.040, an appeal to the City Council may be submitted within ten days following the date of a decision by the Planning Commission. An appeal form with applicable fees shall be filed with the City Clerk at 220 N. Santa Fe, Visalia, CA 93292. The appeal shall specify errors or abuses of discretion by the Planning Commission, or decisions not supported by the evidence in the record. The appeal form can be found on the city's website www.visalia.city or from the City Clerk.

THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, NOVEMBER 8, 2021

REPORT TO CITY OF VISALIA PLANNING COMMISSION

HEARING DATE: October 25, 2021

PROJECT PLANNER: Brandon Smith, Principal Planner
Phone: (559) 713-4636
E-Mail: brandon.smith@visalia.com

SUBJECT: **Zoning Text Amendment No. 2021-07:** A request by the City of Visalia to amend Visalia Municipal Code Chapter 17.32, Article 2, to implement a program contained in the City of Visalia 2020-2023 Housing Element pertaining to density bonuses regulations. The project area is contained within the City of Visalia's Urban Development Boundaries that are illustrated in the Visalia General Plan, Citywide.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt Resolution No. 2021-47, recommending that the City Council approve adoption of Zoning Text Amendment No. 2021-07. This recommendation is based on the findings contained therein and summarized as follows:

- The Zoning Text Amendment is consistent with adopted Implementation Program 3.19 of the Housing Element General Plan;
- The Zoning Text Amendment is consistent with the goals, objectives, and policies of the City's General Plan.

RECOMMENDED MOTION

I move to recommend that the City Council approve Zoning Text Amendment No. 2021-07, based on the findings and conditions in Resolution No. 2021-47.

PROJECT DESCRIPTION AND BACKGROUND

Zoning Text Amendment (ZTA) No. 2021-07 is a city-initiated request to implement a housing-related Zoning Ordinance text amendment that stems from the adoption of the 2020-2023 Housing Element Update. The Housing Element was adopted by the City Council on December 3, 2019 and subsequently found by State Housing and Community Development (HCD) to be in full compliance with state Housing Element law. Following adoption, the Housing Element is implemented through a series of implementation programs.

The proposed ZTA represents part of the second round of changes being undertaken to help fulfill the intended outcomes or objectives of the Housing Element (in an effort to help remove or overcome constraints to housing development). The first round of changes was completed in 2020 and implemented six programs pertaining to relatively straightforward changes bringing the City's Zoning Ordinance into compliance with State housing law.

This ZTA fulfills one implementation program – Consistency with State Density Bonus Law (Program 3.19), described as follows:

> The City shall review and amend its Zoning Ordinance to ensure that its density bonus regulations remain consistent with state law (Government Code Sections 65915 through 65918). This program includes the addition of a housing unit replacement program subject to the requirements of Government Code Section 65915(c)(3). The replacement program would be subject to sites identified in the site inventory where any new development (residential,

mixed-use or non-residential) occurs on a site that has been occupied by or restricted for the use of lower-income households at any time during the previous five years.

The entire Housing Element can be accessed at the following link:

https://www.visalia.city/depts/community_development/planning/gp.asp.

PROJECT ANALYSIS

Overview of State Density Bonus Law

State density bonus law (Government Code §65915 – 65918, see Exhibit "B") allows a developer to increase density (the number of new, market-rate dwelling units allowed per acre) on a property above the maximum set under a city's local land use plan (Visalia General Plan). In addition, qualifying applicants can also receive reductions in required development standards such as setbacks, height limits, and parking requirements when such deviations are necessary to achieve the density allowed under state law. In exchange for a density increase (up to a maximum of 35 percent above a city's locally imposed maximum density), a certain number of the new dwelling units must be reserved for very low, low, or moderate-income households, or for other qualifying housing types such as senior housing, for a period of not less than 55 years.

The requirement for a local density bonus ordinance is stipulated under state density bonus law, as reflected below:

§65915(a)

"All cities…shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city…from complying with this section."

It is important to note that a jurisdiction may not enact local laws that conflict with state law or prohibit what the legislature intends to authorize.

Proposal

The City's ordinance pertaining to density bonuses (Visalia Municipal Code Chapter 17.32 Article 2) is generally a condensed restatement of the State Density Bonus Law to meet our obligation to implement the law but with no local additions to density bonus provisions. This ordinance is typically updated upon completion of a City Housing Element Update to address any revisions to state law adopted in prior years. The last update to the City's ordinance pertaining to density bonuses was in 2017, following the adoption of the 5-cycle Housing Element Update in 2016.

Because the city is compelled to comply with state density bonus allowances, the City's density bonus ordinance should not just be a copy of the state law, but rather focus more on the permit processing requirements for density bonus applications.

This Zone Text Amendment proposes to remove current code language that restates the state law and replace it with a direct reference to the state code. This in turn will help reduce the need to regularly update the city's ordinance when the state makes changes to the law, which has been occurring on an annual basis over the past several years.

Also, this Zone Text Amendment will enact state-mandated requirements and standards for processing and reviewing density bonus applications. The new text will focus more on describing the City's application requirements and process for any person seeking to request a density bonus and any incentive(s), waiver(s), parking reductions, or commercial development bonus provided by State law.

The specific text that repeals the current Chapter 17.32 Article 2 (Density Bonuses) and the ensuing replacement text is found in Exhibit "A" of the attached Resolution.

Analysis

A primary reason for this Amendment is to prevent the need to repeatedly update the City's ordinance in order to keep up with amendments passed to the State Density Bonus Law. By simply referring directly to State law, Visalia's own ordinance will always be in compliance when amendments are passed to State law. One or more pieces of new legislation are routinely passed each year by the State that affects density bonuses, and more change are expected in the coming years. For example:

- Senate Bill 290, signed into law on September 28, 2021 and effective January 1, 2022, provides clarifications and revisions to the Density Bonus Law.
- Assembly Bill 2345, signed into law in 2020 and effective January 1, 2021, expands and enhances development incentives for projects with affordable and senior housing components and increases the State Density Bonus from 35% to 50%.
- Assembly Bill 1763, signed into law in 2019, added new affordability categories and substantially increased density bonuses for certain projects.
- Assembly Bill 2753, signed into law in 2018, expedites the processing of density bonus applications pursuant to the State Density Bonus Law.
- Assembly Bill 1227, signed into law in 2018, extends the State Density Bonus Law to student housing.
- Other likewise bills have been passed in years prior to 2018.

Another reason for this Amendment is that Visalia's codes do not seek to allow density bonuses or any affiliated incentives, waivers, etc. that would go above and beyond what the State Density Bonus Law would allow. Similarly, cities do not have the legal authority to adopt rules that are more restrictive than state law. Their authority is largely limited to procedural matters and to adopting regulations that provide more flexibility and allowances than state law allows.

The density bonus is a tool that has been used infrequently in Visalia, though current increased pressure and opportunities to develop more market rate and affordable housing may cause this tool to be used more often. Visalia's last density bonus approval that resulted in an increase in density for a residential development was in 2005, pertaining to a multi-family residential development located at Lovers Lane and K Avenue. Within the last year, the density bonus was used to provide certain concessions to off-site improvements in association with The Lofts at Fort Visalia project, on the basis that the project was providing 100% affordable housing.

Environmental Review

California Environmental Quality Act (CEQA) Section 15183(a) mandates that projects which are consistent with the development density established by general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.

In accordance with CEQA guidelines, Initial Study No. 2021-44 was prepared for this project, which disclosed the proposed project has no new effects that could occur, or new mitigation measures that would be required that have not been addressed within the scope of the Program Environmental Impact Report (SCH No. 2010041078). The Environmental Impact Report prepared for the City of Visalia General Plan was certified by Resolution No. 2014-37, adopted on October 14, 2014.

In addition, an Initial Study with Negative Declaration for the General Plan Housing Element (Negative Declaration No. 2019-63) was also prepared, wherein the environmental review assessed the establishment of goals, policies, and implementation programs.

Therefore, staff concludes that the previously prepared Program Environmental Impact Report and Negative Declaration adequately analyzed and addresses the project and would recommend that the City Council adopt Environmental Document No. 2021-44 for this project.

RECOMMENDED FINDINGS

1. That the Zoning Text Amendment is consistent with the intent of the General Plan and Zoning Ordinance and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That applying the proposed Zone Code standards to future housing and residential uses will encourage increased housing options, including but not limited to affordable housing, throughout the City, as endorsed through the City of Visalia 2020-2023 Housing Element Update (5th Cycle Four-Year Housing Element Update). These standards are designed to promote and ensure compatibility with adjacent land uses.
3. That prior environmental review documents have been prepared and adopted that are directly applicable to this Zoning Text Amendment, including a Program Environmental Impact Report for the preparation of the General Plan Update (SCH No. 2010041078), a Negative Declaration for the preparation of the General Plan Housing Element (Negative Declaration No. 2019-63), and an Initial Study for the preparation of the Zoning Ordinance Update (Environmental Document No. 2016-41). Furthermore, an Initial Study was prepared for this project, consistent with the California Environmental Quality Act (CEQA), which disclosed that environmental impacts are determined to be not significant for this project, that the project has no new effects that could occur, and does not require any new mitigation measures that have not been addressed within the scope of the prior environmental review documents. Therefore, staff concludes that the previously prepared Program Environmental Impact Report and Negative Declaration adequately analyzed and addresses the project, and the Planning Commission recommends to the City Council that Environmental Document No. 2021-44 can be adopted for this project.

APPEAL INFORMATION

The Planning Commission's recommendation on the Zoning Text Amendment is advisory only and is automatically referred to the City Council for final action.

Attachments:

- Related Plans and Policies
- Resolution No. 2021-47
- Exhibit "A" – Applicable General Plan Housing Element Programs
- Exhibit "B" – Government Code Section 65915
- Initial Study / Environmental Document No. 2021-44

Zoning Ordinance [Title 17 of Visalia Municipal Code]

Chapter 17.32 SPECIAL PROVISIONS

Article 2. Density Bonuses, Concessions and Other Incentives for Lower and Very Low-Income Households and for Senior Housing.

17.32.170 Purpose and intent.

The California Legislature has determined that the provision of housing for lower and very low income individuals and senior citizens is of primary importance in the state and must be encouraged at the local level. The purpose of this article is to comply with the provisions of California Government Code Section 65915 requiring the city to provide incentives to developers of housing for lower and very low income individuals, senior citizens, and special needs groups. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.1)

17.32.180 Applicability.

This article shall apply to all housing developments consisting of five or more units. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.2)

17.32.190 Definitions.

As used in this article, the following words and phrases shall have the following meanings:

"Affordable housing unit" shall mean units for which households do not pay more than thirty (30) percent of combined gross income for payment of rent (including monthly allowance for utilities) or monthly mortgage and related expenses.

"Density bonus" means a density increase of at least twenty-five (25) percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date the preliminary proposal is received pursuant to Section 17.32.210. For purposes of complying with Section 17.32.200(A)(1), the density bonus shall not be included when determining the number of housing units that is equal to ten (10) or twenty (20) percent of the total. In housing projects designed for individual ownership, the minimum lot size shall not be less than five thousand (5,000) square feet and the granting of this reduction in lot size shall be considered a method of providing the density bonus and shall not be considered as a granting of an additional concession or incentive.

"Developer" means the legal or equitable owner, or his/her authorized representative, of any property within the city who intends to develop such property in compliance with the provisions of this article.

"Development concession or incentive" means one of the following: (1) a reduction in site development standards, a modification of zoning code requirements, such as a reduction in setbacks, square footage requirements, or parking requirements; (2) approval of mixed-use zoning including but not limited to commercial, office, and/or industrial land uses, if the other land uses will reduce the cost of the housing project and if such non-residential uses are compatible with the project; or (3) other regulatory incentive or concession proposed by the developer to the city that results in identifiable cost reductions.

"Extremely low-income household" means a persons or families whose combined household income is less than thirty (30) percent of the median income (AMI) as established by HUD for the Visalia-Porterville Metropolitan Statistical Area (MSA).

"Housing development" means one or more groups of projects totaling five or more residential units, such as a specific plan area, planned unit development or comprehensive master plan. For purposes of calculating a density bonus, the residential units do not have to be based on an 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.

"Large household" means a household with five or more members.

"Low-income household" means persons and families whose combined income is between fifty-one (51) and eighty (80) percent of the area median income (AMI) as established by HUD for the Visalia-Porterville Metropolitan Statistical Area (MSA) does not exceed the qualifying limits in Section 50079.5 of the California Health and Safety Code (eighty (80) percent of the area median income).

"Moderate-income household" shall mean persons and families whose combined income is between eighty-one (81) and one hundred twenty (120) percent of the area median income (AMI) as established by HUD for the Visalia-Porterville Metropolitan Statistical Area (MSA).

"Qualifying resident" means either: (1) a person sixty-two (62) years of age or older, or (2) fifty-five (55) years of age or older in a senior citizen housing development as defined in Section 51.3 of the California Civil Code.

"Special needs group" means those segments of the population that have a more difficult time finding decent affordable housing due to special circumstances. Under California Housing Element Statutes, these special needs groups consist of the elderly, handicapped, large families, female-headed households farm workers, and the homeless.

"Very low-income households" means persons or families whose combined income is between thirty-one (31) and fifty (50) percent of the area median income (AMI) as established by HUD for the Visalia-Porterville Metropolitan Statistical Area (MSA does not exceed the qualifying limit in Section 50105 of the California Health and Safety Code (fifty (50) percent of the area median income). (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.3)

17.32.200 Grant of density bonus development incentive.

A. A developer shall be entitled to a density bonus as defined in Section 17.32.190, if the developer enters into either a development agreement pursuant to California Government Code Section 65865 et. seq. or another recorded contractual agreement satisfactory to the city with respect to the housing development in which the developer covenants to all of the following: that the affordable and/or special needs units included in the density bonus shall remain affordable units and/or special needs units as specified in Section 17.32.200B.

1. Density bonuses shall be granted as follows: To construct the housing development with at least one of the following:

a. Twenty (20) percent when at least ten (10) percent of the otherwise allowable maximum housing units of the housing development is reserved for low-income households, and incrementally up to a maximum of thirty-five (35) percent when at least twenty (20) percent of the otherwise allowable maximum housing of the housing development is reserved for low-income households; or twenty (20) percent of the otherwise allowable maximum housing of the housing development reserved for lower income households; or

b. At least ten (10) percent of the otherwise allowable maximum housing of the housing development reserved for very low income households twenty (20) percent when at least five (5) percent of the otherwise allowable maximum housing units of the housing development is reserved for very low-income households, and incrementally up to a maximum of thirty-five (35) percent when at least eleven (11) percent of the otherwise allowable maximum housing of the housing development is reserved for very low-income households; or

c. Twenty (20) percent when at least twenty (20) percent of the otherwise allowable maximum housing units of the housing development are reserved for senior housing or special needs groups housing. At least fifty (50) percent of the otherwise allowable maximum housing units of the housing development reserved for qualifying residents.

d. Five (5) percent when at least ten (10) percent of the otherwise allowable maximum housing units of the housing development is reserved for moderate-income households, and incrementally up to a maximum of thirty-five (35) percent of the allowable maximum housing units of the housing development is reserved for moderate-income households.

2. The agreement shall ensure continued affordability of all designated units for lower income households or very low income households or qualifying residents for the time period established in subsection (B) of this section. Continued affordability shall be ensured as follows:

a. Units targeted for lower income households shall be affordable at a rent that does not exceed thirty (30) percent of sixty (60) percent of the area median income as determined pursuant to Section 50079.5 of the California Health and Safety Code.

b. Units targeted for very low income households shall be affordable at a rent that does not exceed thirty (30) percent of fifty (50) percent of the area median income, as determined pursuant to Section 50105 of the California Health and Safety Code.

c. Units targeted for sale to lower and very low income households are to be at a sales price that provides these households the ability to qualify for long-term financing, based on gross salary income as identified by income eligibility standards.

B. The time period to ensure continued affordability shall be at least thirty (30) years. A longer period of time shall be required if the construction or mortgage financing assistance program, mortgage insurance program or rental subsidy program for the housing development, requires a longer period. Notwithstanding the above, this thirty (30)-year period shall be reduced to ten (10) years if the city does not grant at least one additional concession or incentive described in Section 17.32.220(B). The method of providing for continued affordability shall be determined as the city deems appropriate for each specific project and shall be set forth in the development agreement or other recorded contractual agreement. Continued affordability shall be interpreted as providing for occupancy of the dwelling unit by a household with a targeted household income as provided in Section 17.32.200 for the entire period as required hereinabove, even when such unit changes ownership. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.4)

17.32.210 Preliminary proposal.

A. A developer may shall submit a written preliminary proposal for development to determine the means for complying with this article. The preliminary proposal shall be submitted in writing to the city. A preliminary proposal may be submitted prior to any formal requests for general plan amendments, zoning amendments or subdivision map approvals.

B. Within ninety (90) days of receipt of a complete written preliminary proposal, the city shall notify the developer in writing of the procedures that it will use to comply with this article. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.5)

17.32.220 Development incentives and concessions.

A. When required by this article to grant a development incentive, the city shall do one of the following:

1. Grant a density bonus and at least one other concession or incentives set forth in subsection (B) of this section; or

2. Provide other incentives or concessions of equivalent financial value based upon the land cost per dwelling unit.

3. For purposes of approving incentives or concessions identified in Section 17.32.220(B), an exception or concession may be granted in accordance with the process and provisions of Chapter 17.42.

4. The density bonus identified in Section 17.32.220(A)(1) may be used to provide single or multi-family housing subject to approval of the density bonus plan of Section 17.32.230.

5. The waiver of the requirement for a Conditional Use Permit (CUP) for an affordable housing project in the downtown area where a CUP is otherwise required pursuant to this chapter.

6. The reduction of parking requirements for affordable housing projects in the downtown area with less than 80 units from 1.5 parking spaces required per unit to 1 parking space required per unit.

B. For purpose of this section, "concessions or incentives" 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 State Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements or in the ratio of vehicular parking spaces that would otherwise be required;

2. Approval of mixed-use zoning in conjunction with the housing development if commercial, office, industrial, or other land uses are compatible with the housing development and the existing or site plan review in the area where the proposed housing development will be located;

3. Other regulatory incentives or concessions that result in identifiable cost reductions.

4. This subsection (B) shall not require the city to provide direct financial incentives or publicly owned land for the housing development, or to waive fees or dedication requirements. The city shall determine which of the incentives will be provided.

C. The city shall not be required to grant concessions or incentives as defined in subsection (B) of this section if the city council makes a written finding that such concessions or incentives are not required in order to provide affordable housing costs as defined in Section 50052.5 of the California Health and Safety Code or for rents for the targeted units to be set as specified in Section 17.32.200 (A)(2). The city shall grant the requested incentive or concession unless the city makes written findings, based upon substantial evidence, of any of the following:

1. The incentive or concession is not required in order 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 Section 17.32.200(B);

2. The incentive or concession would have a specific adverse impact, as defined in Government Code Section 65589.5, upon the public health and safety or the physical environment or on any real property that is listed in the State or Local Registry of Historical Buildings or Districts, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate- income households.

3. The incentive or concession would be contrary to state or federal law.

D. Incentives and concessions shall be allowed as follows:

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

2. Two incentives or concessions for projects that include at least twenty (20) percent of the total units for low-income households, or at least ten (10) percent for very low-income households, or at least twenty (20) percent for moderate-income households in a common interest development.

3. Three incentives or concessions for projects that include at least thirty (30) percent of the total units for low-income households, or at least fifteen (15) percent for very low-income households, or at least thirty (30) percent for moderate-income in a common interest development.

(Ord. 2017-13 (part), 2017: Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.6)

17.32.230 Density bonus plan.

A. Prior to approval of a tentative subdivision map or parcel map for a housing development for which a density bonus has been requested, or the issuance of a building permit for a housing development not requiring a tentative subdivision or parcel map, the developer shall submit to the city for approval a plan showing the developer's intended integration of the density bonus within the housing development. The city shall review the plan for compliance with the terms of this article and may approve or reject the plan; provided, that the plan shall not be rejected solely on the basis that the plan would allow use of the density bonus in geographic areas of the housing development other than the areas in which units for the lower income households or the very low income households are located.

B. In the event that the geography, topography or configuration of the site is such that the strict application of the city's development and zoning standards would inhibit the utilization of the density bonus on the site, the planning commission and/or city council may waive or modify the development and zoning standards as applied to the housing development as provided in Section 17.32.220(A)(1). No waiver shall be granted under this subsection unless the developer has demonstrated to the satisfaction of the city that the waiver or modification is necessary to make the housing units economically feasible.

C. The city council may, by resolution, adopt development criteria or standards for housing projects or developments approved through this density bonus program. These criteria would be intended to address streetscape, building materials, project design and any other factors deemed necessary to assure project compatibility with surrounding neighborhoods and project design. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.7)

17.32.240 Multiple density bonuses.

A developer who agrees to construct both twenty (20) percent of the total units within a housing development for lower income households and ten (10) percent of the total units for very low income households shall be entitled to only one density bonus and at least one additional concession or incentive identified in Section 17.32.220(B). (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.8)

Chapter 17.44 ZONING AMENDMENTS

17.44.010 Purpose.

As a general plan for Visalia is put into effect, there will be a need for changes in zoning boundaries and other regulations of this title. As the general plan is reviewed and revised periodically, other changes in the regulations of this title may be warranted. Such amendments shall be made in accordance with the procedure prescribed in this chapter. (Ord. 2017-01 (part), 2017: prior code § 7580)

17.44.020 Initiation.

A. A change in the boundaries of any zone may be initiated by the owner of the property within the area for which a change of zone is proposed or by his authorized agent. If the area for which a change of zone is proposed is in more than one ownership, all of the property owners or their authorized agents shall join in filing the application, unless included by planning commission resolution of intention.

B. A change in boundaries of any zone, or a change in a zone regulation, off-street parking or loading facilities requirements, general provision, exception or other provision may be initiated by the city planning commission or the city council in the form of a request to the commission that it consider a proposed change; provided, that in either case the procedure prescribed in Sections 17.44.040 and 17.44.090 shall be followed. (Ord. 2017-01 (part), 2017: prior code § 7581)

17.44.030 Application procedures.

A. A property owner or his authorized agent may file an application with the city planning commission for a change in zoning boundaries on a form prescribed by the commission and that said application shall include the following data:

1. Name and address of the applicant;

2. Statement that the applicant is the owner of the property for which the change in zoning boundaries is proposed, the authorized agent of the owner, or is or will be the plaintiff in an action in eminent domain to acquire the property involved;

3. Address and legal description of the property;

4. The application shall be accompanied by such sketches or drawings as may be necessary to clearly show the applicant's proposal;

5. Additional information as required by the historic preservation advisory board.

B. The application shall be accompanied by a fee set by resolution of the city council sufficient to cover the cost of processing the application. (Ord. 2017-01 (part), 2017: prior code § 7582)

17.44.040 Public hearing—Notice.

The city planning commission shall hold at least one public hearing on each application for a change in zone boundaries and on each proposal for a change in zone boundaries or of a zone regulation, off-street parking or loading facilities requirements, general provisions, exception or other provision of this title initiated by the commission or the city council. Notice of the public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation within the city, and by mailing notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area occupied or to be occupied by the use that is the subject of the hearing. (Ord. 2017-01 (part), 2017: prior code § 7583)

17.44.050 Investigation and report.

The city planning staff shall make an investigation of the application or the proposal and shall prepare a report thereon that shall be submitted to the city planning commission. (Ord. 2017-01 (part), 2017: prior code § 7584)

17.44.060 Hearing.

A. At the public hearing, the city planning commission shall review the application or the proposal and may receive pertinent evidence as to why or how the proposed change is necessary to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020.

B. If the commission's recommendation is to change property from one zone designation to another, the commission may recommend that conditions be imposed so as not to create problems adverse to the public health, safety and general welfare of the city and its residents. (Ord. 2017-01 (part), 2017: prior code § 7585)

17.44.070 Action of city planning commission.

The city planning commission shall make a specific finding as to whether the change is required to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020. The commission shall transmit a report to the city council recommending that the application be granted, conditionally approved, or denied or that the proposal be adopted or rejected, together with one copy of the application, resolution of the commission or request of the Council, the sketches or drawings submitted and all other data filed therewith, the report of the city engineer and the findings of the commission. (Ord. 2017-01 (part), 2017: Ord. 2001-13 § 4 (part), 2001: prior code § 7586)

17.44.080 [Reserved].

17.44.090 Action of city council.

A. Upon receipt of the resolution or report of the city planning commission, the city council shall review the application or the proposal and shall consider the resolution or report of the commission and the report of the city planning staff.

B. The city council shall make a specific finding as to whether the change is required to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020. If the council finds that the change is required, it shall enact an ordinance amending the zoning map or an ordinance amending the regulations of this title, whichever is appropriate. The city council may impose conditions on the change of zone for the property where it finds that said conditions must be imposed so as not to create problems inimical to the public health, safety and general welfare of the city and its residents. If conditions are imposed on a change of zone, said conditions shall run with the land and shall not automatically be removed by a subsequent reclassification or change in ownership of the property. Said conditions may be removed only by the city council after recommendation by the planning commission. If the council finds that the change is not required, it shall deny the application or reject the proposal. (Ord. 2017-01 (part), 2017: prior code § 7587)

17.44.100 Change of zoning map.

A change in zone boundary shall be indicated on the zoning map. (Ord. 2017-01 (part), 2017: prior code § 7589)

17.44.110 New application.

Following the denial of an application for a change in a zone boundary, no application for the same or substantially the same change shall be filed within one year of the date of denial of the application. (Ord. 2017-01 (part), 2017: prior code § 7590)

17.44.120 Report by city planner.

On any amendment to the zoning code changing property from one zone classification to another, the city planner shall inform the planning commission and the city council of any conditions attached to previous zone changes as a result of action taken pursuant to Sections 17.44.060, 17.44.070 and 17.44.090. (Ord. 2017-01 (part), 2017: Ord. 9605 § 30 (part), 1996: prior code § 7591)

RESOLUTION NO. 2021-47

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA, RECOMMENDING APPROVAL OF ZONING TEXT AMENDMENT NO. 2021-07, A REQUEST BY THE CITY OF VISALIA TO AMEND VISALIA MUNICIPAL CODE CHAPTER 17.32, ARTICLE 2, AS TO IMPLEMENT A PROGRAM CONTAINED IN THE CITY OF VISALIA 2020-2023 HOUSING ELEMENT PERTAINING TO DENSITY BONUSES REGULATIONS. THE PROJECT AREA IS CONTAINED WITHIN THE CITY OF VISALIA'S URBAN DEVELOPMENT BOUNDARIES THAT ARE ILLUSTRATED IN THE VISALIA GENERAL PLAN, CITYWIDE.

WHREAS, Zoning Text Amendment No. 2021-07 is a request by the City of Visalia to amend Visalia Municipal Code Chapter 17.32, Article 2, as to implement a program contained in the City of Visalia 2020-2023 Housing Element pertaining to density bonuses regulations. The project area is contained within the City of Visalia's Urban Development Boundaries that are illustrated in the Visalia General Plan. The specific amendments apply City-wide and are specified in Attachment "A" of this Resolution; and

WHEREAS, an Initial Study was prepared which disclosed that no significant environmental impacts would result from this project, and no mitigation measures would be required; and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, held a public hearing before said Commission on October 25, 2021; and

WHEREAS, the Planning Commission of the City of Visalia considered the Zone Text Amendment in accordance with Section 17.44.070 of the Zoning Ordinance of the City of Visalia and on the evidence contained in the staff report and testimony presented at the public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council concur that no significant environmental impacts would result from this project and, certify that Initial Study No. 2021-44 was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia recommends approval to the City Council of the proposed Zone Text Amendment based on the following specific findings and evidence presented:

1. That the Zoning Text Amendment is consistent with the intent of the General Plan and Zoning Ordinance and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That applying the proposed Zone Code standards to future housing and residential uses will encourage increased housing options, including but not limited to affordable housing, throughout the City, as endorsed through the City of Visalia 2020-2023 Housing Element Update (5th Cycle Four-Year Housing Element

Update). These standards are designed to promote and ensure compatibility with adjacent land uses.

3. That prior environmental review documents have been prepared and adopted that are directly applicable to this Zoning Text Amendment, including a Program Environmental Impact Report for the preparation of the General Plan Update (SCH No. 2010041078), a Negative Declaration for the preparation of the General Plan Housing Element (Negative Declaration No. 2019-63), and an Initial Study for the preparation of the Zoning Ordinance Update (Environmental Document No. 2016-41). Furthermore, an Initial Study was prepared for this project, consistent with the California Environmental Quality Act (CEQA), which disclosed that environmental impacts are determined to be not significant for this project, that the project has no new effects that could occur, and does not require any new mitigation measures that have not been addressed within the scope of the prior environmental review documents. Therefore, staff concludes that the previously prepared Program Environmental Impact Report and Negative Declaration adequately analyzed and addresses the project, and the Planning Commission recommends to the City Council that Environmental Document No. 2021-44 can be adopted for this project.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia recommends approval to the City Council of the Zone Text Amendment described herein in Attachment "A", in accordance with the terms of this resolution and under the provisions of Section 17.44.070 of the Ordinance Code of the City of Visalia.

Resolution No. 2021-47

ATTACHMENT A

Zoning Text Amendment (ZTA) No. 2021-07, implementing a program contained in the City of Visalia 2020-2023 Housing Element pertaining to state density bonus law.

Changes to City of Visalia Municipal Code Title 17 – Zoning Ordinance, as specified by *underline & italics* for additions and ~~strikeout~~ for deletions.

Chapter 17.32 SPECIAL PROVISIONS

Article 2. Density Bonuses, Concessions and Other Incentives for Lower and Very Low-Income Households and for Senior Housing.

~~**17.32.170 Purpose and intent.**~~

~~**17.32.180 Applicability.**~~

~~**17.32.190 Definitions.**~~

~~**17.32.200 Grant of density bonus development incentive.**~~

~~**17.32.210 Preliminary proposal.**~~

~~**17.32.220 Development incentives and concessions.**~~

~~**17.32.230 Density bonus plan.**~~

~~**17.32.240 Multiple density bonuses.**~~

~~**17.32.170 Purpose and intent.**~~

~~The California Legislature has determined that the provision of housing for lower and very low income individuals and senior citizens is of primary importance in the state and must be encouraged at the local level. The purpose of this article is to comply with the provisions of California Government Code Section 65915 requiring the city to provide incentives to developers of housing for lower and very low income individuals, senior citizens, and special needs groups. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.1)~~

~~**17.32.180 Applicability.**~~

~~This article shall apply to all housing developments consisting of five or more units. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.2)~~

~~**17.32.190 Definitions.**~~

~~As used in this article, the following words and phrases shall have the following meanings:~~

~~"Affordable housing unit" shall mean units for which households do not pay more than thirty (30) percent of combined gross income for payment of rent (including monthly allowance for utilities) or monthly mortgage and related expenses.~~

~~"Density bonus" means a density increase of at least twenty-five (25) percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date the preliminary proposal is received pursuant to Section 17.32.210. For purposes of complying with Section 17.32.200(A)(1), the density bonus shall not be included when determining the number of housing units that is equal to ten (10) or twenty (20) percent of the total. In housing projects designed for individual ownership, the minimum lot size shall not be less than five thousand (5,000) square feet and the granting of this reduction in lot size shall be considered a method of providing the density bonus and shall not be considered as a granting of an additional concession or incentive.~~

~~"Developer" means the legal or equitable owner, or his/her authorized representative, of any property within the city who intends to develop such property in compliance with the provisions of this article.~~

~~"Development concession or incentive" means one of the following: (1) a reduction in site development standards, a modification of zoning code requirements, such as a reduction in setbacks, square footage requirements, or parking requirements; (2) approval of mixed-use zoning including but not limited to commercial, office, and/or industrial land uses, if the other land uses will reduce the cost of the housing project and if such non-residential uses are compatible with the project; or (3) other regulatory incentive or concession proposed by the developer to the city that results in identifiable cost reductions.~~

~~"Extremely low-income household" means a persons or families whose combined household income is less than thirty (30) percent of the median income (AMI) as established by HUD for the Visalia-Porterville Metropolitan Statistical Area (MSA).~~

~~"Housing development" means one or more groups of projects totaling five or more residential units, such as a specific plan area, planned unit development or comprehensive master plan. For purposes of calculating a density bonus, the residential units do not have to be based on an 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.~~

~~"Large household" means a household with five or more members.~~

~~"Low-income household" means persons and families whose combined income is between fifty-one (51) and eighty (80) percent of the area median income (AMI) as established by HUD for the Visalia-Porterville Metropolitan Statistical Area (MSA) does not exceed the qualifying limits in Section 50079.5 of the California Health and Safety Code (eighty (80) percent of the area median income).~~

~~"Moderate-income household" shall mean persons and families whose combined income is between eighty-one (81) and one hundred twenty (120) percent of the area median income (AMI) as established by HUD for the Visalia-Porterville Metropolitan Statistical Area (MSA).~~

~~"Qualifying resident" means either: (1) a person sixty-two (62) years of age or older, or (2) fifty-five (55) years of age or older in a senior citizen housing development as defined in Section 51.3 of the California Civil Code.~~

~~"Special needs group" means those segments of the population that have a more difficult time finding decent affordable housing due to special circumstances. Under California Housing Element Statutes, these special needs groups consist of the elderly,~~

handicapped, large families, female-headed households farm workers, and the homeless.

"Very low-income households" means persons or families whose combined income is between thirty-one (31) and fifty (50) percent of the area median income (AMI) as established by HUD for the Visalia-Porterville Metropolitan Statistical Area (MSA does not exceed the qualifying limit in Section 50105 of the California Health and Safety Code (fifty (50) percent of the area median income). (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.3)

17.32.200 Grant of density bonus development incentive.

A. A developer shall be entitled to a density bonus as defined in Section 17.32.190, if the developer enters into either a development agreement pursuant to California Government Code Section 65865 et. seq. or another recorded contractual agreement satisfactory to the city with respect to the housing development in which the developer covenants to all of the following: that the affordable and/or special needs units included in the density bonus shall remain affordable units and/or special needs units as specified in Section 17.32.200B.

1. Density bonuses shall be granted as follows: To construct the housing development with at least one of the following:

a. Twenty (20) percent when at least ten (10) percent of the otherwise allowable maximum housing units of the housing development is reserved for low-income households, and incrementally up to a maximum of thirty-five (35) percent when at least twenty (20) percent of the otherwise allowable maximum housing of the housing development is reserved for low-income households; or twenty (20) percent of the otherwise allowable maximum housing of the housing development reserved for lower income households; or

b. At least ten (10) percent of the otherwise allowable maximum housing of the housing development reserved for very low income households twenty (20) percent when at least five (5) percent of the otherwise allowable maximum housing units of the housing development is reserved for very low-income

households, and incrementally up to a maximum of thirty-five (35) percent when at least eleven (11) percent of the otherwise allowable maximum housing of the housing development is reserved for very low-income households; or

c. Twenty (20) percent when at least twenty (20) percent of the otherwise allowable maximum housing units of the housing development are reserved for senior housing or special needs groups housing. At least fifty (50) percent of the otherwise allowable maximum housing units of the housing development reserved for qualifying residents.

d. Five (5) percent when at least ten (10) percent of the otherwise allowable maximum housing units of the housing development is reserved for moderate-income households, and incrementally up to a maximum of thirty-five (35) percent of the allowable maximum housing units of the housing development is reserved for moderate-income households.

2. The agreement shall ensure continued affordability of all designated units for lower income households or very low income households or qualifying residents for the time period established in subsection (B) of this section. Continued affordability shall be ensured as follows:

~~a. Units targeted for lower income households shall be affordable at a rent that does not exceed thirty (30) percent of sixty (60) percent of the area median income as determined pursuant to Section 50079.5 of the California Health and Safety Code.~~

~~b. Units targeted for very low income households shall be affordable at a rent that does not exceed thirty (30) percent of fifty (50) percent of the area median income, as determined pursuant to Section 50105 of the California Health and Safety Code.~~

~~c. Units targeted for sale to lower and very low income households are to be at a sales price that provides these households the ability to qualify for long-term financing, based on gross salary income as identified by income eligibility standards.~~

~~B. The time period to ensure continued affordability shall be at least thirty (30) years. A longer period of time shall be required if the construction or mortgage financing assistance program, mortgage insurance program or rental subsidy program for the housing development, requires a longer period. Notwithstanding the above, this thirty (30)-year period shall be reduced to ten (10) years if the city does not grant at least one additional concession or incentive described in Section 17.32.220(B). The method of providing for continued affordability shall be determined as the city deems appropriate for each specific project and shall be set forth in the development agreement or other recorded contractual agreement. Continued affordability shall be interpreted as providing for occupancy of the dwelling unit by a household with a targeted household income as provided in Section 17.32.200 for the entire period as required hereinabove, even when such unit changes ownership. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.4)~~

~~17.32.210 Preliminary proposal.~~

~~A. A developer may shall submit a written preliminary proposal for development to determine the means for complying with this article. The preliminary proposal shall be submitted in writing to the city. A preliminary proposal may be submitted prior to any formal requests for general plan amendments, zoning amendments or subdivision map approvals.~~

~~B. Within ninety (90) days of receipt of a complete written preliminary proposal, the city shall notify the developer in writing of the procedures that it will use to comply with this article. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.5)~~

~~17.32.220 Development incentives and concessions.~~

~~A. When required by this article to grant a development incentive, the city shall do one of the following:~~

~~1. Grant a density bonus and at least one other concession or incentives set forth in subsection (B) of this section; or~~

~~2. Provide other incentives or concessions of equivalent financial value based upon the land cost per dwelling unit.~~

~~3. For purposes of approving incentives or concessions identified in Section 17.32.220(B), an exception or concession may be granted in accordance with the process and provisions of Chapter 17.42.~~

~~4. The density bonus identified in Section 17.32.220(A)(1) may be used to provide single or multi-family housing subject to approval of the density bonus plan of Section 17.32.230.~~

~~5. The waiver of the requirement for a Conditional Use Permit (CUP) for an affordable housing project in the downtown area where a CUP is otherwise required pursuant to this chapter.~~

~~6. The reduction of parking requirements for affordable housing projects in the downtown area with less than 80 units from 1.5 parking spaces required per unit to 1 parking space required per unit.~~

~~B. For purpose of this section, "concessions or incentives" 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 State Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements or in the ratio of vehicular parking spaces that would otherwise be required;~~

~~2. Approval of mixed-use zoning in conjunction with the housing development if commercial, office, industrial, or other land uses are compatible with the housing development and the existing or site plan review in the area where the proposed housing development will be located;~~

~~3. Other regulatory incentives or concessions that result in identifiable cost reductions.~~

~~4. This subsection (B) shall not require the city to provide direct financial incentives or publicly owned land for the housing development, or to waive fees or dedication requirements. The city shall determine which of the incentives will be provided.~~

~~C. The city shall not be required to grant concessions or incentives as defined in subsection (B) of this section if the city council makes a written finding that such concessions or incentives are not required in order to provide affordable housing costs as defined in Section 50052.5 of the California Health and Safety Code or for rents for the targeted units to be set as specified in Section 17.32.200 (A)(2). The city shall grant the requested incentive or concession unless the city makes written findings, based upon substantial evidence, of any of the following:~~

~~1. The incentive or concession is not required in order 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 Section 17.32.200(B);~~

~~2. The incentive or concession would have a specific adverse impact, as defined in Government Code Section 65589.5, upon the public health and safety or the physical environment or on any real property that is listed in the State or Local Registry of Historical Buildings or Districts, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate- income households.~~

~~3. The incentive or concession would be contrary to state or federal law.~~

~~D. Incentives and concessions shall be allowed as follows:~~

~~1. One incentive or concession for projects that include at least ten (10) percent of the total units for low-income households, at least five (5) percent for very low-income~~

households, or at least ten (10) percent for persons or families of moderate-income in a common interest development.

2. Two incentives or concessions for projects that include at least twenty (20) percent of the total units for low-income households, or at least ten (10) percent for very low-income households, or at least twenty (20) percent for moderate-income households in a common interest development.

3. Three incentives or concessions for projects that include at least thirty (30) percent of the total units for low-income households, or at least fifteen (15) percent for very low-income households, or at least thirty (30) percent for moderate-income in a common interest development.

(Ord. 2017-13 (part), 2017: Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.6)

17.32.230 Density bonus plan.

A. Prior to approval of a tentative subdivision map or parcel map for a housing development for which a density bonus has been requested, or the issuance of a building permit for a housing development not requiring a tentative subdivision or parcel map, the developer shall submit to the city for approval a plan showing the developer's intended integration of the density bonus within the housing development. The city shall review the plan for compliance with the terms of this article and may approve or reject the plan; provided, that the plan shall not be rejected solely on the basis that the plan would allow use of the density bonus in geographic areas of the housing development other than the areas in which units for the lower income households or the very low income households are located.

B. In the event that the geography, topography or configuration of the site is such that the strict application of the city's development and zoning standards would inhibit the utilization of the density bonus on the site, the planning commission and/or city council may waive or modify the development and zoning standards as applied to the housing development as provided in Section 17.32.220(A)(1). No waiver shall be granted under this subsection unless the developer has demonstrated to the satisfaction of the city that the waiver or modification is necessary to make the housing units economically feasible.

C. The city council may, by resolution, adopt development criteria or standards for housing projects or developments approved through this density bonus program. These criteria would be intended to address streetscape, building materials, project design and any other factors deemed necessary to assure project compatibility with surrounding neighborhoods and project design. (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.7)

17.32.240 Multiple density bonuses.

A developer who agrees to construct both twenty (20) percent of the total units within a housing development for lower income households and ten (10) percent of the total units for very low income households shall be entitled to only one density bonus and at least one additional concession or incentive identified in Section 17.32.220(B). (Ord. 2017-01 (part), 2017: Ord. 2012-02, 2012: prior code § 7493.8)

17.32.170 Purpose.

The California Legislature has determined that the provision of housing for lower and very low income individuals and senior citizens is of primary importance in the state and must be encouraged at the local level. It is the purpose of this chapter to specify how compliance with Government Code Section 65915 et seq. ("State Density Bonus Law") will be implemented, as required by Government Code Section 65915, subdivision (a). In enacting this chapter, the City of Visalia's intent is to facilitate the development of affordable housing, to implement the goals, policies, and actions of the Housing Element of the City's General Plan and provide a framework as it relates to implementing affordable housing density bonuses and offering concessions/incentives for eligible housing developments.

17.32.175 Definitions.

The definitions found in State Density Bonus Law shall apply to the terms contained in this chapter.

17.32.180 Applicability.

A housing development as defined in State Density Bonus Law shall be eligible for a density bonus and other regulatory incentives that are provided by State Density Bonus Law when the applicant seeks and agrees to provide very-low, low or moderate income housing units, or units intended to serve seniors, transitional foster youth, disabled veterans, homeless persons, and lower income students in the threshold amounts specified in State Density Bonus Law. A housing development includes only the residential component of a mixed-use project. A commercial development, as that term is defined in Section 17.32.220, shall be eligible for a commercial development bonus as provided in Section 17.32.220.

The granting of a density bonus, incentive or concession, pursuant to this chapter, shall not be interpreted, in and of itself, to require a general plan amendment, development code amendment, zone change, other discretionary approval, or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.

17.32.185 Application Requirements.

A. Any applicant requesting a density bonus and any incentive(s), waiver(s), parking reductions, or commercial development bonus provided by State Density Bonus Law shall submit a density bonus report as described below concurrently with the filing of the planning application for the first discretionary permit required for the housing development, commercial development, or mixed-use development. The requests contained in the density bonus report shall be processed concurrently with the planning application. The applicant shall be informed whether the application is complete consistent with California Government Code Section 65943.

B. The density bonus report shall include the following minimum information:

1. Requested Density Bonus.

a. Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.

b. A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.

c. The zoning and general plan designations and assessor's parcel number(s) of the housing development site.

d. Calculation of the maximum number of dwelling units permitted by the city's zoning regulations and general plan for the housing development, excluding any density bonus units.

e. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.

f. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very-low or lower income households in the five-year period preceding the date of submittal of the application.

g. If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in California Government Code Section 65915, subdivision (g) can be met.

2. Requested Concession(s) or Incentive(s). *In the event an application proposes concessions or incentives for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each incentive requested, shown on a site plan if appropriate:*

a. The City's usual development standard and the requested development standard or regulatory incentive.

b. Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.

c. If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the cost of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed-use zoning will provide for affordable housing costs or rents.

3. Requested Waiver(s). *In the event an application proposes waivers of development standards for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:*

a. The City's usual development standard and the requested development standard.

b. Reasonable documentation that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.

4. Requested Parking Reduction. *In the event an application proposes a parking reduction for a housing development pursuant to California Government Code Section 65915, subdivision (p), a table showing parking required by the zoning regulations, parking proposed under Section 65915, subdivision (p), and reasonable documentation that the project is eligible for the requested parking reduction.*

5. Child Care Facility. *If a density bonus or incentive is requested for a child care facility in a housing development, reasonable documentation that all of the requirements included in California Government Code Section 65915, subdivision (h) can be met.*

6. Condominium Conversion. *If a density bonus or incentive is requested for a condominium conversion, reasonable documentation that all of the requirements included in California Government Code Section 65915.5 can be met.*

7. Commercial Development Bonus. *If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement and the proposed commercial development bonus, as defined in Section 17.32.220, and reasonable documentation that each of the standards included in Subsection 17.32.220 (C) has been met.*

8. Fee. *Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the Density Bonus Plan with State Density Bonus Law.*

17.32.190 Density Bonus.

All calculations are rounded up for any fractional numeric value in determining the total number of units to be granted, including base density and bonus density as well as the resulting number of affordable units needed for a given density bonus project.

A. If a housing development qualifies for a density bonus under more than one income category, or additionally as a senior citizen housing development as defined in State Density Bonus Law, or as housing intended to serve transitional foster youth, disabled veterans, homeless persons, or lower income students, the applicant shall identify the

categories under which the density bonus would be associated and granted. Density bonuses from more than one category can be combined up to the maximum allowed under State Density Bonus law.

B. The density bonus units shall not be included in determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law.

C. The applicant may elect to accept a lesser percentage of density bonus than the housing development is entitled to, or no density bonus, but no reduction will be permitted in the percentages of required affordable units contained in California Government Code Section 65915, subdivisions (b), (c), and (f). Regardless of the number of affordable units, no housing development shall be entitled to a density bonus of more than what is authorized under State Density Bonus Law.

17.32.195 Incentives.

A. Incentives include incentives and concessions as defined in State Density Bonus Law. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to State Density Bonus Law.

B. Nothing in this chapter requires the provision of direct financial incentives for the housing development, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The city, at its sole discretion, may choose to provide such direct financial incentives.

17.32.200 Review Procedures.

All requests for density bonuses, incentives, parking reductions, waivers, or commercial development bonuses shall be considered and acted upon by the approval body with authority to approve the development within the timelines prescribed by California Government Code Section 65950 et seq., with right of appeal to the City Council.

A. Eligibility for Density Bonus, Incentive(s), Parking Reduction, and/or Waiver(s) for a Housing Development. To ensure that an application for a housing development conforms with the provisions of State Density Bonus Law, the staff report presented to the decision-making body shall state, or the City Planner shall make a determination if it is within their authority to approve the development, whether the application conforms to the following requirements of state law as applicable:

1. The housing development provides the affordable units or senior housing required by State Density Bonus Law to be eligible for the density bonus and any incentives, parking reduction, or waivers requested, including the replacement of units rented or formerly rented to very-low and low income households as required by California Government Code Section 65915, subdivision (c)(3).

2. Any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of California Government Code Section 65915, subdivision (k)(2).

3. The development standards for which a waiver is requested would have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.

4. The housing development is eligible for any requested parking reductions under California Government Code Section 65915, subdivision (p).

5. If the density bonus is based all or in part on donation of land, all of the requirements included in California Government Code Section 65915, subdivision (g) have been met.

6. If the density bonus or incentive is based all or in part on the inclusion of a child care facility, all of the requirements included in California Government Code Section 65915, subdivision (h) have been met.

7. If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, all of the requirements included in California Government Code Section 65915.5 have been met.

B. If a commercial development bonus is requested for a commercial development, the decision-making body shall make a finding, or the City Planner shall make a finding if it is within their authority to approve the development, that the development complies with all of the requirements of Subsection 17.32.220(C), that the city has approved the partnered housing agreement, and that the commercial development bonus has been mutually agreed upon by the city and the commercial developer.

C. The decision-making body, or the City Planner if it is within their authority to approve the development, shall grant an incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

1. The proposed incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in California Health and Safety Code Section 50052.5, or for affordable rents, as defined in California Health and Safety Code Section 50053; or

2. The proposed incentive would be contrary to state or federal law; or

3. The proposed incentive would have a specific, adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.

D. The decision-making body, or the City Planner if it is within their authority to approve the development, shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

1. The proposed waiver would be contrary to state or federal law; or

2. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or

3. The proposed waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of

this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.

E. If any density bonus, incentive, parking reduction, waiver, or commercial development bonus is approved pursuant to this chapter, the applicant shall enter into an affordable housing agreement or senior housing agreement with the city pursuant to Section 17.32.205.

17.32.205 Affordable Housing Agreement and Senior Housing Agreement.

A. Affordable Housing Agreement. Except where a density bonus, incentive, waiver, parking reduction, or commercial development bonus is provided for a market-rate senior housing development, the applicant shall enter into an affordable housing agreement with the city, in a form approved by the city attorney, to be executed by the city manager, to ensure that the requirements of this chapter are satisfied. The affordable housing agreement shall guarantee the affordability of the affordable units for a minimum of 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; shall identify the type, size and location of each affordable unit; and shall specify phasing of the affordable units in relation to the market-rate units.

B. Senior Housing Agreement. Where a density bonus, waiver, or parking reduction is provided for a market-rate senior housing development, the applicant shall enter into a restrictive covenant with the city, running with the land, in a form approved by the city attorney, to be executed by the city manager, to require that the housing development be operated as "housing for older persons" consistent with state and federal fair housing laws.

C. The executed affordable housing agreement or senior housing agreement shall be recorded against the housing development prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development. The affordable housing agreement or senior housing agreement shall be binding on all future owners and successors in interest.

D. The affordable housing agreement shall include, but not be limited to, the following:

1. The number of density bonus dwelling units granted;

2. The number and type of affordable dwelling units

3. The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;

4. The proposed location of the affordable dwelling units;

5. Schedule for production of affordable dwelling units;

6. Incentives or concessions or waivers provided by the city;

7. Where applicable, tenure and conditions governing the initial sale of the affordable units;

8. Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for affordable rental dwelling units

9. Marketing plan; publication and notification of availability of affordable units;

10. Compliance with federal and state laws;

11. Prohibition against discrimination;

12. Indemnification;

13. City's right to inspect units and documents;

14. Remedies;

15. Attorney(s) fees provision.

17.32.210 Design and Quality.

A. The city may not issue building permits for more than 50 percent of the market rate units until it has issued building permits for all of the affordable units, and the city may not approve any final inspections or certificates of occupancy for more than 50 percent of the market rate units until it has issued final inspections or certificates of occupancy for all of the affordable units.

B. Affordable units shall be comparable in exterior appearance and overall quality of construction to market rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the city.

C. The number of bedrooms of the affordable units shall at least equal the minimum number of bedrooms of the market rate units.

17.32.220 Commercial Density Bonus.

A. The following definitions shall apply to Commercial Density Bonus:

1. "Commercial development" means a development project for nonresidential uses.

2. "Commercial development bonus" means a modification of development standards mutually agreed upon by the city and a commercial developer and provided to a commercial development eligible for such a bonus under Subsection 17.32.220(C). Examples of a commercial development bonus include an increase in floor area ratio, increased building height, or reduced parking.

3. "Partnered housing agreement" means an agreement approved by the city between a commercial developer and a housing developer identifying how the commercial development will provide housing available at affordable ownership cost or affordable rent consistent with Subsection 17.32.220(C). A partnered housing agreement may consist of the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial developer and the housing developer are each partners, members, shareholders, or other participants, or a contract between the commercial developer and the housing developer for the development of both the commercial development and the housing development.

B. When an applicant proposes to construct a commercial development and has entered into a partnered housing agreement approved by the city, the city shall grant a commercial development bonus mutually agreed upon by the developer and the city. The commercial development bonus shall not include a reduction or waiver of fees imposed on the commercial development to provide for affordable housing.

C. The requirements for commercial development bonus are as follows, which also be described in the partnered housing agreement:

1. The housing development shall be located either: (A) on the site of the commercial development; or (B) on a site within the city that is within one-half mile of a major transit stop and is located in close proximity to public amenities, including schools and employment centers.

2. At least 30 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for low-income households, or at least 15 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for very low-income households.

3. The commercial developer must agree either to directly build the affordable units; donate a site consistent with Subsection 17.32.220(C)(1) above for the affordable units; or make a cash payment to the housing developer for the affordable units.

D. Any approved partnered housing agreement shall be described in the city's Housing Element annual report as required by California Government Code Section 65915.7, subdivision (k).

17.32.230 Interpretation.

If any portion of this chapter conflicts with State Density Bonus Law or other applicable state law, state law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with State Density Bonus Law.

17.32.240 Severability.

If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected.

EXHIBIT "A"

GENERAL PLAN HOUSING ELEMENT 2020-2023
IMPLEMENTATION PROGRAMS CARRIED OUT BY ZONE TEXT AMENDMENT

Phase 1

HE Program 1.3 SENIOR HOUSING RESIDENTIAL DEVELOPMENT BY RIGHT
The City shall revise the Zoning Ordinance to allow senior housing development in accordance with the density for the underlying general plan land use district as a by-right use in all residential zone districts and in the downtown mixed use zone district.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020
Quantified Objective: Complete Ordinance Amendment within one year of Housing Element certification.

HE Program 3.22 MOBILE HOME PARKS IN HIGH DENSITY RESIDENTIAL ZONE DISTRICT
The City shall revise the Zoning Ordinance to allow mobile home parks as a conditionally allowed use in the R-M-3 zone in accordance with the density prescribed in the General Plan land use district.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020
Quantified Objective: Complete Ordinance Amendment within one year of Housing Element certification.

HE Program 5.9 EMPLOYEE HOUSING ALLOWED WHERE RAISING OF HORTICULTURAL ITEMS ALLOWED
The City shall revise the Zoning Ordinance to ensure that employee housing is permitted as a by right use in areas where agricultural activities are also an allowed use, in conformance with Health and Safety Code commencing at Section 17020. Alternately, the City may revise the Zoning Ordinance to address the allowed use of agriculture activities in non-residential zone districts.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020
Quantified Objective: Complete Ordinance Amendment within one year of Housing Element certification.

HE Program 5.10 ACCESSORY DWELLING UNITS, RESIDENTIAL CARE FACILITIES, TRANSITIONAL / SUPPORTIVE HOUSING, AND EMPLOYEE HOUSING ALLOWED IN ALL ZONES PERMITTING SINGLE-FAMILY RESIDENCES
The City shall revise the Zoning Ordinance to allow accessory dwelling units, adult overnight residential care facilities, transitional / supportive housing, and employee housing as allowed uses in all zoning designations where single-family residences are respectively permitted or conditionally allowed.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020
Quantified Objective: Complete Ordinance Amendment within one year of Housing Element certification.

HE Program 5.11 PERMANENT SUPPORTIVE HOUSING ALLOWED AS BY RIGHT USE
The City shall revise the Zoning Ordinance to allow permanent supportive housing, in accordance with Assembly Bill 2162 and Article 11 commencing with Government Code Section 65650, as a use by right in all zoning designations where multi-family residential used and mixed uses are respectively permitted or conditionally allowed.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020
Quantified Objective: Complete Ordinance Amendment within one year of Housing Element certification.

HE Program 5.12 LOW BARRIER NAVIGATION CENTERS ALLOWED AS BY RIGHT USE
The City shall revise the Zoning Ordinance to allow low barrier navigation centers, in accordance with Assembly Bill 101 and Article 12 commencing with Government Code Section 65660, as a use by right in all zoning designations where mixed uses and non-residential zones allowing multi-family residential uses are respectively permitted or conditionally allowed.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020
Quantified Objective: Complete Ordinance Amendment within one year of Housing Element certification.

Phase 2

HE Program 2.6 DOWNTOWN AND MIXED USE RESIDENTIAL DEVELOPMENT BY RIGHT
The City shall revise the Zoning Ordinance to allow residential development as a by right use in the Downtown Mixed Use zone district, in accordance with the density prescribed in the General Plan Land Use district, subject to performance standards. In addition, the City shall examine and consider allowing residential development as a by right use in the Conditional Mixed Use and Neighborhood Commercial zone districts while addressing issues of geographical location, segmentation, and performance standards.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020
Quantified Objective: Complete Ordinance Amendment and study within one year of Housing Element certification.

HE Program 3.19 CONSISTENCY WITH STATE DENSITY BONUS LAW
The City shall review and amend its Zoning Ordinance to ensure that its density bonus regulations remain consistent with state law (Government Code Sections 65915 through 65918). This program includes the addition of a housing unit replacement program subject to the requirements of Government Code Section 65915(c)(3). The replacement program would be subject to sites identified in the site inventory where any new development (residential, mixed-use or non-residential) occurs on a site that has been occupied by or restricted for the use of lower-income households at any time during the previous five years.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020 and ongoing
Quantified Objective: Complete review of state law and complete ordinance amendments, as necessary, within one year of Housing Element certification. Any applications received for density bonuses that are found to be consistent with state law shall be processed and implemented immediately.

HE Program 5.3 EMERGENCY SHELTERS PERFORMANCE STANDARDS AND EXPANSION OF ALLOWED USE
The City shall examine and make a recommendation of other zone districts where emergency shelters may be allowed as a by right (permitted) use or as a conditionally allowed use and shall develop performance standards for use in association with emergency shelters. Upon public review and approval by the legislative body, the City shall revise the Zoning Ordinance as it pertains to emergency shelters.

Responsibility: Community Development Department
Funding: General Fund
Timeframe: 2020
Quantified Objective: Complete Ordinance Amendment and study within one year of Housing Element certification.

EXHIBIT "B"

GOVERNMENT CODE - GOV
TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]
(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)
DIVISION 1. PLANNING AND ZONING [65000 - 66301]
(Heading of Division 1 added by Stats. 1974, Ch. 1536.)
CHAPTER 4.3. Density Bonuses and Other Incentives [65915 - 65918]
(Chapter 4.3 added by Stats. 1979, Ch. 1207.)

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. 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 (d) 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 the total units, 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 total units in the development 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 20 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 30 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, as defined in subdivision (b) of Section 21155 of the Public Resources Code, 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) (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) (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 not be eligible for, and shall not receive, a waiver or reduction of development standards pursuant to this subdivision, other than as expressly provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f).

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
10.0	20.0
11.0	21.5
12.0	23.0
13.0	24.5
14.0	26.0
15.0	27.5
17.0	30.5
18.0	32.0
19.0	33.5
20.0	35.0

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
5.0	20.0
6.0	22.5
7.0	25.0

8.0	27.5
9.0	30.0
10.0	32.5
11.0	35.0

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, as defined in subdivision (b) of Section 21155 of the Public Resources Code, 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

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) "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 handicapped and guest parking, 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: two onsite parking spaces.

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

2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low-income or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, 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 handicapped and guest parking, that exceeds 0.5 spaces per bedroom. 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.

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 a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

B) If 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, the ratio shall not exceed 0.5 spaces per unit. The 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.

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.

(Amended (as amended by Stats. 2018, Ch. 937) by Stats. 2019, Ch. 666, Sec. 1. (AB 1763) Effective January 1, 2020.)

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.

(Amended by Stats. 2014, Ch. 682, Sec. 2. (AB 2222) Effective 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.

(Added by Stats. 2016, Ch. 747, Sec. 2. (AB 1934) Effective January 1, 2017. Repealed as of January 1, 2022, by its own provisions.)

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.

(Added by Stats. 1979, Ch. 1207.)

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.

(Amended by Stats. 2001, Ch. 115, Sec. 14. Effective January 1, 2002.)

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.

(Added by Stats. 2018, Ch. 915, Sec. 1. (AB 2372) Effective January 1, 2019.)

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.

(Amended by Stats. 2008, Ch. 179, Sec. 112. Effective January 1, 2009.)

65918.

The provisions of this chapter shall apply to charter cities.

(Added by Stats. 1979, Ch. 1207.)

INITIAL STUDY

I. GENERAL

A. Project Name and Description:

Zoning Text Amendment Nos. 2021-07, 2021-08, and 2021-09: A request by the City of Visalia to amend portions of Visalia Municipal Code Chapter 8.36 (Noise) and Title 17 (Zoning Ordinance) as to implement programs contained in the City of Visalia 2020-2023 Housing Element pertaining to:

- Regulations for density bonuses.
- Regulations for residential uses in Downtown Mixed Use, Commercial Mixed Use, and Office Conversion Zone Districts.
- Regulations for emergency shelters, emergency warming or cooling centers, and low barrier navigation centers.

The project area is contained within the City of Visalia's Urban Development Boundaries that are illustrated in the Visalia General Plan, Citywide.

The proposed ZTA represents part of the second round of changes being undertaken to help fulfill the intended outcomes or objectives of the Housing Element (in an effort to help remove or overcome constraints to housing development). The first round of changes was completed in 2020 and implemented six programs pertaining to relatively straightforward changes bringing the City's Zoning Ordinance into compliance with State housing law.

Specifically, these ZTAs fulfill three implementation programs that the Element identified to be completed within approximately one year following adoption. The three implementation programs are:

HE Program 2.6 DOWNTOWN AND MIXED USE RESIDENTIAL DEVELOPMENT BY RIGHT
The City shall revise the Zoning Ordinance to allow residential development as a by right use in the Downtown Mixed Use zone district, in accordance with the density prescribed in the General Plan Land Use district, subject to performance standards. In addition, the City shall examine and consider allowing residential development as a by right use in the Conditional Mixed Use and Neighborhood Commercial zone districts while addressing issues of geographical location, segmentation, and performance standards.

HE Program 3.19 CONSISTENCY WITH STATE DENSITY BONUS LAW
The City shall review and amend its Zoning Ordinance to ensure that its density bonus regulations remain consistent with state law (Government Code Sections 65915 through 65918). This program includes the addition of a housing unit replacement program subject to the requirements of Government Code Section 65915(c)(3). The replacement program would be subject to sites identified in the site inventory where any new development (residential, mixed-use or non-residential) occurs on a site that has been occupied by or restricted for the use of lower-income households at any time during the previous five years.

HE Program 5.3 EMERGENCY SHELTERS PERFORMANCE STANDARDS AND EXPANSION OF ALLOWED USE
The City shall examine and make a recommendation of other zone districts where emergency shelters may be allowed as a by right (permitted) use or as a conditionally allowed use and shall develop performance standards for use in association with emergency shelters. Upon public review and approval by the legislative body, the City shall revise the Zoning Ordinance as it pertains to emergency shelters.

B. Identification of the Environmental Setting:

The project area is contained within the City of Visalia's Urban Development Boundaries that are illustrated in the Visalia General Plan. The City of Visalia is located within the County of Tulare, situated in the State of California.

C. Plans and Policies:

The City of Visalia General Plan Land Use Element and Land Use Diagram, adopted October 14, 2014, designate sites for residential development, including two mixed use land use designations – Downtown Mixed Use and Commercial Mixed Use – which encourage residential development in conjunction with commercial uses.

The City of Visalia 2020-2023 Housing Element identifies the community's housing needs, states the community's goals and objectives with regard to housing production, rehabilitation, and conservation to meet those needs, and defines the policies and programs that the community will implement to achieve the stated goals and objectives. The 2020-2023 Housing Element was a focused update of the 5th-Cycle Housing Element, which was originally prepared for the eight-year planning period from December 31, 2015 to December 31, 2023, and adopted by the City of Visalia on September 6, 2016. The update covered a four-year period and did not account for a new Regional Housing Needs (RHNA) projection. It is a mid-cycle or four-year update to the 5th-Cycle planning period that serves a planning period from December 31, 2019 to December 31, 2023. The 2020-2023 Housing Element, in draft form, was adopted by the City Council on December 3, 2019 and submitted to State Housing and Community Development (HCD). The State informed the City on January 23, 2020, that the Housing Element is in full compliance with state Housing Element law.

The City of Visalia Zoning Ordinance is enacted to preserve and promote the public health, safety and welfare of the city and of the public generally and to facilitate growth and expansion of the municipality in a precise and orderly manner. More specifically, the zoning ordinance is adopted in order to achieve the following objectives:

- Foster a workable relationship among land uses;
- Promote the stability of existing land uses which conform to the district in which they occur;
- Ensure that public and private lands ultimately are used for purposes which are appropriate and most beneficial for the city;
- Prevent excessive population densities;
- Avoid a concentration of structures adjoining each other or juxtaposed too closely together in close proximity to each other;
- Promote a safe, effective traffic circulation system;
- Require adequate off-street parking and truck loading facilities;
- Facilitate the appropriate location of community facilities and institutions;
- Coordinate land use policies and regulations of the city in order to facilitate the transition of land areas from county to municipal jurisdiction and to protect agricultural producers in areas planned for urban expansion;
- Implement the goals, policies and map of the general plan.

II. ENVIRONMENTAL IMPACTS

No significant adverse environmental impacts have been identified for this project. The City of Visalia Land Use Element and Zoning Ordinance contain policies and regulations that are designed to mitigate impacts of residential development to a level of non-significance.

III. MITIGATION MEASURES

There are no mitigation measures for this project.

IV. MITIGATION MONITORING PROGRAM

No mitigation is required for this project to reduce significance.

V. PROJECT COMPATIBILITY WITH EXISTING ZONES AND PLANS

The project is compatible with the General Plan and the Zoning Ordinance. The project is compatible with the General Plan as the project relates to bringing consistency among the General Plan Elements and the Zoning Ordinance.

VI. SUPPORTING DOCUMENTATION

The following documents are hereby incorporated into this Negative Declaration and Initial Study by reference:

- Visalia General Plan Update. Dyett & Bhatia, October 2014.
- Visalia City Council Resolution No. 2014-38 (Certifying the Visalia General Plan Update) passed and adopted October 14, 2014.
- Visalia General Plan Update Final Environmental Impact Report (SCH No. 2010041078). Dyett & Bhatia, June 2014.
- Visalia General Plan Update Draft Environmental Impact Report (SCH No. 2010041078). Dyett & Bhatia, March 2014.
- Visalia City Council Resolution No. 2014-37 (Certifying the EIR for the Visalia General Plan Update) passed and adopted October 14, 2014.

- Visalia Municipal Code, including Title 17 (Zoning Ordinance).
- California Environmental Quality Act Guidelines.
- City of Visalia, California, Climate Action Plan, Draft Final. Strategic Energy Innovations, December 2013.
- Visalia City Council Resolution No. 2014-36 (Certifying the Visalia Climate Action Plan) passed and adopted October 14, 2014.
- City of Visalia Storm Water Master Plan. Boyle Engineering Corporation, September 1994.
- City of Visalia Sewer System Master Plan. City of Visalia, 1994.
- City of Visalia Zoning Ordinance Update. City of Visalia, March 2017.

- Visalia 5th-cycle Housing Element Update. City of Visalia. September 6, 2016.
- Initial Study / Negative Declaration No. 2015-56 for the Visalia Housing Element Update. City of Visalia, April 25, 2016.
- Visalia City Council Resolution No. 2016-55 (Approving the 5th Cycle Visalia Housing Element Update) passed and adopted September 6, 2016.
- Visalia City Council Resolution No. 2016-54 (Adopting Negative Declaration No. 2015-56) passed and adopted September 6, 2016.

- Visalia 2020-2023 Housing Element Update. City of Visalia. December 3, 2019.
- Initial Study / Negative Declaration No. 2019-63 for the Visalia Housing Element Update. City of Visalia, September 30, 2019.
- Visalia City Council Resolution No. 2019-65 (Approving the 2020-2023 Housing Element Update) passed and adopted December 3, 2019.
- Visalia City Council Resolution No. 2019-64 (Adopting Negative Declaration No. 2019-63) passed and adopted December 3, 2019.

VI. NAME OF PERSON WHO PREPARED INITIAL STUDY

Brandon Smith, AICP
Senior Planner

Brandon Smith, AICP
Environmental Coordinator

INITIAL STUDY
ENVIRONMENTAL CHECKLIST

Name of Proposal	Zoning Text Amendment Nos. 2021-07, 2021-08, and 2021-09		
NAME OF PROPONENT:	City of Visalia Community Development Dept.	NAME OF AGENT:	City of Visalia Community Development Dept.
Address of Proponent:	315 E. Acequia Avenue	Address of Agent:	315 E. Acequia Avenue
	Visalia, CA 93291		Visalia, CA 93291
Telephone Number:	(559) 713-4359	Telephone Number:	(559) 713-4359
Date of Review	October 13, 2021	Lead Agency:	City of Visalia

The following checklist is used to determine if the proposed project could potentially have a significant effect on the environment. Explanations and information regarding each question follow the checklist.

1 = No Impact 2 = Less Than Significant Impact
3 = Less Than Significant Impact with Mitigation Incorporated 4 = Potentially Significant Impact

I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

2 a) Have a substantial adverse effect on a scenic vista?

1 b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

2 c) Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

2 d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

II. AGRICULTURAL RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

2 a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use?

1 b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

1 c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

1 d) Result in the loss of forest land or conversion of forest land to non-forest use?

1 e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use?

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

2 a) Conflict with or obstruct implementation of the applicable air quality plan?

2 b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under applicable federal or state ambient air quality standard?

1 c) Expose sensitive receptors to substantial pollutant concentrations?

1 d) Result in other emissions, such as those leading to odors adversely affecting a substantial number of people?

IV. BIOLOGICAL RESOURCES

Would the project:

2 a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

2 b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

2 c) Have a substantial adverse effect on federally protected wetlands (including but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

2 d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

1 e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

1 f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

V. CULTURAL RESOURCES

Would the project:

1 a) Cause a substantial adverse change in the significance of a historical resource pursuant to Public Resources Code Section 15064.5?

1 b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Public Resources Code Section 15064.5?

1 c) Disturb any human remains, including those interred outside of formal cemeteries?

VI. ENERGY

Would the project:

2 a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

2 b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

VII. GEOLOGY AND SOILS

Would the project:

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

1 i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

1 ii) Strong seismic ground shaking?

1 iii) Seismic-related ground failure, including liquefaction?

1 iv) Landslides?

1 b) Result in substantial soil erosion or loss of topsoil?

1 c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

1 d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

1 e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

1 f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

VIII. GREENHOUSE GAS EMISSIONS

Would the project:

2 a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

2 b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

IX. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

1 a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

1 b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

1 c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

1 d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

1 e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

1 f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

1 g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

X. HYDROLOGY AND WATER QUALITY

Would the project:

2 a) Violate any water quality standards of waste discharge requirements or otherwise substantially degrade surface or groundwater quality?

2 b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

2 c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

2 i) result in substantial erosion or siltation on- or off-site;

2 ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite; or

2 iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

2 d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

2 e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

XI. LAND USE AND PLANNING

Would the project:

1 a) Physically divide an established community?

1 b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

XII. MINERAL RESOURCES

Would the project:

1 a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

1 b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

XIII. NOISE

Would the project result in:

1 a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

1 b) Generation of excessive groundborne vibration or groundborne noise levels?

1 c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

XIV. POPULATION AND HOUSING

Would the project:

1 a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

1 b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

XV. PUBLIC SERVICES

Would the project:

1 a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

1 i) Fire protection?

1 ii) Police protection?

1 iii) Schools?

1 iv) Parks?

1 v) Other public facilities?

XVI. RECREATION

Would the project:

1 a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

1 b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

XVII. TRANSPORTATION / TRAFFIC

Would the project:

1 a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

2 b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

1 c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

1 d) Result in inadequate emergency access?

XVIII. TRIBAL CULTURAL RESOURCES

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

1 a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

1 b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

XIX. UTILITIES AND SERVICE SYSTEMS

Would the project:

2 a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

2 b) Have sufficient water supplies available to service the project and reasonable foreseeable future development during normal, dry, and multiple dry years?

1 c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

1 d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

1 e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

1 a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

1 b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to,

pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

1 c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

1 d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

2 a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

2 b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

2 c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino,*(1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors,* (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

Revised 2019

Authority: Public Resources Code sections 21083 and 21083.09

Reference: Public Resources Code sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3/ 21084.2 and 21084.3

DISCUSSION OF ENVIRONMENTAL EVALUATION

I. AESTHETICS

Adopting the Zoning Text Amendment is needed to incorporate and implement the new policies and concepts established with the adoption of the General Plan Housing Element. This is a necessary requirement to enable regulatory enforcement of the new plan policies and to achieve consistency with the General Plan and implement ordinances as required by State law. No specific housing developments are approved as part of the Zoning Text Amendment; therefore, the text amendments would not directly result in aesthetic impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

a. The Zoning Text Amendment will not adversely affect the view of any scenic vistas. The Sierra Nevada mountain range may be considered a scenic vista, but views of the range will not be adversely impacted or significantly by adoption of the Zoning Text Amendment.

   The Visalia General Plan and Zoning Ordinance contain several polices and standards that together work to reduce the potential for impacts to the development of land as designated by the General Plan. With implementation of these policies and the existing City standards, impacts to land use development consistent with the General Plan will be less than significant.

b. There are no scenic resources and no state scenic highway designations within the City of Visalia. State Route 198, a divided highway, bisects the project area and is eligible for designation. Adopting the Zoning Text Amendment will not, by itself, impact the scenic character of State Route 198.

c. The Zoning Text Amendment would constitute no more than a furtherance of the urban character of the project area. Furthermore, the City has development standards contained in the Zoning Ordinance related to landscaping and other amenities that will ensure that the visual character of the area is enhanced and not degraded by any subsequent development. Thus, adoption of the Zoning Text Amendment would not substantially degrade the existing visual character of sites within the City of Visalia.

d. Adopting the Zoning Text Amendment will not, by itself, create new light sources or sources of glare that would adversely affect day or nighttime views in the area. The City's existing development standards require that light be directed and/or shielded so it does not fall upon adjacent properties upon future development as required under Section 17.30.015.H of the Zoning Ordinance. Therefore, the potential lighting and glare effects associated with the adoption of the Zoning Text Amendment would result in a less-than-significant land use impact.

II. AGRICULTURAL RESOURCES

a. The Visalia General Plan Update Environmental Impact Report (EIR) has already considered the environmental impacts of the conversion of properties within the Planning Area into non-agriculture uses. Overall, the General Plan results in the conversion of over 14,000 acres of Important Farmland to urban uses, which is considered significant and unavoidable. Aside from preventing development altogether the conversion of Important Farmland to urban uses cannot be directly mitigated, through the use of agricultural conservation easements or by other means. However, the General Plan contains multiple polices that together work to limit conversion only to the extent needed to accommodate long-term growth. The General Plan policies identified under Impact 3.5-1 of the EIR serve as the mitigation that assists in reducing the severity of the impact to the extent possible while still achieving the General Plan's goals of accommodating a certain amount of growth to occur within the Planning Area. These policies include the implementation of a three-tier growth boundary system that assists in protecting open space around the City fringe and maintaining compact development within the City limits.

   Because there is still a significant impact to loss of agricultural resources after conversion of properties within the General Plan Planning Area to non-agricultural uses, a Statement of Overriding Considerations was previously adopted with the Visalia General Plan Update EIR.

b. Adopting the Zoning Text Amendment will not, by itself, result in the conversion of land in agricultural use, an agricultural preserve, or a land conservation contract. The City adopted urban development boundaries as mitigation measures for conversion of prime agricultural land.

c. There is no forest land or timberland currently located in the City of Visalia, nor does the project conflict with a zoning for forest land, timberland, or timberland zoned Timberland Production.

d. There is no forest or timberland currently located within the city.

e. The Zoning Text Amendment will not involve any changes that would promote or result in the conversion of farmland to non-agriculture use. Properties designated for housing in the Housing Element sites inventory are currently designated for an urban rather than agricultural land use. Properties that are vacant may develop in a way that is consistent with their zoning and land use designated at any time. The adopted Visalia General Plan's implementation of a three-tier growth boundary system further assists in protecting open space around the City fringe to ensure that premature conversion of farmland to non-agricultural uses does not occur.

III. AIR QUALITY

a. The City of Visalia is located in an area that is under the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). Adoption of the Zoning Text Amendment in itself does not disrupt implementation of

the San Joaquin Regional Air Quality Management Plan, and will therefore be a less than significant impact.

b. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in air quality impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

Subsequent development under the Visalia General Plan will result in emissions that will exceed thresholds established by the SJVAPCD for PM10 and PM2.5. Furthermore, subsequent development may contribute to a net increase of criteria pollutants and contribute to exceeding the thresholds. Future projects could result in short-term air quality impacts related to dust generation and exhaust due to construction and grading activities. Development under the General Plan will result in increases of construction and operation-related criteria pollutant impacts, which are considered significant and unavoidable. General Plan policies identified under Impacts 3.3-1 and 3.3-2 serve as the mitigation which assists in reducing the severity of the impact to the extent possible while still achieving the General Plan's goals of accommodating a certain amount of growth to occur within the Planning Area.

Future development is required to adhere to requirements administered by the SJVAPCD to reduce emissions to a level of compliance consistent with the District's grading regulations. Compliance with the SJVAPCD's rules and regulations will reduce potential impacts associated with air quality standard violations to a less than significant level.

In addition, any future development may be subject to the SJVAPCD Indirect Source Review (Rule 9510) procedures that became effective on March 1, 2006. In such cases, the proponent will be required to obtain permits demonstrating compliance with Rule 9510, or payment of mitigation fees to the SJVAPCD, when warranted.

c. Adoption of the Zoning Text Amendment will not, by itself, involve any housing construction and thus would not result directly in the exposure of any sensitive receptors to substantial pollutant concentrations.

d. Adoption of the Zoning Text Amendment will not involve the generation of objectionable odors that would affect a substantial number of people.

IV. BIOLOGICAL RESOURCES

a. Adopting the Zoning Text Amendment will not, by itself, directly impact any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

Citywide biological resources were evaluated in the Visalia General Plan Update Environmental Impact Report (EIR) for conversion to urban use. The EIR concluded that certain special-status species or their habitats may be directly or indirectly affected by future development within the General Plan Planning Area. This may be through the removal of or disturbance to habitat. Such effects would be considered significant. However, the General Plan contains multiple polices, identified under Impact 3.8-1 of the EIR, that together work to reduce the potential for impacts on special-status species likely to occur in the Planning Area. With implementation of these policies, impacts on special-status species will be less than significant.

b. Adopting the Zoning Text Amendment will not, by itself, have a direct impact on any protected or endangered species or their habitats.

Citywide biological resources were evaluated in the Visalia General Plan Update Environmental Impact Report (EIR). The EIR concluded that certain sensitive natural communities may be directly or indirectly affected by future development within the General Plan Planning Area, particularly valley oak woodlands and valley oak riparian woodlands. Such effects would be considered significant. However, the General Plan contains multiple polices, identified under Impact 3.8-2 of the EIR, that together work to reduce the potential for impacts on woodlands located within in the Planning Area. With implementation of these policies, impacts on woodlands will be less than significant.

c. Adopting the Zoning Text Amendment will not, by itself, have a direct impact on any federally protected wetlands as defined by Section 404 of the Clean Water Act.

Citywide biological resources were evaluated in the Visalia General Plan Update Environmental Impact Report (EIR). The EIR concluded that certain protected wetlands and other waters may be directly or indirectly affected by future development within the General Plan Planning Area. Such effects would be considered significant. However, the General Plan contains multiple polices, identified under Impact 3.8-3 of the EIR, that together work to reduce the potential for impacts on wetlands and other waters located within in the Planning Area. With implementation of these policies, impacts on wetlands will be less than significant.

d. Adopting the Zoning Text Amendment will not interfere nor act as a barrier to animal movement since it is not site specific.

Citywide biological resources were evaluated in the Visalia General Plan Update Environmental Impact Report (EIR). The EIR concluded that the movement of wildlife species may be directly or indirectly affected by future development within the General Plan Planning. Such effects would be considered significant. However, the General Plan contains multiple polices, identified under Impact 3.8-4 of the EIR, that together work to reduce the potential for impacts on wildlife movement corridors located within in the Planning Area. With implementation of these polies, impacts on wildlife movement corridors will be less than significant.

e. The City has a municipal ordinance in place to protect valley oak trees. All existing valley oak trees on subsequent development sites will be under the jurisdiction of this ordinance.

f. There are no local or regional habitat conservation plans for the area.

V. CULTURAL RESOURCES

a. Adopting the Zoning Text Amendment will not, by itself, impact any known or unknown historical resources located within the project area. This project does not allow for site specific development, and therefore, there is no possibility of unearthing historical or cultural resources.

b. Adopting the Zoning Text Amendment will not, by itself, impact any known or unknown archaeological resources located within the project area. This project does not allow for site specific development, and therefore, there is no possibility of unearthing unknown archaeological resources.

c. Adopting the Zoning Text Amendment will not, by itself, impact any known or unknown human remains buried in the project area. This project does not allow for site specific development, and therefore, there is no possibility of unearthing unknown human remains.

VI. ENERGY

a. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in energy impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

   Polices identified under Impacts 3.4-1 and 3.4-2 of the EIR will reduce any potential impacts of projects to a less than significant level. With implementation of these policies and the existing City standards, impacts to energy will be less than significant.

b. The project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency, based on the discussion above.

VII. GEOLOGY AND SOILS

a. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in geology and soil impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

b. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in geology and soil impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

c. Soils in the Visalia area have few limitations with regard to development. Due to low clay content and limited topographic relief, soils in the Visalia area have low expansion characteristics.

d. Due to low clay content, soils in the Visalia area have an expansion index of 0-20, which is defined as very low potential expansion.

e. Subsequent housing development will not involve the use of septic tanks or alternative wastewater disposal systems since sanitary sewer lines are used for the disposal of wastewater throughout the City of Visalia.

f. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in geology and soil impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

VIII. GREENHOUSE GAS EMISSIONS

a. Adoption of the Zoning Text Amendment is not expected to generate Greenhouse Gas (GHG) emissions in the short-term. There are no construction activities being considered by this project. The project is a policy document to bring housing policies in the City into consistency with State Housing law.

   The City has prepared and adopted a Climate Action Plan (CAP), which includes a baseline GHG emissions inventories, reduction measures, and reduction targets consistent with local and State goals. The CAP was prepared concurrently with the proposed General Plan and its impacts are also evaluated in the Visalia General Plan Update EIR.

   The Visalia General Plan and the CAP both include policies that aim to reduce the level of GHG emissions emitted in association with buildout conditions under the General Plan. Implementation of the General Plan and CAP policies will result in fewer emissions than would be associated with a continuation of baseline conditions. Thus, the impact to GHG emissions will be less than significant.

b. The State of California has enacted the Global Warming Solutions Act of 2006 (AB 32), which included provisions for reducing the GHG emission levels to 1990 baseline levels by 2020 and to a level 80% below 1990 baseline levels by 2050. In addition, the State has enacted SB 32 which included provisions for reducing the GHG emission levels to a level 40% below 1990 baseline levels by 2030.

   The proposed project will not impede the State's ability to meet the GHG emission reduction targets under AB 32. Current and probable future state and local GHG reduction measures will continue to reduce subsequent housing developments' contribution to climate change. As a result, the project will not contribute significantly, either individually or cumulatively, to GHG emissions.

IX. HAZARDS AND HAZARDOUS MATERIALS

a. No hazardous materials are anticipated with the adoption of the Zoning Text Amendment.

b. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in hazards and hazardous materials impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

c. There is no reasonably foreseeable condition or incident involving the project that could affect existing or proposed school sites.

d. The project does not impact any sites listed as hazardous materials sites pursuant to Government Code Section 65692.5.

e. The project area includes the Visalia Municipal Airport and is consistent with the Airport Land Use Compatibility Plan.

f. The project will not interfere with the implementation of any adopted emergency response plan or evacuation plan.

g. There are no wild lands within or near the City of Visalia.

X. HYDROLOGY AND WATER QUALITY

a. Development projects associated with buildout under the Visalia General Plan are subject to regulations that serve to ensure that such projects do not violate water quality standards of waste discharge requirements. These regulations include the Federal Clean Water Act (CWA), the National Pollutant Discharge Elimination System (NPDES) permit program. State regulations include the State Water Resources Control Board (SWRCB) and more specifically the Central Valley Regional Water Quality Control Board (RWQCB). Adherence to these regulations results in subsequent projects incorporating measures that reduce pollutants.

Furthermore, there are no reasonably foreseeable reasons why the adoption of the project would result in the degradation of water quality.

The Visalia General Plan contains multiple polices, identified under Impact 3.6-2 and 3.9-3 of the EIR, that together work to reduce the potential for impacts to water quality. With implementation of these policies and the existing City standards, impacts to water quality will be less than significant.

b. Adoption of the Zoning Text Amendment, in itself, will not substantially deplete groundwater supplies in the City of Visalia. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines. Furthermore, the City of Visalia's water conversation measures and explorations for surface water use over groundwater extraction will assist in offsetting the loss in groundwater recharge.

c.

i. No specific housing developments are approved as part of Zoning Text Amendment. For subsequent projects, which will be subject to project-specific environmental review, existing City Engineering Division standards require that a grading and drainage plan be submitted for review to the City to ensure that off- and on-site improvements will be designed to meet City standards.

ii. No specific housing developments are approved as part of Zoning Text Amendment. For subsequent projects, which will be subject to project-specific environmental review, development of sites will create additional impervious surfaces. However, existing and planned improvements to storm water drainage facilities as required through the Visalia General Plan policies assist in reducing potential impacts.

Polices identified under Impact 3.6-2 of the EIR assist in reducing potential impacts to a less than significant level.

iii. No specific housing developments are approved as part of Zoning Text Amendment. For subsequent projects, which will be subject to project-specific environmental review, development of sites will create additional impervious surfaces. However, existing and planned improvements to storm water drainage facilities as required through the Visalia General Plan policies will reduce any potential impacts.

Polices identified under Impact 3.6-2 of the EIR will reduce any potential impacts to a less than significant level.

Furthermore, all developments are required to meet the City's improvement standards for directing storm water runoff to the existing City storm water drainage system consistent with the City's adopted City Storm Drain Master Plan.

d. The City of Visalia is located sufficiently inland and distant from bodies of water, and outside potentially hazardous areas for seiches and tsunamis. Visalia is also relatively flat, which will contribute to the lack of impacts by mudflow occurrence. Therefore there will be no impact related to these hazards.

e. No specific housing developments are approved as part of Zoning Text Amendment. For subsequent projects, which will be subject to project-specific environmental review, drainage patterns may be affected in the short term due to erosion and sedimentation during construction activities and in the long term through the expansion of impervious surfaces. Impaired storm water runoff may then be intercepted and directed to a storm drain or water body, unless allowed to stand in a detention area. The City's existing standards may require the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the SWRCB's General Construction Permit process, which would address erosion control measures.

The Visalia General Plan contains multiple polices, identified under Impact 3.6-1 of the EIR, that together work to reduce the potential for erosion.

XI. LAND USE AND PLANNING

a. Adopting the Zoning Text Amendment will not, by itself, physically divide an established community

b. The Zoning Text Amendment does not propose to rezone or re-designate any land that was not already allowed to have residential development. Generally, residential development at greater densities is encouraged by the Housing Element policies. However, all identified potential residential development sites as well as generally increased development densities throughout the City, have been adequately analyzed for their consistency with urban infrastructure and service capacities as well as for land use consistency for the sites and relative to existing urban development within the City. The analysis concludes that the residential development patterns facilitated through the Housing Element are consistent

with the City's existing land use and population buildout scenarios that were developed for the 2014 General Plan, and further analyzed for environmental effects in the General Plan Program EIR.

The Visalia General Plan contains multiple polices, identified under Impact 3.1-2 of the EIR, that together work to reduce the potential for impacts to the development of land as designated by the General Plan. With implementation of these policies and the existing City standards, impacts to land use development consistent with the General Plan will be less than significant.

XII. MINERAL RESOURCES

a. No mineral areas of regional or statewide importance exist within the Visalia area.

b. There are no mineral resource recovery sites delineated in the Visalia area.

XIII. NOISE

a. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in noise impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

b. Adopting the Zoning Text Amendment will not, by itself, result in ground-borne vibration or ground-borne noise levels.

c. The project area includes the Visalia Municipal Airport; however, the project will not impact airport operations. There are no private airstrips within the City of Visalia.

XIV. POPULATION AND HOUSING

a. Adoption of the Zoning Text Amendment will not, by itself, directly induce substantial unplanned population growth that is in excess of that planned in the General Plan.

b. Adoption of the Zoning Text Amendment will not, by itself, displace any housing or people on the site. The area being developed is currently vacant land.

XV. PUBLIC SERVICES

a. No specific housing developments are approved as part of Zoning Text Amendment; therefore, adopting the Zoning Text Amendment will not, by itself, result in substantial adverse impacts associated with the provision of new or physically altered public facilities.

   i. Adopting the Zoning Text Amendment will not, by itself, require new fire protection services or facilities.

   ii. Adopting the Zoning Text Amendment will not, by itself, require new police protection services or facilities.

   iii. Adopting the Zoning Text Amendment will not, by itself, directly generate new students.

   iv. Adopting the Zoning Text Amendment will not, by itself, directly generate the need for additional park facilities.

   v. Adopting the Zoning Text Amendment will not, by itself, require other public services or facilities.

XVI. RECREATION

a. Adopting the Zoning Text Amendment will not, by itself, directly generate new residents and will therefore not directly increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.

b. Adopting the Zoning Text Amendment will not, by itself, require the construction or expansion of recreational facilities within the area that might have an adverse physical effect on the environment.

XVII. TRANSPORTATION AND TRAFFIC

a. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in transportation and traffic impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

b. No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly result in transportation and traffic impacts. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

c. No specific housing developments are approved as part of Zoning Text Amendment.

d. The project will not result in inadequate emergency access.

XVIII. TRIBAL CULTURAL RESOURCES

The proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.

a. No specific housing developments are approved as part of Zoning Text Amendment

b. No specific housing developments are approved as part of Zoning Text Amendment

Further, the EIR (SCH 2010041078) for the 2014 General Plan update included a thorough review of sacred lands files through the California Native American Heritage Commission. The sacred lands file did not contain any known cultural resources information for the Visalia Planning Area.

XIX. UTILITIES AND SERVICE SYSTEMS

No specific housing developments are approved as part of Zoning Text Amendment; therefore, the project, in itself, would not directly impact utilities and service systems. Housing projects undertaken in the course of implementing the goals, policies, and programs identified in the Housing Element will be subject to project-specific environmental review in accordance with Section 15060 et seq. of the CEQA Guidelines.

a. Adopting the Zoning Text Amendment will not, by itself, result in any impacts to utilities and service systems. All subsequent developments will be required to comply with regulations pertaining to utilities and service systems.

b. Adopting the Zoning Text Amendment will not, by itself, result in any impacts to utilities and service systems. All subsequent developments will be required to comply with regulations pertaining to utilities and service systems.

c. The City has determined that there is adequate capacity existing to serve subsequent housing development's projected wastewater treatment demands at the City wastewater treatment plant during the planning period of the Housing Element.

d. Adopting the Zoning Text Amendment will not, by itself, result in any impacts to utilities and service systems. All subsequent developments will be required to comply with regulations pertaining to utilities and service systems.

e. Adopting the Zoning Text Amendment will not, by itself, result in any impacts to utilities and service systems. All subsequent developments will be required to comply with regulations pertaining to utilities and service systems.

XX. WILDFIRE

a. Adopting the Zoning Text Amendment will not, by itself, result in any impacts from wildfire.

b. The City of Visalia is relatively flat and the underlying soil is not known to be unstable, and therefore not in a location that is likely to exacerbate wildfire risks.

c. Adopting the Zoning Text Amendment will not, by itself, result in any impacts from wildfire.

d. Adopting the Zoning Text Amendment will not, by itself, result in any impacts from wildfire.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

a. The project will not affect the habitat of a fish or wildlife species or a plant or animal community. This site was evaluated in the Program EIR (SCH No. 2010041078) for the City of Visalia's Genera Plan Update for conversion to urban use. The City adopted mitigation measures for conversion to urban development. Where effects were still determined to be significant a statement of overriding considerations was made.

b. The Program EIR (SCH No. 2010041078) for the City of Visalia General Plan Update considered the conversion of lands to urban use. The City adopted mitigation measures for conversion to urban development. Where effects were still determined to be significant a statement of overriding considerations was made.

c. The Program EIR (SCH No. 2010041078) for the City of Visalia General Plan Update considered the conversion of lands to urban use. The City adopted mitigation measures for conversion to urban development. Where effects were still determined to be significant a statement of overriding considerations was made.

DETERMINATION OF REQUIRED ENVIRONMENTAL DOCUMENT

On the basis of this initial evaluation:

___ I find that the proposed project **COULD NOT** have a significant effect on the environment. **A NEGATIVE DECLARATION WILL BE PREPARED.**

___ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on the attached sheet have been added to the project. **A MITIGATED NEGATIVE DECLARATION WILL BE PREPARED.**

___ I find the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

___ I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

__X__ I find that as a result of the proposed project no new effects could occur, or new mitigation measures would be required that have not been addressed within the scope of the Program Environmental Impact Report (SCH No. 2010041078). The Environmental Impact Report prepared for the City of Visalia General Plan was certified by Resolution No. 2014-37 adopted on October 14, 2014. **THE PROGRAM ENVIRONMENTAL IMPACT REPORT WILL BE UTILIZED.**

Brandon Smith, AICP
Environmental Coordinator

October 13, 2021
Date