

CITY OF SANTA CRUZ

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE M

REQUIRING PRIOR VOTER APPROVAL FOR ANY AMENDMENT TO GENERAL PLAN OR ZONING REGULATIONS TO INCREASE HEIGHT LIMITS OR FLOOR AREA RATIOS; AND INCREASING INCLUSIONARY HOUSING REQUIREMENTS FROM 20% TO AT LEAST 25% FOR DEVELOPMENTS WITH 30 OR MORE HOUSING UNITS.

Background. Recent changes to State housing law require the City of Santa Cruz to plan for development of 3,736 new residential dwelling units in the next 8 years to meet its “Regional Housing Needs Assessment” (RHNA). In 2020, the City embarked on the proposed Downtown Expansion Plan (DTEP) to locate a significant percentage of those units (up to 1,600) in the Downtown (South of Laurel) area, near workplaces, shopping, restaurants, public transportation and a new permanent Santa Cruz Warriors arena. The DTEP contemplates potential amendments to existing general plan and zoning regulations for Downtown to increase building heights and density (floor area ratios) above current limits to accommodate these units. Although one of the enumerated purposes of Measure M is to limit potential development contemplated by the DTEP, as written it would apply Citywide.

Measure M. California elections laws entitle citizens to amend City general plans and municipal codes by initiative. Rather than directly amending City codes, however, Measure M directs the City Council to take legislative action to retroactively incorporate its policies in the Municipal Code (effective June 1, 2023), including:

1. Amending Municipal Code § 24.06.080 to add: “Height Limits. No amendments to the General Plan or Zoning Ordinance that would increase allowable height limits or Floor Area Ratios (FAR) for development projects shall be adopted without a prior vote of the people approving the proposed increase”; and
2. Amending the Zoning Code “to increase the inclusionary requirements to at least 25% for developments with 30 or more housing units.”

Measure M does not define “inclusionary” or “affordable” or incorporate Zoning Code definitions by reference, nor does it specify which sections or specific text of the Zoning Ordinance it seeks to amend.

Effect of State Density Bonus Law (DBL). The City’s current inclusionary requirement (percent of affordable vs. market rate units) for most new residential development is 20%. Under the DBL, an apartment project that provides 20% of units for lower income households is entitled to a 35% increase over the otherwise current maximum density (number of units per acre) specified by City regulations, plus a certain number of “incentives or concessions,” such as reducing site development standards or modifying zoning (e.g., building heights, setbacks, etc.) or architectural design standards. On the other hand, a project that provides 25% of units for lower income households is entitled to a 50% density bonus, plus an additional incentive or concession. Thus, under Measure M, while a development that meets this new 25% minimum could theoretically construct more units, with commensurate increases in height and scale above that permitted under

the current 20% minimum, it is unclear whether such projects would be financially viable and, therefore, actually result in more affordable units being constructed.

A simple majority of voters is required to pass the measure.

The above statement is an impartial analysis of Measure M

Date: December 15, 2023

/s/

Tony Condotti, City Attorney