

Th32c

DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project: City of Carlsbad LCP Amendment No. 01-07A (DKN Hotel)
Date/time of receipt of communication: July 25, 2008; 10:00 am
Location of communication: Palo Alto
Type of communication: In person
Person(s) initiating communication: Susan McCabe

Detailed substantive description of content of communication:

The applicants agent informed me that the City of Carlsbad and the hotel developer, whose property is the subject of the proposed zone change, objects to staff's suggested modifications dealing with lower cost visitor and recreational facilities and requests that the LCPA be approved as submitted.


Specifically, the City disagrees with the addition of policies requiring that a fee be paid if existing overnight accommodations are demolished, or if new high cost accommodations are developed.

The City believes the proposed amendment should be approved as submitted because:

- 1) it will create more visitor-serving facilities to accommodate significantly more visitors than are currently accommodated on the site
- 2) the City has a significant number of accommodations available at a wide range of affordability
- 3) the suggested modifications could result in the DKN hotel project not being developed and the site remaining residential, and
- 4) the issue of protecting lower cost accommodations can be better addressed during the City's comprehensive update to the LCP which is currently underway.

7/29/08

Date



Signature of Commissioner

Th32c

THURSDAY, ITEM 32C

DISCLOSURE OF EX PARTE COMMUNICATIONS

CALIFORNIA
COASTAL COMMISSION

JUL 29 2008

RECEIVED

Name or description of project:

City of Carlsbad LCP Amendment No. 01-07A (DKN Hotel). LCP amendment to modify the land use designation from Residential High Density (RH) to Travel Recreational Commercial (TR), with companion rezoning from R-3 to CT, on a portion of a site located on the east side of Carlsbad Blvd. between Pine and Oak Avenues to accommodate the development of a 28-unit standard operation hotel.

Date and time of receipt of communication:

July 28, 2008 @ 11am

Location of communication:

La Jolla, CA

Type of communication:

In person meeting

Person(s) in attendance at time of communication:

Susan McCabe

Person(s) receiving communication:

Pat Krue

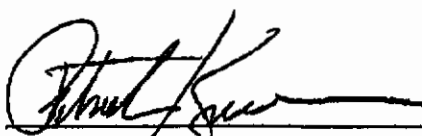
Detailed substantive description of the content of communication:

(Attach a copy of the complete text of any written material received.)

I received a briefing from Susan McCabe in which she informed me that the City of Carlsbad and the hotel developer, whose property is the subject of the proposed zone change, objects to staff's suggested modifications dealing with lower cost visitor and recreational facilities and requests that the LCPA be approved as submitted. Specifically, the City disagrees with the addition of policies requiring that a fee be paid if existing overnight accommodations are demolished, or if new high cost accommodations are developed. The City believes the proposed amendment should be approved as submitted because 1) it will create more visitor-serving facilities to accommodate significantly more visitors than are currently accommodated on the site, 2) the City has a significant number of accommodations available at a wide range of affordability, 3) the suggested modifications could result in the DKN hotel project not being developed and the site remaining residential, and 4) the issue of protecting lower cost accommodations can be better addressed during the City's comprehensive update to the LCP which is currently underway.

Date: 7/29/08

Signature of Commissioner:



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Th 32c
City of Carlsbad
Office of the Mayor

July 22, 2008

Mr. Patrick Kruer, Chairman
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: CITY OF CARLSBAD LCP AMENDMENT (LCPA #1-07A) – DKN HOTEL

Dear Mr. Chairman,

The City of Carlsbad respectfully requests that the Coastal Commission approve LCPA #1-07A (DKN Hotel) as submitted by the City. The proposed LCP amendment consists of changing the land use and zoning designations on a project site (two parcels totaling .84 acre) in the City of Carlsbad from multiple-family residential to visitor-serving commercial (note: the LCPA is applicable only to the easterly .49 acre of the .84 acre site area). An aerial photo exhibit is enclosed, which illustrates the location of the project site and the portion subject to the LCPA.

Associated with the proposed land use and zone change, is a project (DKN Hotel) to construct a new 104-unit, all-suite, moderately priced hotel, which involves the removal of an existing 28-unit hotel, restaurant, and dwelling. A portion of the DKN Hotel project site is located within the Village Redevelopment area of Carlsbad, and is designated "Village-Redevelopment" (V-R). Hotels are a permitted use within V-R; therefore, the V-R portion of the site (westerly .35 acre) is not a part of the proposed LCPA. The development of the hotel project is not subject to Coastal Commission approval because the City of Carlsbad has permit authority within the applicable segments of the certified LCP. The project site is also not within the Coastal Commission's appeals jurisdiction.

As stated in the July 18, 2008 report to the Coastal Commission, Coastal Commission staff is recommending that the Commission approve the amendment with suggested modifications. The City requests that the Coastal Commission approve the amendment without the suggested modifications. On a separate sheet attached to this letter, is the motion that the City recommends the Coastal Commission make to approve the amendment as submitted.

The suggested modifications consist of adding four policies to the Carlsbad LCP, the intent of which is to protect "lower cost visitor and recreational facilities" (via Coastal Commission staff's one-size-fits-all approach). To accomplish this intent, Coastal Commission staff is suggesting that a costly fee be paid if existing overnight accommodations are demolished, or if new high cost accommodations are developed. The establishment of such a fee requirement is not justified in relation to the proposed amendment, and the City requests that the Coastal Commission not approve the suggested modifications for the following reasons:

1. The proposed amendment will create more of what the Coastal Commission encourages – additional visitor-serving commercial land (.49 acre). As indicated in the July 18, 2008 report to the Coastal Commission, visitor-serving commercial is the highest priority land use over residential (lowest priority land use).
2. With the additional land (.49 acre) to construct visitor-serving uses, the associated DKN Hotel project will create more visitor-serving facilities than currently exist (even with the removal of an existing hotel).

Receiver

JUL 24 2008

Letters of Response

- a. Coastal Commission staff state in their report that the amendment will diminish visitor-serving facilities on the project site because the new hotel (proposed at a rate of \$125 per night) will replace an existing hotel that costs less (\$99 per night). The City of Carlsbad does not agree:
- i. The amendment will create more visitor-serving commercial land (.49 acre), which creates more opportunities to serve visitors – it does not diminish visitor-serving facilities.
 - ii. The new hotel that is associated with the amendment will:
 - Result in a 104-unit, all-suite hotel (accommodating a minimum of 4 persons per suite), in place of an existing hotel with 28 standard double rooms (2 persons per room) – an increase of 76 rooms/units (272% more rooms/units than currently exist on the site).
 - Accommodate 416 visitors (based on 4 persons per suite), while the existing hotel only accommodates 56 visitors (based on 2 persons per double room) – a 643% increase in visitors.
 - iii. The cost of the new hotel is actually more affordable than the existing hotel. A family of four would pay only \$125 per night to stay in a 2-room suite at the new hotel (\$31.25 per person); but to stay in the existing hotel, the same family would have to rent two hotel rooms at \$99 per night/room (\$198), which equates to \$49.50 per person.
3. There is no lack of accommodations (affordable or otherwise) in the City of Carlsbad. Coastal Commission staff state in their report that the City of Carlsbad “has not adequately protected a range of affordability within the visitor-serving developments in the City of Carlsbad.” The City does not agree with this statement based on the following facts:
- a. Within all of San Diego County, Carlsbad is second only to the City of San Diego in the number of accommodations offered to visitors, and greatly exceeds the number of accommodations offered by our coastal neighbors to the north (Oceanside) and south (Encinitas). The following summarizes the accommodations offered in the City of Carlsbad (the enclosed map provides more detailed information on hotel rates in Carlsbad):

Accommodations Citywide			Accommodations within the Coastal Zone (CZ)			Accommodations within 1-mile of the Coast Line***		
Affordability range	Number of Rooms****	% of Total	Affordability range	Number of Rooms****	% of Total	Affordability range	Number of Rooms****	% of Total
Lower cost*	821**	21%	Lower cost*	578**	23%	Lower cost*	821** (243 outside CZ)	36%
Moderate cost*	530	14%	Moderate cost*	424	17%	Moderate cost*	530 (106 outside CZ)	23%
High cost*	2,480	65%	High cost*	1,509	60%	High cost*	930	41%
Total	3,831	100%	Total	2,511	100%	Total	2,281	100%

* Per Coastal Commission staff's definitions: "lower cost" = less than \$108.35, "moderate cost" = \$108 - \$159.48, "high cost" = more than \$159.48.

** The total number of "lower" cost accommodations include 249 Camp/RV sites, which range from \$21 - \$35 per night (68% to 80% below what is considered by Coastal Commission staff to be "lower" cost - \$108 per night).

*** A portion (approximately 1 mile) of Carlsbad's Coastal Zone in the northern section of the City is narrow (CZ only extends inland about ¼ mile); however, there is an additional 243 lower cost and 106 moderate cost hotel rooms that are less than 1-mile from the coast line (but just outside that narrow segment of the CZ) that serve coastal visitors as conveniently as accommodations within other portions of Carlsbad's Coastal Zone.

**** Number of "rooms" also includes "spaces" in campgrounds and RV/travel trailer parks.

- b. The table above shows that Carlsbad has not only provided a high number of overnight accommodations, but has provided accommodations with a broad range of affordability.
 - i. Of Carlsbad's 578 lower cost accommodations in the Coastal Zone, 249 of those are campsites or trailer sites. Carlsbad's camp/RV sites range from \$21 - \$35 per night, which is significantly below (68% to 80%) what is considered by Coastal Commission staff to be "lower" cost (\$108 per night).
 - ii. The existing adopted Carlsbad LCP (Policy 6.5 of the Mello II Segment) states that an additional 200 hotel rooms (above those that existed in 1980) should be provided in the City of Carlsbad. In 1980, when Policy 6.5 of the LCP was established, the City of Carlsbad had 312 hotel rooms. Since 1980, the City has added 3,519 accommodations (2,199 within the Coastal Zone), which is far in excess of the 200 rooms that the LCP specifies should be added.
 - iii. Carlsbad has more than adequately provided a range of visitor accommodations, and as shown in the table above, has protected the full range of affordability within the visitor-serving developments.
- c. In comparison to Carlsbad's neighbors to the north (Oceanside) and south (Encinitas):
 - i. Carlsbad provides a higher number of lower cost accommodations within the Coastal Zone - Carlsbad (578 lower cost hotel rooms), Oceanside (516 lower cost hotel rooms), Encinitas (42 lower cost hotel rooms).
 - ii. Carlsbad not only provides more lower-cost accommodations than Oceanside and Encinitas, but also provides significantly more accommodations overall at a wide range of affordability: Carlsbad - 3,831 hotel rooms citywide (2,511 in the Coastal Zone), Oceanside - 1,433 hotel rooms citywide (568 in the Coastal Zone), and Encinitas - 666 hotel rooms citywide (all in the Coastal Zone). Carlsbad serves significantly more visitors than Oceanside and Encinitas by meeting the full spectrum of visitor accommodation needs.
 - iii. In terms of city size and population, Carlsbad and Oceanside are of a similar geographic size (approximately 42 square miles); however, Carlsbad's population (103,811) is 42% less than (almost half) the population of Oceanside's (178,806). Even though Carlsbad's population is almost half that of Oceanside's, Carlsbad has approximately 342% more visitor accommodations than Oceanside in the Coastal Zone (and approximately 166% more accommodations citywide).
 - iv. In comparison to Encinitas, Carlsbad has about twice as much geographic land area (Carlsbad = 42 square miles and Encinitas = 19 square miles), and twice as much population (Carlsbad = 103,811 and Encinitas = 63,864); however Carlsbad has approximately 277% more visitor accommodations in the Coastal Zone than Encinitas (and approximately 475% more accommodations citywide).

- v. Oceanside was recently before the Coastal Commission with a similar LCPA request.
4. As mentioned in the Coastal Commission staff report, half of the DKN Hotel site is located within the Carlsbad Village Redevelopment area. The development of the DKN Hotel will result in benefits to the Redevelopment area, as described below. However, if the fee requirements (that would be established by the suggested modifications) are approved and applied to the DKN Hotel project, there may be negative consequences that offset the benefits/purpose of the fee (potential negative consequences are described below).
 - a. DKN Hotel benefits to the Carlsbad Village Redevelopment area:
 - i. Elimination of a deteriorating building that has outlived its useful life (originally constructed in 1968 under less stringent building codes and design standards), which is a blighting influence in the Village Area. Redevelopment programs are implemented to eliminate blight and blighting influences.
 - ii. Enhance the effective use or capacity of the building and/or lot by developing a building/hotel of a more appropriate size given current market conditions. The proposed project will provide significantly more affordable visitor accommodations for families and/or other larger groups due to its configuration and larger room size. The project will increase the number of hotel rooms on the site from 28 to 104, and increase the size from a single, standard hotel room to a suite, which will accommodate more guests per room (as discussed above).
 - iii. Revitalization of the Village Area with the addition of affordable visitor-serving accommodations, which will increase the number of customers for Village businesses. This will assist in the effort to revitalize the business climate in the Village while also providing more accommodations for visitors enjoying coastal resources.
 - iv. Increase redevelopment revenues for public improvements and affordable housing:
 - The current tax base for the subject property is \$1.4 million, which generates approximately \$14,000 in tax increment revenue per year for the redevelopment agency. Of this amount, approximately \$11,200 per year is paid to the redevelopment agency for general redevelopment projects, and \$2,800 for affordable housing development and/or programs.
 - With the new proposed project, the new tax base value will be approximately \$16 million. This will generate approximately \$146,000 per year of additional tax increment revenue to the agency, with approximately \$116,800 distributed per year to general redevelopment projects to improve the Village area, and \$29,200 per year to fund affordable housing developments and/or programs.
 - In total, with the new project, the redevelopment agency would receive approximately \$128,000 per year for general redevelopment projects/programs, such as public parking, and \$32,000 per year for affordable housing projects/programs, such as the Habitat for Humanity project (11 condominium units for very low income households) currently under construction in the Village area.

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- b. Potential negative consequences (if the fee is established and applied to the DKN Hotel):
- i. There is no assurance that the City Council will accept the suggested modifications. However, if the City Council does accept them, the fee may cause the project to become infeasible for the developer (the fee, as suggested by Coastal Commission staff, would be approximately \$840,000 for the DKN Hotel project). The project has no timeshares or condo hotels within it to assist with providing equity for financing purposes. With conventional financing and substantial construction costs, this project is already difficult and the additional fee will most likely make it impossible to obtain the required equity to build.
 - ii. If the City Council does not accept the suggested modifications, the DKN Hotel project will not be constructed, the site will remain residential, and the site could be developed with high cost condominiums that do not serve visitors.
 - iii. No additional funding for general redevelopment programs and affordable housing, which will limit additional improvements in the Village such as public parking and new housing units for low income households.

5. The City would recommend that the issue of protecting lower cost accommodations be done more comprehensively (not in a piecemeal fashion as suggested by Coastal Commission staff). The City of Carlsbad has recently initiated a \$1.8 million comprehensive update to the City's Local Coastal Program, General Plan, and Zoning Ordinance. Addressing the issue in the City's comprehensive update to the LCP will ensure that it is addressed adequately and more effectively in the City of Carlsbad.

The City of Carlsbad LCP consists of six segments (Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties, Village Redevelopment Area, and Agua Hedionda). Coastal Commission staff's suggested modifications would only apply to one of the six segments (Mello II), which results in a piecemeal approach to addressing affordable lodging in Carlsbad's Coastal Zone.

In addition to this piecemeal approach, the suggested modifications are not based on the unique characteristics of Carlsbad; rather, they seem to be a "one-size-fits-all jurisdictions" attempt to protect lower cost accommodations. Coastal Commission staff's analysis is based on data applicable to all of San Diego County, including areas outside the Coastal Zone. The definition of what is considered "lower", "moderate", and "high" cost is based on an average cost of all rooms in the County within 5 miles of the coast. The average costs throughout the County don't necessarily reflect what is truly affordable in the County, along the coast, or, more specifically, in North San Diego County and Carlsbad's Coastal Zone.

The suggested modifications have also not been adequately analyzed for potential negative impacts (e.g., discouraging improvements or rehabilitation of existing run-down hotels, which in redevelopment areas, like Carlsbad, reduces the funds available to provide affordable housing, visitor-serving access, and other improvements to the area that create an attractive place for visitors).

Finally, the suggested modifications would impose new program administration requirements and dilute local decision-making authority. For example, the City of Carlsbad would be responsible for assessing, collecting, and administering fees for the purpose of creating new lower-cost accommodations; however, the authority to approve "lower cost" visitor-serving projects would be shifted from the City of Carlsbad to the Executive Director of the Coastal Commission.

Patrick Kruer, Chairman
California Coastal Commission
Re: DKN Hotel LCP Amendment #1-07A
July 22, 2008
Page 6

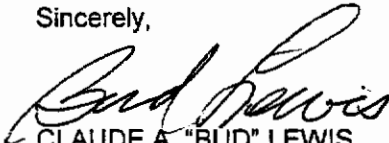
The City of Carlsbad is ready, willing, and able to analyze this issue more comprehensively and creatively during the LCP update process, which will yield more useful information on this subject for the Coastal Commission to consider during their review of the updated plan.

In summary: 1) the proposed amendment will create more visitor-serving facilities to accommodate significantly more visitors than are currently accommodated on the site (at a more affordable cost), 2) the City of Carlsbad has a significant number of accommodations available at a wide range of affordability, 3) there are various benefits that result from the construction of the DKN Hotel, but the suggested modifications could result in the project not being developed and the site remaining residential (no addition of visitor-serving commercial land), and 4) the issue of protecting lower cost accommodations can be better addressed during the City's comprehensive update to the LCP.

Based on the information above, the City requests that the Coastal Commission approve the proposed LCP amendment as submitted by the City. Alternate language for the Coastal Commission's motion to approve the amendment as submitted is enclosed.

Please contact Jennifer Jesser, Senior Planner, with any questions or requests for information.

Sincerely,



CLAUDE A. "BUD" LEWIS
Mayor

Enclosures

CC: Coastal Commissioners and staff:

Steve Blank, Coastal Commissioner
Sara Wan, Coastal Commissioner
Dr. William A Burke, Coastal Commissioner
Steven Kram, Coastal Commissioner
Mary K. Shallenberger, Coastal Commissioner
Bonnie Neely, Coastal Commissioner
Mike Reilly, Coastal Commissioner
Dave Potter, Coastal Commissioner
Khatchik Achadjian, Coastal Commissioner
Larry Clark, Coastal Commissioner
Ben Hueso, Coastal Commissioner
James Wicket, Commissioner Alternate
April Vargas, Commissioner Alternate
Dan Secord, Commissioner Alternate
Deborah Schoenbaum, Commissioner Alternate
Adi Liberman, Commissioner Alternate
Sharon Wright, Commissioner Alternate
Steve Kinsey, Commissioner Alternate
Brooks Firestone, Commissioner Alternate
Dr. Suja Lowenthal, Commissioner Alternate
Lorena Gonzalez, Commissioner Alternate
Sherilyn Sarb, Deputy Dir., San Diego Coast
Deborah Lee, District Manager, San Diego Coast
• Toni Ross, Coastal Program Analyst

City of Carlsbad and DKN Hotel Representatives:

Ann Kulchin, Mayor Pro Tem
Matt Hall, City Council Member
Julie Nygaard, City Council Member
Mark Packard, City Council Member
Lisa Hildabrand, City Manager
Jane Mobaldi, Assistant City Attorney
Sandra Holder, Community Development Director
Don Neu, Planning Director
Debbie Fountain, Housing and Redevelopment Director
Gary Barberio, Assistant Planning Director
Dave De Cordova, Principal Planner
Jennifer Jesser, Senior Planner
Van Lynch, Senior Planner
Kiran Patel, DKN Hotel
Paul Klukas, Planning Systems
Susan McCabe, McCabe and Company
Anne Blemker, McCabe and Company

MOTION FOR APPROVAL AS SUBMITTED
City of Carlsbad LCPA #1-07A

I. MOTION: *I move that the Commission certify the Land Use Plan Amendment for the City of Carlsbad, as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

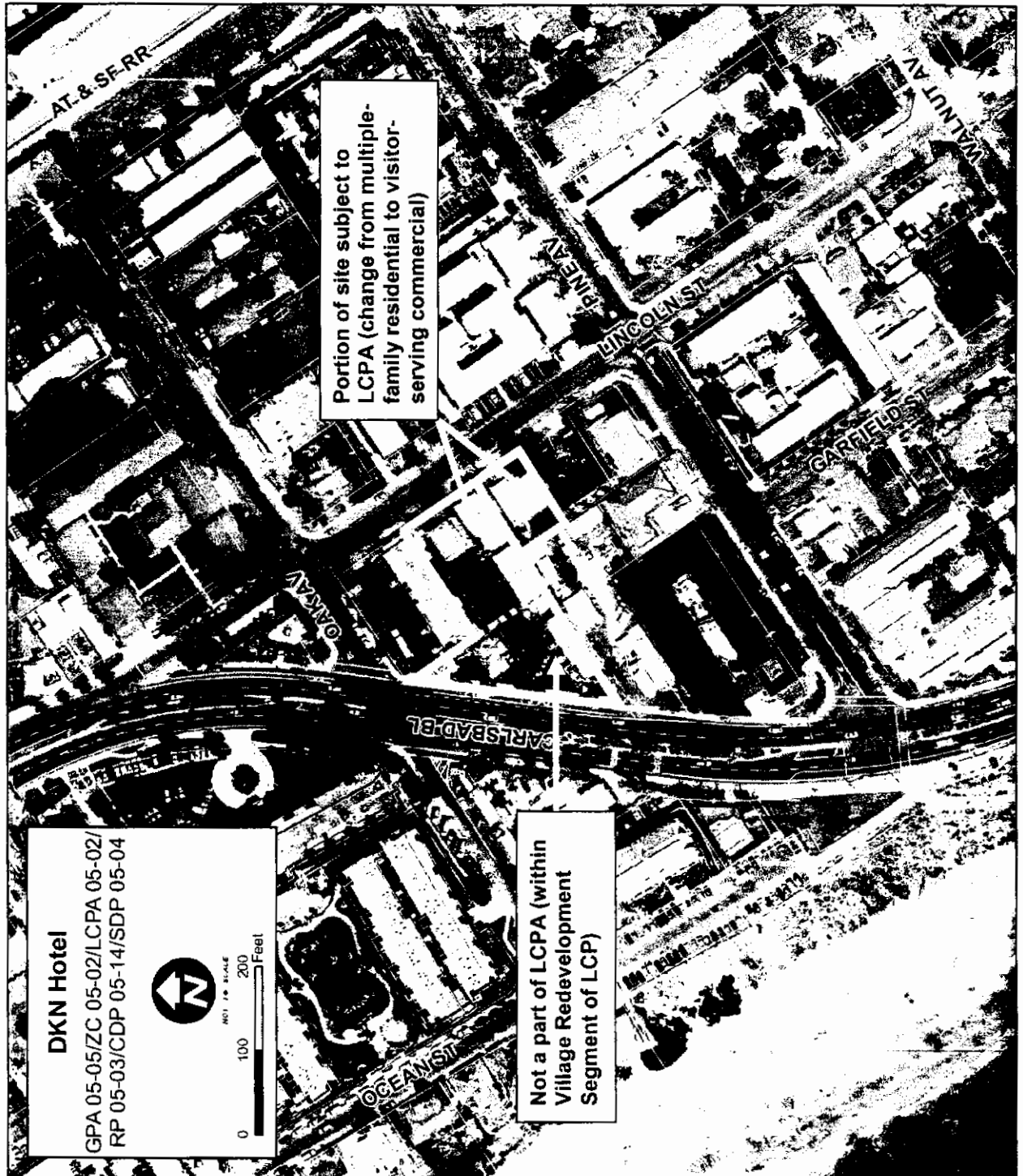
Received

JUL 24 2008

California Coastal Commission
San Diego Coast District

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City of Carlsbad LCPA #1-07A
Aerial View of Project Site



Receiver

JUL 24 2008

California Coastal Commission
San Diego Coast District

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Note: This correspondence has been forwarded to Coastal Commission Staff at the same time that it is being delivered to the Coastal Commissioners and their Alternates.

July 21, 2008

Mr. Pat Kruer
Chairman
CALIFORNIA COASTAL COMMISSION
45 Fremont St.
Suite 2000
San Francisco, CA 94105

RE: CITY OF CARLSBAD LCP AMENDMENT No. 1-07A
DKN HOTEL
THURSDAY, AUG. 7; ITEM 32c

Dear Mr. Chairman:

We are the original applicant for the City of Carlsbad zone change which initiated the City's LCP amendment (LCPA) to allow the development of our new hotel near the coast in Carlsbad. We are informed that this LCPA will be heard at your August, 2008 hearing.

Our zone change (LCPA) request is simple. Should the allowed LCP land use and zoning over the rear .49 acres (58%) of our property be changed from high density residential/multiple-family residential to tourist-serving commercial in order to accommodate our proposed hotel? Inasmuch as the highest Coastal Act priority land use for coastal properties is visitor-serving commercial rather than the existing lowest priority high density residential, the land use/zoning change was approved by the City, subject to the necessary corresponding ratification of the LCPA (Land Use and Zoning) by the Coastal Commission. The City subsequently applied to the Coastal Commission for this LCPA ratification.

We have now however been provided with a copy of the Coastal Staff Recommendation report on the City's requested LCPA. We are concerned that this Staff Recommendation includes Suggested Modifications which disallow the land use change from residential to visitor-serving unless the LCP is also modified to include a requirement to fund an in-lieu mitigation fee for replacement of existing hotels with "affordable" room rates. Further, we are informed that this mitigation fee will add approximately \$30,000 for each existing affordable room displaced.

Receiver

JUL 23 2008

California Coastal Commission
San Diego Coast District

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Aside from the fact that this in-lieu fee will constitute a significant penalty against maintaining and redeveloping older hotels in need of refurbishment, and will thus extend the use of properties that have degraded into poor condition, we are unable to follow the logic between the City's requested LCP land use and zone change for the rear 58% of the our proposed hotel site, and the in-lieu fee requirement.

Our family has owned this property for almost 25 years. It is our plan to demolish the existing Surf Motel which occupies most of the 0.84 acre site. The Surf Motel is obsolete because it is estimated to have been built in the late 1960's and is run-down, nearing the end of its useful life. It does not comply with current codes. It has 28 total hotel units. The current average room rate at the Surf Motel is \$99 per night. The new proposed hotel will have 104 hotel units with an average daily room rate of approximately \$125/night, representing only a 26% increase in room rates. The proposed hotel will nearly quadruple the supply of hotel units from the existing 28 units to 104 proposed units. The new units will be larger two-room suites designed to accommodate more overnight visitors (larger families) per unit, thus making them even more affordable per person than the existing smaller hotel rooms. We view these factors as increasing both accessibility and affordability to those visiting the Coastal Zone.

Further, the existing LCP land use and zoning on the rear .49 acre portion of the site is Residential - High Density and Multiple-Family Residential. As such, we would be allowed by right to construct a number of luxury condominiums or apartments on this property. The property is within the City of Carlsbad coastal permit jurisdiction area and although it is only 1 ½ blocks from the beach, is not within the Coastal Commission appeal area. To make this project feasible we have to maximize the number of hotel units on the site, the proposed 104 rooms are built on 2 levels of subterranean parking, which is estimated to cost \$2.5Million. Our proposed hotel project is conventionally financed. The proposed \$30,000 fee for affordable hotel units would add significantly to the debt on this loan, increasing the cost of hotel construction considerably. If the hotel project becomes financially infeasible, our most attractive option will be to sell the rear majority of the property for a luxury condominium development and either abandon or redesign a much smaller hotel project on the front portion of the site.

We had assumed that the singular question before the Commission in this LCPA is whether this requested change of LCP land use and zoning from high density residential to tourist-serving commercial use is more consistent, or less consistent with the applicable policies of the Coastal Act. We thought the answer would be clear since the proposed LCP land use and zoning increases the amount of visitor serving commercial zoning in the City's coastal zone. In light of the proposed fee penalty, it must be concluded, however, that Coastal Staff believes that the tourist-serving use is not preferable to high density residential use in this location. And, thus, per the Staff Recommendation report, in the absence of imposition of such an in-lieu fee penalty, the residential use is in fact preferable. If this is not the intent, it is most certainly the consequence.

Please consider these factors as you deliberate this LCPA. And so in summary, we request that you approve the City of Carlsbad LCPA NO. 1-07(A) as requested by the City. This action will have the effect of allowing for the change in LCP land use and zoning from residential to tourist-

serving commercial, without imposing a financial penalty which will jeopardize the feasibility of the project.

Sincerely,

Kiran Patel

Kiran Patel
DKN HOTELS

cc: Steve Blank, Commissioner
Sara Wan, Commissioner
Dr. William A Burke, Commissioner
Steven Kram, Commissioner
Mary K. Shallenberger, Commissioner
Bonnie Neely, Commissioner
Mike Reilly, Commissioner
Dave Potter, Commissioner
Khatchik Achadjian, Commissioner
Larry Clark, Commissioner
Ben Hueso, Commissioner
James Wicket, Commissioner Alternate
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Deborah Schoenbaum, Commissioner Alternate
Adi Liberman, Commissioner Alternate
Sharon Wright, Commissioner Alternate
Steve Kinsey, Commissioner Alternate
Brooks Firestone, Commissioner Alternate
Dr. Suja Lowenthal, Commissioner Alternate
Lorena Gonzalez, Commissioner Alternate
Sherilyn Sarb, San Diego Coast District
Deborah Lee, San Diego Coast District
Toni Ross, San Diego Coast District
Lisa Hildabrand, City of Carlsbad City Manager
Sandra Holder, City of Carlsbad Community Development Director
Don Neu, City of Carlsbad Planning Director
Debbie Fountain, City of Carlsbad Housing and Redevelopment Director
Paul Klukas, Planning Systems



Th 32c

LEGOLAND CALIFORNIA RESORT
One LEGOLAND Drive
Carlsbad, CA 92008

TEL (760) 918-LEGO
FAX (760) 918-5459
WEB www.LEGOLAND.com

August 1, 2008

Mr. Patrick Kruer, Chairman
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: CITY OF CARLSBAD LCP AMENDMENT (LCPA #1-07A) – DKN HOTEL

Dear Mr. Chairman,

On behalf of LEGOLAND, I respectfully request that the California Coastal Commission approve the LCPA #1-07A as submitted by the City of Carlsbad.

LEGOLAND is aware that Coastal Commission staff has proposed modifications to the Mello II segment of the submitted Carlsbad LCP. LEGOLAND strongly opposes these modifications, specifically the in-lieu fee requirement, and requests that the Coastal Commission not approve these modifications.

LEGOLAND is currently in the process of developing a LEGOLAND Hotel to accompany the existing theme park. LEGOLAND is not opposed to the provision of lower-cost visitor and recreational facilities, but rather LEGOLAND objects to the manner in which the affordability issue is being addressed.

As the City of Carlsbad noted, the city has initiated an update to the LCP. A citywide LCP update would be the ideal time to address the issue of lower-cost visitor and recreational facilities on a comprehensive basis. There are varieties of solutions to accommodate lower-cost visitor and recreational facilities and simply requiring an in-lieu fee across the board assumes a lowest-common-denominator, one-size-fits-all approach that is short-sighted. Through a comprehensive LCP update, the City can identify policies and implementation measures to address its needs for lower-cost visitor and recreational facilities.

In summary, LEGOLAND requests that the Coastal Commission approve the City of Carlsbad LCP Amendment (LCP #1-07A) as submitted. LEGOLAND opposes the amendment with the proposed modifications provided by Coastal Commission staff.

Sincerely,

John Jakobsen
President, LEGOLAND California Resort

RECEIVED

AUG 1 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT
LEGOLAND CALIFORNIA RESORT

Letter of Comment

57
MERLIN

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



July 18, 2008

Th 32c

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR LCP
AMENDMENT 1-07A (DKN Hotel) for Commission Meeting of August 6 – 8, 2008**

SYNOPSIS

The subject LCP land use plan and implementation plan amendment was submitted and filed as complete on November 1, 2007. A one-year time extension was granted on January 10, 2008. As such, the last date for Commission action on this item will be the December 2008 hearing. This component of the LCP submittal was previously agendaized in April of this year but the item was continued at that time. The subject LCP amendment is the first component of a three-part submittal. The land use plan and zoning designation amendment for La Costa Glen Corporate Center, LCPA #1-07C, was heard in February of this year. The implementation plan amendment for the City's Planned Development Regulations, LCPA #1-07B, is not part of this staff report and will be scheduled as a separate item for a later date.

SUMMARY OF AMENDMENT REQUEST

The subject LCP amendment proposes changes to the land use designation and zoning on a two parcel site totaling .84 acres located on the east side of Carlsbad Blvd. between Pine and Oak Avenues. This LCP amendment is a project-driven amendment for the City. The project includes the demolition of an existing 2-story 28 room hotel, 1,125 sq. ft. restaurant, and a single family residence to allow for the construction of a new three-story 104-room hotel with underground parking. The project site is located in an urbanized area, and no sensitive resources are present.

The LCP land use designation would be modified from Residential High Density (RH) to Travel/Recreational Commercial (TR) on the easterly portion of the project. The western portion of the project will remain as Village Redevelopment (V). The existing zoning on site would be modified from Residential Family Zone (R-3) to Tourist Commercial (C-T) on the easterly portion of the site. The western portion of the project will remain zoned as Village Redevelopment (V-R). The site is located in both the Village Redevelopment segment and the Mello II segment of the City's adopted Local Coastal Program (LCP)

and is not within the Coastal Commission's appeal jurisdiction area of the Coastal Zone. The western portion of the site is located in the Village Redevelopment area, while the eastern portion of the site is located in the Mello II segment of the City, in an area designated for residential uses. The City of Carlsbad is not proposing any changes to land use or zoning within the Village Redevelopment area (western portion); therefore, the Village Redevelopment segment of the LCP is not being reviewed at this time. The changes proposed on the eastern portion of the site are within the Mello II segment of the City's adopted LCP. As such, all appropriate Mello II policies are under review by the proposed land use modification.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending first the Commission deny the land use plan amendment and then approve the LCP amendment with various suggested modifications. The proposed development includes the demolition of a 28-unit lower cost standard operating hotel development, a single family residence, and a restaurant with the reconstruction of a 104 room moderately priced standard operation hotel facility. The project as proposed would include modifying a significant portion of the subject site to be designated and zoned for visitor-serving uses. As proposed, the project would demolish 28 existing motel units with an average nightly cost of \$99/night (per the project's agent), the new hotel project would increase the number of units to 104, with an average nightly cost of \$125/night (per the project's agent). The project therefore does not propose to maintain the existing lower cost units nor develop new lower cost overnight accommodations. As such, the visitor-serving facilities on this site will be diminished. Further, the demolition of an existing lower cost overnight facility located in close proximity to the ocean is not consistent with the Coastal Act policies for the protection of lower cost recreational and overnight facilities, especially for lands suitable for visitor-serving facilities.

The City of Carlsbad's adopted LCP does not currently include policies for the protection of lower cost recreational and overnight facilities in the coastal zone. As such, four suggested modifications have been recommended for the incorporation of the Coastal Act's mandate to prioritize and protect lower cost visitor facilities into the City's land use plan, as well as in-lieu fees associated with demolition of existing lower cost and/or future developments of higher cost overnight accommodation. These proposed suggested modifications will be incorporated into the City's LUP and therefore will be applicable to all future demolition, redevelopment or new development of overnight accommodations within the Mello II Segment of the City's adopted LCP. Only as modified can the LUP be found consistent with the Coastal Act.

The modifications to the Implementation Plan; however, can be found consistent with the existing LUP, as well as the LUP as modified by staff recommendation, without requiring any modifications. In summary, staff is therefore recommending that the LUP be approved with four suggested modifications and the Implementation Plan be approved as submitted.

The appropriate resolutions and motions begin on Page 5. The suggested modifications begin on Page 7. The findings for denial of the Land Use Plan Amendment as submitted begin on Page 10. The findings for approval of the plan, if modified, begin on Page 17. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 21.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP Amendment 1-07A may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW**A. LCP HISTORY**

The City of Carlsbad certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties and Village Redevelopment. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. The subject amendment request affects only the Mello II segment of the LCP.

B. STANDARD OF REVIEW**B. STANDARD OF REVIEW**

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of and conforms with Chapter 3 of the Coastal Act. Specifically, it states:

Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

In those cases when a local government approves implementing ordinances in association with a land use plan amendment and both are submitted to the Commission for certification as part of one LCP amendment, pursuant to Section 13542(c) of the Commission's regulations, the standard of review of the implementing actions shall be the land use plan most recently certified by the Commission. Thus, if the land use plan is

conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION I:** *I move that the Commission certify the Land Use Plan Amendment for the City of Carlsbad, as submitted.*

STAFF RECOMMENDATION OF DENIAL OF CERTIFICATION:

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Land Use Plan Amendment for the City of Carlsbad as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

- II. **MOTION:** *I move that the Commission certify the Land Use Plan Amendment for the City of Carlsbad as submitted if modified in accordance with the suggested changes set forth in the staff report.*

STAFF RECOMMENDATION: CERTIFICATION IF MODIFIED AS SUGGESTED:

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification with suggested modifications of the submitted land use plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY SUBMITTED LAND USE PLAN AMENDMENT IF MODIFIED AS SUGGESTED:

Subject to the following modifications, the Commission hereby certifies the Land Use Plan Amendment for the City of Carlsbad as submitted and finds for the reasons discussed herein that, if modified as suggested below, the submitted Land Use Plan Amendment will meet the requirements of and conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan if modified as suggested below complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

- III. **MOTION:** *I move that the Commission reject the Implementation Program Amendment for the City of Carlsbad as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of Carlsbad as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act, and certification of the Implementation Program will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

PART III. SUGGESTED MODIFICATIONS

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

1. Add new Policy 6.10 to the Mello II Land Use Segment as follows:**POLICY 6.10 - LOWER COST VISITOR-SERVING RECREATIONAL USES**

Lower cost visitor and recreational facilities shall be protected, encouraged and, where feasible, provided.

Any proposal to demolish existing overnight accommodations shall be required to demonstrate that rehabilitation of the units is not feasible. Any coastal development permit for the demolition of existing lower cost overnight accommodations or new development of high-cost overnight accommodations shall require the applicant to provide lower cost overnight accommodations. Fees in-lieu of provision of lower cost overnight accommodations shall be required pursuant to Policy 6.11 and 6.12.

2. Add new Policy 6.11 as follows:

POLICY 6.11 – IN LIEU FEES FOR DEMOLITION OF EXISTING LOWER COST OVERNIGHT ACCOMMODATIONS AND REDEVELOPMENT OF EXISTING HOTELS/MOTELS.

A. In-Lieu Fees for Demolition of Existing Lower Cost Overnight Accommodations:

An in-lieu fee shall be required for any demolition of existing lower cost overnight accommodations, unless all those units are replaced by lower cost accommodations, in which case the in-lieu fee shall be waived. This in-lieu fee shall be required as a condition of approval of a coastal development permit, in order to provide significant funding to support the establishment of lower cost overnight visitor accommodations within the coastal area of North San Diego County, and preferably within the City of Carlsbad's coastal zone. The fee shall be \$30,000 per unit for the total number of existing lower cost units that are demolished and not replaced.

B. In-lieu Fees for Redevelopment with High-Cost Overnight Accommodations.

If the proposed demolition of existing lower cost overnight accommodations also includes redevelopment of the site with high-cost overnight accommodations, the fee shall also apply to 25% of the number of rooms in excess of the number being lost. The in-lieu fee shall be required as a condition of approval of a coastal development permit, in order to provide significant funding to support the establishment of lower cost overnight visitor accommodations within the coastal area of North San Diego County, and preferably within the City of Carlsbad's coastal zone. The fee shall be \$30,000 per unit and all in-lieu fees required from Section A above and this Section B shall be combined.

The fee (i.e. \$30,000 in 2007) shall be adjusted annually to account for inflation according to increases in the Consumer Price Index – U.S. City Average. The required in-lieu fees shall be deposited into an interest-bearing account, to be established and managed by one of the following entities approved by the Executive Director of the Coastal Commission: City of Carlsbad, Hostelling International, California Coastal Conservancy, California Department of Parks and Recreation or a similar entity. The purpose of the account shall be to establish lower cost overnight visitor accommodations, such as new hostel beds, tent campsites, cabins or campground units, at appropriate locations within the coastal area of North San Diego County. The entire fee and accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. All development funded by this account will require review and approval by the Executive Director of the Coastal Commission and a coastal development permit if in the coastal zone. Any portion of the fee that remains after ten years shall be donated to one

or more of the State Park units or non-profit entities providing lower cost visitor amenities in a Southern California coastal zone jurisdiction or other organization acceptable to the Executive Director. Required mitigation shall be in the form of in-lieu fees as specified herein or may include completion of a specific project that is roughly equivalent in cost to the amount of the in-lieu fee and makes a substantial contribution to the availability of lower cost overnight visitor accommodations in Carlsbad and/or the North San Diego County coastal area.

3. Add new Policy 6.12 as follows:

POLICY 6.12 – IN LIEU FEES FOR NEW DEVELOPMENT OF OVERNIGHT ACCOMMODATIONS.

An in-lieu fee shall be required for new development of overnight visitor accommodations in the coastal zone that are not lower or moderate cost hotel/motel rooms. This in-lieu fee shall be required as a condition of approval of a coastal development permit, in order to provide significant funding to support the establishment of lower cost overnight visitor accommodations within the coastal area of North San Diego County, and preferably within the City of Carlsbad's coastal zone. The fee shall be \$30,000 per unit for 25% of the total number of proposed units that are high-cost overnight visitor accommodations.

The fee (i.e. \$30,000 in 2007) shall be adjusted annually to account for inflation according to increases in the Consumer Price Index – U.S. City Average. The required in-lieu fees shall be managed and allocated consistent with the provisions included in Policy 6.11.

4. Add new Policy 6.13 as follows:

POLICY 6.13 - DEFINITION OF LOWER-, MODERATE- AND HIGH-COST OVERNIGHT ACCOMMODATIONS.

When referring to overnight accommodations, lower cost shall be defined by a certain percentage of the Statewide average room rate as calculated by the Smith Travel Research website (www.visitcalifornia.com). A suitable methodology would base the percentage on market conditions in San Diego County for the months of July and August and include the average cost of motels/hotels within 5 miles of the coast that charge less than the Statewide average or 82%. High cost would be room rates that are 20% higher than the Statewide average, and moderate cost room rates would be between high and low cost. The range of affordability of new and/or replacement hotel/motel development shall be determined as part of the coastal development permit process and monitored as part of the City's inventory of visitor overnight accommodations.

**PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF
CARLSBAD LAND USE PLAN AMENDMENT, AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The subject LCP amendment proposes changes to the land use designation and zoning on a two parcel site totaling .84 acres located on the east side of Carlsbad Blvd. between Pine and Oak Avenues. The project, supported by this LCP amendment, includes the demolition of an existing 28 room hotel, 1,125 sq. ft. restaurant and a single family residence to allow for the construction of a three-story 104-room hotel with underground parking. The project site is located in an urbanized area, and no sensitive resources are present. The LCP land use designation would be modified from Residential High Density (RH) to Travel/Recreational Commercial (TR) on the easterly portion of the project. The western portion of the project will remain as Village Redevelopment (V). The site is located in both the Village Redevelopment segment and the Mello II segment of the City's adopted Local Coastal Program (LCP) and is not within the Coastal Commission's appeal jurisdiction area of the Coastal Zone. The City of Carlsbad is not proposing any changes to land use or zoning within the Village Redevelopment area, and as such, the Village Redevelopment segment of the LCP is not being reviewed at this time. The changes proposed on the eastern portion of the site are within the Mello II segment of the City's adopted LCP. As such, all appropriate Mello II policies are under review by the proposed land use modification.

The project as proposed would include modifying a significant portion of the subject site to be designated and zoned for visitor-serving uses. As proposed, the project would demolish 28 existing motel units with an average nightly cost of \$99/night (per the project's agent) the new hotel project would increase the number of units by 76 to a total of 104 units, with an average nightly cost of \$125/night (per the project's agent). The project therefore does not propose to maintain the existing lower cost units nor develop new lower cost overnight accommodations.

B. NONCONFORMITY OF THE LAND USE PLAN WITH CHAPTER 3

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Pursuant to the public access policies of the Coastal Act, and particularly Section 30213, the Commission has the responsibility to ensure that a range of affordable facilities be provided in new development along the coastline of the state. The expectation of the Commission, based upon several precedents, is that developers of sites suitable for overnight accommodations will provide facilities which serve people with a range of incomes. If development cannot provide for a range of affordability on-site, the Commission requires off-site mitigation.

Historically, the Commission has endorsed new hotel developments along the coastline. However, it has virtually all been exclusive, higher priced resort developments. In each of those actions, though, the Commission always secured offsetting public amenities, such as new public accessways, public parking or open space dedications, to address the Coastal Act priorities for public access and visitor support facilities.

In light of current trends in the market place and along the coast, the Commission is increasingly concerned with the challenge of providing lower-cost overnight accommodations consistent with the Coastal Act. Recent research in support of a Commission workshop concerning hotel-condominiums showed that only 7.9% of the overnight accommodations in nine popular coastal counties were considered lower-cost. Although statewide demand for lower-cost accommodations in the coastal zone is

difficult to quantify, there is no question that camping and hostel opportunities are in high demand, and that there is an on-going need to provide more lower-cost opportunities along California's coast. For example, the Santa Monica hostel occupancy rate was 96% in 2005, with the hostel being full more than half of the year. State Parks estimates that demand for camping has increased 13% between 2000 and 2005. Nine of the ten most popular campgrounds are along the coast.

In general, many low to moderately priced hotel and motel accommodations tend to be older structures that are becoming less and less economically viable. As more recycling occurs, the stock of lower cost overnight accommodations tends to be reduced, since it is generally not economically feasible to replace these structures with accommodations that will maintain the same low rates. As a result, the Commission sees far more proposals for higher cost accommodations than for low cost ones. The loss of affordable overnight accommodations within the coastal zone has become an emerging issue for the Commission. If this development trend continues, the stock of affordable overnight accommodations will be depleted.

In an effort to stem this tide, and to protect lower cost visitor-serving facilities, the Commission has imposed in-lieu mitigation fees when development proposes only higher cost accommodations. By doing so, a method is provided to assure that some degree of lower cost overnight accommodations will be protected. In past actions, the Commission has imposed an in-lieu mitigation fee to be used to provide new lower cost overnight visitor accommodations. Examples include coastal development permit application #s 5-99-169 (Maguire Partners), 5-05-385 (Seal Beach Six), A-3-PSB-06-001 (Beachwalk Hotel), and A-6-ENC-07-51 (Surfer's Point). In-lieu fees were also adopted in the City of Huntington Beach's LCP Amendment for the Waterfront Hilton and Hyatt Regency planning sub-area and the protection of lower cost visitor accommodations was also a critical element in the Commission's recent action on the City of Oceanside's LCPA #2-08 for the "D" Downtown District. It is the goal of the Commission to address the cumulative impacts that redevelopment and new development have on city, county, and statewide lower cost overnight facilities. By addressing the need for protection of lower cost overnight accommodations at the LCP level, it provides an opportunity for individual cities to be involved in how these fees will be determined, allocated, and managed; and will therefore create a program by which to manage, protect and encourage the development of lower cost overnight accommodations.

It should be noted that the Commission would far prefer to see proactive efforts by local governments to address this need. To its credit, the City has indicated that it is undertaking a comprehensive general plan, zoning and LCP update and City staff has stated that funding commitments for such work have been made. However, that effort is proposed to be over two years just in the visioning and preparation of a detailed work program; it would be even longer before the Commission would review any comprehensive update. While the City has expressed its willingness to consider these policy issues in that work, they have no specific alternatives or options to present at this time. While the Commission does recognize the City's LCP update efforts, the loss of existing lower cost visitor accommodations in the companion project supported by this

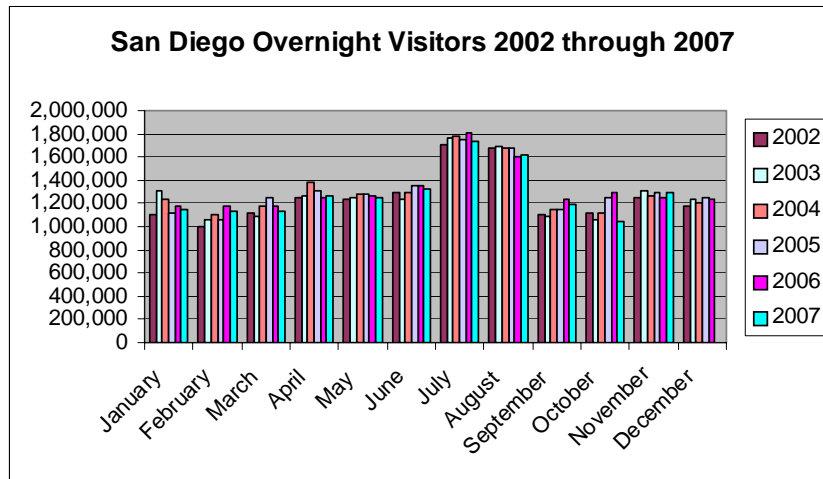
amendment and the prospective loss of other lower cost units over the next couple of years is more compelling and unacceptable.

The suggested in-lieu fees will provide the funds necessary to develop and maintain visitor accommodations that are not exclusive to those who can afford to pay considerable rates to experience California's coast. Hostels, campgrounds, and cabins are just some of the developments that could furnish this goal. Given the current trend of proposed developments only including high cost facilities (recreational, overnight, residential, etc.), the City should review individual projects for the cumulative impacts associated with these trends and their conformity with the policies of the Coastal Act. Because the City failed to do so, in association with this project driven LCP amendment, the Commission has suggested several suggested modifications to address these issues. These modifications will serve to protect and provide current and future lower cost overnight accommodations within the Mello II segment of Carlsbad's coastal zone; thereby consistent with the applicable policies of the Coastal Act.

Historically, the Commission has not finalized the definition of "lower cost overnight accommodations". In past actions, lower cost was loosely considered to be less than \$100 per night. The Commission gave direction to staff to better define what accommodations can be considered lower cost. And, in response to this request, staff has been working on not only an appropriate definition of what price can be considered lower cost, but staff has also created a formula by which to determine what can be considered low, moderate, and high cost accommodations within a specific area, that will reflect the market, and any increase to costs, demand, etc.; thereby creating a dynamic tool for accurately determining what a feasible "lower cost overnight accommodation" is.

Currently, the formula by which to determine the absolute price of "lower cost" overnight accommodations is still in its infancy, and Commission staff is continuing to work to refine the formula. In order to determine what could be considered lower cost within the entire state, information was taken from Smith Travel Research website (www.visitcalifornia.com). The research data available from this website is widely used by public and private organizations. The information on the website was used to obtain the average room rate for hotel bookings made statewide. Commission staff isolated the rates of what could be considered "peak time" (July and August) so that an accurate assessment of what a member of the public would actually pay could be determined. Data was collected from 2003 to 2007. Based on these figures, an average rate for 2008 was projected. The projected price paid by visitors to hotels throughout California in the months of July and August for 2008 is \$132.90. This calculated number is then used as a baseline by which to compare specific coastal regions of the State. Staff researched San Diego region visitor data, and it was determined that July and August were the peak visitor months (ref. Chart #1) and as such, the hotel rates will be collected from those time frames, again to gain a more accurate assessment of what people are actually paying to visit San Diego County's coast.

Chart 1. San Diego Overnight Visitors



Source: San Diego Convention & Visitors Bureau, *San Diego County Visitor Industry Summary*.

<<http://www.sandiego.org/nav/Travel/ResearchAndReports>> [5 March 2008].

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Staff then used the AAA website to research hotel/motels stock within San Diego County. All hotels surveyed were required to meet a certain level of quality, safety, and cleanliness. This was accomplished by requiring that all hotel/motel developments inventoried meet the criteria of one or two diamonds as rated by AAA. According to the AAA website, One and Two Diamond rated facilities can be described as:

One Diamond - These establishments typically appeal to the budget-minded traveler. They provide essential no-frills accommodations. They meet the basic requirements pertaining to comfort, cleanliness and hospitality.

Two Diamond - These establishments appeal to the traveler seeking more than the basic accommodations. There are modest enhancements to the overall physical attributes, design elements, and amenities of the facility typically at a moderate price.

To develop a sample of lower cost hotels in the coastal zone, the AAA website was again used to obtain a stock of lower cost hotels within 5 miles of the coast. The sample resulted in identification of 55 One or Two Diamond hotel/motel developments within this research area. Of the 55 hotels originally surveyed, 25 were within the coastal zone and 8 of these charged room rates less than the state average. The rates charged for the months of July and August of these 8 developments (ref. Table #1) were then determined and averaged. The average charge for a room of One or Two Diamonds (as rated by AAA) that were found within the coastal zone and were charging less than the state average is \$108.35. This number was then used to determine how San Diego County's average room rates compare to the state wide average of \$132.90. By dividing the average for San Diego (\$108.35), by the State average (\$132.90), a percentage is given that can be used in the future. This percentage represents what a reasonable difference ($108.35/132.90 = .82$ or 82%) would be between the statewide nightly average rate and San Diego County's average for lower cost accommodation in the coastal zone. This

formula represents a comparison between two averages that will both reflect the current market trend, so that the most appropriate definition of lower cost is utilized. Using this definition, lower cost overnight accommodations in the San Diego coastal area would be any establishment that costs less than 82% of the current peak, statewide average (\$132.90). This percentage can then be taken to find what the appropriate definition of "lower cost overnight accommodation" would be in the future. Any person wanting to determine whether or not the proposed development would meet the criteria of "lower cost" would simply access the Smith Travel website, obtain the current statewide average, and multiply this number by .82. If the development's proposed daily room rate is *less* than the computed number (current statewide average x .82), that development can be considered "lower cost". It may be appropriate to re-survey the entire county periodically to reflect any changes in the tourist market specific to San Diego County. This formula could be used for all coastal areas in the State, after an initial survey similar to the AAA survey discussed above has been completed.

Table 1.

**UNDER STATE
AVERAGE**

	Hotel Name	AAA Rating	Address	City	July Average	August Average
1	Ocean Inn	2 Diamonds	1444 N Coast Highway 101	Encinitas	\$109.65	\$108.68
2	Portofino Beach Inn	2 Diamonds	186 N Coast Highway 101	Encinitas	\$114.99	\$114.99
3	Days Inn Encinitas/Moonlight Beach	2 Diamonds	133 Encinitas Blvd	Encinitas	\$131.58	\$132.23
4	Southbay Travelodge	2 Diamonds	1722 Palm Ave	Imperial Beach	\$106.58	\$97.23
5	Motel 6	2 Diamonds	909 N Coast Hwy	Oceanside	\$83.89	\$84.54
6	Days Inn at the Coast	2 Diamonds	1501 Carmelo Dr	Oceanside	\$93.91	\$93.50
7	Days Inn Harbor View	2 Diamonds	1919 Pacific Highway	San Diego	\$126.84	\$107.39
8	Days Inn Mission Bay/Sea World	2 Diamonds	4540 Mission Bay Drive	San Diego	\$119.52	\$108.00
	AVERAGE				\$108.35	

When attempting to define "lower cost," it becomes apparent that some developments are innately lower cost, and some are higher cost; however, not everything that is not lower cost automatically becomes high cost. The policies of Chapter 3 of the Coastal Act require the Commission to protect a range of affordability and; as such, a definition for what can be considered moderately priced accommodations is also necessary. The above discussed statewide average is \$132.90. Again, this number was taken during the peak season for tourism. As such, this number represents what a *general populous* can and would be willing to pay. The San Diego County average for lower cost accommodation is 82% of the statewide average. Moderately priced overnight accommodations should reflect the local market, and as such, can be defined incorporating both of these averages.

Because San Diego County rates are approximately 20% below that of the state, moderately priced accommodations would start at above this rate (statewide average x .82). At some point, a survey of hotels charging more than the statewide average could be undertaken. But for now, an estimate of “higher cost” can be defined as those hotels with daily room rates 20% (rounding up from the 18% baseline percentage to be conservative) higher than the statewide average of \$132.90, or \$159.48. Therefore, rates between \$108.35 and \$159.48 would be considered moderately priced and those above \$159.48 would be considered high cost.

It is important to note that staff utilized the AAA website to obtain site specific information on the hotel/motel inventory for San Diego County. Staff acknowledges that not all hotel/motel stock for the County of San Diego is represented on the AAA website; however, given that the survey included a total of 55 different establishments within the survey boundaries, it can be fairly concluded that the AAA survey is a good representation of the types of and prices for hotel/motel units countywide.

The proposed development is a currently existing lower cost motel. While currently the establishment is only 28 units, these units represent one of the few lower cost overnight accommodations existing in the City of Carlsbad. The City has submitted an 11/2006 review/survey of their hotel/motel stock (see attached). The City presently has 32 establishments for a total of over 3,000 hotel rooms. Of these 32 establishments, eight developments have prices less than the State average during peak months ($\$132.90 \times .82 = \108.97). The City's survey for peak rates was for the month of July only; however, given the above findings, the rates charged in the month of July do represent the rates charged during peak times. Of the eight developments, four are located within the coastal zone; with a total of 346 rooms that can be defined above as lower cost. The proposed demolition represents 28 of these 346 units or 8% of the total lower cost units in the City of Carlsbad's coastal zone. The newly constructed rooms are proposed at an average nightly rate of \$125/night. As discussed above, moderately priced rooms for San Diego County can be defined as rates between \$108.97 and \$159.48; therefore, the newly constructed rooms cannot be considered lower cost. However, the projected average nightly rate is less than the identified high cost rate and can therefore be considered a moderately priced development.

The proposed LCP amendment would allow for the demolition of an existing lower cost overnight accommodation as defined above. The subsequent redevelopment of the site includes the construction of a 104 room moderately priced hotel. The City did not address the need for the protection of existing lower cost overnight accommodations, nor did the City discuss the use of in-lieu fees to allow for future development of lower cost overnight accommodations. It is important to note that the proposed amendment would result in additional lands being designated for visitor-serving uses, something that the Coastal Act endorses. On the positive side, the redevelopment proposal will also provide almost four times the # of rooms than existing at present and the proposed room rates fall into the moderate cost range, which the Commission now recognizes as an “affordable” component. This increase will accommodate a greater number of visitors in general. However, these benefits cannot be independently endorsed in isolation given the lack of

lower cost overnight hotel/motel proposals within the City of Carlsbad. Furthermore, the land use plan amendment as submitted, not only facilitates a development *not* including any lower cost accommodations, but also results in the demolition of 28 existing lower cost units; and, as a result of this amendment not only will lower cost accommodations not be provided, they will also be *removed*.

The City does not have policies mirroring sections 30210, 30213, 30221 or 30222; and, therefore, the certified LCP needs to be updated to address this emerging trend. As such, neither the current LCP nor the City has adequately protected a range of affordability within the visitor-serving developments in the City of Carlsbad. The City's LUP is not consistent with the previously mentioned Coastal Act policies; and, as proposed, the City would only further exacerbate the lack of affordable overnight facilities in the City of Carlsbad. Overtime and as policy issues arise, it is the responsibility of coastal jurisdictions to amend and update their LCPs rather than bringing forward individual project-driven LCP amendments. Such efforts are piecemeal and fail to address Coastal Act issues pro-actively and cumulatively. Therefore, the land use plan amendment as proposed cannot be found consistent with the Coastal Act.

PART V. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LAND USE PLAN, IF MODIFIED

A. SPECIFIC FINDINGS FOR APPROVAL

The proposed LCP amendment includes modifying the land use designation Residential High Density (RH) to Travel/Recreational Commercial (TR) on a two parcel site totaling .84 acres located on the east side of Carlsbad Blvd. between Pine and Oak Avenues. This LCP amendment is a project-driven amendment for the City. The project includes the demolition of an existing 2-story 28 room hotel, 1,125 sq. ft. restaurant, and a single family residence to allow for the construction of a new three-story 104-room hotel with underground parking. As stated above, the proposed development includes the demolition of an existing lower cost motel and the subsequent development of a moderate cost 104 room hotel. The impacts of these modifications are two-fold; the removal of existing lower cost overnight accommodations and the development of a site designated for visitor-serving uses with new overnight accommodations that cannot be considered lower cost. However, the City does not have any policies reflective of Sections 30210, 30213, 30221, 30222 of the Coastal Act; thus, the City is not required to make findings to provide these types of projects. Therefore, the LUP and project specific amendment cannot be found consistent with the Coastal Act. Staff is suggesting modifications to the City's adopted LUP to incorporate provisions for the protection of lower cost visitor-serving facilities and overnight accommodations in the coastal zone. These modifications also serve to better protect and promote overnight accommodations with a range of affordability. The suggested modifications will result in a land use plan that is consistent with the applicable policies of the Coastal Act.

These modifications include the incorporation of the language of Coastal Act Section 30213 into the LCP and specific language pertaining to the protection of existing lower cost overnight accommodations, as well as the requirement for in-lieu fees when a proposed overnight accommodation does not include a lower cost component. In addition, modifications are recommended that provide how the in-lieu fee amount will be determined and managed.

Suggested modification #1 mirrors the language of Section 30213 of the Coastal Act. Section 30213 protects lower cost visitor serving and recreational facilities. As discussed above, as land becomes less available and more expensive, protection of coastally located facilities that provide recreation and accommodations to the general public become invaluable. It is important to protect those uses that best service the public in general, as opposed to members of the public that can afford certain luxuries.

Suggested modification #2 pertains to the demolition and possible redevelopment of existing lower cost overnight accommodations. As stated above, the City of Carlsbad does have a large stock of hotel/motel units: 3,076 units (based on the survey conducted by the City of Carlsbad [see attached]). However, only about 350 of these units can be defined as lower cost. Therefore, the protection of the existing stock of lower cost overnight accommodations is important. As mentioned previously, the general trend of redevelopment is removing existing lower cost accommodations and replacing them with higher-end hotel/motel units. This will ultimately lead to far fewer affordable overnight accommodations in the coastal zone.

It is apparent that given current construction and land costs, the development of a new hotel/motel development may not be viable without some non-traditional financing. Recently, the trend has been for developers to seek individual investors to aid in the initial costs of construction and development. This often results in a development having a "private component" that limits the visitor-serving use of the facility. These developments incorporate condominium hotel units or fractional ownership units, both of which give some priority to the individual owners, and diminishes the visitor-serving use of such a facility.

Given this trend, the Commission is compelled to develop a method for protecting and ensuring the future development of lower cost facilities in the coastal zone. As discussed previously, the Commission has incorporated the requirement for in-lieu fees as a method for off-setting the impacts of predominately higher cost visitor commercial development in the coastal zone. As more hotels are redeveloped or built, these in-lieu fees could be combined to facilitate a viable lower cost accommodation project. Possible developments could be a coastal North County youth hostel, additions to current beach camping facilities, cabins, etc. These funds could be used, as approved by the Executive Director and the City Council, to provide funding to off-set the high costs associated with any development located near the ocean. As such, Suggested Modification #2 (Sub-section A) requires that any coastal development permit within the Mello II segment of the City of Carlsbad that is proposing to demolish existing lower cost hotel/motel units (as defined above) pay a fee for the total number of rooms demolished that go

unreplaced. In this case, that number is 28. Of the four existing lower cost hotels in the City of Carlsbad's coastal zone, three of these are located within the Mello II Segment of the City's LCP, therefore this policy protects 186 lower cost hotel/motel units.

Suggested Modification #2 (Sub-section B) also requires that in-lieu fees be paid if the subsequent development onsite does not include lower cost overnight accommodation as a component of the development. However, because the Commission has historically interpreted the protection of lower cost facilities to include a range of affordable facilities, requiring an in-lieu fee for 100% of the units within a proposed development would be too high. It stands to reason that should the proposed development include a significant number of its rooms as lower cost, the protection of a range of affordability would still be possible. However, as stated above, the current trend for development is to include 0% of a proposed development's rooms to function as lower cost. Therefore, a significant portion of these developments would be required to pay fees in-lieu of providing facilities at lower cost. The Commission has historically interpreted 25% as a reasonable amount of the total development to protect a range of affordability. Under the Coastal Act, each development on critical land reserved for visitor uses should provide some lower cost amenities to support public use and coastal access. As stated above, the current trend of development, and the project proposed, includes 0% of the units serving as lower cost accommodations; therefore, the suggested modification requires that an in-lieu fee be paid for 25 % of the net increase for any higher cost units, to account for the lack of these priority uses provided on site.

The projected nightly room rate for DKN proposal is \$125/night. Using the formula developed in the preceding section, the proposed nightly rates would be considered moderately priced. Some relief needs to be allotted for those developments that keep the average nightly room rate at something reasonable as opposed to something very few members of the public can afford. As such, Suggested Modification #s 2 and 3 exempts the development of moderately priced hotel/motel projects from the calculation for in-lieu fees. The in-lieu fees required for demolition (100% of total units demolished and not replaced) would be required along with the in-lieu fees required for redevelopment of high cost overnight accommodation (net increase in # units). Again, in this case, the development proposed is 104 moderately priced hotel units; therefore, the applicant would be required to pay \$30,000 per room for the total number of demolished units that are going unreplaced (\$30,000 x 28). Thus, the in-lieu fees required for this demolition and redevelopment project would be \$840,000.

The fee of \$30,000 was established based on figures provided to the Commission by Hostelling International (HI) in a letter dated October 26, 2007. The figures provided by HI are based on two models for a 100-bed, 15,000 sq. ft. hostel facility in the Coastal Zone. The figures are based on experience with the existing 153-bed, HI-San Diego Downtown Hostel. Both models include construction costs for rehabilitation of an existing structure. The difference in the two models is that one includes the costs of purchase of the land and the other is based on operating a leased facility. Both models include "Hard Costs" and "Soft Costs" and start up costs, but not operating costs. "Hard" costs include, among other things, the costs of purchasing the building and land and

construction costs (including a construction cost contingency and performance bond for the contractor). "Soft" costs include, among other things, closing costs, architectural and engineering costs, construction management, permit fees, legal fees, furniture and equipment costs and marketing costs.

In looking at the information provided by HI, it should be noted that while two models are provided, the model utilizing a leased building is not sustainable over time and thus, would likely not be implemented by HI. In addition, the purchase building/land model includes \$2,500,000.00 for the purchase price. Again, this is not based on an actual project, but on experience from the downtown San Diego hostel. The actual cost of the land/building could vary significantly; and, as such, it makes sense that the total cost per bed price for this model could be too high. In order to take this into account, the Commission finds that a cost per bed generally midrange between the two figures provided by HI is most supportable and likely conservative. Therefore, the in-lieu fee included in the suggested modifications is \$30,000.00 per bed. The suggested modification includes that the \$30,000 fee shall be updated based on the most current consumer price index. This fee was calculated in 2007; however, the LCP amendment was submitted by the City in 2007, therefore, the \$30,000 fee does not require an update.

These in-lieu fees are required to be managed in an interest bearing account, until a project has been approved by the City of Carlsbad and the Executive Director of the Commission to develop a lower cost visitor-serving overnight accommodation. Developments such as campgrounds and youth hostels are both considered desirable projects to be funded by the in-lieu fees. The suggested modification includes provisions to ensure that if the fees are not used within 10 years, the funds will need to be donated to one or more of the State Park units or non-profit entities providing lower cost visitor amenities in a Southern California coastal zone jurisdiction or other organization acceptable to the Executive Director. The suggested modification also includes the opportunity for an applicant to propose a specific lower cost overnight accommodation project to complete or contribute to, as opposed to payment of fees, subject to the approval of the City of Carlsbad and the Executive Director of the Commission.

Suggested Modification #3 pertains to new development on land that isn't currently developed with any type of lower cost overnight accommodation. As stated above, the Commission has previously required that new development that cannot be considered lower cost provide in-lieu fees for 25% of the proposed number of units. Therefore, any new development that includes only higher cost overnight accommodations would be required to pay the above stated \$30,000 for 25% of the total proposed rooms. This fee will offset the loss of land that may have been more appropriately used to provide a visitor-serving facility that the general public can afford. Further, as discussed above, this in-lieu fee will establish or add to a "bank" reserved to subsidize lower cost overnight developments within either the City of Carlsbad or within the coastal area of northern San Diego County. Again, the Commission now recognizes that moderately priced overnight accommodations would likely serve to provide affordable overnight accommodations during the off-peak season, or at least provide less expensive overnight accommodations than those of higher-end hotels, thereby making more hotel/motel units available to a

wider variety of incomes. As such, no fees should be imposed on the new construction of moderately priced units. Suggested Modification #3 also incorporates the language for how the in-lieu fees will be managed and allocated, by reference to Suggested Modification #2.

Lastly, Suggested Modification #4 incorporates the methodology for determining how room rates are classified into the LCP. The recommendation utilizes the same methodology developed by the Commission in looking both at statewide travel data but then also considering it in a regional context and market conditions.

In conclusion, the addition of the above stated four policies will 1) set priorities for the types of development within lands suitable for visitor-serving uses; 2) protect those visitor-serving recreational and overnight uses that can be considered lower cost; 3) protect the current stock of lower cost overnight accommodations by requiring in-lieu fees associated with any demolition of existing lower cost over-night accommodations that go unreplaced and 4) promote the future development of overnight accommodations with an adequate range of affordability. These suggested modifications will serve as incentives to include lower cost accommodations within future projects, or to allocate funds to potential lower cost overnight accommodation projects, thereby promoting lower cost visitor-serving accommodation within Carlsbad's coastal zone. The result of these provisions is that development in areas suitable for visitor-serving uses will be used as such and will be accessible to the highest proportion of the public feasible, and thereby consistent with the Coastal Act.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The subject LCP amendment proposes changes to the land use designation and zoning on a two parcel site totaling .84 acres located on the east side of Carlsbad Blvd. between Pine and Oak Avenues. The project, supported by the LCP amendment, includes the demolition of an existing 28 room hotel, 1,125 sq. ft. restaurant, and a single family residence to allow for the construction of a new three-story 104-room hotel with underground parking. The project site is located in an urbanized area, and no sensitive resources are present. The existing zoning on site would be modified from Residential Family Zone (R-3) to Tourist Commercial (C-T) on the easterly portion of the site. The western portion of the project will remain zoned as Village Redevelopment (V-R). The City of Carlsbad is not proposing any changes to zoning within the Village Redevelopment area, and as such, the Village Redevelopment Segment of the LCP is not being reviewed at this time. The changes proposed on the eastern portion of the site are within the Mello II segment of the City's adopted LCP and are being modified to reflect the visitor-serving use of this site. Currently, the site is zoned residential; and therefore, the hotel is considered an existing non-conforming structure. The zoning changes

proposed with this implementation plan amendment would better reflect the current use onsite.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP, or the LUP, as conditionally certified herein.

a) Purpose and Intent of the Ordinance. The purpose of the C-T Commercial Tourist Zone is to provide for the development and use by certain types of commercial businesses near transportation centers, recreation areas or in close proximity to highways and freeways used by inter-regional traffic. It is the intent of the C-T Zone to insure that tourist-oriented uses will be coordinated with compatible accessory uses, protect surrounding properties, insure safe traffic circulation and promote economically viable tourist-oriented areas.

b) Major Provisions of the Ordinance. The major provisions of the ordinance include a list of permitted uses and accessory uses, as well as design standards for all permitted development. The provisions of this ordinance ensure that all proposed developments would meet the intent and purpose of the Commercial Tourist Zone, thereby promoting well located tourist-oriented uses.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed rezoning would promote additional lands designated for visitor-serving uses. The Mello II LUP has provisions promoting the necessity of additional lands being designated for visitor-serving uses.

Land Use Plan Mello II Policy 6-6

Approximately 40 acres of additional visitor-serving (hotel-motel and restaurant) uses should be established. Assuming a density of approximately ten hotel-motel rooms per acre, the estimated need of 200 additional rooms can be achieved. Restaurants and other visitor-serving facilities also need to be provided. Suggested locations are the intersections of I-5 with Palomar Airport Road and/or Poinsettia Lane. Not all of this demand needs to be met with land immediately within the coastal zone.

The proposed zoning would be modified to designate the eastern parcel of the project site from Residential Family Zone (R-3) to Tourist Commercial (C-T). Currently, the site includes a 28 room motel (Surf Motel), a restaurant (The Armenian Café) and a single family residence. The existing zoning on the site does not allow for the development of a motel; and, as such, the City is proposing to modify the zoning to better reflect the current and proposed use. The Commercial Tourist (C-T) zone allows for such developments and better reflects the goals of the subject site. The location is directly inland of Carlsbad Boulevard (Old Highway 101) and the ocean and is surrounded by a

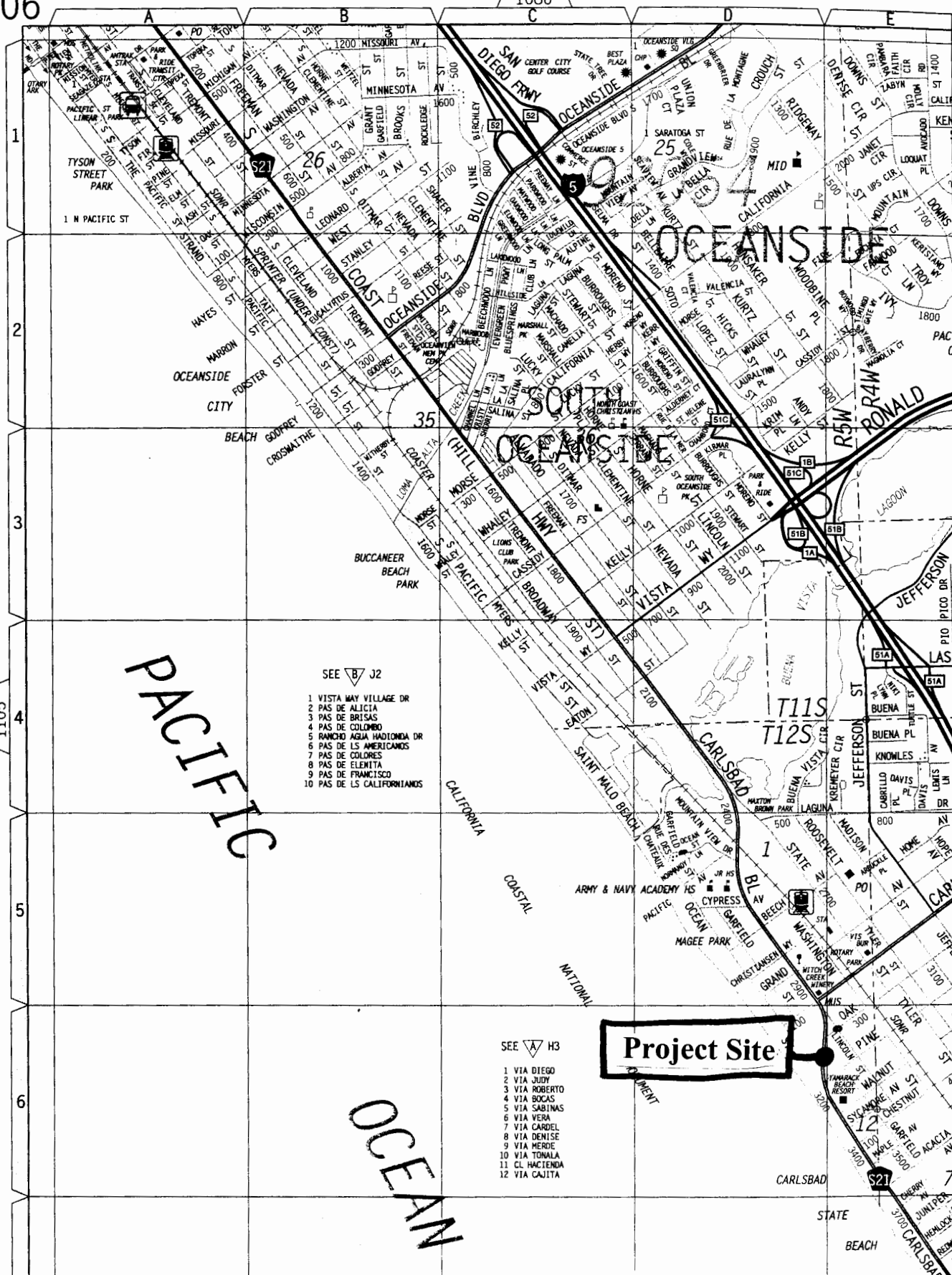
mix of uses, many of which are visitor-serving developments and are zoned C-T. As such, modifying the site to allow for visitor-serving uses will not only promote future visitor uses, encouraged by both the Coastal Act and the above cited LUP policies, it will also better reflect the goal for development in this region.

At the time this item was first scheduled for Commission action, the City had also filed an LCP amendment for a comprehensive revision to the CT zone. Commission staff had identified the same policy concerns, along with other access and recreational needs, in that submittal. Although it would have been an opportunity to comprehensively review the citywide visitor commercial zoning, the City has withdrawn that amendment request. The City has now indicated that it may incorporate that work into the LCP update effort discussed above. For this amendment, though, the companion development supported by the land use redesignation and rezoning are consistent with all required design standards, setbacks, parking requirements; and, therefore, the implementation plan amendment can be found consistent with the adopted LUP as proposed. Further, the proposed rezoning can be found consistent with the above stated suggested modifications proposed by staff, and therefore, can be found consistent with the land use plan if modified.

PART VIII. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in a LCP submittal or, as in this case, a LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, conforms to CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b). The Commission finds that approval of the proposed LCP amendment, as submitted, would result in significant impacts under the meaning of the California Environmental Quality Act. However, with the inclusion of the suggested modifications, implementation of the revised land use plan provisions, land use re-designation, and zoning ordinance would not result in significant impacts to the environment within the meaning of the California Environmental Quality Act. Therefore, the Commission finds that approval of the LCP amendment will not result in any significant adverse environmental impacts.



RESOLUTION NO. 2007-096

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING A NEGATIVE DECLARATION AND APPROVING A GENERAL PLAN AMENDMENT, LOCAL COASTAL PROGRAM AMENDMENT, AND COASTAL DEVELOPMENT PERMIT, FOR THE DEMOLITION OF AN EXISTING HOTEL, RESTAURANT, AND SINGLE FAMILY RESIDENCE, AND THE CONSTRUCTION OF A 3-STORY, 104-ROOM HOTEL PROJECT ON PROPERTY LOCATED AT 3136 CARLSBAD BOULEVARD ON THE EAST SIDE OF CARLSBAD BOULEVARD BETWEEN PINE AVENUE AND OAK AVENUE IN LAND USE DISTRICT 9 OF THE CARLSBAD VILLAGE REDEVELOPMENT AREA, IN THE VILLAGE REDEVELOPMENT AND MELLO II SEGMENTS OF THE LOCAL COASTAL PROGRAM AND IN LOCAL FACILITIES MANAGEMENT ZONE 1.

CASE NAME: DKN HOTEL
CASE NO.: GPA 05-05/LCPA 05-02/CDP 05-14

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did, on March 7, 2007, hold a duly noticed public hearing as prescribed by law to consider a Negative Declaration and General Plan Amendment; Local Coastal Program Amendment and Coastal Development Permit and

WHEREAS, the City Council of the City of Carlsbad, on the 1st day of May, 2007, held a duly noticed public hearing to consider said Negative Declaration and General Plan Amendment, Local Coastal Program Amendment and Coastal Development Permit and at that time received recommendations, objections, protests, comments of all persons interested in or opposed to the Negative Declaration and/or GPA 05-05/ LCPA 05-02/ CDP 05-14; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That the findings and conditions of the Planning Commission as set forth in Planning Commission Resolutions No. 6254, 6255, 6257 and 6258 on file with the City Clerk and made a part hereof by reference, are the findings and
3. That the application for a Negative Declaration, Local Coastal Program Amendment, and Coastal Development Permit

EXHIBIT #2
Resolution of Approval
LCPA #1-07A DKN Hotel
California Coastal Commission
1 of 4 pgs

1 located at 3136 Carlsbad Boulevard on the east side of Carlsbad Boulevard between Pine
2 Avenue and Oak Avenue is approved as shown in Planning Commission Resolutions No. 6254,
6255, 6257 and 6258.

3 4. That the application for a General Plan Amendment to change the Land Use
4 designation from Residential High Density (RH) to Travel/Recreation Commercial (T-R) on a .49
5 acre property generally located at 3136 Carlsbad Boulevard on the east side of Carlsbad
6 Boulevard between Pine Avenue and Oak Avenue as shown in Planning Commission
Resolution No. 6255, is hereby accepted, approved in concept, and shall be formally approved
with GPA Batch No. 2 of 2007.

7 5. That the approval of LCPA 05-02 shall not become effective until it is approved
8 by the California Coastal Commission and the California Coastal Commission's approval
becomes effective.

9 6. This action is final the date this resolution is adopted by the City Council and is
10 subject to the approval of the LCPA 05-02 by the California Coastal Commission. The
Provisions of Chapter 1.16 of the Carlsbad Municipal Code, "Time Limits for Judicial Review"
11 shall apply:

12 "NOTICE TO APPLICANT"

13 The time within which judicial review of this decision must be sought is
14 governed by Code of Civil Procedure, Section 1094.6, which has been
15 made applicable in the City of Carlsbad by Carlsbad Municipal Code
16 Chapter 1.16. Any petition or other paper seeking review must be filed in
17 the appropriate court not later than the nineteenth day following the date
18 on which this decision becomes final; however, if within ten days after the
19 decision becomes final a request for the record of the deposit in an
amount sufficient to cover the estimated cost or preparation of such
record, the time within which such petition may be filed in court is
extended to not later than the thirtieth day following the date on which the
record is either personally delivered or mailed to the party, or his attorney
of record, if he has one. A written request for the preparation of the
record of the proceedings shall be filed with the City Clerk, City of
Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, CA. 92008."

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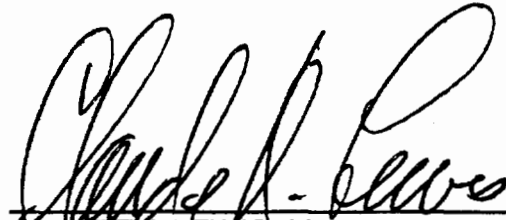
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1 PASSED, APPROVED AND ADOPTED at a Joint Special Meeting of the City
2 Council of the City of Carlsbad and the Housing and Redevelopment Commission on
3 the 1st day of May 2007, by the following vote:
4

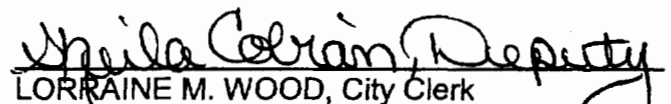
5 AYES: Council Members Lewis, Kulchin, Packard and Nygaard

6 NOES: None

7 ABSENT: Council Member Hall
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11 
12 CLAUDE A LEWIS, Mayor

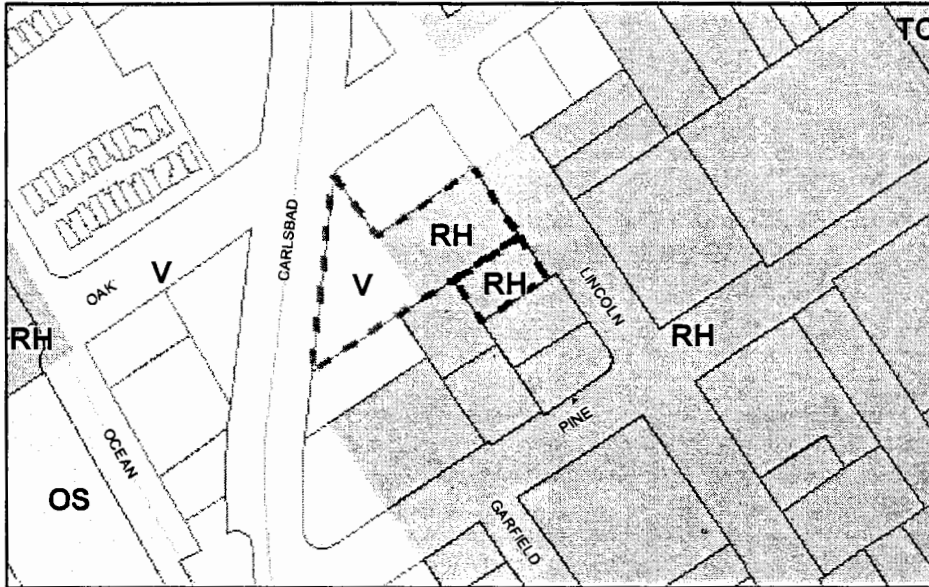
13 ATTEST:

14
15 
16 LORRAINE M. WOOD, City Clerk
17 (SEAL)

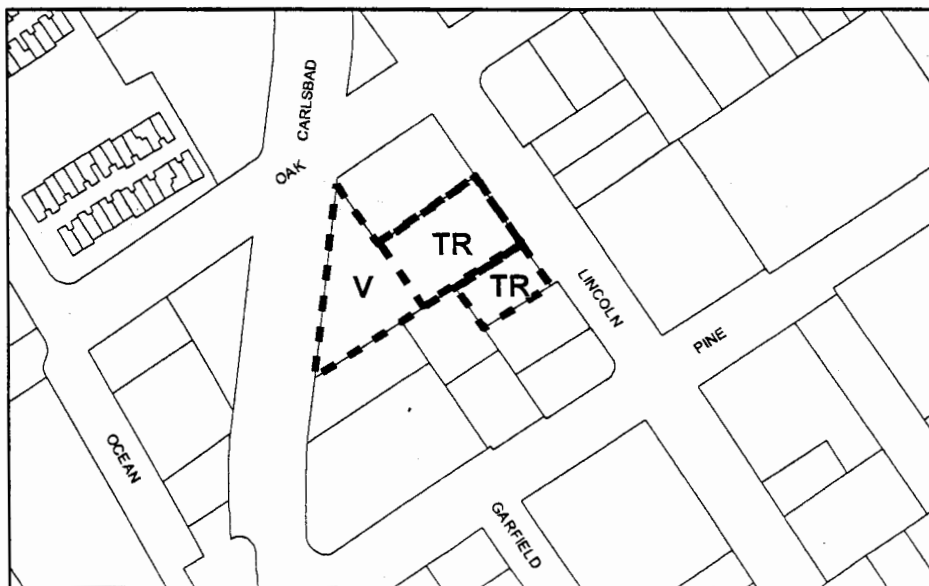


GPA 05-05 DKN Hotel

**DRAFT
MARCH 7, 2007**



EXISTING



PROPOSED

*Related Case File No(s): ZC 05-02/LCPA05-02/SDP 05-04
/CDP 05-14/RP 05-03*

G.P. Map Designation Change

Property	From:	To:
A. 203-250-08-00	RH	TR
B. 203-250-26-00 Por	RH	TR
C.		
D.		

ORDINANCE NO. NS-840

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING SECTION 21.05.030 OF THE CARLSBAD MUNICIPAL CODE BY AN AMENDMENT TO THE ZONING MAP TO GRANT A ZONE CHANGE, ZC 05-02, FROM MULTIPLE-FAMILY RESIDENTIAL (R-3) TO TOURIST COMMERCIAL (C-T) ON A .49-ACRE PARCEL GENERALLY LOCATED WEST OF LINCOLN STREET BETWEEN PINE AVENUE AND OAK AVENUE IN LOCAL FACILITIES MANAGEMENT ZONE 1.

CASE NAME: DKN HOTEL

CASE NO.: ZC 05-02

The City Council of the City of Carlsbad, California, does hereby resolve as follows:

SECTION I: That Section 21.050.30 of the Carlsbad Municipal Code, being the zoning map, is amended as shown on the map marked Exhibit "ZC 05-02," dated March 7, 2007 attached hereto and made a part hereof.

SECTION II: That the findings and conditions of the Planning Commission as set forth in Planning Commission Resolution No. 6256 constitute the findings and conditions of the City Council.

EFFECTIVE DATE: This ordinance shall be effective no sooner than thirty days after its adoption but not until Local Coastal Program Amendment LCPA 05-02 is approved by the California Coastal Commission, and the City Clerk shall certify to the adoption of this ordinance and cause it to be published at least once in a publication of general circulation in the City of Carlsbad within fifteen days after its adoption.

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Received

AUG 29 2007

California Coastal Commission
San Diego Coast District

EXHIBIT #3

Ordinance of Approval

LCPA #1-07A DKN Hotel



California Coastal Commission

1 INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on
2 the 1st day of May, 2007, and thereafter.

3 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the
4 City of Carlsbad on the 8th day of May, 2007, by the following vote:

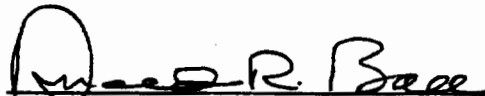
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6 AYES: Council Members Lewis, Kulchin, Packard and Nygaard

7 NOES: None

8 ABSENT: Council Member Hall


9 ABSTAIN: None
10

11 APPROVED AS TO FORM AND LEGALITY

12
13 
14 RONALD R. BALL, City Attorney
5/9/07

15
16 
17 CLAUDE A. LEWIS, Mayor

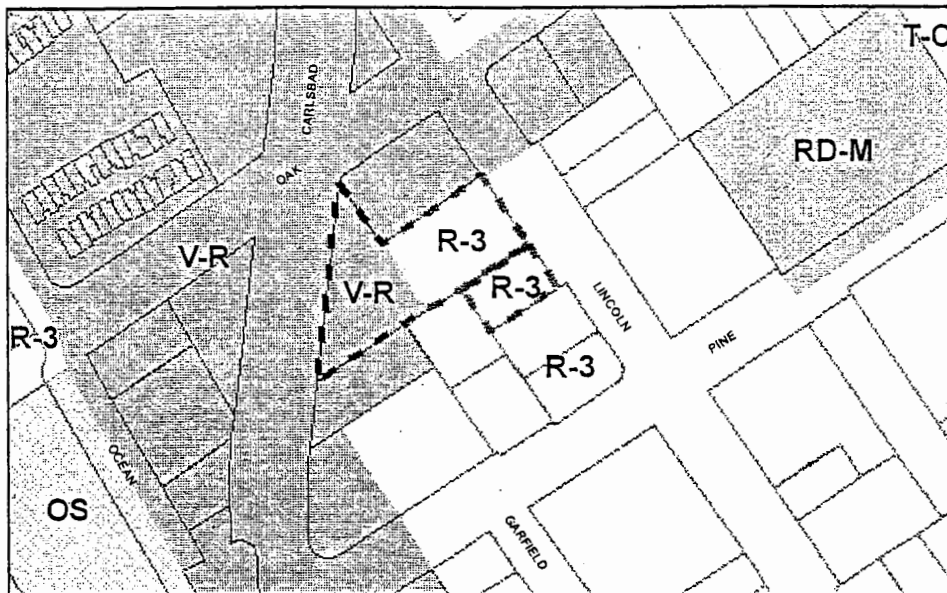
18 ATTEST:

19
20 
21 LORRAINE M. WOOD, City Clerk
22 (SEAL)

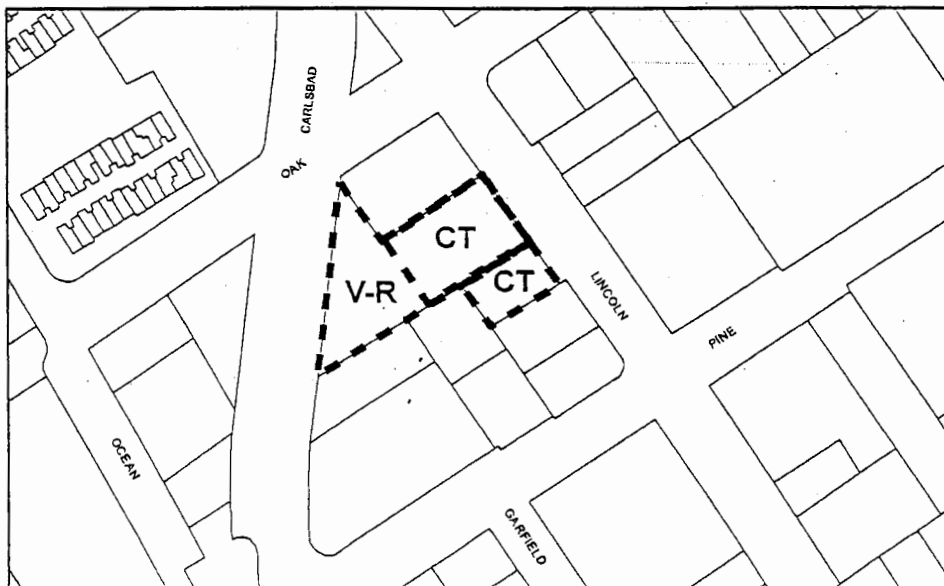


LCPA 05-02 DKN Hotel
ZONING

DRAFT
MARCH 7, 2007



EXISTING



PROPOSED

Related Case File No(s): GPA 05-05/ZC 05-02/SDP 05-04
/CDP 05-14/RP 05-03

G.P. Map Designation Change

Property	From:	To:
A. 203-250-08-00	R-3	CT
B. 203-250-26-00 Por	R-3	CT
C.		
D.		

HOTELS IN CARLSBAD - NOVEMBER 6, 2006

Ref. No.	Hotels (citywide)	# Rooms	APN	Room Rates (published)		Acreage	Address	Zoning	General Plan	Inside Coastal Zone	Inside Redevelopment Zone	Owner Name
				Fall 2006 (Nov)	Summer 2007 (July)							
1	CARLSBAD LODGE	66	2051902600	\$45 - \$55	\$65 - \$75	1.19	3570 PIO PICO DR	R-3	T-R/O	N	N	SHAH KAUSHIK P
2	TRAVEL INN	41	2051910900	\$50 - \$56	\$56 - \$60	1.36	3565 PIO PICO DR	R-3	T-R/O	N	N	RHODES T L & EDITH M TRUST
3	MOTEL 6 #1021	109	2033200400	\$55	\$65 - \$80	0.32	1006 CARLSBAD VILLAGE DR	V-R	V	N	N	GRANT JOHN H RESIDUAL TRUST
4	MOTEL 6 #471	160	2144502300	\$55	\$65 - \$71	2.82	750 RAIN TREE DR	C-2	T-R	N	N	MOTEL 6 OPERATING L P
5	SCANDIA MOTEL	16	2030510400	\$60 - \$65	\$70 - \$75	0.54	2550 CARLSBAD BL	V-R	V	N	N	ARTUKOVIC FAMILY TRUST
6	RED ROOF INNS INC. (MOTEL 6 #1351) changed in May	142	2110402700	\$65 - \$75	\$100	2.39	6117 PASEO DEL NORTE	C-T-Q	T-R	N	N	MOTEL 6 OPERATING L P
7	RAMADA INNS	121	2144501700	\$59 - \$127	\$141 - \$209	2.69	751 MACADAMIA DR	C-2	C	N	N	TEMEHQUA L L C
8	QUALITY INN AND SUITES	126	2144502400	\$68 - \$172	\$121 - \$240	2.48	751 RAIN TREE DR	C-2	T-R	N	N	ALPS LODGING INC
9	SUPER 8	46	2052704500	\$69 - \$89	\$143 - \$169	0.76	3700 PIO PICO DR	R-3	T-R/O	N	N	4S ENTERPRISES L L C
10	SURE MOTEL	28	2032502600	\$69 - \$129	\$69 - \$129	0.73	3136 CARLSBAD BL	C-T-Q	VRH	N	N	PAEL DAHYA BHAI
11	FAIRFIELD INN (LA QUINTA)	111	2144503100	\$80 - \$109	\$125 - \$145	2.17	720 MACADAMIA DR	C-2	C	N	N	PINNACLE CARLSBAD L L C
12	EXTENDED STAY AMERICA	106	2031302000	\$85 - \$95	\$104 - \$129	0.87	1050 GRAND AV	V-R	V	N	N	EXTENDED STAY CA INC
13	BEACHWALK VILLAS	9	2032502200	\$85 - \$295	\$145 - \$510	0.19	3100 OCEAN ST	V-R	V	N	N	FUNKIE THOMAS M
14	PELICAN COVE	10	2041322000	\$90	\$210	0.13	320 WALNUT AV	R-3	RH	N	N	NAVYUDU KRIS & NANCY
15	OLYMPIC RESORT	78	2130201800	\$109	\$109 - \$138	15	2014 PALOMAR AIRPORT RD	MIP-MIC-T-Q	GP/IT-R	N	N	COUNTY OF SAN DIEGO
16	COURTYARD BY MARRIOTT	145	2120931800	\$109 - \$169	\$200 - \$250	3.91	5835 OWENS AV	P-M	PI	N	N	EOI CARLSBAD PTNSHP L P
17	OCEAN PALMS BEACH RESORT (OCEAN MANOR)	57	2032303000	\$128 - \$400	\$159 - \$515	1.2	2950 OCEAN ST	R-3	RHV	N	N	INDIGO BLUE L L C
18	BEACH VIEW (BEST WESTERN)	41	2032502500	\$128 - \$164	\$162 - \$195	0.72	3180 CARLSBAD BL	R-3V-R	T-R	N	N	TORO INVESTMENTS
19	HOLIDAY INN	149	2110212200	\$129 - \$215	\$182 - \$207	5.69	800 PALOMAR AIRPORT RD	C-T-Q	T-R	N	N	MAIN ST CALIFORNIA INC
20	INNS OF AMERICA SUITES on AVENIDA ENCINAS	98	2100905200	\$131 - \$146	\$131 - \$245	2.94	5010 AVENIDA ENCINAS	P-M	PI	N	N	INNS OF AMERICA CANNON L L C
21	GRAND PACIFIC PALISADES HOTEL	90	2110222800	\$132 - \$174	\$175 - \$289	6.2	5805 ARMADA DR	C-T-Q/C-2-Q	T-R/C	N	N	GRAND PACIFIC PALISADES LP
22	TAMARACK BEACH RESORT	23	2041245600	\$135 - \$189	\$230 - \$270	0.08	3200 CARLSBAD BL	V-R	V	N	N	VOERTMAN FAMILY TRUST
23	HILTON GARDENS	161	2101001900	\$143 - \$180	\$242 - \$289	5.19	6450 CARLSBAD BL	C-T-Q	T-R	N	N	WAVE CREST RESORTS III L L C
24	BEACH TERRACE	49	2032350200	\$153 - \$191	\$185 - \$255	0.33	2775 OCEAN ST	R-3	RH	N	N	TORO INVESTMENTS
25	WEST INN	86	2100110400	\$158 - \$209	\$225 - \$289	1.45	4970 AVENIDA ENCINAS	C-T-Q	T-R	N	N	WEST DEVELOPMENT INC
26	CARLSBAD INN HOTEL	62	2032520400	\$159 - \$200	\$225 - \$350	1.4	3045 CARLSBAD BL	V-R	V	N	N	CARLSBAD INN L L C
27	SEABREEZE HOTEL	11	2032502100	\$169 - \$289	\$209 - \$385	0.36	3150 OCEAN ST	V-R	V	N	N	K B CARLSBAD INVESTORS L L C
28	RESIDENCE INN (CARLSBAD HHG HOTEL DEVELOPMENT)	121	2121202700	\$170 - \$189	\$215 - \$339	3.55	2000 FARADAY AV	C-M	PI	N	N	CARLSBAD HHG HOTEL DEVEL
29	LA COSTA RESORT	466	2165900100	\$200 - \$400	\$215 - \$339	15.36	2101 COSTA DEL MAR RD	P-C	T-R	N	N	K S L A COSTA RESORT CORP
30	MOORING (OCEAN VILLA @ CARLSBAD)	8	2032350600	\$215 - \$339	\$215 - \$339	0.16	2895 OCEAN ST	R-3	RH	N	N	CARLSBAD SHORES LLC
31	FOUR SEASONS RESORT	329	2157500100	\$215 - \$339	\$215 - \$339	12.62	7100 FOUR SEASONS PT	P-C	T-R	N	N	AVARA RESORT ASSOCS SPE LLC
32	SEASHORE RESORT	11	2032350400	\$215 - \$339	\$215 - \$339	0.19	2805 OCEAN ST	R-3	RH	N	N	GOAH L L C
		3,076										

Ref.	Campgrounds/RV Parks	Tenure Sites	APN	Rates		Acreage	Address	Zoning	General Plan	Inside Coastal Zone	Inside Redevelopment Zone	Owner Name
				Fall 2006 (Nov)	Summer 2007 (July)							
	SBAD TRAILER PLAZA	27	2031012200	\$?	\$?	0.93	2631 ROOSEVELT	V-R	V	N	N	HUSTON FAMILY TRUST
	TH CARLSBAD STATE BEACH	222	2141501900	\$20	\$25	46.64	7201 CARLSBAD BLVD	OS	OS	N	N	STATE OF CALIFORNIA
		249										

\$100 or less
\$101 - \$150
\$151 - \$200
\$201 - \$250

Within Coastal Zone

RECEIVED

NOV 08 2006

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO / COAST COUNTY

EXHIBIT #4

Carlsbad Hotel/Motel Stock

LCPA #1-07A DKN Hotel

California Coastal Commission