

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4421
(619) 767-2370



May 28, 2009

Th11a**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR****SUBJECT: CITY OF CARLSBAD DE MINIMIS LOCAL COASTAL PROGRAM
AMENDMENT #2-09 (Planned Development Regulations Update) FOR
COMMISSION REVIEW AT ITS MEETING OF JUNE 11, 2009**

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to local coastal programs. Section 30514(d) allows the Executive Director to make a determination that a proposed LCP amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30514(d) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property. If the Executive Director makes the determination that the proposed amendment qualifies as a "de minimis" amendment and finds the public notice measures have been satisfied, such determination is then reported to the Commission for its concurrence.

PROPOSED AMENDMENT

The Commission approved the City's original request to update their Planned Development Regulations (LCPA 1-07B) in January, 2009 and then also concurred on its certification review at the May, 2009 hearing. The amendment included only modifications to the City's Implementation Plan. Staff was suggesting several suggested modifications all of which were requested by the City. The City subsequently indicated that during the Commission's review of that amendment, the City modified some of the proposed language to further clarify and/or define the Planned Development Regulations. The City's newly proposed modifications do not raise any coastal resource concerns and do not change land uses within the coastal zone; as such, the proposed modifications are being processed as a de minimus Local Coastal Program Amendment.

The City Council resolution that approves and conveys the proposed amendment is attached. The amendment was approved by the City Council on April 7, 2009. The amendment was properly noticed through newspaper publication and direct mail to the property owner and interested parties. The amendment request was received in the Commission office on April 17, 2009. The amendment request was received and filed complete on April 17, 2009; therefore, the date by which the Commission must take action, absent any extension of time limits, is June 16, 2009.

DISCUSSION

Both of the modifications requested by the City were in direct response to concerns raised by interested members of the community. Specifically, the new language proposes two additional modifications to the Planned Development Regulations. These modifications include allowing the minimum setback from a drive-aisle to be reduced from three feet to zero feet for projects of 25 units or less. The new setback further requires any garages facing directly onto the drive-aisle to be equipped with an automatic garage door opener. The second modification clarifies that protrusions such as are protective barriers for balconies and roof decks may extend above the height limit otherwise specified for the zone.

The first modification was in response to the concern that given all the other required setbacks, and minimum width requirements, projects located on infill sites would be constrained to the point that the number of potential units would be below the minimum density requirements. If the project includes automatic garage door openers, the three foot setback will not be necessary to accommodate opening the garage door. Further, by decreasing this minimum setback, higher density projects will be provided additional flexibility to achieve density requirements. The modification does not affect side yard setbacks, where views to the ocean are most commonly protected.

The second modification adds a term to the appurtenances permitted at a height greater than that permitted by the underlying zoning. The new ordinance would include protective barriers for decks and balconies. Currently, the ordinance's allowed protrusions include parapet walls, skylights, towers, chimneys, screening for roof equipment, and similar structures. Traditionally, required balcony and deck protective barriers have been interpreted as being similar to a parapet wall, and have been routinely allowed. This proposed modification would provide a definition that specifically allows these types of protective structures. As previously stated, the City has previously approved these types of structures, and, as such, no new coastal resource concerns are raised by this proposed change.

Therefore, the two additional amendments proposed by the City raise no coastal resource concerns, and can be found consistent with the City's certified LCP. Further, the proposed amendment does not change land uses within the coastal zone, has no impact on coastal resources and is consistent with Chapter 3 policies of the Coastal Act.

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. Instead, the CEQA responsibilities are assigned to the Coastal Commission and 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 an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In the case of the subject LCP amendment request, the Commission finds that approval of the de minimis LCP amendment, as submitted, would not result in any significant adverse environmental impacts under the meaning of the California Environmental Quality Act.

DETERMINATION

The Executive Director determines that the City of Carlsbad LCP amendment is de minimis. Based on the information submitted by the City, the proposed LCP amendment will have no impact, either individually or cumulatively, on coastal resources. It is consistent with the policies of Chapter 3 of the Coastal Act. The amendment does not propose any change in land use or any change in the allowable use of property. The City has properly noticed the proposed amendment. As such, the amendment is de minimis pursuant to Section 30514(d).

MOTION:

I move that the Commission concur with the Executive Director's determination that the LCP amendment, as submitted, is de minimis.

STAFF RECOMMENDATION:

The Executive Director recommends that the Commission **concur** in this determination. Unless three or more members of the Commission object to this determination, the amendment shall become effective and part of the certified LCP ten (10) days after the date of the Commission meeting.

Exhibit 1

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ORDINANCE NO. CS-026

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA APPROVING A ZONE CODE AMENDMENT AND LOCAL COASTAL PLAN AMENDMENT TO MODIFY THE STANDARDS IN MUNICIPAL CODE CHAPTER 21.45 (PLANNED DEVELOPMENTS) AND CHAPTER 21.82 (BEACH AREA OVERLAY ZONE), ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO THE PLANNED DEVELOPMENT REGULATION AMENDMENTS AND OTHER MINOR MODIFICATIONS, INCLUDING CHANGES TO THE PRIVATE RECREATION SPACE REQUIREMENTS FOR CONDOMINIUM PROJECTS, DELETION OF THE TWO-STORY LIMITATION FOR ONE-FAMILY DWELLINGS AND TWIN HOMES ON SMALL LOTS, AND OTHER MINOR MODIFICATIONS TO ENABLE HIGH QUALITY RESIDENTIAL DEVELOPMENT CONSISTENT WITH THE DENSITY REQUIREMENTS OF THE GENERAL PLAN.


CASE NAME: CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO THE PLANNED DEVELOPMENT REGULATION AMENDMENTS

CASE NO.: ZCA 05-02(A)/LCPA 05-07(A)

WHEREAS, the Planning Commission did on October 18, 2006 and December 6, 2006, hold a duly noticed public hearings as prescribed by law to consider Zone Code Amendment (ZCA 05-02) and Local Coastal Program Amendment (LCPA 05-07) to amend the standards in the Planned Development, Parking, and Beach Area Overlay Zone chapters of the Zoning Ordinance to facilitate the development of high quality residential projects consistent with the residential density policies of the Carlsbad General Plan, and to clarify ambiguities and correct inconsistencies; and

WHEREAS, the Planning Commission adopted Planning Commission Resolutions No. 6140, 6141, and 6142 recommending to the City Council adoption of the project Negative Declaration, and approval of ZCA 05-02 and LCPA 05-07; and

WHEREAS, the City Council did on February 20, 2007, hold a duly noticed public hearing as prescribed by law to consider said ZCA 05-02 and LCPA 05-07, and introduced Ordinance No. NS-834 to approve ZCA 05-02, and approve LCPA 05-07, the effective date of which was Commission's approval of said LCPA; and

EXHIBIT #1
Signed Ordinance
LCPA #2-09 Planned Development Regulations Update
 California Coastal Commission

1 WHEREAS, the City Council did on March 6, 2007, adopt Ordinance No. NS-
2 834, approving ZCA 05-02, the effective date of which was subject to the California Coastal
3 Commission's approval of LCPA 05-07; and

4 WHEREAS, on January 8, 2009, the California Coastal Commission approved
5 LCPA 05-07 with suggested modifications; and

6 WHEREAS, the Planning Commission did on February 18, 2009, hold a duly
7 noticed public hearing as prescribed by law to consider Zone Code Amendment (ZCA 05-02(A))
8 and Local Coastal Program Amendment (LCPA 05-07(A)) to amend the Planned Development
9 and Beach Area Overlay Zone chapters of the Zoning Ordinances, pursuant to the California
10 Coastal Commission's suggested modifications; and

11 WHEREAS, the City Council did on March __, 2009, hold a duly noticed public
12 hearing as prescribed by law to consider said ZCA 05-02(A) and LCPA 05-07(A), and

13 WHEREAS, accepting and administering the California Coastal Commission's
14 suggested modifications, as set forth in this ordinance, is necessary to comply with the
15 California Coastal Act and California Administrative Code.

16 NOW, THEREFORE, the City Council of the City of Carlsbad, California does
17 ordain as follows:

18 SECTION 1: That Row C.7 of Table C of Section 21.45.060 of the Carlsbad
19 Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is modified to read
20 as follows:

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C.7	Location of Visitor Parking	On Private/ Public Streets	On-street visitor parking is permitted on private/public streets, subject to the following: <ul style="list-style-type: none">• The private/public street is a minimum 34-foot wide (curb-to-curb)• There are no restrictions that would prohibit on-street parking where the visitor parking is proposed• The visitor parking spaces may be located:<ul style="list-style-type: none">○ Along one or both sides of any private/public street(s) located within the project boundary, and○ Along the abutting side and portion of any existing public/private street(s) that is contiguous to the project boundary
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			<p>In parking bays along public/private streets within the project boundary, provided the parking bays are outside the minimum required street right-of-way width.</p> <p>When visitor parking is provided as on-street parallel parking, not less than 24 lineal feet per space, exclusive of driveway/drive-aisle entrances and aprons, shall be provided for each parking space, except where parallel parking spaces are located immediately adjacent to driveway/drive-aisle aprons, then 20 lineal feet may be provided.</p> <p>Within the Beach Area Overlay Zone, on-street parking shall not count toward meeting the visitor parking requirement.</p>
		On Drive-aisles	Visitor parking must be provided in parking bays that are located outside the required minimum drive-aisle width.
		On a Driveway	<p>Outside the Beach Area Overlay Zone</p> <p>One required visitor parking space may be credited for each driveway in a project that has a depth of 40 feet or more.</p> <p>For projects with 10 or fewer units, all required visitor parking may be located within driveways (located in front of a unit's garage), provided that all dwelling units in the project have driveways with a depth of 20 feet or more.</p>
			<p>Within the Beach Area Overlay Zone</p> <p>One required visitor parking space may be credited for each driveway in a project that has a depth of 40 feet or more.</p> <p>If the streets within and/or adjacent to the project allow for on-street parking on both sides of the street, then visitor parking may be located in a driveway, subject to the following:</p> <ul style="list-style-type: none"> All required visitor parking may be located within driveways (located in front of a unit's garage), provided that all dwelling units in the project have driveways with a depth of 20 feet or more. If less than 100% of the driveways in a project have a depth of 20 feet or more, then a .25 visitor parking space will be credited for each driveway in a project that has a depth of 20 feet or more (calculations resulting in a fractional parking space credit shall always be rounded down to the nearest whole number).

SECTION 2: That Row C.11 of Table C of Section 21.45.060 of the Carlsbad Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is deleted.

SECTION 3: That Row D.4 of Table D of Section 21.45.070 of the Carlsbad Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is modified to read as follows:

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D.4	Maximum Lot Coverage	1 story homes	60% of the net pad area
		Homes with 2 or more stories	45% of the net pad area for all lots in a project, if the minimum lot area in the project is 5,000 square feet or greater.
			50% of the net pad area for all lots in a project, if the minimum lot area in the project is less than 5,000 square feet.
		Porches with no livable space above the porch, and porte-cocheres no more than 20 feet in width and 6 feet in depth are exempt from lot coverage requirements.	

SECTION 4: That Rows D.8 through D.12 of Table D of Section 21.45.070 of the Carlsbad Municipal Code, as previously approved pursuant to Ordinance No. NS-834, are modified to read as follows:

D.8	Minimum Setback from a Drive-Aisle ⁽⁴⁾	Residential structure		5 feet, fully landscaped (walkways providing access to dwelling entryways may be located within required landscaped area)		
		Garage		3 feet		
				Garages facing directly onto a drive-aisle shall be equipped with an automatic garage door opener.		
		Projects of 25 units or less within the RMH and RH general plan designations		0 feet (residential structure and garage)		
D.9	Minimum Interior Side Yard Setback	One-family dwellings	Option 1	Residential structure	Each interior side yard setback shall be a minimum of 10% of the lot width; provided that each side yard setback is not less than 5 feet, and need not exceed 10 feet.	
				Garage	Located on the front half of the lot	Same as required for residence.
					Located on the rear half of the lot	Need not exceed 5 feet
				Any living space above a garage shall observe the same interior side yard setback required for the residence.		
				Option 2	Residential structure and Garage	One interior side yard setback may be reduced to 0 feet (zero lot line); provided the other side yard setback is a minimum of 20% of the lot width, and need not exceed 20 feet.
		Twin-homes		One side yard – 0 feet (the side yard where the dwellings on each lot are attached). The other side yard setback shall be a minimum of 20% of the lot width, and need not exceed 20 feet.		
D.10	Minimum Rear Yard Setback (where the rear property line does not front on a street or drive-aisle)	Residential structure		20% of lot width, provided the rear yard setback is not less than 10 feet, and need not exceed 20 feet.		
		Garage (located on the rear half of the lot)		5 feet from rear property line		
				Any living space above a garage shall observe the same rear yard setback required for "residence", above.		

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D.11	Maximum Building Height/ Number of Stories	Same as required by the underlying zone, and not to exceed three stories ^{(5) (8)}	
D.12	Private Recreational Space	Minimum total area per unit	400 square feet (may consist of more than one recreational space)
		Minimum dimension of recreational space	15 feet
		Required private recreational space shall be located at ground level and designed so as to be functional, usable, and easily accessible from the dwelling it is intended to serve, and shall not have a slope gradient greater than 5%.	
		Required private recreational space shall not be located within front yard setback areas, and may not include any driveways, parking areas, storage areas, or walkways (except those walkways that are clearly integral to the design of the recreation area).	
		Open or lattice-top patio covers may be located within the required private recreation space (provided the patio cover complies with all applicable standards, including the required setbacks specified in Section 21.45.090).	
		Attached solid patio covers and decks/balconies may project into a required private recreational space, subject to the following: <ul style="list-style-type: none"> • The depth of the projection shall not exceed 6 feet (measured from the wall of the dwelling that is contiguous to the patio/deck/balcony). • The length of the projection shall not be limited, except as required by any setback or lot coverage standards. • The patio cover/deck/balcony shall comply with all applicable standards, including the required setbacks specified in Section 21.45.090. 	

SECTION 5: That Table D of Section 21.45.070 of the Carlsbad Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is modified to add the following footnote:

⁽⁸⁾ Protrusions above the height limit shall be allowed pursuant to Section 21.46.020 of this code. Such protrusions include protective barriers for balconies and roof decks.

SECTION 6: That Row E.4 of Table E of Section 21.45.080 of the Carlsbad Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is modified to read as follows:

E.4	Maximum Building Height	Same as required by the underlying zone, and not to exceed three stories ^{(1) (7)}	
		Projects within the RH general plan designation ^{(1) (7)}	40 feet, if roof pitch is 3:12 or greater
			35 feet, if roof pitch is less than 3:12
		Building height shall not exceed three stories	

1 SECTION 7: That Row E.5 of Table E of Section 21.45.080 of the Carlsbad
 2 Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is modified to read
 3 as follows:

E.5	Minimum Building Setbacks	From a private or public street ⁽²⁾⁽³⁾	Residential structure	10 feet
			Direct entry garage	20 feet
		From a drive-aisle ⁽⁴⁾	Residential structure (except as specified below)	5 feet, fully landscaped (walkways providing access to dwelling entryways may be located within required landscaped area)
			Residential structure directly above a garage	0 feet when projecting over the front of a garage.
			Garage	3 feet
				Garages facing directly onto a drive-aisle shall be equipped with an automatic garage door opener.
			Projects of 25 units or less within the RMH and RH general plan designations	0 feet (residential structure and garage)
				Garages facing directly onto a drive-aisle shall be equipped with an automatic garage door opener.
		Balconies/decks (unenclosed and uncovered)	0 feet May cantilever over a drive-aisle, provided the balcony/deck does not impede access and complies with all other applicable requirements, such as: <ul style="list-style-type: none"> • Setbacks from property lines • Building separation • Fire and Engineering Department requirements 	
		From the perimeter property lines of the project site (not adjacent to a public/private street)		The building setback from an interior side or rear perimeter property line shall be the same as required by the underlying zone for an interior side or rear yard setback.

22 SECTION 8: That Row E.8 of Table E of Section 21.45.080 of the Carlsbad
 23 Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is modified to read
 24 as follows:

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E.8	Private Recreational Space	One-family, two-family, and multiple- family dwellings	Required private recreational space shall be designed so as to be functional, usable, and easily accessible from the dwelling it is intended to serve.		
			Required private recreational space shall be located adjacent to the unit the area is intended to serve.		
			Required private recreational space shall not be located within any required front yard setback area, and may not include any driveways, parking areas, storage areas, or common walkways.		
		One-family and two- family dwellings	Minimum total area per unit	Projects not within the RMH or RH general plan designations	400 square feet
				Projects within the RMH or RH general plan designations	200 square feet
			May consist of more than one recreational space.		
			May be provided at ground level and/or as a deck/balcony or roof deck.		
			Minimum dimension	Not within the RMH or RH general plan designations	15 feet
				Within the RMH or RH general plan designations	10 feet
			Shall not have a slope gradient greater than 5%.		
			Attached solid patio covers and decks/balconies may project into a required private recreational space, subject to the following:		
			<ul style="list-style-type: none"> The depth of the projection shall not exceed 6 feet (measured from the wall of the dwelling that is contiguous to the patio/deck/balcony). The length of the projection shall not be limited, except as required by any setback or lot coverage standards. 		
			Open or lattice-top patio covers may be located within the required private recreation space (provided the patio cover complies with all applicable standards, including the required setbacks).		
			If provided above ground level as a deck/balcony or roof deck	Minimum dimension	6 feet
				Minimum area	60 square feet
Multiple- family dwellings	Minimum total area per unit (patio, porch, or balcony)		60 square feet		
	Minimum dimension of patio, porch or balcony		6 feet		
	Projects of 11 or more units that are within the RH general plan designation may opt to provide an additional 75 square feet of community recreation space per unit (subject to the standards specified in Table C of this Chapter), in lieu of providing the per unit private recreational space specified above.				

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SECTION 9: That Table E of Section 21.45.080 of the Carlsbad Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is modified to add the following footnote:

⁽⁷⁾ Protrusions above the height limit shall be allowed pursuant to Section 21.46.020 of this code. Such protrusions include protective barriers for balconies and roof decks.

SECTION 10: That Section 21.82.050 of the Carlsbad Municipal Code, as previously approved pursuant to Ordinance No. NS-834, is modified to read as follows:

21.82.050 Building height.

A. No newly constructed, reconstructed, altered or enlarged residential structure within the beach area overlay zone shall exceed thirty feet if a minimum 3/12 roof pitch is provided or twenty-four feet if less than a 3/12 roof pitch is provided.

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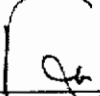
EFFECTIVE DATE: This ordinance shall be effective no sooner than thirty days after its adoption, but not until certified by the California Coastal Commission, and the City Clerk shall certify to the adoption of this ordinance and cause it to be published at least once in a publication of general circulation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

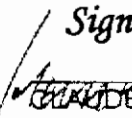
INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on the 24TH day of March 2009, and thereafter.

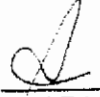
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad on the 7th day of April, 2009, by the following vote, to wit:

- AYES: Council Members Lewis, Kulchin, Hall, Packard and Blackburn.
- NOES: None.
- ABSENT: None.
- ABSTAIN: None.

APPROVED AS TO FORM AND LEGALITY

Signature on file

 RONALD R. BALL, City Attorney
NA 4-7-09

Signature on file

 WADE A. LEWIS, Mayor

ATTEST
Signature on file

 LORRAINE M. WOOD, City Clerk

(SEAL)

