

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370



May 23, 2013

**W16d**

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
MELANIE FAUST, NORTH COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION, CITY OF CARLSBAD MAJOR LCP  
AMENDMENT No. CAR-MAJ-2-12A (Minimum Residential Densities), for  
Commission Meeting of June 12-14, 2013**

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**SYNOPSIS**

The City of Carlsbad's Local Coastal Program (LCP) Implementation Plan amendment request #2-12 includes two sets of housing-related revisions (#2-12 A, and #2-12B) and a third, unrelated component (#2-12C) that addresses the City's development review procedures. All three components of the submittal are scheduled for the Commission's June, 2013 hearing. This staff report addresses #2-12A, only. The subject request was filed as complete on April 30, 2012 and a one-year extension was granted on June 14, 2012; therefore, the Commission must act on the amendment request at the June hearing.

**SUMMARY OF AMENDMENT REQUEST**

The City of Carlsbad requests an amendment of the Implementation Plan of the City's certified LCP. The amendment primarily consists of minor text additions to Chapter 21.53.230 of the City's Zoning Ordinance (Municipal Code).<sup>1</sup> The pertinent subchapter includes methods for calculating residential densities for projects undergoing development review.

In its larger context, the amendment would revise the City's certified Zoning Ordinance to provide for implementation of the City's Housing Element and meet its Regional Housing Needs Assessment (RHNA). The City is proposing changes to the Land Use Element of the City's General Plan, as well as Section 21.53.230 of the City's Zoning Ordinance. Residential densities are specified directly in some of the City's land use plan segments and/or incorporated by reference from the City's adopted General Plan. In addition, land use densities are also controlled through the City's Growth Management Ordinance. However, neither the General Plan nor the Growth Management Ordinance were submitted to or incorporated into the City's certified LCP.

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<sup>1</sup> The City of Carlsbad's Zoning Ordinance is published as a single document applicable to all parcels located within the City's boundaries, including the approximately one-third of the City's total geographic area that is located within the Coastal Zone.

The main purpose of the amendment is to add a Regional Housing Needs Assessment (RHNA) base density to the description of the potential unit yields for a property. At present, there are potential unit yields lists for minimum densities, density limits imposed for the City's growth management program and maximum density buildout. For properties designated for Residential Medium High (RMH) and Residential High (RH) development, the new RHNA base density would be higher than the minimum density and density limit imposed under the City's Growth Management Ordinance but the RHNA base density would still not exceed the maximum density otherwise certified for the land use category in the City's LCP. The new RHNA base density would not apply for RH designated properties in the Beach Area Overlay Zone which includes nearshore parcels in the Village Area of the City's downtown and the RHNA base density for other land use categories would be the same as the density limit under the City's Growth Management Ordinance.

The proposed amendment would also add a new factor for calculating dwelling unit yields into the ordinance for the RHNA base density. Specifically, the amendment would allow the City to "round up" or "round down" fractional units to determine the allowable yield of dwelling units for a pertinent project. The increased residential densities produced by the amended calculation method again would not exceed the maximum densities otherwise certified for any land use designation in the City's LCP.

### **SUMMARY OF STAFF RECOMMENDATION**

The City states that the requested amendment would implement an affordable housing program (Program 2.1 – Minimum Residential Densities) developed by the City for the 2005-2010 Housing Element Update (which has been extended to 2013).<sup>2</sup> As part of the update process, the City must demonstrate to the satisfaction of the State Department of Housing and Community Development that the City's Housing Element provides adequate residential development potential to accommodate the City's share of regional affordable housing needs.<sup>3</sup> Carlsbad's share is periodically determined by the San Diego Association of Governments (SANDAG) through the Regional Housing Needs Assessment (RHNA) process. The City refers to the additional residential density calculation factor contained in the City's amendment request as the "RHNA minimum densities formula" because where applied, the formula would boost residential dwelling unit yields to help the City meet its RHNA share.

The proposed amendment does not authorize the approval of densities higher than the maximum densities established by the LCP nor preclude approval of a project at a lower

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<sup>2</sup>The housing element is one of seven elements that must be included in a general plan according to state law. Unlike other general plan elements, the housing element is required to be updated every five to six years.

<sup>3</sup> The housing element is subject to detailed statutory requirements and mandatory review by the California Department of Housing and Community Development (HCD). A local government derives two key benefits from achieving certification by HCD: reduced likelihood of legal challenges, and increased competitiveness for various housing-related grant programs.

density less than the RHNA minimum densities formula result where site-specific constraints against the higher density are identified, thereby requiring a lower density of development for a site to protect coastal resources. Thus, the proposed amendment would not waive, limit, reduce, or replace any policies or provisions protective of coastal resources set forth in the certified LCP when the City evaluates future development projects in the areas subject to this LCP amendment. Therefore, implementation of the requested amendment is not expected to adversely affect any coastal resources.

The Commission can only reject implementation plan amendments where it can be shown that the amendment would be inconsistent with the certified land use plan (LUP) and/or render the implementation program (IP) inadequate to carry out the LUP. The proposed revisions to the City's zoning ordinance provisions relative to the RHNA minimum residential density calculations would not change, and would still fall below, the maximum densities established for the pertinent land use designations by the Commission in certifying the City's LCP. Moreover, approval of densities lower than indicated by applying the RHNA minimum residential density calculation would remain possible where site-specific constraints dictate that a lower density would be more protective of coastal resources. The City's request to amend Chapter 21.53.230 of the City's Zoning Ordinance therefore conforms with and is adequate to carry out the certified land use plans for the City's various segments. No adverse impacts to coastal access or coastal resources are anticipated.

Staff is therefore recommending that the amendment be approved as submitted by the City. The appropriate resolution and motion may be found on Page 5. The findings for approval of the Implementation Plan Amendment as submitted also begin on Page 5.

## **BACKGROUND**

There are six geographic segments in the City's LCP. The City's LCP has a unique history in that special legislation directed the Commission to draft the initial LCP. One segment, the Village Redevelopment Area LCP, was certified in 1988 and 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 of the remaining segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. This amendment again affects only the certified Implementation Plan but is a citywide amendment in scope.

## **ADDITIONAL INFORMATION**

Further information on the City of Carlsbad's LCP Amendment #2-12A may be obtained from Deborah Lee, District Manager, at (619) 767-2370.

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**PART I. OVERVIEW**

**A. LCP HISTORY**

The City of Carlsbad's 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. This amendment modifies the City's Implementation Plan (IP) only.

**B. STANDARD OF REVIEW**

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.

**C. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. 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 – RESOLUTION**

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

**MOTION:** *I move that the Commission reject the Implementation Program Amendment No 2-12A for City of Carlsbad LCPA as submitted.*

**STAFF RECOMMENDATION OF REJECTION:**

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 AMENDMENT AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the City of Carlsbad certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plans, and certification of the Implementation Program Amendment 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.

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

**A. AMENDMENT DESCRIPTION**

This request involves a city-initiated LCP amendment to the City's Zoning Ordinance (Municipal Code), which is certified as part of its LCP Implementation Plan. No changes to land use or the certified LCP Land Use Plans are proposed herein.

The City's amendment would specifically revise certain provisions of the City's Zoning Ordinance (Chapter 21.53.230) pertinent to the calculation of residential densities for projects undergoing development review. These changes, explained in more detail below, would result in moderately increased yields of residential units for projects

proposed for development of lands designated Residential Medium-High Density (RMH) or Residential High Density (RH) citywide. The proposed amendment would not apply to lands that are designated RH and additionally subject to the Beach Area Overlay Zone (BAOZ). The proposed amendment would not supersede or revise any other policies or provisions of the certified LCP that might otherwise limit the intensity of development that could be supported by any particular site or otherwise protect coastal access or coastal resources. The proposed amendment would not result in project densities that exceed the maximum densities established for the subject land use designations by the certified LCP.

## **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.

1) **Purpose and Intent of the Ordinance.** The primary purpose of this proposed Zoning Ordinance amendment is to revise the existing provisions of Chapter 21.53.230 pertaining to the calculation of residential densities for certain projects undergoing development review. The proposed amendment would add text establishing a Regional Housing Needs Assessment (RHNA) minimum residential base density and related unit calculation provisions designed to implement the City's affordable housing programs.

2) **Major Provisions of the Ordinance.** The provisions of the City's requested Zoning Ordinance amendment would apply only to projects proposed on lands designated Residential Medium-High Density (RMH) and Residential High Density (RH) citywide; however, the City has specified that the amendment would not apply to lands designated RH and additionally subject to the Beach Area Overlay Zone (BAOZ). The proposed Zoning Ordinance amendment would adjust the way minimum density calculations per acre are rounded, fractionally up or down, and, as the result, where implemented and rounded up, the proposed amendment would moderately increase the total minimum potential yield of residential units that could be produced by future projects subject to the provisions of the amendment. The so-called "RHNA required minimum densities" formula would set a generally required "floor" for dwelling unit yields per project subject to the formula. The "floor" would be higher than the *minimum* density for the subject land use designation but would not exceed the maximum density established by the certified LCP. The proposed amendment would not alter any policies or provisions in the certified LCP that are protective of coastal access or coastal resources. All portions of the proposed amendment are limited to text changes, and these text changes affect Chapter 21.53.230 of the City's Zoning Ordinance only.

3) **Adequacy of the Ordinance to Implement the Certified LUP Segments.** As noted above, 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. The proposed amendment consists of minor text changes to the existing

Zoning Ordinance provisions of the City's certified implementation program. The amendment does not change the type of land use (residential) or maximum allowable densities that can be authorized in accordance with the land use designations established by the certified LCP. The amendment's only effect is to allow the City to moderately adjust upwards the minimum required density that may be required for particular projects proposed on lands subject to the RMH and RH land use designations (except for RH-designated lands that are also subject to the Beach Area Overlay Zone). The existing maximum densities set forth in the certified LCP for the RMH and RH land use designations would not be overridden or exceeded by the proposed amendment.

**a. Background**

**State Law: Housing Policy**

The City of Carlsbad, like other local governments in California, is required by state law to have a general plan, and each general plan is required to have a housing element. The housing element must be updated periodically to reflect a community's changing housing needs. The housing element provides an assessment of current and future housing needs and a plan with programs designed to address those needs. A jurisdiction's housing need is determined through the Regional Housing Needs Assessment (RHNA) process, which is also mandated by state law. The RHNA represents the future housing growth for the planning period of a housing element, and is divided into four income groups based on County Area Median Income: Very Low, Low, Moderate and Above Moderate income groups. The RHNA process is administered in Carlsbad's region by the San Diego Association of Governments (SANDAG). The housing element is subject to mandatory certification review by the State Department of Housing and Community Development (HCD). HCD certification depends in part on whether the housing element provides adequate capacity for future housing development in accordance with the proportional assignment of the RHNA share.

**RHNA Minimum Densities Program**

As part of the City's 2005-2010 Housing Element Update (extended to 2013), the City developed Housing Element Program 2.1, which includes measures to ensure that adequate residential acreage at appropriate densities is available to meet the City's RHNA share. As part of this process, the City devised the required "RHNA minimum densities" program, which seeks to establish moderately higher required minimum densities for certain residentially-designated lands within the City's boundaries.

**Application to Residential Medium-high (RMH) and Residential High (RH) Density Land Use Designations**

The City's new required "RHNA minimum densities" housing program would establish a new RHNA based density and apply a new density calculation formula factor to

projects proposed on lands designated Residential Medium High (RMH) and Residential High Density (RH) to accommodate higher density development and provide more affordable housing opportunities. The City excluded lands designated RH that are also subject to the Beach Area Overlay Zone (BOAZ) from the amendment request.

According to the City’s certified Implementation Plan, the Zone Districts that implement the RMH and RH land use designations include (Except for the R-W zone, any of these zones may be applied to lands designated for either land use, but the applicable densities would vary based on which land use underlies the more specific zoning of a pertinent parcel – see Table 1 below):

- Multiple Family Residential (R-3)
- Residential Density-Multiple (RD-M)
- Residential Waterway (R-W) – applicable only for RH designated properties
- Planned Community (PC)
- Residential Mobile Home Park (RMHP)
- Residential Professional (R-P)

#### **Relationship to Carlsbad’s existing Growth Management Program**

To understand the complete context within which the City of Carlsbad has developed the proposed amendment request, it is helpful to note that the City previously adopted a Growth Management Plan (Proposition E). The Plan established a cap on the maximum number of residential dwelling units per acre that can be approved in Carlsbad. The Growth Management Plan was not presented to the Commission for certification; however, because the Plan establishes “Growth Management Control Point” (GMCP) densities below the maximum densities established by the Commission in certifying the LCP, the City’s implementation of the Plan generally poses no inconsistency with the certified LCP.

The City implements the Growth Management Plan with a measure of flexibility in case-by-case project analysis through a net unit tracking system. Projects developed below the GMCP density generate “excess dwelling units” that are deposited into an “excess dwelling unit bank” and projects approved above the GMCP density (but necessarily below the maximum density established by the certified LCP) withdraw “excess dwelling units” from the “bank”.

#### **b. Analysis/Land Use Plan Conformance**

Each of the certified land use plans either specify maximum density of development for specific sites and/or establish residential density by reference to the City’s General Plan or Growth Management Plan even though neither document was adopted as part of the City’s LCP. As examples, Policy 1-1 for the Mello II Land Use Plan segment states:



**ALLOWABLE LAND USES (MELLO II)**

Allowable uses are those that are consistent with both the General Plan and the Local Coastal Program.

Policy 1-2 for the Mello II Land Use Plan segment further states:

Residential density shall be permitted and based on the underlying LCP land use designation. [...]

Policy B. Land Use Policies, 1.(1)(a) Land Uses Permitted Pursuant to a Master Plan for the East Batiquitos Lagoon Land Use Plan segment states:

Unless otherwise noted herein, uses permitted by the Master Plan shall be consistent with those allowed by the Carlsbad General Plan as adopted as of March 1, 1988. [...]

Table 2 in the Land Use Element of the City’s General Plan, as amended to include the RHNA Base, then provides the following allowable densities for residential development:

Table 2: ALLOWED DWELLING UNITS PER ACRE				
General Plan Land Use Designation	Minimum	Growth Management Control Point (GMCP)	RHNA Base*	Maximum
RL	0	1.0	1.0	1.5
RLM	0	3.2	3.2	4.0
RM	4	6.0	6.0	8.0
RMH	8	11.5	12.0	15.0
RH	15	19.0	20.0	23.0

\*RHNA Base does not apply to RH designated properties in the Beach Area Overlay Zone.

The City determined in its 2005-2010 Housing Element Update that additional housing unit yields would be necessary to meet the City’s RHNA share. One of the new housing programs the City developed in response is the “RHNA minimum density” adjustment

of the densities that could be approved within the City on most RMH- and RH-designated lands. As the result, the minimum and maximum densities for the RMH and RH land use designations set forth in the certified LCP now “bookend” the RHNA share “floor” and the GMCP “ceiling” on density yields for pertinent project proposals. Both options would tap the “excess dwelling unit” bank pursuant to the City’s Growth Management Plan, but that is – from the Coastal Commission perspective – an informal level of land use intensity determination because the definitive legal standard of review within the Coastal Zone is the certified LCP.

Table 1, below, compares the City’s allowable densities under the GMCP “ceiling” and the new required RHNA minimum density “floor” required in the requested LCP amendment with the “bookends” of the RMH and RH minimum and maximum densities set forth in the certified LCP. As can be seen, the effect of the RHNA required minimum density is a slight increase in the potential yield of units over the cap that would otherwise be set by the City through its uncertified Growth Management Plan. For other residential land use designations, the RHNA Base is the same as the GMCP limit.

<b>Table 1. Allowed Dwelling Units Per Acre</b>				
General Plan Land Use Designation	Minimum	Growth Management Control Point/Cap (GMCP)	<b>RHNA Base (Amended General Plan)</b>	Maximum
RMH	8	11.5	<b>12.0</b>	15.0
RH	15	19.0	<b>20.0</b>	23.0

Table 1. Comparison of the minimum and maximum densities applicable to RMH- and RH-designated lands, including the existing GMCP “density ceiling” and the proposed new RHNA required minimum density “floor” which exceeds the GMCP limits slightly (potentially requiring withdrawals from the “excess dwelling unit bank” established by the City’s growth management policies.

The City staff estimates that approximately 10 vacant parcels (totaling about 10 acres) of designated RH exist, and that approximately 25 vacant parcels (totaling about 18 acres) of designated RMH exist citywide. As well, the City staff has calculated that implementation of the requested LCP amendment would produce the differential yields of residential units shown in Tables 2 and 3, below.

<b>Table 2. Comparative Density Yields, RH-designated Lands</b>				
Existing Minimum 15 du/ac	GMCP (Cap)	Proposed RHNA Minimum Density	Yield Diff - Minimum & RHNA Min.	<b>Yield Diff - GMCP &amp; RHNA</b>
146	186	195	49	<b>9</b>

<b>Table 3. Comparative Density Yields, RMH-designated Lands</b>				
Existing Minimum 8 du/ac	GMCP (Cap)	Proposed RHNA Minimum Density	Yield Diff – Minimum & RHNA Min.	<b>Yield Diff - GMCP &amp; RHNA</b>
126	189	198	72	<b>9</b>

Tables 2 and 3. Comparison of residential dwelling unit yields, showing that the GMCP cap that presently applies to the RH and RMH land use designations would only be effectively increased by approximately 18 dwelling units, total yield.

Thus, if fully implemented in accordance with the City’s requested LCP amendment submittal, the required RHNA minimum density program could potentially result in a total increase of 121 additional dwelling units when compared with a buildout of the same lands that is restricted to only the minimum applicable densities certified for the subject land use designations. For the City and HCD, the more critical comparison is the RHNA minimum density program with the imposition of the City’s Growth Management Plan “cap” on residential densities. However, the total number of additional units above the growth management cap that would be constructed in accordance with the alternative use of the required RHNA minimum densities is only about 18 additional units citywide.

**c. Conclusion**

The application of the requested amendment to development review would not change the maximum densities established for the pertinent land use designations by the Commission in certifying the City’s LCP. Moreover, approval of densities lower than indicated by the RHNA minimum residential density calculation would remain possible where site-specific constraints dictate that a lower density would be more protective of coastal resources. The increased minimum density requirement would not apply to lands that are designated RH and additionally subject to the Beach Area Overlay Zone (BAOZ). The requested amendment would not eliminate or otherwise reduce the effectiveness of any other policies or provisions protective of coastal access or coastal resources set forth in the certified LCP. The required RHNA minimum residential density calculations that would be included in

Subchapter 21.53.230 of the City's certified Zoning Ordinance would provide a moderate amount of additional residential dwelling units to supplement the City's supply of affordable housing while remaining within the density limits previously established by the Commission in certifying the City's LCP. In summary, the Commission finds that the proposed amendment can be found in conformance with the certified land use plans, protects affordable housing and will not adversely impact coastal access or coastal resources.

#### **PART IV. 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 activities and approvals necessary for the preparation and adoption of a local coastal program. The Commission's Local Coastal Program (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.

Alternatively, pursuant to the City's own obligations under CEQA, the City determined that the subject LCP amendment was included as part of the project description prepared for, and addressed within, the Revised Mitigated Negative Declaration (MND) on the City's update of its Housing Element approved by the City on December 22, 2009.

Nevertheless, and the City's own determination that the project is subject to the previously approved MND notwithstanding, the Commission is required in an LCP submittal, such as in this case, to find that the approval of the proposed LCP, or LCP, as amended, does conform with CEQA provisions. The City of Carlsbad, as noted above, found that the proposed project was evaluated in the MND approved by the City on December 22, 2009 and that the proposed project that is the subject of the pending LCP Amendment would not result in any additional environmental impacts that were not considered within the subject MND. Notably, the proposed amendment would not change the authorized residential land uses for the parcels subject to the proposed amendment, and the maximum density in the subject zone districts would not increase above the existing maximum densities set forth in the City's certified LCP. The Commission finds there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect on the environment. Furthermore, the Commission finds that the proposed amendment is unlikely to have any significant adverse effect on the environment. Therefore, the Commission finds that the subject LCP implementation plan, as amended, conforms to the provisions of CEQA.

RESOLUTION NO. 2012-022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA APPROVING AN AMENDMENT TO THE LAND USE ELEMENT OF THE GENERAL PLAN AND A LOCAL COASTAL PROGRAM (LCP) AMENDMENT TO IMPLEMENT A PORTION OF HOUSING ELEMENT PROGRAM 2.1 OF THE ADOPTED 2005-2010 HOUSING ELEMENT (GPA 03-02) AND THEREBY ESTABLISHING A NEW MINIMUM DENSITY IN THE RESIDENTIAL MEDIUM-HIGH DENSITY (RMH) AND RESIDENTIAL HIGH DENSITY (RH) LAND USE DESIGNATIONS.

CASE NAME: H.E. PROGRAM 2.1 MINIMUM DENSITIES  
CASE NO.: GPA 10-03/LCPA 10-03

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

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did on December 7, 2011, hold a duly noticed public hearing as prescribed by law to consider the General Plan Amendment (GPA 10-03), as referenced in Planning Commission Resolution No. 6848, Zone Code Amendment (ZCA 10-04) as referenced in Planning Commission Resolution No. 6849, and Local Coastal Program Amendment (LCPA 10-03) as referenced in Planning Commission Resolution No. 6850; and

WHEREAS, the Planning Commission adopted Planning Commission Resolutions No. 6848, 6849 and 6850 recommending to the City Council that GPA 10-03, ZCA 10-04 and LCPA 10-03 be approved; and

WHEREAS, the City Council of the City of Carlsbad, on the 24<sup>th</sup> day of January, 2012, held a duly noticed public hearing to consider the General Plan Amendment, Zone Code Amendment and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to the General Plan Amendment, Zone Code Amendment and Local Coastal Program Amendment.

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

- 1. That the above recitations are true and correct.

CAR-MAJ-2-12A  
(Min. Residential Densities)

1 2. That the findings of the Planning Commission in Planning Commission  
2 Resolutions No. 6848, 6849 and 6850 constitute the findings of the City Council in this matter.

3 3. That the amendment to the General Plan (GPA 10-03) is approved as  
4 shown in Planning Commission Resolution No. 6848.

5 4. That the amendment to the Local Coastal Program (LCPA 10-03) is  
6 approved as shown in Planning Commission Resolution No. 6850.

7 5. That the approval of GPA 10-03 shall not be effective until LCPA 10-03 is  
8 approved by the California Coastal Commission and the California Coastal Commission's  
9 approval becomes effective.

10 6. That the approval of LCPA 10-03 shall not become effective until it is  
11 approved by the California Coastal Commission and the California Coastal Commission's  
12 approval becomes effective.

13 "NOTICE TO APPLICANT"

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

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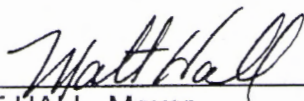
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1 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council  
2 of the City of Carlsbad on the 24<sup>th</sup> day of January, 2012, by the following vote to wit:

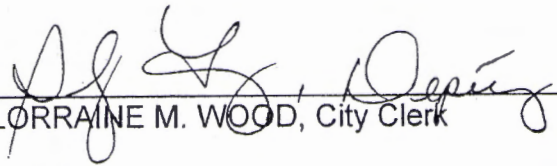
3 AYES: Council Members Hall, Kulchin, Blackburn, Douglas and Packard.  
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5 NOES: None.  
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7 ABSENT: None.  
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MATT HALL, Mayor

12 ATTEST:

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LORRAINE M. WOOD, City Clerk  
16 (SEAL)



**ZCA 10-04/LCPA 10-03  
H.E. PROGRAM 2.1 – MINIMUM DENSITIES**

**STRIKE-OUT/UNDERLINE**

Section 21.53.230 (Uses Generally, Residential density calculations, residential development restrictions on open space and environmentally sensitive lands) is proposed to be amended as follows:

**21.53.230 Residential density calculations, residential development restrictions on open space and environmentally sensitive lands.**

- (a) For the purposes of Titles 20 and 21 of this code, residential density shall be determined based on the number of dwelling units per developable acre of property.
- (b) The following lands are considered to be undevelopable and shall be excluded from density calculation:
- (1) Beaches;
  - (2) Permanent bodies of water;
  - (3) Floodways;
  - (4) Natural slopes with an inclination of greater than forty percent except as permitted pursuant to Section 21.95.120(B) of this code;
  - (5) Significant wetlands;
  - (6) Significant riparian or woodland habitats;
  - (7) Land subject to major power transmission easements;
  - (8) Land upon which other significant environmental features as determined by the environmental review process for a project are located;
  - (9) Railroad track beds.
- (c) No residential development shall occur on any property listed in subsection (b).

Subject to the provisions of Chapters 21.33 and 21.110, the city council may permit limited development of such property if, when considering the property as a whole, the prohibition against development would constitute an unconstitutional deprivation of property. The planning commission or city council, whichever is the final decision-making body for a residential development may permit accessory facilities, including, but not limited to, recreational facilities, view areas, and vehicular parking areas, to be located in floodplains (subject to Chapter 21.110) and on land subject to major power transmission easements.

(d) No more than fifty percent of the portion of a site containing twenty-five to forty percent slopes may be utilized for calculating allowable residential density. Residential development on slopes with an inclination of twenty-five to forty percent, inclusive, shall be designed to minimize the amount of grading necessary to accommodate the project. For projects within the coastal zone, the grading provisions of the Carlsbad local coastal program and Chapters 21.38 and 21.203 of the municipal code shall apply.

(e) The potential unit yield for a property, based on the minimum, growth management control point (GMCP), Regional Housing Needs Assessment (RHNA) Base, or maximum density of the applicable general plan land use designation, shall be subject to the following:

- (1) Equation used to determine unit yield: developable lot area (in acres) x density = unit yield.

*CAR-MAJ-2-12A  
(Min. Residential Densities)  
Strike-out/underline  
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- (A) "Density" used in this calculation is the minimum, GMCP, RHNA Base, or maximum density of the applicable general plan land use designation;
- (B) The resulting unit yield shall be subject to Table A, below.
- (2) For purposes of this section:
  - (A) "Rounded-up" means rounding the fractional unit yield up to the next whole unit;
  - and
  - (B) "Rounded-down" means rounding the fractional unit yield down to the previous whole unit, but not less than one unit.
- (3) The information contained in Table A, below, shall not preclude the city from approving residential densities above the GMCP, RHNA Base, or maximum density of the applicable land use designation, subject to adopted city policies and regulations.

**TABLE A  
UNIT YIELD ROUNDING**

Density Used for Calculation	Unit Yield Includes a	Provisions for Unit Yield Rounding
MINIMUM	fractional unit of .5 or greater	SHALL be rounded-up. <sup>1</sup>
	fractional unit below .5	MAY be rounded-down. <sup>2</sup>
GMCP	fractional unit of .5 or greater	MAY be rounded-up. <sup>3</sup>
	fractional unit below .5	SHALL be rounded-down.
<u>RHNA Base</u> <sup>4</sup>	fractional unit of .5 or greater	SHALL be rounded-up. <sup>1,3</sup>
	fractional unit below .5	SHALL be rounded-down. <sup>2</sup>
MAXIMUM	fractional unit	SHALL be rounded-down.

Note Notes:

- 1) Unless the project density is allowed below the minimum of the density range, pursuant to the General Plan.
- 2) Unit yields rounded-down pursuant to this provision that result in a density below either the minimum density or the RHNA Base density of the applicable land use designation shall be considered consistent with the General Plan.- See footnote 4 for the limitations on applying the RHNA Base density.
- 3) Subject to a fractional and/or whole unit allocation from the "excess dwelling unit bank", and provided the maximum density of the applicable land use designation is not exceeded.
- 4) The RHNA Base section in Table A does not apply to RH General Plan land use designations in the Beach Area Overlay Zone. In the Beach Area Overlay Zone, the minimum and GMCP densities shall apply.

**Land Use Element**



- d. **Medium-High Density (RMH):** Medium-high density residential areas intended to be developed with two-family dwellings and multiple-family dwellings, as well as one-family dwellings (developed as two or more detached units on one lot) at a density between 8 to 15 dwelling units per acre. Development of one-family dwellings on individual lots may be approved with a planned development permit, subject to the density range of this designation.
- e. **High Density (RH):** High-density residential areas intended to be developed with two-family and multiple-family dwellings, as well as one-family dwellings (developed as two or more detached units on one lot) at a density between 15 to 23 dwelling units per acre.

- b. That there have been sufficient developments approved in the quadrant at densities below the control point so the approval will not result in exceeding the quadrant limit.
- c. All necessary public facilities required by the City's Growth Management Program will be constructed, or are guaranteed to be constructed, concurrently with the need for them created by this development and in compliance with the adopted City standards.

Certain areas of the City designated for planned communities may have several residential designations or combinations of residential designations. To accommodate good design and planning, as well as environmental and topographical factors, planned communities shall be controlled by a master plan.

As part of the City's Growth Management Plan, a dwelling unit limitation was established for each quadrant of the City. The City shall not approve any general plan amendment, zone change, tentative subdivision map or other discretionary approval for a development that could result in the development above the limit in any quadrant. To ensure that development does not exceed the limit, the following growth management control points (GMCP) in Table 2 are established for the Land Use Element density ranges.

The City shall not approve any residential development at a density that exceeds the growth management control point for the applicable density range without making the following findings:

- a. That the project will provide sufficient additional public facilities for the density in excess of the control point to ensure that the adequacy of the City's public facilities plans will not be adversely impacted.

**Table 2:  
ALLOWED DWELLING UNITS PER ACRE**

General Plan Land Use Designation	Minimum	Growth-Management Control-Point GMCP	RHNA Base*	Maximum
RL	0	1.0	1.0	1.5
RLM	0	3.2	3.2	4.0
RM	4	6.0	6.0	8.0
RMH	8	11.5	12.0	15.0
RH	15	19.0	20.0	23.0

\* RHNA Base, discussed below, does not apply to RH designated properties in the Beach Area Overlay Zone. In the Beach Area Overlay Zone, the minimum and GMCP densities shall apply.

The residential land use designations in Table 2 indicate MAXIMUM development unit yields. To meet the General Plan goals and objectives, including, but not limited to population goals and environmental considerations, the ACTUAL yield may be less than maximum potentials, but not less than the minimum density of the underlying land use designation; except, density may be approved below the minimum of the density range in the following circumstances:

- a. When a single, one-family dwelling is constructed on a legal lot that existed as of October 28, 2004.
- b. When a single, one-family dwelling is constructed on a lot that was created by consolidating two legal nonconforming lots into one lot (this only applies to lots that are nonconforming in lot area).
- c. When a legal lot is developed with one or more residential units that existed as of October 28, 2004; provided, the existing units are to remain and it is not feasible to construct the number of additional units

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needed to meet the minimum density without requiring the removal of the existing units.

Pursuant to California Government Code Section 65863, the City shall not by administrative, quasi-judicial, or legislative action, reduce, require or permit the reduction of residential density on any parcel to a density below that which was utilized by the California Department of Housing and Community Development in determining compliance with housing element law. For purposes of complying with Government Code Section 65863, the Regional Housing Needs Assessment (RHNA) Base density for each of the General Plan residential Land Use designations listed in Table 2 above was utilized to determine compliance with housing element law in the 2005-2010 Housing Element. As such, the City shall not reduce, require, or permit the reduction of residential density on any parcel below its RHNA Base density unless, the City makes written findings supported by substantial evidence of both of the following:

- a. The reduction is consistent with the adopted general plan, including the housing element.
- b. The remaining sites identified in the housing element are adequate to accommodate the City's share of the regional housing need pursuant to Government Code Section 65584, or the reduction is necessary to ensure compliance with the dwelling unit limitations set forth in the City's Growth Management Program.

As noted in Table 2, the RHNA Base density does not apply to RH designated properties in the Beach Area Overlay Zone. In the Beach Area Overlay Zone, the minimum and GMCP densities shall apply.

If a reduction in residential density for any parcel would result in the remaining sites identified in the housing element not being adequate to accommodate the City's share of the regional housing need, the City may reduce the density on that parcel provided it identifies sufficient additional, adequate, and available sites with an equal or greater residential density so that there is no net loss of residential unit capacity.

The City shall be solely responsible for compliance with Government Code Section 65863, unless a project applicant requests in his

or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the City's share of the regional housing need. In that case, the City may require the project applicant to comply with Government Code Section 65863. For the purposes of determining or requiring compliance with Government Code Section 65863, the submission of an application does not depend on the application being deemed complete or being accepted by the City.

Government Code Section 65863 does not apply to parcels that, prior to January 1, 2003, were either 1) subject to a development agreement, or 2) parcels for which an application for a subdivision map had been submitted.

Residential density shall be determined based on a number of dwelling units per developable acre of property. The following lands are considered to be undevelopable and shall be excluded from density calculations:

- a. Beaches;
- b. Permanent bodies of water;
- c. Floodways;
- d. Slopes with an inclination of greater than 40%;
- e. Significant wetlands;
- f. Significant riparian woodland habitats;
- g. Land subject to major power transmission easements;
- h. Land upon which other significant environmental features as determined by the environmental review process for a project are located; and
- i. Railroad track beds.

No residential development shall occur on the lands listed above; however, the City Council may permit limited development of such property, if when considering the property as a whole, the prohibition against development would constitute an unconstitutional deprivation of property.

Development on slopes with an inclination of 25% to 40% shall be permitted if designed to minimize the grading and comply with the slope development provisions of the hillside ordinance and the Carlsbad Local Coastal Program. However, only 50% of the area shall be used for density calculations.