

**CALIFORNIA COASTAL COMMISSION**

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



May 29, 2013

**W16e**

**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 ANALYST**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR LCP  
AMENDMENT No. CAR-MAJ-2-12-B (Mixed Use) for Commission Meeting  
of June 12-14, 2013**

---

**SYNOPSIS**

The City of Carlsbad's Local Coastal Program (LCP) Implementation Plan amendment request #2-12 includes two sets of housing-related revisions (Parts A and B) and a third, unrelated component (Part C) 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 only addresses #2-12B. 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 2013 hearing.

**SUMMARY OF AMENDMENT REQUEST**

The City of Carlsbad requests an amendment of the Implementation Plan of the City's certified LCP. The proposed amendment consists of revisions of portions of Chapter 21 of the City's Zoning Ordinance (Municipal Code), and is limited to text amendments only.<sup>1</sup>

The City's amendment request would affect three commercial zone districts:

- Neighborhood Commercial (C-1)
- General Commercial (C-2)
- Local Shopping Center (C-L)

The City's amendment request includes the following new provisions for mixed use development within these zones:

---

<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 residential component would be a permitted use, rather than a conditionally permitted use;
- The density of the residential component would be established at twenty (20) dwelling units per acre;
- The residential component must be secondary and accessory to the commercial use;
- The residential density and potential unit yield can only be based on twenty-five percent (25%) of the developable area of the subject site;
- The residential component could only be located above the ground floor and provided as part of a multi-storied commercial building;
- Mixed use projects with a residential component would be subject to the discretionary review of a Site Development Plan (SDP);<sup>2</sup>
- Equivalent “credits” for dwelling units included in pertinent mixed use commercial projects would be withdrawn from the City’s “excess dwelling units” bank (tracking mechanism), thereby ensuring that such project approvals remain consistent with the City’s Growth Management Program and the affordable housing programs of the City’s updated Housing Element.<sup>3</sup>

The City has developed a number of affordable housing programs as part of the 2005-2010 General Plan Housing Element update (which has been extended to 2013). The City has designed LCP amendment request #2-12B to incorporate into the City’s Zoning Ordinance the related provisions of the City’s Housing Element Program 2.1, as necessary.

The City has explained that as part of the Housing Element update process, state housing law standards administered by the State Department of Housing and Community Development require that the City identify a sufficient supply of new residential development opportunities to provide for Carlsbad’s share of future regional affordable housing needs.<sup>4</sup> The City’s Zoning Ordinance presently allows residential use as part of

---

<sup>2</sup> While the Site Development Plan would be subject to discretionary review and approval by the Planning Commission, the Planning Commission could not restrict or prohibit the residential use component of a mixed-use commercial development project through the SDP review process (which is currently possible through the required Conditional Use Permit application review process). The SDP does, however, allow decision-maker discretion over development standards related to site design, landscaping, architecture, etc.

<sup>3</sup> A Growth Management Plan administered by the City that has not been submitted for certification as part of the LCP.

<sup>4</sup> The Housing Element is subject to detailed statutory requirements and mandatory review by the California Department of Housing and Community Development (HCD). As part of the process, Carlsbad’s Regional Housing Needs Assessment/housing unit share is periodically allocated by the San Diego Association of Governments (SANDAG) in accordance with state housing law. HCD certification of a local government’s Housing Element provides two key benefits: a reduced likelihood of legal challenges, and increased competitiveness for various housing-related grant programs.

commercial development proposals within the pertinent commercial zones; however, the residential component of such proposals presently requires the (discretionary) approval of a Conditional Use Permit. Where a layer of discretionary approval could thwart the yield of residential development capacity that specific zoning might otherwise provide, HCD may disallow the potential unit yield. The City could not then count that potential residential unit yield toward satisfaction of the City's assigned share of the region's future affordable housing needs.

For example, if the Planning Commission could deny the residential portion of a mixed use development by denying the necessary discretionary conditional use permit approval for such a project, HCD would not credit the potential residential development capacity toward satisfaction of the City's Regional Housing Needs Assessment (RHNA) share. The City's proposed amendment would eliminate this barrier to HCD certification, yet incorporate new performance standards to ensure that commercial use remains the predominant element of mixed use proposals that include a residential component in the subject commercial zones.

The proposed amendment would not waive, limit, reduce, or replace any policies or provisions protective of coastal resources set forth in the certified LCP. 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 plan (IP) inadequate to carry out the LUP. The proposed revisions to the City's zoning ordinance provisions to allow residential uses by right as part of a mixed use commercial development in the Neighborhood Commercial, General Commercial and Local Shopping Center zones is consistent with the City's certified land use plans. Residential uses are already permitted with discretionary review in these zones and the subject amendments will maintain the commercial emphasis in any future proposed development. The proposed amendments would not conflict with protection of priority uses, such as visitor-serving commercial development, as those areas are designated for Travel Services Commercial (TS), Recreation Commercial (RC) or Travel/Recreation Commercial (T-R) with comparable zoning designations. In addition, even for areas reserved for visitor-serving commercial development, the Commission has accepted mixed use development strategies as long as provisions, such as the standards proposed herein, are adopted to ensure the commercial use priority is maintained. The City's request to amend Chapter 21 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 6. The findings for approval of the Implementation Plan Amendment as submitted also begin on Page 6.

## **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 #2-12B may be obtained from Deborah Lee, San Diego District Manager, at (619) 767-2370.

---

**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. 2-12B for City of Carlsbad 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 requested amendment consists of text changes only.

The City’s amendment would specifically revise certain provisions of the City’s Zoning Ordinance (Chapters 21.26, 21.28 and 21.31) pertinent to the approvability (as a

permitted use) of residential development included as a mixed use component of a commercial development proposal. The amendment would apply to mixed use proposals on parcels zoned Neighborhood Commercial (C-1), General Commercial (C-2), or Local Shopping Center (C-L). The amendment eliminates the existing requirement that mixed use projects in these zones (when residential is included) obtain a Conditional Use Permit (discretionary approval) and includes new development standards to ensure that the residential component of a qualifying mixed use project does not interfere with the primary commercial purpose of the project:

- The residential component would be a permitted use, rather than a conditionally permitted use, subject to the other listed restrictions (below);
- The density of the residential component would be established at 20 dwelling units per acre (a density that is allowed within the City's Residential High Density Zone);
- The residential component must be secondary and accessory to the commercial use;
- The residential density and potential unit yield can only be based on twenty-five percent (25%) of the developable area of the subject site;
- The residential component could only be located above the ground floor and provided as part of a multi-storied commercial building;
- Mixed use projects – including the residential component, would remain subject to the required approval of a Site Development Plan (SDP) to ensure adequate project design (such as landscaping elements);
- Approved dwelling units would be withdrawn from the “excess dwelling units” bank ensuring that the mixed use project approvals remain consistent with the City's existing Growth Management Program as well as with the contemporary programs of the City's updated Housing Element.

The changes requested by the City pursuant to the subject amendment would allow commercial development proposals in the three identified commercial zone districts to include a residential component as a use by right, instead of as a use subject to the approval of a Conditional Use Permit (a discretionary permit requirement). The City's amendment request includes new performance standards designed to ensure that the residential component of mixed use commercial development proposals would be subordinate and accessory to the overall commercial purpose. In this manner, the City's amendment request provides the assurance that residential development can be accommodated within pertinent commercial development proposals without diminishing the primary purpose of the subject zone districts (commercial development).

The City's Municipal Code includes a Growth Management Program that generally caps the maximum number of dwelling units that may be approved in residential zones citywide at levels below the maximum densities otherwise established by the certified

Implementation Plan (Zoning Ordinance). To ensure that dwelling unit caps are not exceeded, the City developed a tracking system called the “Excess Dwelling Unit Bank” to account for projects approved both below and above the Growth Management Control Point (GMCP) densities. Excess dwelling units are units that have become available as the result of residential projects being approved and constructed with fewer dwelling units than would have been allowed by the Growth Management Control Point (GMCP) densities. Dwelling units deemed “excess” are added to the bank, and may be allocated to other projects so long as the citywide dwelling unit caps (and some other limitations) are not exceeded.

The Growth Management Program does not establish a GM Control Point for residential development as part of commercial mixed use development proposals. City staff has explained that, therefore, for any future mixed use projects in the commercial zones that would be authorized pursuant to the implementation of the proposed amendment (C-1, C-2 and C-L zones), all such dwelling units must rely on withdrawal of equivalent excess “banked” residential units since no units were allocated to the commercial zones in the past. According to City staff, the 2005-2010 Housing Element update process included a determination that a sufficient number of banked dwelling units exist to cover all potential future allocations for mixed use projects that arising in the subject commercial zones. Therefore, residential development associated with the implementation of the proposed LCP amendment would also be consistent with the City’s established Growth Management Program requirements.

The proposed amendment would not supersede or diminish 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 within the subject commercial zones, or that otherwise protect coastal access or coastal resources. Moreover, the proposed amendment does not add a new type of approvable development (residential) to the commercial zones affected by the amendment – residential is already permitted – albeit with a CUP - within the subject C-1, C-2, and C-L zones.

## **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 pertaining to the approval of residential development as a permitted component of commercial development projects within the C-1, C-2, and C-L zones citywide. The revisions would maintain the primary emphasis on the commercial nature of projects approved pursuant to the revised ordinance.

**2) Major Provisions of the Ordinance.** The provisions of the City’s requested Zoning Ordinance amendment would apply only to projects proposed on lands zoned in accordance with the provisions of the Neighborhood Commercial (C-1), General

Commercial (C-2), and Local Shopping Center (C-L) zone districts. The ordinance would ensure that residential development could be approved as a permitted mixed use component of commercial development projects in these zone districts, subject to development standards that, among other things, require that the residential component be secondary and accessory to the commercial project, that residential units proposed within a multi-story project be located above ground level, and that the residential density calculation be limited to twenty-five percent (25%) of the developable area of any site.

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 Chapters 21.26, 21.28 and 21.31 of the City's Zoning Ordinance.

**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 amendment does not change the type of land use (commercial) of the pertinent zone districts, and residential use is already a mixed use component of development that may be approved pursuant to the certified LUP (albeit with a conditional use permit). The amendment's primary effect is to ensure that residential development is approvable as a proposed component of a mixed-use commercial development and cannot be denied or otherwise severely limited as the consequence of discretionary review. The proposed amendment incorporates numerous measures to ensure that the residential component of a mixed use commercial development is secondary and accessory to the commercial development in every respect.

**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 City's assigned RHNA share.

The City has undertaken the planning and development of programs to provide future development capacity for its regional share of affordable housing supplies as determined by HCD and SANDAG. The programs have been included in the City's 2005-2010 (extended, 2013) Housing Element update. One of these programs (Program 2.1) includes measures reflected in the City's amendment request, including provisions to strengthen the approvability of mixed use commercial development projects in certain commercial districts when an appropriate residential component is included, as well as provisions to ensure that residential use does not overshadow the primary commercial component of mixed use projects in commercial zones.

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

The City determined in its 2005-2010 Housing Element Update that additional housing unit yields would be necessary to meet the City's Regional Housing Needs Assessment share. One of the new housing programs the City developed in response is the "Mixed Use" program, which would be implemented in part by the requested LCP amendment. The amendment would allow residential as a permitted – rather than conditional - use in certain commercial zones (C-1, C-2, and C-L) when proposed as a mixed use component of an otherwise commercial project.

For Neighborhood Commercial uses and the C-1 Neighborhood Commercial Zone, permitted uses include a broad array of consumer services, retail outlets and personal services such as bakeries, restaurants, grocery stores and service stations; and, then residential uses above the ground floor and hotels/motels are also permitted by conditional use permit. For General Commercial development and the C-2 General Commercial Zone, permitted uses include all uses permitted in the C-1 zone, along with auto repair facilities, pet shops and other retail, wholesale or service businesses catering directly to consumers; and then residential uses above the ground floor, professional care facilities, bars and cocktail lounges and hotels/motels are also permitted by conditional use permit. For Local Shopping Center uses and the C-L Local Shopping Center zone, the permitted uses focus on shopping center facilities and a broad array of consumer retail outlets; and, then residential uses above the ground floor are similarly permitted through issuance of conditional use permit. Thus, in each of the subject zones, the certified LCP already allows residential use a conditionally-approved component of commercial development proposals within the subject zone districts. However, the proposed amendment would increase the likelihood that an appropriate mixed use proposal could be approved in the three specified commercial zones. This change would help the City meet the affordable housing program requirements required by state housing law. The certainty that a residential component of projects proposed within the subject zones could be approved is a key requirement of state housing law.

Each of the City's certified Land Use Plan segments provide for a mix of uses and designate some properties for high priority, visitor-serving uses. In terms of LUP policies, the most specific provisions are contained in the Mello II LUP segment. They state:

**POLICY 6-5 NEED FOR 200 ADDITIONAL HOTEL-MOTEL ROOMS,  
AND VISITOR-SERVING USES**

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.

**POLICY 6-6 ADDITIONAL VISITOR-SERVING FACILITIES AT ELM AVENUE AND CARLSBAD BOULEVARD**

Provision should be made for additional visitor-serving facilities, as well as retaining existing visitor uses, at the western terminus of the Elm Avenue corridor in the coastal.

**POLICY 6-8 DEFINITION OF VISITOR-SERVING COMMERCIAL USES, AND EAST END OF BUENA VISTA LAGOON**

“Visitor-serving commercial uses” shall be defined to include hotels and motels recreational facilities, restaurants and bars, amusement parks, public parks, horticultural gardens, farmers’ markets, retail uses accessory to another use which is the primary use of the site, and other accessory uses customarily catering to hotel and motel guests. [...]

**POLICY 6-9 PROPERTIES FRONTING CARLSBAD BOULEVARD ADJACENT TO AND INCLUDING SOUTH CARLSBAD STATE BEACH**

The South Carlsbad State Beach campground should be considered for conversion to a day use beach and upland park if other adequate campground facilities can be developed nearby.

Mixed use development (i.e., residential and recreational-commercial) shall be permitted by right on properties fronting Carlsbad Boulevard across from South Carlsbad State Beach. [...]

These policies identify the need for additional land to be reserved for visitor-serving development, however, these provisions have not been updated for several years and there have been changes in the pattern of development. The City has committed to working with the Commission on reassessment of its hotel/motel inventory and land reserved for visitor commercial development. In addition, the City is working on a General Plan update that will be followed by a comprehensive update of its LCP. In

those efforts, it will be important to reassess both the amount of lands reserved for various commercial uses, the affordability issues raised with overnight accommodations and the mix of uses allowed in each commercial zone. At this time, the Commission finds that given residential uses were already allowed in these zones and many of the otherwise permitted commercial uses would also serve beach visitors and tourists, the subject amendments can be supported. The City has also included a variety of development standards within the requested amendment to ensure that the residential use is restricted such that it will be secondary and accessory to the primary commercial development of a mixed use proposal, residential development would be located above ground level and the potential residential density could only be based on twenty-five percent (25%) of the developable site area.

Thus, the provisions of the amendment would secure the approvability of a residential component of mixed use commercial project proposals, thus helping the City achieve its mandated affordable housing program goals. At the same time, the protective provisions included by the City in the requested amendment would preserve the identified commercial purpose and development standards of the subject zone districts in a manner consistent with the certified LCP.

**c. Conclusion**

The application of the requested amendment to development review standards that would be applied to mixed use proposals brought forward for lands zoned C-1, C-2, or C-L pursuant to the City's certified Implementation Plan would not diminish any existing standards set forth in the certified LCP. Residential is already a conditionally permitted use within these zone districts. Although the City's amendment would eliminate the requirement that a residential component be subject to a CUP, the amendment would also add a number of new provisions (listed and discussed above) designed to ensure that residential use would nevertheless be clearly subordinate to the commercial component of pertinent projects. Thus, the City's amendment request would preserve the primarily commercial purpose of the C-1, C-2, and C-L zones established by the City's certified Implementation Plan.

City staff has explained that the requested amendment would not produce significant increases in the likely number of residential dwelling units that could be approved within the subject commercial zone districts. The primary effect of the proposed amendment is the reduced potential for denial or reduction of the residential component of mixed use projects proposed in any of the three subject commercial zones.

The proposed amendment would not waive, limit, reduce, or replace any policies or provisions protective of coastal resources set forth in the certified LCP. The proposed amendment will not increase the kinds, locations or intensities of land uses that could be authorized, in comparison with the certified LCP. Lands reserved for high priority uses, such as visitor-serving commercial areas, are designated for Travel Services or Recreational Commercial development in the City's LCP. The subject amendment would not affect those properties and, as discussed above, the proposed development standards will ensure the commercial emphasis of any mixed use development project will not be diminished. In

summary, the Commission finds that the proposed Implementation Plan amendment can be found in conformance with the City's certified Land Use Plans 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) for the City's 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 add residential as a newly approved category of land use that could be approved within the subject commercial zone districts. Residential is already an approvable use within these zones as a component of mixed use commercial development projects proposed for parcels zoned C-1, C-2, or C-L throughout the city. The proposed amendment would only ensure that the residential component of such projects, where proposed, is a permitted –rather than a conditional – use. The amendment includes provisions to ensure that mixed use commercial projects would be primarily commercial in nature, and that the residential component would be secondary and accessory to the commercial component of pertinent projects.

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. 2012-023**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING AN AMENDMENT TO THE CARLSBAD LOCAL COASTAL PROGRAM TO IMPLEMENT A PORTION OF CARLSBAD GENERAL PLAN HOUSING ELEMENT PROGRAM 2.1 OF THE ADOPTED 2005-2010 HOUSING ELEMENT (GPA 03-02) AND THEREBY AMENDING THE ZONING ORDINANCE TO ALLOW RESIDENTIAL USES AS A PERMITTED USE IN CERTAIN COMMERCIAL ZONES.

CASE NAME: H.E. PROGRAM 2.1 MIXED USE

CASE NO.: LCPA 10-04

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 Zone Code Amendment (ZCA 10-05), as referenced in Planning Commission Resolution No. 6842, and Local Coastal Program Amendment (LCPA 10-04), as referenced in Planning Commission Resolution No. 6843; and

WHEREAS, the Planning Commission adopted Planning Commission Resolutions No. 6842 and 6843 recommending to the City Council that ZCA 10-05 and LCPA 10-04 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 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 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.
2. That the findings of the Planning Commission in Planning Commission Resolutions No. 6842 and 6843 constitute the findings of the City Council in this matter.

CAR-MAJ-2-12B  
(Mixed Use)



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.  
4

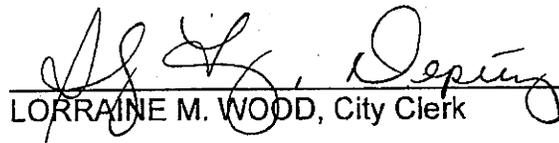
5 NOES: None.  
6

7 ABSENT: None.  
8  
9

10 

11 MATT HALL, Mayor

12 ATTEST:

13  
14   
15 LORRAINE M. WOOD, City Clerk

16 (SEAL)



ZCA 10-05/LCPA 10-04  
H.E. PROGRAM 2.1 – MIXED USE

STRIKE-OUT/UNDERLINE

~~AMENDMENTS TO CHAPTER 21.26~~

The list of sections in Chapter 21.26 (C-1 Neighborhood Commercial Zone) is proposed to be amended by the addition of the reference to 21.26.015.

21.26.015 Residential uses in the C-1 Zone.

~~21.26.010~~

The following "Use" in Table A of Section 21.26.010 (C-1 Neighborhood Commercial Zone, Permitted uses) is proposed to be amended as follows:

Use	P	CUP	Acc
<del>Residential uses located above the ground floor of a multi-story commercial building (subject to Section 21.42.140(B)(130)) (subject to Section 21.26.015 of this title)</del>	<del>X</del>	<del>2</del>	

~~21.26.015~~

Section 21.26.015 is proposed to be added to Chapter 21.26 (C-1 Neighborhood Commercial Zone) as follows:

21.26.015 Residential uses in the C-1 Zone.

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

A. Residential uses shall be located above the ground floor of a multi-storied commercial building with one or more of the non-residential uses permitted by Section 21.26.010 of this title located on the ground floor.

B. Residential uses shall be subject to the requirements of the Chapters of this title, which include but are not limited to, 21.26, 21.44, and in the case of airspace subdivisions, 21.47.

C. At the minimum, residential uses shall be constructed at the RHNA Base density for the Residential High (RH) General Plan designation of 20 units per acre as described on Table 2 of the General Plan Land Use Element, subject to approval of a Site Development Plan processed in accordance with Chapter 21.06 of this title.

1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.

2. Residential uses shall be secondary and accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the Site Development Plan.

CAR-MAJ-212B  
Mixed Use  
strike-out/underline<sub>21</sub>

Section 21.26.020 of Chapter 21.26 (C-1 Neighborhood Commercial Zone) is proposed to be amended as follows:

21.26.020 - Limitations on permitted uses in C-1 zone.

Every non-residential use permitted shall be subject to the following conditions and limitations:

- (1) All uses shall be conducted wholly within a building except such uses as gasoline stations, electrical transformer substations, nurseries for sale of plants and flowers and other enterprises customarily conducted in the open;
- (2) Products made incident to a permitted use shall be sold only at retail on the premises, and not more than five persons may be employed in the manufacturing, processing and treatment of products permitted herein;
- (3) Storage shall be limited to accessory storage of commodities sold at retail on the premises.

**AMENDMENTS TO CHAPTER 21.28**

The list of sections in Chapter 21.28 (C-2 General Commercial Zone) is proposed to be amended by the addition of the reference to 21.28.015.

21.28.015 Residential uses in the C-2 Zone.

**21.28.010**

The following "Use" in Table A of Section 21.28.010 (C-2 General Commercial Zone, Permitted uses) is proposed to be amended as follows:

Use	P	CUP	Acc
<del>Residential uses located above the ground floor of a multi-story, commercial building (subject to Section 21.42.140(B)(130)) (subject to Section 21.28.015 of this title)</del>	<u>X</u>	<u>2</u>	

**21.28.015**

Section 21.28.015 is proposed to be added to Chapter 21.28 (C-2 General Commercial Zone) as follows:

21.28.015 Residential uses in the C-2 Zone.

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

A. Residential uses shall be located above the ground floor of a multi-storied commercial building with one or more of the non-residential uses permitted by Section 21.28.010 of this title located on the ground floor.

B. Residential uses shall be subject to the requirements of the Chapters of this title, which include but are not limited to, 21.28, 21.44, and in the case of airspace subdivisions, 21.47.

C. At the minimum, residential uses shall be constructed at the RHNA Base density for the Residential High (RH) General Plan designation of 20 units per acre as described on Table 2 of the General Plan Land Use Element, subject to approval of a Site Development Plan processed in accordance with Chapter 21.06 of this title.

**ATTACHMENT 3**

1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.

2. Residential uses shall be secondary and accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the Site Development Plan.

Section 21.28.020 of Chapter 21.28 (C-2 General Commercial Zone) is proposed to be amended as follows:

21.28.020 - Limitations on permitted uses.

Every non-residential use permitted in the C-2 zone shall be subject to the following conditions and limitations:

- (1) All uses shall be conducted wholly within a building except such uses as gasoline stations, electrical transformer substations, horticultural nurseries and other enterprises customarily conducted in the open.
- (2) Products made incident to a permitted use and manufactured or processed on the premises shall be sold only at retail on the premises, and not more than five persons may be employed in such manufacturing, processing and treatment of products.
- (3) Storage shall be limited to accessory storage of commodities sold at retail on the premises.

**AMENDMENTS TO CHAPTER 21.31**

The list of sections in Chapter 21.31 (C-L Local Shopping Center Zone) is proposed to be amended by the addition of the reference to 21.31.065.

21.31.065 Residential uses in the C-L Zone.

**21.31.030**

The following "Use" in Table A of Section 21.31.030 (C-L Local Shopping Center Zone, Permitted uses) is proposed to be amended as follows:

Use	P	CUP	Acc
Residential uses located above the ground floor of a multi-story, commercial building (subject to Section 21.42.140(B)(130)) (subject to Section 21.31.065 of this title)	<u>X</u>	2	

**21.31.030**

The footnotes of Table A of Section 21.31.030 (C-L Local Shopping Center Zone, Permitted uses) are proposed to be amended as follows:

Notes:

- 1. Accessory buildings and structures and ancillary uses shall be developed as an integral part of a

- permitted use within or on the same structure or parcel of land.
- 2. Educational facilities, other. No individual educational facility shall occupy more than ten thousand square feet of gross ~~leasable~~ ~~leaseable~~ floor area within any local shopping center.
- 3. Offices. The total floor area of an office uses shall not exceed forty percent of the gross ~~leasable~~ ~~leaseable~~ floor area within any local shopping center.
- 4. Retail sales may also include those types of goods and services that are typically offered by "community" retail establishments. When "community" retail establishments are included in a local shopping center, they shall be subject to the following: the definition of a local shopping center, Section 21.31.020, and the function of the local shopping center land use class as described in the Carlsbad general plan.
- 5. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

**21.31.065**

Section 21.31.065 is proposed to be added to Chapter 21.31 (C-L Local Shopping Center Zone) as follows:

21.31.065 Residential uses in the C-L Zone.

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

A. Residential uses shall be located above the ground floor of a multi-storied commercial building with one or more of the non-residential uses permitted by Section 21.31.030 of this title located on the ground floor.

B. Residential uses shall be subject to the requirements of the Chapters of this title, which include but are not limited to, 21.31, 21.44, and in the case of airspace subdivisions, 21.47.

C. At the minimum, residential uses shall be constructed at the RHNA Base density for the Residential High (RH) General Plan designation of 20 units per acre as described on Table 2 of the General Plan Land Use Element, subject to approval of a Site Development Plan processed in accordance with Chapter 21.06 of this title.

1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.

2. Residential uses shall be secondary and accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the Site Development Plan.

Section 21.31.070 of Chapter 21.31 (C-L Local Shopping Center Zone) is proposed to be amended as follows:

21.31.070 - Limitations on permitted uses in C-L zone.

Every non-residential use permitted shall be subject to the following conditions and limitations:

A. Conduct Uses in Buildings. All uses shall be conducted wholly within a building, except such uses as gasoline stations, nurseries for sale of plants and flowers, uses set out in Section 21.31.060, and other enterprises customarily conducted in the open or otherwise as identified and permitted in a site

**ATTACHMENT 3**

development plan. The planning director is authorized to make any necessary interpretations of this subsection;

B. On-Site Manufacture of Goods. Products made incident to a permitted use shall be sold only at retail on the premises, and not more than five persons may be employed in the manufacturing of products permitted herein;

C. Storage shall be limited to:

1. Accessory storage of commodities to be sold at retail on the premises; and
2. Materials to be recycled.

**AMENDMENTS TO CHAPTER 21.42**

**21.42.140**

Section 21.42.140(B)(130) of Chapter 21.42 (Minor Conditional Use Permits and Conditional Use Permits) is proposed to be amended as shown:

130. ~~Reserved. Residential uses located above the ground floor of a multi-storied commercial building:~~
- a. ~~One or more of the uses permitted by Section 21.26.010 of this title is required to be located on the ground floor of the building.~~