

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT
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May 31, 2013

W16f

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
KANANI BROWN, COASTAL PROGRAM ANALYST, SD COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR LCP
AMENDMENT NO. CAR-MAJ-2-12C (Land Use Decision Making) for
Commission Meeting of June 12, 2013**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on April 30, 2012. A one-year time extension was granted on June 14, 2012. As such, the last date for Commission action on this item is June 29, 2013. This report addresses only one part of the complete submittal which includes LCP Amendment No. CAR-MAJ-2-12A (Housing Element Program 2.1-Minimum Densities) and LCP Amendment No. CAR-MAJ-2-12B (Housing Element Program 2.1-Mixed Use), both of which are also on the agenda for the Commission meeting of June 12, 2013.

SUMMARY OF AMENDMENT REQUEST

The City of Carlsbad is requesting an amendment to the text of its Zoning Ordinance to improve the City's development review process. The goal of the subject amendment is threefold: 1) to increase consistency of the permit processes and enhance entitlement protection by processing all permit approvals and extensions in the same manner, 2) increase consistency by ensuring that all discretionary permits required for a project are acted upon by a single decision-making authority, and 3) streamline the discretionary permit approval process by reassigning approval authority to the lowest appropriate decision-making authority.

In addition, the subject amendment includes other miscellaneous changes to: expand opportunities to develop outdoor dining areas subject to specific development standards; eliminate restriction on number of levels for buildings; reduce redundancy by combining the "Variances" and "Administrative Variances" chapters, as well as the "Coastal Development Permit" chapters; create a new Minor Hillside Development Permit (HDP) and a new Minor Habitat Management Plan Permit (HMPP); and amend provisions related to the City Council's authority to make changes to Planning Commission recommendations on amendments to the General Plan, Zoning Ordinance and master plans.

With regard to the proposed LCP amendment, the Zoning Ordinance is the LCP implementing ordinance; therefore, an LCP amendment is necessary. The proposed amendment consists of text changes to the Zoning Ordinance only; no portion of the LCP land use plan documents are proposed to be amended. The proposed revisions will apply citywide, as well as affect development in all segments of the City's LCP.

As part of the original submittal, the City proposed modifications to the City's Floodplain Management Regulations (Chapter 21.110), in response to the California Department of Water Resources' (DWR) "Model Ordinance and Guidelines" for coastal communities. To be consistent with and to continue to qualify for FEMA's National Flood Insurance Program requirements, the City had incorporated DWR's recommendations. The modifications included new definitions, designation of the City Engineer as the Floodplain Administrator, and making the City's requirements for manufactured homes and recreational vehicles in the floodplain consistent with the State's regulations. However, due to concerns related to the inclusion of sea level rise policies, and in consultation with Commission staff, the City has withdrawn the Floodplain Management Regulations modifications from the subject amendment request. The City plans to resubmit modifications to the Floodplain Management Regulations chapter as a separate LCP amendment.

SUMMARY OF STAFF RECOMMENDATION

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. Based on the subject analysis, the proposed revisions to the City's Zoning Ordinance provisions pertinent to land use decision making conform with and are adequate to carry out the certified land use plans for the City's various segments.

As discussed in the Amendment Summary above, the proposed changes are primarily procedural in nature and would streamline the City's Zoning Ordinance by reducing redundancy and ambiguity, eliminating unnecessary steps, clarifying permitting requirements, providing greater flexibility, and increasing efficiency for both the City and its applicants. The subject amendment request will not significantly modify or revise existing development standards.

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 may be found 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, 1977, 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 LCP Amendment No. CAR-MAJ-2-12C may be obtained from Kanani Brown, Coastal Program Analyst II, 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 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, 1977, 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 just prior to the resolution.

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

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

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

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM 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 primary purpose of the proposed amendment is to improve the City's development review process, by implementing initiatives identified by the City's Development Review Process (DRP) Working Group. The purpose of this group was to identify ways to improve the efficiency of and user experience with the development review process. To

achieve this purpose, the group considered approaches such as reducing redundancy and ambiguity, eliminating unnecessary steps, decreasing city and applicant costs, and decreasing processing times. As directed by City Council, the proposed amendment to the Zoning Ordinance implements two of the nine initiatives identified in the DRP Working Group's Summary Recommendations Report. Some of these initiatives contained multiple elements.

In addition, the subject amendment includes other miscellaneous changes to: expand opportunities to develop outdoor dining areas subject to specific development standards; eliminate restriction on number of levels for buildings; reduce redundancy by combining the "Variances" and "Administrative Variances" chapters, as well as the Coastal Development Permit chapters; create a new Minor Hillside Development Permit (HDP) and a new Minor Habitat Management Plan Permit (HMPP); and amend provisions related to the City Council's authority to make changes to Planning Commission recommendations on amendments to the General Plan, Zoning Ordinance and master plans. These miscellaneous changes are discussed in greater detail below.

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.

a) Purpose and Intent of the Ordinance.

The primary purpose of this proposed Zoning Ordinance amendment is to improve the City's development review process by implementing the following initiatives identified by the City's Development Review Process (DRP) Working Group:

- Initiative 1: Increase consistency of the permit processes and enhance entitlement protection by processing all permit approvals and extensions in the same manner.
- Initiative 4: Increase consistency by ensuring that all discretionary permits required for a project are acted upon by a single decision-making authority.
- Initiative 4: Streamline the discretionary permit approval process by reassigning approval authority to the lowest appropriate decision-making authority.

In addition to the DRP Working Group initiatives, the Zoning Ordinance amendments provide more flexibility, reduce redundancy, clarify requirements and update the code for consistency with state regulations.

b) Major Provisions of the Ordinance.

To provide for Initiative 1, or “increased consistency of the development permit process and enhanced entitlement protection by processing all development permit approvals and extensions in the same manner,” the subject amendment would require the noticing of administrative permits, noticing of public hearings, initial approval periods, time extensions, amendments, and announcement of decisions to be consistent for all development permit processes.

To provide for Initiative 4, or increased consistency by “ensuring that all discretionary permits required for a project are acted upon by a single decision-making authority,” the subject amendment would include the addition of a new section (21.54.040) to the Zoning Ordinance that specifies when multiple permits are processed concurrently for a proposed project, all permits will be acted upon by a single decision-making authority. This single decision-maker will be the highest decision-making authority of all concurrently processed permits.

To provide for another component of Initiative 4, to “streamline the discretionary permit approval process by reassigning approval authority to the lowest appropriate decision-making authority,” the subject amendment would change the decision-making authority for several of the permits required by the Zoning Ordinance. City staff analyzed the existing decision-making authority and downgraded the decision-maker, where appropriate. For example, in the Office (O) Zone and Local Shopping Center (C-L), for development proposals to increase building height in excess of 35 feet (up to the 45 ft. maximum), the current decision-maker is the City Council through a Site Development Plan; however, the decision-maker is proposed to be changed to the City Planner through a Minor Site Development Plan. For a summary of the proposed changes to decision-making authority, refer to Exhibit 1.

In order to provide greater flexibility in the ability to establish outdoor dining facilities, the outdoor dining regulations are proposed to be modified to: eliminate the administrative permit requirement; clarify existing standards regarding parking and vehicle/pedestrian safety; and allow outdoor dining for all food-serving, beverage-serving and dining establishments. Currently, outdoor dining is only permitted for restaurants and delis that have indoor seating which excludes outdoor dining for other food and beverage serving establishments that may not have indoor seating.

To provide more flexibility for building heights in the industrial, commercial, and office zones, the City proposes to no longer limit buildings to three levels; however, the maximum building height requirements would remain the same. Existing building height standards limit building height to 35 feet with provisions for additional building height, subject to discretionary approval. Current building height standards allow for buildings to exceed 35 feet up to a maximum of 45 feet, subject to specified criteria and City Planner approval (not proposed to be changed). As shown in Exhibit 1, the subject amendment includes changing the decision-maker for development proposals that would increase overall building heights above 45 feet from the City Council to the Planning

Commission. Again, the actual standards remain the same, but the decision-maker may change for certain actions.

As currently certified, there are two separate chapters that detail the requirements for variances (Chapter 21.50) and administrative variances (Chapter 21.51); however, the majority of the requirements are the same in both chapters, with the exception of what may qualify for a variance versus an administrative variance and the process for issuing variances versus administrative variances. To reduce redundancy and increase ease of use of the code, the City proposes to combine all variance requirements in one chapter.

Additionally, currently, there are two chapters that specify the requirements for processing and issuing coastal development permits (CDPs) – one chapter for the Village Review V-R zone (Chapter 21.81) and one chapter for all other areas of the coastal zone where the city has the authority to issue CDPs (Chapter 21.201). The reason there are currently two CDP chapters is because the Housing and Neighborhood Services Director has the authority to issue minor CDPs in the V-R zone and the City Planner has the authority to issue minor CDPs in other segments of the coastal zone. However, as a result of the expiration of the Village Redevelopment area and as part of the recent city reorganization, the Housing and Neighborhood Services Director will no longer issue CDPs in the V-R zone – as indicated in Exhibit 1, this administrative permit authority (including approval of minor coastal development permits) is proposed to be transferred to the City Planner. Minor CDPs still require public noticing, including to the Coastal Commission, and an administrative hearing, if requested. In addition, for minor CDPs issued within any appeals area, all of the Coastal Act provisions for process and noticing are incorporated.

As currently certified, the Zoning Ordinance requires Hillside Development Permits (HDPs) and Habitat Management Plan Permits (HMPPs) to be acted on by the decision-maker authorized to approve other permits associated with a project, whether it be a building permit, subdivision map, or site development plan. For those projects that only require administrative or nondiscretionary actions, the intent is that the City Planner would be the appropriate decision-maker to issue HDPs and HMPPs. However, this intent is not clearly outlined in the Zoning Ordinance, which has led to confusion regarding its implementation. Therefore, the subject amendment includes the establishment of a specific administrative permit process for both HDPs (minor HDPs) and HMPPs (minor HMPPs). The new minor HDP and minor HMPP process allows the City Planner the authority to issue them; however, if the associated project requires any approval from the Planning Commission or City Council, then the Commission or Council would have the authority to approve the associated HDP or HMPP.

Finally, the City proposes to modify the Zoning Ordinance such that the City Council has the discretion, but is not required to, refer modifications to the Planning Commission's recommendations on amendments to the General Plan, Zoning Ordinance and master plans back to the Planning Commission. Pursuant to the California Government Code, the Zoning Ordinance currently specifies that the Planning Commission shall make a recommendation to the City Council for amendments to the General Plan, Zoning

Ordinance, and master plans; if, after considering the Planning Commission's, recommendation, the Council makes a substantial modification not previously considered by the Planning Commission, the modification shall be referred back to the Planning Commission for its recommendation; and then the Planning Commission must report back to the City Council with 45 days. This requirement was established prior to the City becoming a charter city in 2008; and is no longer a requirement.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

As previously noted, 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. As discussed in the "Major Provisions of the Ordinance" section above, the proposed changes are primarily procedural in nature and would streamline the City's Zoning Ordinance by reducing redundancy and ambiguity, eliminating unnecessary steps, clarifying permitting requirements, providing greater flexibility, and increasing efficiency for both the City and its applicants (including anticipated processing times and associated filing fees). The subject amendment request would still require public noticing (including to the Commission), an administrative hearing if requested, and be subject to approval based on existing development standards. Therefore, the proposed amendment would not significantly impact existing development standards and conforms with, and is adequate to carry out, the policies of the certified LUP.

The City's LCP includes six different segments, including the Agua Hedionda Lagoon segment which remains uncertified. For the other five effectively certified segments, there are a number of LCP provisions that promote visitor-serving uses and that protect visual access to and along the Carlsbad coastline. Within the Mello II segment, which comprises the majority of the City's coastal zone, the following LUP policies would be most pertinent:

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 7-13 VISUAL ACCESS

Visual access over more than 80% of the Carlsbad coastline is unobstructed because of public ownership. No future public improvements which would obstruct this visual access shall be permitted.

POLICY 8-1 SITE DEVELOPMENT REVIEW

The Scenic Preservation Overlay Zone should be applied where necessary throughout the Carlsbad coastal zone to assure the maintenance of existing views and panoramas. Sites considered for development should undergo individual review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

In addition, policies within the Scenic Preservation Overlay Zone within the Zoning Ordinance afford special protection of views within the coastal zone:

Section 21.40.135 SCENIC PRESERVATION OVERLAY ZONE

Within the coastal zone, existing public views and panorama shall be maintained. Through the individualized review process, sites considered for development shall be conditioned so as to not obstruct or otherwise damage the visual beauty of the coastal zone. In addition to the above, height limitations and see-through construction techniques should be employed. Shoreline development shall be built in clusters to leave open areas around them to permit more frequent views of the shoreline. Vista points shall be incorporated as a part of larger projects. The unique characteristics of older communities such as the Carlsbad Village Drive corridor shall be preserved through design requirements which are in accordance with the flavor of the existing neighborhood.

The proposed modifications to outdoor dining regulations are consistent with the land use plan policies within Mello II LCP, particularly Policy 6.5 which promotes the provision of additional visitor-serving uses, including restaurants. The amendment would no longer require an administrative permit for outdoor dining and would no longer require the establishment to have indoor seating in order to allow for outdoor dining. This would expand the visitor-serving opportunities by allowing establishments with only outdoor dining. Therefore, the Commission finds the proposed amendment conforms with, and is adequate to carry out, the policies of the certified LUP promoting visitor-serving uses.

To provide more flexibility for building height in the industrial, commercial, and office zones, the City proposes to no longer limit buildings to three levels; however, the maximum building height requirements will remain the same. Existing building height standards limit building height to 35 feet with provisions for additional building height, subject to discretionary approval. Current building height standards allow for buildings to exceed 35 feet up to a maximum of 45 feet, subject to specified criteria and City Planner approval (not proposed to be changed). However, as shown in Exhibit 1, the subject amendment includes changing the decision-maker for development proposals for the maximum height of buildings to extend above 45 feet from the City Council to the Planning Commission.

Although the decision-maker for development applications that include increases in the height of buildings and architectural features, in excess of the maximum standard, is proposed to be downgraded in several zones (Neighborhood Commercial, Office, General Commercial, Heavy Commercial/Limited Industrial, Local Shopping Center, Industrial, Planned Industrial), the aforementioned policies within the City's LUP and IP ensure that the decision maker will continue to utilize certain criteria to ensure that building and architectural feature heights are not increased above the maximum standard in the coastal zone, where they would obstruct public views to and along the coast.

Additionally, the decision-making process for development applications that include increases in the height of buildings and architectural features is proposed to be downgraded, and in some instances the permitting process is proposed to be changed from a Specific Plan to a Site Development Plan (refer to Exhibit 1). According to the City, the requirement that development applications that include increases in building height be processed through a specific plan is an outdated regulation from the City's original zoning ordinance developed in the 1950s. At the time, Specific Plans were processed in the same manner in which the City processes Site Development Plans today. Public noticing, as well as standards and findings applicable to permit processing would remain the same; however, the change would streamline the permitting process. Therefore, the Commissions finds the proposed amendment conforms with, and is adequate to carry out, the visual resource policies of the certified LUP. In summary, the Commission finds that the proposed amendment can be found in conformance with the certified land use plans; protects visual resources and visitor-serving uses; and will not adversely impact any 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 local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Pursuant to the City's own obligations under CEQA, the City determined that the subject LCP amendment was exempt from the requirements of the CEQA. Nevertheless, and the City's own determination of CEQA exemption notwithstanding, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, does conform with CEQA provisions. In its action, as noted above, the City found that the proposed amendment is exempt from environmental review pursuant to CEQA Section 15061(b)(3), which exempts projects "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." The proposed modifications herein are primarily procedural in nature, are not substantial, and will not

significantly affect the existing development standards in the Zoning Ordinance. 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 with CEQA provisions.

LAND USE DECISION MAKING – ZCA 11-06/LCPA 11-07

**SUMMARY OF PROPOSED CHANGES TO
LEVEL OF DECISION-MAKING AUTHORITY
(CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)**

LEGEND	
X	= Existing decision-making authority
✓	= Proposed decision-making authority

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes	
				City Council	Planning Commission	City Planner	Other	Existing		Proposed
1	21.08 – R-A RESIDENTIAL AGRICULTURAL ZONE	21.08.050	Reduction in width of one side yard provided that the opposite side yard is increased in width by an amount equal to the reduction.			X ✓		City Planner discretion	No permit or discretion	The ability to reduce one side yard will be a development standard and can be approved as part of the project, provided the project complies with the criteria to reduce a side yard.

EXHIBIT NO. 1
APPLICATION NO.
CAR-MAJ-2-12C
Decision-Making
 California Coastal Commission

SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes
				City Council	Planning Commission	City Planner	Other	Existing	
2	21.08 – R A RESIDENTIAL AGRICULTURAL ZONE	21.08.080	Minor subdivisions with two or more panhandle lots.		X	✓		Minor Subdivision	Minor subdivisions with panhandle lots (regardless of number) will be processed the same as minor subdivisions without panhandle lots. The decision maker for subdivisions is specified in Title 20 (Subdivisions).
3	21.09 – R-E RURAL ESTATE RESIDENTIAL ZONE	21.09.120	Minor subdivisions with two or more panhandle lots.		X	✓		Minor Subdivision	See row 2, above.
4	21.10—R-1 ONE FAMILY RESIDENTIAL ZONE	21.10.070	Reduction in width of one side yard provided that the opposite side yard is increased in width by an amount equal to the reduction.			X	✓	City Planner discretion	The ability to reduce one side yard will be a development standard and can be approved as part the project, provided the project complies with the criteria to reduce a side yard.
5	21.10—R-1 ONE FAMILY RESIDENTIAL ZONE	21.10.100	Minor subdivisions with two or more panhandle lots.		X	✓		Minor Subdivision	See row 2, above.

LAND USE DECISION MAKING – ZCA 11-06/LCPA 11-07
 SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes	
				City Council	Planning Commission	City Planner	Other	Existing		Proposed
6	21.16—R-3 MULTIPLE FAMILY RESIDENTIAL ZONE	21.16.020	Child day care centers in the R-3 Zone.			X ✓		Administrative Permit	Minor Conditional Use Permit	
7	21.18—R-P RESIDENTIAL PROFESSIONAL ZONE	21.18.020	Child day care centers in the R-P Zone.			X ✓		Administrative Permit	Minor Conditional Use Permit	
8	21.24—RD-M RESIDENTIAL DENSITY-MULTIPLE ZONE	21.24.020	Child day care centers in the RD-M Zone.			X ✓		Administrative Permit	Minor Conditional Use Permit	
9	21.25—C-F COMMUNITY FACILITIES ZONE	21.25.040	Child day care centers in the C-F Zone.			X ✓		Administrative Permit	Minor Conditional Use Permit	
10	21.26—C-1 NEIGHBORHOOD COMMERCIAL ZONE	21.26.013	Outdoor dining (incidental).			X ✓		Administrative Permit	No permit or discretion	If a request to establish outdoor dining meets the specified standards, the request can be approved without a discretionary permit.
11	21.26—C-1 NEIGHBORHOOD COMMERCIAL ZONE	21.26.030	Architectural features above 35 feet (45 feet max).		X	✓		Site Development Plan	Minor Site Development Plan	
12	21.27—O OFFICE ZONE	21.27.020	Child day care centers in the O Zone.			X ✓		Administrative Permit	Minor Conditional Use Permit	
13	21.27—O OFFICE ZONE	21.27.040	Development within the O Zone.		X	✓		Site Development Plan	Minor Site Development Plan	

LAND USE DECISION MAKING – ZCA 11-06/LCPA 11-07
 SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes
				City Council	Planning Commission	City Planner	Other	Existing	
14	21.27—O OFFICE ZONE	21.27.050	Building height in excess of 35 feet (45 feet max). Architectural features above 45 feet (55 feet max).	X		✓		Site Development Plan	Minor Site Development Plan
15	21.27—O OFFICE ZONE	21.27.050	Decorative impervious surfaces in up to 40% of the required setback area.	X		✓		Site Development Plan	Minor Site Development Plan
16	21.27—O OFFICE ZONE	21.27.050	Building height in excess of 35 feet (45 feet max).		X	✓		Site Development Plan	Minor Site Development Plan
17	21.28—C-2 GENERAL COMMERCIAL ZONE	21.28.030	Building height in excess of 45 feet (55 feet max).			X	✓	City Planner decision (no specified permit)	Minor Site Development Plan
18	21.28—C-2 GENERAL COMMERCIAL ZONE	21.28.030	Building height in excess of 45 feet (55 feet max).	X	✓			Site Development Plan	Site Development Plan
19	21.30—C-M HEAVY COMMERCIAL/ LIMITED INDUSTRIAL ZONE	21.30.030	Building height in excess of 35 feet (45 feet max).			X	✓	City Planner decision (no specified permit)	Minor Site Development Plan
20	21.30—C-M HEAVY COMMERCIAL/ LIMITED INDUSTRIAL ZONE	21.30.030	Building height in excess of 45 feet.	X	✓			Specific Plan	Site Development Plan

LAND USE DECISION MAKING – ZCA 11-06/LCPA 11-07
SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes	
				City Council	Planning Commission	City Planner	Other	Existing		Proposed
21	21.31—C-1 LOCAL SHOPPING CENTER ZONE	21.31.040	Development of a new local shopping center.	X	✓			Site Development Plan	Site Development Plan	
22	21.31—C-1 LOCAL SHOPPING CENTER ZONE	21.31.050	Major redevelopment, remodel or expansion of an existing local shopping center.	X	✓			Site Development Plan or Site Development Plan Amendment	Site Development Plan or Site Development Plan Amendment	
23	21.31—C-1 LOCAL SHOPPING CENTER ZONE	21.31.080	Building height in excess of 35 feet (45 feet max).	X		✓		Site Development Plan	Minor Site Development Plan	
24	21.31—C-1 LOCAL SHOPPING CENTER ZONE	21.31.080	Architectural features above 45 feet (55 feet max).	X		✓		Site Development Plan	Minor Site Development Plan	
25	21.32—M INDUSTRIAL ZONE	21.32.050	Building height in excess of 35 feet (45 feet max).			X	✓	City Planner decision (no specified permit)	Minor Site Development Plan	
26	21.32—M INDUSTRIAL ZONE	21.32.050	Building height in excess of 45 feet.	X	✓			Specific Plan	Site Development Plan	
27	21.34—P-M PLANNED INDUSTRIAL ZONE	21.34.050	Development in the P-M Zone.			X	✓	Planned Industrial Permit	Minor Site Development Plan	No public notice will be required for a minor site development plan in the P-M Zone, which is consistent with the current requirements for a PIP.

SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes	
				City Council	Planning Commission	City Planner	Other	Existing		Proposed
28	21.34—P-M PLANNED INDUSTRIAL ZONE	21.34.060	Planned Industrial Permit required to be processed in conjunction with an application for an industrial subdivision.				✓	Planned Industrial Permit (approved by decision maker for subdivision)	N/A	A planned industrial permit will no longer be required for industrial subdivisions.
29	21.34—P-M PLANNED INDUSTRIAL ZONE	21.34.070	Building height in excess of 35 feet (45 feet max).			X	✓	City Planner decision (no specified permit)	Minor Site Development Plan	
30	21.34—P-M PLANNED INDUSTRIAL ZONE	21.34.070	Building height in excess of 45 feet.	X	✓			Specific Plan	Site Development Plan	
31	21.35—V-R VILLAGE REVIEW ZONE	21.35.090	Determination on whether a project is exempt from village review permit requirements.				✓	Determination	Determination	Existing decision-making authority for exemption determinations is with the Housing and Neighborhood Services Director.
32	21.35—V-R VILLAGE REVIEW ZONE	21.35.090	Administrative variances within the V-R Zone.				✓	Administrative Variance	Administrative Variance	Existing decision-making authority for administrative variances in the V-R Zone is with the Housing and Neighborhood Services Director.

SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes	
				City Council	Planning Commission	City Planner	Other	Existing		Proposed
33	21.35—V-R VILLAGE REVIEW ZONE	21.35.090	Administrative village review permit.			✓	X	Administrative Village Review Permit	Administrative Village Review Permit	Existing decision-making authority for administrative village review permits is with the Housing and Neighborhood Services Director.
34	21.38—P-C PLANNED COMMUNITY ZONE	21.38.120	To determine if a master plan amendment can be processed as a minor amendment.		X	✓		Approval/Determination	Approval/Determination	
35	21.41 SIGN ORDINANCE	21.41.050	Sign permits.			✓	X	Sign Permit	Sign Permit	Existing decision-making authority for sign permits is with the Community and Economic Development Director.
36	21.41 SIGN ORDINANCE	21.41.060	Sign programs.			✓	X	Sign Program	Sign Program	Existing decision-making authority for sign programs is with the Community and Economic Development Director.

LAND USE DECISION MAKING – ZCA 11-06/LCPA 11-07
SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes	
				City Council	Planning Commission	City Planner	Other	Existing		Proposed
37	21.41 SIGN ORDINANCE	21.41.060	Revocation of sign permits.			✓	X	Determination	Determination	Existing decision-making authority for revocation of sign permits is with the Community and Economic Development Director.
38	21.44 PARKING	21.44.050	Location of parking areas for commercial or office/professional uses within the R-3, R-P and R-T zones.		X	✓		Site Development Plan	Minor Site Development Plan	
39	21.45 PLANNED DEVELOPMENTS	21.45.050	Development of more than 50 units/lots.	X	✓			Major Planned Development Permit	Major Planned Development Permit	
40	21.46 YARDS	21.46.060	Establishment of a formula for modifying yard requirements.		X	✓		Approval/Determination	Approval/Determination	
41	21.47 NONRESIDENTIAL PLANNED DEVELOPMENTS	21.47.060 and 21.47.070	Nonresidential planned developments with greater than 50 units/lots.	X	✓			Nonresidential Planned Development Permit	Nonresidential Planned Development Permit	

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes	
				City Council	Planning Commission	City Planner	Other	Existing		Proposed
42	21.47 NONRESIDENTIAL PLANNED DEVELOPMENTS	21.47.130	Minor amendment to a nonresidential planned development permit. Make interpretation to clarify ambiguity within the code.		X	✓		Minor Amendment	Consistency Determination	
43	21.53 USES GENERALLY	21.53.040		X		✓		Approval/ Determination	Approval/ Determination	
44	21.53 USES GENERALLY	21.53.090	Grant a one year extension to the period of time that a temporary real estate office may be operated for the purpose of selling subdivision lots.		X			Approval/ Determination	N/A	Temporary real estate offices are currently allowed to operate for one year from the recording of a final subdivision map; and the Planning Commission may grant an additional one year. As proposed, temporary real estate offices must cease operation no later than the date of the close of escrow of the final home in the subdivision, which eliminates the need to grant time extensions.

LAND USE DECISION MAKING – ZCA 11-06/LCPA 11-07
 SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes
				City Council	Planning Commission	City Planner	Other	Existing	
45	21.53 USES GENERALLY	21.53.120	Site Development Plan for multi-family residential and affordable housing developments with greater than 50 units/lots.	X	✓			Site Development Plan	Site Development Plan
46	21.84 CHILD CARE	21.83.050	Large Family Day Care Home.			X ✓		Approval/ Determination	Large Family Day Care Permit
47	21.84 HOUSING FOR SENIOR CITIZENS	21.84.040 21.84.080	Housing for senior citizens with four units or less.		X	✓		Site Development Plan	Minor Site Development Plan

LAND USE DECISION MAKING – ZCA 11-06/LCPA 11-07
 SUMMARY OF PROPOSED CHANGES TO LEVEL OF DECISION-MAKING AUTHORITY (CITY OF CARLSBAD MUNICIPAL CODE TITLE 21)

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes
				City Council	Planning Commission	City Planner	Other	Existing	
48	21.95 HILLSIDE DEVELOPMENT REGULATIONS	21.95.030	Development on a slope with a gradient of 15% or more and an elevation differential greater than 15 feet.			✓	X ✓	Hillside Development Permit	Existing regulations require a hillside development permit to be processed concurrently with any other required permit (e.g., building permit, tentative map, etc). However, there has been some uncertainty in determining the decision maker when only administrative permits are required. The amendment will establish a minor hillside development permit to clarify the City Planner is the decision maker when no other permit is required to be approved by the Planning Commission or City Council.
								Minor Hillside Development Permit & Hillside Development Permit	

Ref #	Chapter	Section	Permit/Action	Decision-Making Authority			Permit Process		Notes
				City Council	Planning Commission	City Planner	Other	Existing	
49	21.84 HABITAT PRESERVATION AND MANAGEMENT REQUIREMENTS	21.210.070	Development that directly or indirectly impacts natural habitat.			✓	X ✓	Habitat Management Plan Permit Minor Habitat Management Plan Permit & Habitat Management Plan	Existing regulations require a Habitat Management Plan permit to be processed concurrently with any other required permit (e.g., building permit, tentative map, etc). However, there has been some uncertainty in determining the decision maker when only administrative permits are required. The amendment will establish a minor Habitat Management Plan permit to clarify the City Planner is the decision maker when no other permit is required to be approved by the Planning Commission or City Council.

RESOLUTION NO. 2012-084

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA APPROVING A LOCAL COASTAL PROGRAM AMENDMENT CONSISTING OF VARIOUS AMENDMENTS TO THE ZONING ORDINANCE TO IMPROVE THE CITY'S DEVELOPMENT REVIEW PROCESS
CASE NAME: LAND USE DECISION MAKING
CASE NO.: LCPA 11-07

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 February 1, 2012, hold a duly noticed public hearing as prescribed by law to consider the Zone Code Amendment (ZCA 11-06), as referenced in Planning Commission Resolution No. 6858, and Local Coastal Program Amendment (LCPA 11-07), as referenced in Planning Commission Resolution No. 6859; and

WHEREAS, the Planning Commission adopted Planning Commission Resolutions No. 6858 and 6859 recommending to the City Council that ZCA 11-06 and LCPA 11-07 be approved; and

WHEREAS; the City Council of the City of Carlsbad on the 10th day of April, 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 Local Coastal Program Amendment.

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

- 1. That the foregoing recitations are true and correct.
- 2. That the findings of the Planning Commission in Planning Commission

Resolution No. 6859 constitute the findings of the City Council in this matter.

EXHIBIT NO. 2
APPLICATION NO.
CAR-MAJ-2-12C
Resolutions
 California Coastal Commission

**SUMMARY OF PROPOSED ORDINANCE MODIFICATIONS
TO PLANNING COMMISSION RECOMMENDATION**

1. Instances of the phrase, "and may be appealed" shall be replaced with the phrase, "unless appealed" in the following subsections in the City Council Ordinance (Exhibit 1 of the Agenda Bill):

- 21.06.090.A
- 21.06.090.B
- 21.35.110.A
- 21.35.110.B
- 21.40.095.A
- 21.41.050.E
- 21.41.060.F
- 21.42.100.A
- 21.42.100.B
- Table E of Section 21.44.060.A.4
- 21.47.075.A
- 21.47.075.B
- 21.48.080.F.1
- 21.48.090.F.1
- 21.50.070.A
- 21.50.070.B
- 21.95.100.A
- 21.110.150.G.1
- 21.201.120.A
- 21.201.120.B
- 21.210.070.H.a

2. Section 21.52.070 of the City Council Ordinance (Exhibit 1 of the Agenda Bill) shall be amended to read as follows (changes recommended by the City Attorney are shown in ~~strikeout~~/underline):

21.52.070 Effective date.

A. A decision of the city council to amend the general plan or this title is final, conclusive and shall be effective 30 days after the city council's adoption of the resolution (for amendments to the general plan) or ordinance (for amendments to this title).

B. Within the coastal zone, the city council's approval of an amendment to the local coastal program shall not become effective until the amendment is approved by the California Coastal Commission, pursuant to Section 30514 of the Public Resources Code.

Please click here for link to Exhibit No. 3

This exhibit is available on line at WWW.coastal.ca.gov