

California Coastal Commission
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July 23, 1996

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: CHARLES DAMM, SOUTH COAST DISTRICT DIRECTOR
DEBORAH N. LEE, ASSISTANT DISTRICT DIRECTOR, SAN DIEGO AREA OFFICE
ELLEN LIRLEY, COASTAL PLANNER, SAN DIEGO AREA OFFICE

SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT 1-96G (Density Bonuses) TO
THE CITY OF CARLSBAD LOCAL COASTAL PROGRAM: (For Public Hearing and
Possible Action at the Meeting of August 14-16, 1996)

SYNOPSIS

SUMMARY OF AMENDMENT REQUEST

The proposed amendment revises the Land Use Plan (LUP) text of all six segments of the Carlsbad LCP (Mello I, Mello II, Agua Hedionda, Village Redevelopment, East Batiquitos Lagoon and West Batiquitos Lagoon) by incorporating language addressing senior citizen housing, second dwelling units, density increases and inclusionary housing. The land use plan modifications would facilitate the development of affordable housing by allowing density bonuses on properties meeting certain planning, design, infrastructure and locational criteria.

In addition, portions of the Implementing Ordinances (zoning code) are revised to incorporate new residential standards addressing the needs of senior citizens and low and moderate income persons. The modifications would allow for density bonuses, relaxation of existing development standards and financial incentives to encourage the construction of affordable housing. These amendments are proposed to bring the General Plan, Zoning and LCP into conformity.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends rejection of both the proposed land use plan and implementation plan amendments as submitted, and approval, if modified.

The appropriate resolutions and motions may be found on Pages 5-7. The suggested modifications begin on Page 7. Findings for denial, as submitted, of the land use plan amendments begin on Page 11. The findings for approval of the land use plan amendments, if modified, begin on Page 19. Findings for denial, as submitted, of the implementation plan amendments begin on Page 23. Finally, approval of the implementation plan amendments, if modified, begin on Page 27.

BACKGROUND

The Carlsbad Local Coastal Program consists of six geographic segments. 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. However, the City of Carlsbad found several provisions of the Mello I and II segments unacceptable and declined to adopt the LCP implementing ordinances for the LCP. In October, 1985, the Commission approved major amendments, related to steep slope protection and agricultural preservation, to the Mello I and II segments, which resolved the major differences between the City and the Coastal Commission. The City then adopted the Mello I and II segments and began working toward certification of all segments of its local coastal program. Since the 1985 action, the Commission has approved several major amendments to the City of Carlsbad LCP. The subject amendment request involves modifications to all six land use plan segments and the implementation ordinances of the City's LCP, and is a portion of a larger LCP amendment package, the other components of which have already been acted upon by the Commission.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP amendment may be obtained from Ellen Lirley, at (619) 521-8036.

PART I. OVERVIEW

A. Local Coastal Program History--All Segments.

The City of Carlsbad Local Coastal Program (LCP) consists of six geographic segments: the Agua Hedionda Lagoon LCP segment comprised of approximately 1,100 acres; the Carlsbad Mello I LCP segment with 2,000 acres; the Carlsbad Mello II LCP segment which includes approximately 5,300 acres; the West Batiquitos Lagoon/Sammis Properties LCP segment with 200 acres; the East Batiquitos Lagoon/Hunt Properties LCP segment with 1,000 acres and the Village Area Redevelopment segment with approximately 100 acres.

Pursuant to Public Resources Code Sections 30170(f) and 30171, the Coastal Commission was required to prepare and approve an LCP for identified portions of the City. This resulted in the two Carlsbad LCP segments commonly referred to as the Mello I and Mello II segments. The Mello I and Mello II LCP segments were approved by the Coastal Commission in September 1980 and June 1981, respectively. The Agua Hedionda segment Land Use Plan was prepared by the City and approved by the Coastal Commission on July 1, 1982.

The Mello I, Mello II and Agua Hedionda segments of the Carlsbad LCP cover the majority of the City's coastal zone. They are also the segments of the LCP which involve the greatest number of coastal resource issues and have been the subject of the most controversy over the past years. Among those issues involved in the review of the land use plans of these segments were preservation of agricultural lands, protection of steep-sloping hillsides and wetland habitats and the provision of adequate visitor-serving facilities. Preservation of the scenic resources of the area was another issue raised in the review of these land use plans. As mentioned, the City had found the policies of the certified Mello I and II segments regarding preservation of agriculture and steep-sloping hillsides to be unacceptable. The City therefore did not apply these provisions in the review of local projects.

In the summer of 1985, the City submitted two amendment requests to the Commission and, in October of 1985, the Commission certified amendments 1-85 and 2-85 to the Mello I and Mello II segments, respectively. These (major) amendments to the LCP involved changes to the agricultural preservation, steep slope protection and housing policies of the Mello I and II segments of the LCP. After certification of these amendments, the City adopted the Mello I and II LCP segments.

The West Batiquitos Lagoon/Sammis Properties segment and the East Batiquitos/Hunt Properties segment were certified in 1985. These LCP amendments paved the way for two large projects comprising the majority of each segment: the Batiquitos Lagoon Educational Park-Sammis project within the West Batiquitos segment and the Pacific Rim Master Plan (now known as the Aviara Master Plan) within the East Batiquitos Segment.

The plan area of the Village Area Redevelopment segment was formerly part of the Mello II segment of the LCP. In August of 1984, the Commission approved the segmentation of this 100-acre area from the remainder of the Mello II LCP

segment and, at the same time, approved the submitted land use plan for the area. In March of 1988, the Commission approved the Implementation Program for the Village Area Redevelopment segment of the LCP. A review of the post-certification maps occurred in December and the City assumed permit authority for this LCP segment on December 14, 1988.

In addition to the review process for the six LCP segments mentioned, the City has also submitted at various times, packages of land use plan amendments to the certified LUP segments in an effort to resolve existing inconsistencies between the City's General Plan, Zoning Maps and the Local Coastal Program. After all such inconsistencies are resolved, the City plans to submit, for the Commission's review, the various ordinances and post-certification maps for implementation of the LCP. At that time, or perhaps earlier, the City should also prepare and submit a single LCP document that incorporates all of the LCP segments as certified by the Commission and any subsequent LCP amendments. After review and approval of these documents by the Commission, the City would gain "effective certification".

B. STANDARD OF REVIEW

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

Section 30512

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

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

C. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the

resolution and a staff recommendation are provided just prior to each resolution.

- A. RESOLUTION I (Resolution to deny certification of the City of Carlsbad Land Use Plan Amendment 1-96G, as submitted)

MOTION I

I move that the Commission certify the Land Use Plan Amendment 1-96G, as submitted.

Staff Recommendation

Staff recommends a NO vote and the adoption of the following resolution and findings. An affirmative vote by the majority of the appointed Commissioners is needed to pass the motion.

Resolution I

The Commission hereby denies certification of the amendment request to the City of Carlsbad Land Use Plan and adopts the findings stated below on the grounds that the amendment will not meet the requirements of and conform with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the land use plan, as amended, will not be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the land use plan amendment does not meet the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be feasible measures or feasible alternatives which would substantially lessen significant adverse impacts on the environment.

- B. RESOLUTION II (Resolution to approve certification of the City of Carlsbad Land Use Plan Amendment 1-96G, if modified)

MOTION II

I move that the Commission certify the Land Use Plan Amendment 1-96G, if modified.

Staff Recommendation

Staff recommends a YES vote and the adoption of the following resolution and findings. An affirmative vote by the majority of the appointed Commissioners is needed to pass the motion.

Resolution II

The Commission hereby certifies the amendment request to the City of Carlsbad Land Use Plan and adopts the findings stated below on the grounds

that the amendment, with suggested modifications, will meet the requirements of and conform with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the land use plan, as amended, will contain a specific access component as required by Section 30500 of the Coastal Act; the land use plan, as amended, will be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the land use plan amendment does meet the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be no feasible measures or feasible alternatives which would substantially lessen significant adverse impacts on the environment.

- C. RESOLUTION III (Resolution to deny certification of Implementation Plan Amendment 1-96G, as submitted)

MOTION III

I move that the Commission reject the Implementation Plan Amendment 1-96G, as submitted.

Staff Recommendation

Staff recommends a YES vote and the adoption of the following resolution and findings. An affirmative vote by the majority of the Commissioners present is needed to pass the motion.

Resolution III

The Commission hereby denies certification of the amendment to the City of Carlsbad's Local Coastal Program on the grounds that the amendment does not conform with and is inadequate to carry out the provisions of the certified land use plan. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

- D. RESOLUTION IV (Resolution to approve certification of Implementation Plan Amendment 1-96G, if modified)

MOTION IV

I move that the Commission approve Implementation Plan Amendment 1-96G, if modified.

Staff Recommendation

Staff recommends a YES vote and the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution IV

The Commission hereby approves certification of the amendment to the City of Carlsbad's Local Coastal Program on the grounds that the amendment, with suggested modifications, conforms with, and is adequate to carry out, the provisions of the certified land use plan. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

PART III. SUGGESTED MODIFICATIONS (underlining indicates where added policy language is recommended for City proposed policies and strike-out indicates language to be deleted)

A. Land Use Plan

1. Policy 1(A) - Affordable Housing, of LCPA 93-02, shall be revised to read as follows and shall be incorporated into the six certified land use plan segments:

In order to encourage and enable the development of lower income affordable housing, senior citizen housing, and second dwelling units, density increases above the maximum residential densities permitted by this plan may be permitted as follows:

Density Increases: Any request to increase residential densities above the densities permitted by the plan, for the purpose of providing lower-income affordable housing shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center. Within the coastal zone, any affordable housing project that incorporates a density increase pursuant to this policy shall be consistent with all certified local coastal program provisions, with the exception of the base density. In calculating the base density, all environmentally constrained lands identified pursuant to the coastal zoning ordinances and local coastal programs are considered to be undevelopable and shall be deducted from the total number of acres of a subject property.

Density Bonuses: Consistent with Government Code Section 65915 and 65915.5, density bonuses and other incentives may be granted to enable the development of low income, very low income and senior citizen housing. Within the coastal zone, any housing development that incorporates a density bonus and/or other incentives pursuant to Chapter 21.86 of the Carlsbad Municipal Code, shall be consistent with all certified local coastal program provisions, with the

exception of the base density. In calculating the base density, all environmentally constrained lands identified pursuant to the coastal zoning ordinances and local coastal programs are considered to be undevelopable and shall be deducted from the total number of acres of a subject property.

Second Dwelling Units: The maximum density permitted under this plan may be exceeded for the purpose of constructing second dwelling units. In the coastal zone, any second dwelling unit shall be consistent with all certified local coastal program provisions, with the exception of the base density.

2. Policy 1(B) - Affordable Housing, of LCPA 95-01, shall be revised to read as follows and shall be incorporated into the six certified land use plan segments:

In order to enable the development of a variety of housing types (i.e., lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities for lower income and senior citizen households, the City will implement an inclusionary housing mandate, which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e., density bonuses consistent with State Government Code Sections 65915 and 65915.5 and development standards modifications). In the coastal zone, the granting of density increases, density bonuses and incentives to assist developers with satisfaction of inclusionary housing requirements shall be consistent with Policy 1A and those ordinances implementing Policy 1A.

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable to lower income households. In those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

Suggested Modifications Nos. 1 and 2 shall be inserted into the six certified land use plan segments as follows:

MELLO I

2. STANDARD PACIFIC (as POLICY 1(A) - AFFORDABLE HOUSING)
3. OCCIDENTAL LAND, INC. (as POLICY 1(A) - AFFORDABLE HOUSING)
4. RANCHO LA COSTA (as item 6., under POLICY 1 -- LAND USES)

MELLO II (as Policy 1-1 and Policy 1-2 Affordable Housing)

AGUA HEDIONDA LAND USE PLAN (as items 1.11 and 1.12)

VILLAGE REDEVELOPMENT AREA (as items titled Residential Density Increases - Affordable Housing and Affordable Housing, under VII. DEVELOPMENT GUIDELINES FOR THE VILLAGE REDEVELOPMENT AREA)

EAST BATIQUITOS LAGOON/HUNT PROPERTIES (both listed as I. AFFORDABLE HOUSING)

WEST BATIQUITOS LAGOON/SAMMIS PROPERTIES (both listed as 10. AFFORDABLE HOUSING)

B. Implementation Plan (Zoning Ordinances)

3. Section 21.06.090, addressing the Q Qualified Development Overlay Zone, in Ordinance NS-207, shall be revised to read as follows:

21.06.090 Development standards.

Property in the Q zone shall be subject to the development standards required in the underlying zone and any applicable specific plans, except for Affordable Housing Projects as expressly modified by the site development plan. The site development plan for Affordable Housing Projects may allow less restrictive development standards than specified in the underlying zone or elsewhere provided that the project is in conformity with the General Plan and adopted policies and goals of the City, ~~and~~ it would have no detrimental effect on public health, safety and welfare, and, in the coastal zone, any project processed pursuant to this Chapter shall be consistent with all certified local coastal program provisions, with the exception of density. In addition, the Planning Commission or the City Council in approving a site development plan may impose special conditions or requirements which are more restrictive than the development standards in the underlying zone or elsewhere that include provisions for, but are not limited to, the following:

(NO CHANGES TO REMAINDER OF CHAPTER)

4. Section 21.18.045(c), addressing requirements for Senior Citizen Housing, in Ordinance NS-274, shall be revised to read as follows:

[...](c) Senior Citizen Housing projects shall meet the following requirements:

(3) A senior citizen housing project shall observe the following development standards:

(A) All senior citizen housing projects are required to comply with all applicable development standards of the underlying zone, except those which may be modified as an additional incentive granted pursuant to Chapter 21.86 of this Title;

(B) In the coastal zone, any senior citizen housing project processed pursuant to this section and Chapter 21.86 of this code shall be consistent with all certified local coastal program provisions, with the exception of density.

5. Section 21.18.045(d), addressing the review of senior citizen housing projects, in Ordinance NS-274, shall be revised to read as follows:

(d) Application submittal and review is as follows:

(4) Review: The Planning Director shall evaluate the request

and make findings and recommendations based upon the following criteria:
[...]

(D) The senior citizen housing project complies with the general plan, zoning, certified Local Coastal Program and development policies of the City of Carlsbad, and is consistent with Section 21.86 of this Title.

6. Section 21.53.120(c), addressing development standards for affordable housing projects, in Ordinance NS-207, shall be revised to read as follows:

[...](c) Development Standards.

The development (both for multi-family residential and affordable housing) shall be subject to the development standards of the zone in which the development is located and/or any applicable Specific or Master Plan except for affordable housing projects as expressly modified by the site development plan. The site development plan for Affordable Housing Projects may allow less restrictive development standards than specified in the underlying zone or elsewhere provided that the project is in conformity with the General Plan and adopted policies and goals of the City, ~~and~~ it would have no detrimental effect on public health, safety and welfare, and, in the coastal zone, any project processed pursuant to this Chapter shall be consistent with all certified local coastal program provisions, with the exception of density. In addition, the Planning Commission or the City Council in approving a site development plan may impose special conditions or requirements which are more restrictive than the development standards in the underlying zone or elsewhere that include provisions for, but are not limited to, the following:

(NO CHANGES TO REMAINDER OF CHAPTER)

7. Section 21.85.020(19), addressing the definition of "net developable acreage," in Ordinance NS-232, shall be revised to read as follows:

(19) "Net developable acreage (for base residential unit calculations)" means the total number of acres of a subject property minus those lands considered to be undevelopable, as listed in Section 21.53.230 of this code. Within the coastal zone, all environmentally constrained lands identified pursuant to the coastal zoning ordinances and local coastal programs are considered to be undevelopable and shall be deducted from the total number of acres of a subject property.

8. Section 21.85.120(K), addressing affordable housing standards, in Ordinance NS-232, shall be added to read as follows:

(k) In the coastal zone, any inclusionary housing project processed pursuant to this Chapter shall be consistent with all certified local coastal program provisions, with the exception of density.

9. Section 21.86.020(18). addressing the definition of "maximum allowable residential uield," in Ordinance NS-233, shall be revised to read as follows:

(18) "Maximum allowable residential yield" means the maximum number of residential units permitted on the project site, which number of units is calculated by multiplying the net developable acreage of the project site times the growth management control point(s) for the project site's applicable residential General Plan designation(s). Within the coastal zone, all environmentally constrained lands identified pursuant to the coastal zoning ordinances and local coastal programs are considered to be undevelopable and shall be deducted from the total number of acres of a subject property.

10. Section 21.86.030(d), addressing regulations for new residential construction, in Ordinance NS-233, shall be revised to read as follows:

(d) In cases where a density increase of less than twenty-five percent (25%) is requested, including cases where a density increase is sought to satisfy inclusionary housing requirements, no reduction will be allowed in the number of target dwelling units required.

11. Section 21.86.060(i), addressing density bonus, equivalent in-lieu incentives and additional incentives, in Ordinance NS-233, shall be revised to read as follows:

(i) In the coastal zone, any housing development processed pursuant to this Chapter shall be consistent with all certified local coastal program provisions, with the exception of density.

PART IV. FINDINGS FOR DENIAL OF AMENDMENT 1-96G TO THE CARLSBAD LAND USE PLAN SEGMENTS

A. AMENDMENT DESCRIPTION

To address both Carlsbad's own desire to increase its supply of affordable housing, and State of California requirements for promotion of the development of affordable housing, amendments to all six of the certified land use plan segments are herein proposed. Policies 1(A) and 1(B), addressing affordable housing, in LCPA 93-02 and 95-01, respectively, constitute the land use plan amendments. The proposed language for all segments is identical, but its placement within each segment varies due to the different composition of each individual land use plan. In essence, the City is proposing that density increases and incentives be granted to development projects that propose to make a certain percentage of units affordable to low income, moderate income and senior citizen households, based on a specific project's compatibility with surrounding uses, the adequacy of infrastructure and the location of the project site.

The proposed amendments provide for an increase in density beyond that which would be allowed under the applicable policies and ordinances of the certified LCP. One component of the amendment package proposes the creation of a 15

percent inclusionary housing program, which provides that all residential subdivisions, master plans and specific plans must maintain 15 percent of the proposed (or existing in the case of condominium conversions) units as affordable housing. The program also provides for payment of in-lieu fees in certain circumstances, and allows for unlimited density increases to assist developers to meet the inclusionary requirements. However, if density increases are granted, all provisions of Government Code §65915 then apply. The proposed amendments also offer a range of other incentives to encourage different types of affordable projects, including the state-mandated density bonuses, density increases, second dwelling units and reduced development standards for low/moderate income housing and senior units. The land use plan amendments describe the overall goals and policies in a more general way, while the associated implementation plan amendments provide the necessary detail to process a specific proposal.

B. SUMMARY FINDING/CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that the proposed land use plan amendments, as set forth in the preceding resolutions, are not in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The Legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.

b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.

d) Assure priority for coastal-dependent and coastal-related development over other developments on the coast.

e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan does not conform with Chapter 3 of the Coastal Act or the goals of the state for the coastal zone with regards to environmentally sensitive habitat areas, shoreline access, water and marine resources, coastal visual resources and special communities, and locating and planning new development.

C. NONCONFORMITY OF THE CARLSBAD LAND USE PLAN SEGMENTS WITH CHAPTER 3

Review of local coastal program submittals for findings of Chapter 3 consistency are generally analyzed according to thirteen policy groups. In the subject proposed amendments, which address the City of Carlsbad's affordable housing policies and regulations, the following policy groups apply: Environmentally Sensitive Habitat Areas; Shoreline Access; Water and Marine Resources; and Coastal Visual Resources and Special Communities. The following resources/land uses are not affected by the proposed land use plan amendments, so no findings are made relative to them: Recreation and Visitor-Serving Uses; Dredging, Filling, and Shoreline Structures; Commercial Fishing and Recreational Boating; Hazards; Agriculture; Forestry and Soils Resources; Public Works; Locating and Planning New Development; and Industrial and Energy Development.

1. Environmentally Sensitive Habitat Areas.

A number of Coastal Act policies address the protection and enhancement of sensitive habitat areas. Those most applicable to the proposed land use plan amendments state, in part:

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: [...list of eight allowed uses...]

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The City has a certified LCP, including six separate certified land use plan segments. Each segment includes policies addressing the protection of wetlands and environmentally sensitive lands. At the time of certification, the land use plans also proposed residential densities which the Commission, agreeing with the City's proposals, found appropriate for lands in and near sensitive resources. The proposed land use plan amendments would allow increased densities throughout the City of Carlsbad, so long as they were proposed in conjunction with an affordable housing project. The amendments do not include any standards which incorporate the resource protection policies

of the certified LCP addressing how such density increases will be accommodated. It is possible for the City and others to interpret the proposed LUP policies as allowing for otherwise impermissible direct and indirect adverse impacts to wetlands or other environmentally-sensitive natural communities.

The City maintains that increased densities can be achieved by permitting a greater number of smaller-sized units, thus keeping a development within the same building area on a site that would otherwise be occupied by a smaller number of larger units. The City further maintains that it does not intend to allow any projects with adverse resource impacts, and that it intends to approve increased densities only where the increased density can be achieved without any inconsistencies with the policies and ordinances of the certified LCP. The Commission is concerned that the actual language of the proposed land use plan amendments does not reference or incorporate the policies and ordinances of the certified LCP. Instead it simply states that the maximum allowable density can be exceeded. Thus, the proposed policies do not reflect the City's intention as expressed to Commission staff orally and in written communication dated June 13, 1996. Since the proposed policy revisions do not specifically assure compliance with Coastal Act standards, the Commission finds the proposed land use plan amendments are not consistent with the cited Coastal Act policies.

2. Shoreline Areas/Public Access

The following Chapter 3 policies of the Coastal Act addressing access to the coast are most applicable to the proposed land use plan amendments:

Section 30210

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

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation [....]

Carlsbad is a regionally-popular beach community, having both state and municipal beaches within its boundaries. The City limits also include all or portions of three lagoons (Batiquitos, Agua Hedionda and Buena Vista), which provide for more passive public recreational experiences, and, in the case of Buena Vista Lagoon, boating opportunities as well. Carlsbad Boulevard provides direct access to many of these recreational destinations, with I-5 being the other main north-south regional access point for the City. Moreover, all major east-west streets funnel beach traffic from the inland areas of Carlsbad and surrounding communities to the shoreline.

The proposed amendments are designed to encourage the provision of affordable housing projects in Carlsbad by allowing increased densities, density bonuses, inclusionary housing and second dwelling units. Increasing the residential densities, particularly in nearshore areas, creates potential conflicts with beach and lagoon access. The overall proposed amendment package includes provisions to relax many development standards in the accompanying implementation plan changes, including parking standards. Moreover, the proposed land use plan revisions require that affordable housing projects be located along transit corridors or near commercial or employment centers, in an effort to encourage walking, biking and the use of public transportation. Transit corridors are generally the main streets of a community, so they also function as the major coastal access routes. If reduced parking is allowed in affordable projects, there could be a spillover effect onto adjacent public streets, and traffic circulation could be slowed by persons hunting for parking spaces.

The City of Carlsbad points out, and rightly so, that much of Carlsbad's traffic is generated by development outside the coastal zone, since it provides regional access to communities up and down the coast. Most of this traffic is generated during the weekday commuter traffic peaks; however, the afternoon traffic peak coincides with the peak for recreational trips, particularly during the summer beach season. As the entire regional population continues to grow, traffic congestion in Carlsbad will increase, with many intersections throughout the City, including several along Carlsbad Boulevard, reaching unacceptable levels of service. However, this increase will occur with or without any density increases in Carlsbad itself; the proposed increases for affordable housing projects are an insignificantly-small contributing factor to the overall problem.

As currently proposed, and as stated in the prior finding, the new land use plan language does not reference the certified LCP. The City's Growth Management Ordinance, which is not part of the certified LCP, sets growth limits for the City as a whole. The ordinance restricts density to a level below that identified in the certified land use plan, and, under that ordinance, the application of a 25 percent density increase is not expected to exceed the densities established in the certified land use plans. The City's Growth Management Ordinance, however, does not address restrictions based on site-specific constraints, as are applied in the policies and ordinances of the certified LCP. Moreover, the General Plan and Growth Management Ordinance do not address public access as a coastal resource, although in highly urbanized Southern California, access opportunities are both in great demand

and extremely vulnerable to over-development, which can preclude nearshore parking availability and contribute to traffic congestion. Since the proposed LUP amendments do not clearly state that any proposed density increases must be consistent with all other provisions of the certified LCP, the Commission finds the proposed amendment potentially inconsistent with the Chapter 3 policies on public access and recreation.

3. Water and Marine Resources

A number of Coastal Act policies address the protection and enhancement of water quality and sensitive water habitats. Those most applicable to the proposed land use plan amendments state, in part:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, ... controlling runoff, ... maintaining natural vegetation buffer areas [....]

Section 30253

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood and fire hazard;

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area [....]

One of the most common threats to marine resources in urban and developing areas is from increased sediments in the water from erosion, grading, and unstabilized fill sites. Grading on steep slopes presents several major concerns including the increased likelihood of onsite and offsite erosion, increased runoff, and increased downstream sedimentation. As mentioned previously, Carlsbad includes part or all of three lagoon systems, all of which suffer to some degree from the impacts of sedimentation and urban runoff. The certified Carlsbad LCP contains a number of policies relating to grading, erosion and water quality protection, and that restrict encroachments onto steep slopes. However, these resource protection policies are not specifically applied through the proposed language revisions, which would not require future projects to be consistent with the LCP.

As in the findings for the two previous policy groups, the Commission's concern is that allowing for increased densities on any site throughout the City, which includes many sloping and naturally-vegetated properties, could encourage encroachments onto steep slopes that would not normally be allowed. Once again, by referencing only the General Plan and Growth Management

Ordinance, the land use plans, if amended as proposed, would not guarantee protection of downstream resources or natural landforms. Thus, the Commission finds that the amendments, as currently proposed, are not consistent with Sections 30231 and 30253 of the Act.

4. Coastal Visual Resources and Special Communities

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. [...]

Carlsbad is a visitor destination point, attracting local, regional and more distant visitors to its beaches, lagoons, flower fields and other recreational resources. The City offers much in the way of scenic amenities, and the certified LCP includes policies protecting public viewpoints and corridors. The various land use plans address those scenic resources within each segment, and designate specific streets as scenic routes. The implementation ordinances include development standards such as appropriate street and blufftop setbacks to maintain views to the ocean and lagoons. In addition, the certified LCP includes height restrictions to maintain the character of the community and prevent view blockage from inland areas.

As stated previously, the proposed land use plan amendments fail to address how density increases and incentives will be achieved consistent with the various certified LCP policies and ordinances. Therefore, the Commission finds the proposed amendments inconsistent with Section 30251 of the Coastal Act.

5. Affordable Housing

This finding addresses the proposed land use plan amendments in a general way, rather than in the context of one or more individual Chapter 3 policies of the Coastal Act. Government Code §65915 requires local governments to provide residential density increases to developers who agree to develop low-income and senior housing. The statute requires that local governments grant a density bonus of "at least 25 percent" to developers who agree to make a specified percentage of new units affordable to low income or senior households. Government Code §65915(b) also requires local governments to grant at least one other incentive, in addition to the density bonus, unless the local government finds that the additional incentive is not necessary to allow for affordable housing.

The City of Carlsbad is proposing to address the requirements of Government Code §65915 by amending their certified LUP to allow it to increase residential densities and to grant incentives. Proposed options include

accommodation for density increases and reduced development standards for senior housing, and the typical 25 percent density bonus and one additional incentive for developers agreeing to maintain 20% of their units affordable for 30 years, or alternative in-lieu incentives to this program. In addition, Carlsbad has added policies to create an additional program, which the City devised to meet its fair share allocation of affordable housing. This is a mandatory inclusionary housing program, which requires all developers to provide 15 percent of their units as affordable for a minimum of thirty years. The proposed LUP policy would allow the City to grant unrestricted density increases and other incentives to enable developers to satisfy the requirement. However, if developers are granted a density increase, the City requires that the project be consistent with Section 21.86 of their municipal code (i.e., all provisions of the state density bonus law would then apply).

Thus, the LUP amendment addresses the requirement of Government Code §65915 by allowing the City to grant increases in density beyond the otherwise maximum density, and to grant incentives in the form of regulatory relief without indicating how such density increases and incentives will be applied consistent with the policies of the Coastal Act. In the past, the Commission has acknowledged the need of local governments to comply with the mandates of Government Code §65915 by developing LCP provisions that harmonize the requirements of both Government Code §65915 and the Coastal Act. The City of Carlsbad has indicated that it intends to harmonize these two provisions by allowing for density increases and incentives but only when projects incorporating such increases and incentives can be achieved in a manner that is consistent with all policies and ordinances of the LCP. The City has stated that it will not approve projects that include a density increase and/or incentive if the project is in any way inconsistent with any provision of the certified LCP. As will be discussed in the findings for approval of the LUP if modified, this approach can be found to be consistent with the policies of the Coastal Act because of the circumstances unique to the City of Carlsbad coastal resources and the structure of its LUPs. Further, the City believes this approach meets its obligations under the Government Code provisions addressing the approval of affordable housing projects. The City asserts that under Government Code §65589.5 it has the authority to deny an affordable housing project if the project is inconsistent with the certified local coastal program. The City's position is that, while it cannot refuse a density bonus in and of itself, the overall proposed project must still be designed sensitive to site constraints and must, in the coastal zone, meet all standards other than density of the certified LCP.

The amendment language submitted by the City requires that all affordable housing projects be consistent with the General Plan and Growth Management Ordinance, but not with the certified LCP. The City in oral communications with staff has stated that consistency with the LCP must be found in order to issue a coastal development permit for any project, affordable or not. However, without the amendment specifically saying so, there is a strong potential that developers might assume that a density increase takes precedence over all other factors, rather than realizing that a project incorporating a density increase must still be designed to protect coastal resources. For example, the proposed density bonus policies might be

interpreted as allowing otherwise prohibited fill of a wetlands for purposes of accommodating a 25 percent increase in residential density. Thus, the proposed amendments, based on the language submitted, could be interpreted by some as allowing for application of density increases and incentives in a manner that does not conform with the policies of Chapter 3 of the Coastal Act.

Government Code §65915(f) requires the increase in density granted to a developer be 25 percent over the "maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan." Many local government general plans and ordinances address residential densities by identifying both a density range that indicates the approximate density for an area, as well as a list of the development standards and other factors (e.g., setbacks, heights, yard size, proximity to circulation element roads, etc.) that will be applied to determine the maximum density that will be allowed on any particular site within the area. The Government Code requires that the 25 percent density increase be applied to the density that will be the maximum allowed under the general plan and zoning ordinances. Therefore, the base density to which the density bonus will be applied is the density that would be identified after application of both the density range for an area and the factors applicable to the developer's particular site.

Modifications suggested by the City of Carlsbad specifically require that affordable housing projects be consistent with both the General Plan and Growth Management Ordinance, and further stipulate that it is the maximum allowable density in the Growth Management Ordinance that provides the base figure for calculating the mandatory density bonus. According to City staff, HCD has found this approach acceptable and has approved the City's program, since the Growth Management Ordinance is designed to accommodate Carlsbad's regional fair share allocation of affordable housing. The maximum allowable density in the Growth Management Ordinance is the density identified after applying all environmental constraints to a site. Thus, this approach is consistent with Government Code §65915. Moreover, the Growth Management Ordinance is not part of the certified LCP. Since the LUP amendment as submitted does not insure that the base density to which the density increase is added is the "maximum allowable residential density under the applicable zoning ordinance and land use element of the General Plan" the LUP cannot be found consistent with the Coastal Act.

One additional affordable housing option proposed by the City is the construction of second dwelling units on existing single-family residential lots. This will be addressed in a separate finding, since second dwelling units are regulated under a different government code.

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

A. SUMMARY FINDING/CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The City of Carlsbad has presented land use plan amendments so that it can establish a viable affordable housing program in the coastal zone. These amendment requests were submitted several months ago, as part of an LCP

amendment package which included a number of other significant components, such as Carlsbad Ranch and the Green Valley Master Plan. All other components of City of Carlsbad LCP Amendment #1-96 have been acted upon by the Commission at this time. Based on issues raised in addressing density increases in other coastal jurisdictions, the Commission and City staff have taken the time to work together to resolve the concerns raised by the specific wording of the proposed land use plan amendments. The problem identified was one of interpretation, with a concern that prospective permit applicants and project proponents might not understand that, although density bonuses were being granted consistent with state mandates, any actual proposed projects must still be designed to meet the provisions of the certified LCP.

It is believed that the suggested modifications listed herein represent mutually-acceptable language that reflects the City's intent with respect to development within the coastal zone. That is, the City maintains that the density increases and other forms of incentives are a useful tool to reach their affordable housing goals. However, the City also maintains that these goals must be met, and the proposed tools applied, in a manner consistent with the protection of coastal resources. It is the City's position that any proposed development, affordable or not, must be found consistent with the certified LCP in order to be granted a coastal development permit. With the suggested modifications, the Commission finds that the City's proposed amendments will clarify that intent for the general public and allow the City to accomplish its housing goals.

The LUP amendments enable the City to grant density increases above the maximum allowable under the certified LCP, along with other types of incentives. As discussed in the findings for denial of the LUP amendments, the City asserts that projects that include density increases and incentives will not be approved if inconsistent with the certified LCP. The City has cited its authority under Government Code §65589.5 in support of its position. The Commission finds that if the proposed LUP amendment is modified to clarify that affordable housing projects that incorporate a density increase and incentives will be consistent with all policies and ordinances of the LCP, with the exception of density, the amendment can be found to be consistent with the policies of Chapter 3 of the Coastal Act. The Commission can find the amendment, if modified, to be consistent with the Coastal Act, even though it will allow for densities beyond the otherwise maximum allowable density because the other provisions of the certified LCP are sufficient to protect the coastal resources in Carlsbad. Upon review of the LCP provisions and the coastal resources in Carlsbad, the Commission has determined that the maximum allowable density can be exceeded without adversely affecting coastal resources provided that all other provisions of the LCP are complied with.

1. Environmentally Sensitive Habitat Areas.

The City of Carlsbad certified LCP includes provisions to identify and protect existing sensitive resources, including wetlands and naturally-vegetated steep slopes. As submitted, the land use plan amendments do not clearly state that these provisions would be applied to all future development proposals in the coastal zone that incorporate density increases to accommodate affordable

housing. The proposed language only references the General Plan and Growth Management Ordinance, neither of which is part of the certified LCP. With the suggested modification requiring that all projects be consistent with LCP provisions, the Commission finds that the density can be increased beyond the limits identified in the certified LUPs without adverse impacts on environmentally sensitive lands because the resource protection policies of the LUPs are sufficiently protective. Thus, as long as a project complies with the resource protection policies of the certified LCP, the increased density is not going to be inconsistent with Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the amendments are consistent with the cited Chapter 3 policies of the Coastal Act.

2. Shoreline Areas/Public Access

The City of Carlsbad certified LCP includes provisions to protect, maintain and enhance public access to the City's beaches and lagoons, including policies requiring the provision of adequate on-site parking such that street parking remains available for beach visitors. As submitted, the land use plan amendments do not clearly state that these provisions will be applied to all future development proposals in the coastal zone. The proposed language only referenced the General Plan and Growth Management Ordinance, neither of which is part of the certified LCP.

An even greater concern with respect to public access is the ability of the City to maintain free-flowing traffic on coastal access routes. City and Commission staff considered whether or not increased densities within the City would adversely impact traffic flow by requiring additional trips and simply increasing the volume of vehicles on City streets. However, based on regional traffic data with projections into the next century, Carlsbad will be faced with a serious traffic problem with or without increased densities. This is due to its prime arterials serving as transportation corridors along the coast, and to the coast from inland communities, where the most significant regional growth is occurring. Thus, Carlsbad, even if it never built another unit from this point forward, would still have many local intersections, including those on Carlsbad Boulevard adjacent to the beaches and its major east-west corridors, at unacceptable levels of service.

Since this traffic influx is completely beyond the City's control, the Commission concludes that it is not a deciding factor in determining whether or not the proposed density increases are acceptable. The Commission concludes that any potential density increases in Carlsbad will be only a minor, incremental contribution to the overall population growth of San Diego County, and therefore cannot be held responsible for future traffic problems which could marginally affect beach access. That issue aside, increased densities alone will not have adverse impacts on beach access, provided that projects are designed consistent with all other provisions of the certified LCP, such as parking and siting provisions. It is these provisions, rather than the density limits, that will assure that development is consistent with the public access policies of the Coastal Act. Therefore, with the suggested modification requiring that all projects be consistent with LCP provisions, the Commission finds that the density can be increased beyond the limits

identified in the certified LUPs without adverse impacts on public access because the access policies of the LUPs are sufficiently protective. Thus, as long as a project complies with the access policies of the certified LCP, the increased density is not going to be inconsistent with Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the amendments are consistent with the cited Chapter 3 policies of the Coastal Act.

3. Water and Marine Resources

The City of Carlsbad certified LCP includes provisions to protect downstream ocean and lagoon resources from upstream construction and development impacts, by requiring appropriate drainage, erosion control and runoff facilities. There are also LCP provisions prohibiting grading on steep slopes during the rainy season. As submitted, the land use plan amendments do not clearly state that these provisions would be applied to all future development proposals in the coastal zone that incorporate density increases to accommodate affordable housing. The proposed language only referenced the General Plan and Growth Management Ordinance, neither of which is part of the certified LCP. With the suggested modification requiring that all projects be consistent with LCP provisions, the Commission finds that the density can be increased beyond the limits identified in the certified LUPs without adverse impacts on water and marine resources because the resource protection policies of the LUPs are sufficiently protective. Thus, as long as a project complies with the water and marine resource protection policies of the certified LCP, the increased density is not going to be inconsistent with Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the amendments are consistent with the cited Chapter 3 policies of the Coastal Act.

4. Coastal Visual Resources and Special Communities

The City of Carlsbad certified LCP includes provisions to protect the City's visual resources by identifying significant viewpoints and corridors, and requiring appropriate development standards, such as height limits and setbacks, to maintain said public views. An increase in density will not adversely affect scenic resources if the project that incorporates the density increase and incentive is consistent with each of the policies and ordinances of the LCP. As submitted, the land use plan amendments do not clearly state that these provisions would be applied to all future development proposals in the coastal zone that incorporate density increases to accommodate affordable housing. The proposed language only referenced the General Plan and Growth Management Ordinance, neither of which is part of the certified LCP. With the suggested modification requiring that all projects be consistent with LCP provisions, the Commission finds that the density can be increased beyond the limits identified in the certified LUPs without adverse impacts on visual resources because the visual resource protection policies of the LUPs are sufficiently protective. Thus, as long as a project complies with the visual resource protection policies of the certified LCP, the increased density is not going to be inconsistent with Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the amendments are consistent with the cited Chapter 3 policies of the Coastal Act.

5. Affordable Housing.

Without provisions for incorporating the requirements of the certified LCP, the density bonuses proposed in the land use plan amendments do not conform with policies of Chapter 3 of the Coastal Act. The Commission has suggested modifications to the proposed language that will conform the City's land use plan segments with the Coastal Act. These suggested modifications have been drafted with input from City staff, and reflect Carlsbad's intention to assert the provisions of its LCP in its review of all proposed housing developments, including those requesting density increases consistent with the mandates of Government Code §65915.

The suggested modifications for the land use plan segments address density increases, density bonuses and inclusionary housing. The modifications are intended to make it clear that, although any landowner may obtain a density increase and incentives by agreeing to keep specified numbers of units available for low income or senior citizen use for specified time periods, the resulting development project must still meet all provisions of the certified LCP except density. It is the City's intent to offer only those incentives which, when reviewed on a site-specific basis, will not result in inconsistencies with the LCP. The City maintains that, in granting a landowner the mandatory density increases required in Government Code §65915, it does not relinquish its authority to conduct a discretionary review of specific development proposals incorporating the increased density.

The suggested modifications provide that any granted density increase will be accommodated using those means that do not adversely affect coastal resources. They insure that the City will exercise its discretion to determine how to accommodate the density increases and any other incentives in a manner that conforms with the policies of Chapter 3 of the Coastal Act. With these modifications, the land use plans will meet the requirements of the density bonus statute and also comply with requirements of the Coastal Act. Accordingly, as modified herein, the Commission finds the land use plan amendments conform with the Coastal Act.

PART VI. FINDINGS FOR REJECTION OF THE CITY OF CARLSBAD IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

Along with the previously-discussed land use plan revisions which address the City's affordable housing program, the City is proposing a number of ordinance revisions to implement the land use plans. The City's implementation plan amendments include Ordinances NS-207, NS-232, NS-233, NS-274 and NS-283. These include both changes to existing elements of the certified implementation plan and the addition of two new ordinances addressing density bonuses and inclusionary housing. The various amendments would provide for increased densities for low income, moderate income and senior households, and also address the construction of second dwelling units on existing single-family residential properties. They outline the City's specific

affordable housing program options and provide for incentives (relief) on certain development standards and density caps in association with affordable housing projects.

B. FINDINGS FOR REJECTION

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 purpose of the proposed amendments is to accommodate a City-wide housing program consistent with state mandates and with the City's Fair Share requirements to provide a percentage of the regional affordable housing needs. The proposed implementation plan amendments address a number of new and existing ordinances, which will be addressed individually below.

Chapter 21.86 Residential Density Bonus or In-Lieu Incentives

a) Purpose and Intent of the Ordinance. The purpose and intent of the new ordinance is to promote housing in the City that is affordable to its low income and senior citizens. Its other purpose is to provide incentives to developers in order to implement the goals of the City's Housing Element and Sections 65915-65917 of the California Government Code.

b) Major Provisions of the Ordinance. The proposed ordinance includes regulations for new construction and condominium conversions. It also provides a density bonus program, including incentives, standards and tenure. Finally, it provides for long-term management and monitoring of affordable units.

c) Adequacy of the Ordinance to Implement the Certified LUP Segment. The proposed ordinance amendment is an addition to the existing municipal code and is proposed for inclusion in the certified LCP. The ordinance authorizes the City to grant density bonuses and additional incentives, and requires that affordable housing projects must conform to the General Plan, zoning and development policies of the City of Carlsbad. It also provides that, where a density increase would exceed the upper end of the General Plan density range for a specific site, the proposal must be consistent with adjacent land uses and in proximity to employment opportunities, urban services or major roads. In no instance does the ordinance provide for a project's consistency with the certified LCP, although the City has indicated that the general term "development policies" would likely be interpreted to include LCP policies. However, with the suggested modifications for the City's six land use plan segments clearly stating that all housing projects must be consistent with the provisions of the certified LCP, the Commission finds the proposed ordinance is not consistent with, nor can it adequately carry out, the policies of the certified land use plans.

Chapter 21.85 Inclusionary Housing

a) Purpose and Intent of the Ordinance. The purpose and intent of the new ordinance is to ensure that master and specific planned communities and residential subdivisions provide a range of housing opportunities for all

economic segments of the population. This is to be accomplished by requiring that 15 percent of all approved residential units be affordable. The ordinance also intends to allow in-lieu fees and housing impact fees in specified circumstances.

b) Major Provisions of the Ordinance. The proposed ordinance defines the applicability of the inclusionary requirements and describes the in-lieu fees and incentives to be offered. It also provides regulations for both new and existing master and specific plans and lists exemptions for certain residential developments. Finally, it provides for long-term management and monitoring of affordable units.

c) Adequacy of the Ordinance to Implement the Certified LUP Segment. The proposed ordinance amendment is an addition to the existing municipal code and is proposed for inclusion in the certified LCP. The ordinance requires that all new residential subdivisions, including those approved through master plans or specific plans, provide 15 percent of their units as affordable housing. It further authorizes the City to grant density bonuses and additional incentives to achieve this goal, but does not provide that a project be consistent with the certified LCP. However, with the suggested modifications for the City's six land use plan segments clearly stating that all housing projects must be consistent with the provisions of the certified LCP and not result in significant adverse impacts to any coastal resources, the Commission finds the proposed ordinance is not consistent with, nor can it adequately carry out, the policies of the certified land use plans.

Chapter 21.18.045 Senior Citizen Housing by Site Development

a) Purpose and Intent of the Ordinance. The purpose and intent of the new ordinance is to provide a mechanism and standards for the development of rental and for-sale housing for senior citizens.

b) Major Provisions of the Ordinance. The proposed ordinance provides specific direction as to the appropriate location for senior housing with respect to needed community services. It also provides detailed development criteria to assure that provided units are functional for persons with special needs. Provisions are also included stipulating the minimum ages for occupancy of such units.

c) Adequacy of the Ordinance to Implement the Certified LUP Segment. The proposed ordinance amendment is a change to the existing municipal code, which is part of the certified LCP. The ordinance modifies the approval process for senior housing and updates the standards such units must attain. As with the previously-discussed ordinances, it authorizes the City to grant density bonuses and additional incentives to achieve the stated housing goals, but does not provide that a project be consistent with the certified LCP. However, with the suggested modifications for the City's six land use plan segments clearly stating that all housing projects must be consistent with the provisions of the certified LCP and not result in significant adverse impacts to any coastal resources, the Commission finds the proposed ordinance is not consistent with, nor can it adequately carry out, the policies of the certified land use plans.

Chapter 21.53.120 Affordable Housing Multi-Family Residential Projects - Site Development Plan Required

a) Purpose and Intent of the Ordinance. This title is part of a larger ordinance, the body of which is not being modified. The purpose and intent of this particular section provides that any affordable housing project must be approved through the site development plan process.

b) Major Provisions of the Ordinance. The proposed ordinance revision provides that affordable housing projects are subject to Planning Commission review, and potentially to City Council as well, depending upon the size of the project and whether or not it is appealed. It also provides that these bodies may either increase or decrease a range of development standards to help achieve the City's housing goals.

c) Adequacy of the Ordinance to Implement the Certified LUP Segment. The proposed ordinance amendment is a change to the existing municipal code, which is part of the certified LCP. The ordinance modifies the approval process for affordable housing projects and would allow deviations in the applied development standards. Again, there is no mention that resulting projects in the coastal zone must be consistent with the certified LCP or protect coastal resources. However, with the suggested modifications for the City's six land use plan segments clearly stating that all housing projects in the coastal zone must be consistent with the provisions of the certified LCP and not result in significant adverse impacts to any coastal resources, the Commission finds the proposed ordinance is not consistent with, nor can it adequately carry out, the policies of the certified land use plans.

Chapter 21.06.090 O Qualified Overlay Zone Development Standards

a) Purpose and Intent of the Ordinance. This title is again part of a larger ordinance, the body of which is not being modified. The purpose and intent of this particular section provides that any affordable housing project must be approved through the site development plan process, and, as such, is not necessarily bound by the development standards of the underlying zone.

b) Major Provisions of the Ordinance. The proposed ordinance revision provides that affordable housing projects are subject to Planning Commission review, and potentially to City Council as well. It also provides that these bodies may either increase or decrease a range of development standards to help achieve the City's housing goals.

c) Adequacy of the Ordinance to Implement the Certified LUP Segment. The proposed ordinance amendment is a change to the existing municipal code, which is part of the certified LCP. The ordinance clarifies the approval process for affordable housing projects and would allow deviations in the applied development standards. Again, there is no mention that resulting projects in the coastal zone must be consistent with the certified LCP or protect coastal resources. However, with the suggested modifications for the City's six land use plan segments clearly stating that all housing projects in the coastal zone must be consistent with the provisions of the certified LCP

and not result in significant adverse impacts to any coastal resources, the Commission finds the proposed ordinance is not consistent with, nor can it adequately carry out, the policies of the certified land use plans.

PART VII. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

As stated previously, the City is proposing a series of modifications to existing ordinances, and two entirely new ordinances, to implement its affordable housing program citywide. Since this program will occur within the coastal zone, the ordinances are either already part of the certified LCP, or, in the case of the new ordinances, are being incorporated into it at this time. In order to be consistent with the suggested modifications for the land use plan amendments, language, in the form of additional suggested modifications, has been added to each of the identified ordinances to incorporate a requirement that any development in the coastal zone approved pursuant to that particular ordinance must be found consistent with the certified LCP provisions.

The proposed modifications assure that the base density to which the density increase is applied is consistent with LUP policy, and that any incentives granted under the program will not result in inconsistencies with the LCP. In addition, suggested modifications for Chapters 21.86 and 21.85 include language clarifying that "all environmentally constrained lands identified pursuant to the coastal zoning ordinances and local coastal programs are considered to be undevelopable and shall be deducted from the total number of acres of a subject property" prior to calculating any density increases. The determination of whether a project complies with the LCP is based on the consistency of the entire project, including the density increase and incentives, with all LCP provisions. With these suggested modifications, the Commission finds the proposed implementation plan revisions consistent with, and able to carry out, the certified land use plan segments, as modified herein.

In addition to the ordinances identified above, and addressed in suggested modifications, the City of Carlsbad amendment request also includes revisions to various sections of Chapter 21 of the municipal code, as they relate to second dwelling units. The purpose of the ordinance revisions is to define second dwelling units, describe an administrative review process for permitting them, and describe restrictions on size, affordability, etc. Second dwelling units are allowed by state mandate on existing single-family residential parcels, and the proposed ordinance revisions are designed to simplify the associated permit process. As submitted by the City, these particular revised ordinance sections are consistent with and able to carry out the certified land use plans, even as modified herein.

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

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact

report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP as amended, does conform with CEQA provisions. In the case of the subject LCP amendment request, the Commission finds that approval of the City of Carlsbad land use plan amendments, as proposed, would result in significant impacts under the meaning of the California Environmental Quality Act. Portions of the proposed amendments are inconsistent with the Coastal Act, and could have adverse impacts in the areas of biology, public access, water quality, visual resources and density. Several suggested modifications are included which will eliminate the potential impacts. As modified herein, there are no feasible, less environmentally-damaging alternatives and no significant environmental impacts would occur if the modifications are accepted by the City of Carlsbad.

Likewise, in the case of the implementation plan amendments, the Commission finds that approval of the proposed ordinance amendments, as submitted, would result in significant impacts under the meaning of the California Environmental Quality Act. However, with the inclusion of the suggested modifications, implementation of the revised ordinances would not result in significant impacts under the meaning of the California Environmental Quality Act. Therefore, this modified LCP amendment can be found consistent with the provisions of the California Environmental Quality Act.

(1036A)

RESOLUTION NO. 94-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING AN AMENDMENT TO ALL OF THE CITY'S SIX LOCAL COASTAL PROGRAM SEGMENTS (I.E., MELLO I, MELLO II, AGUA HEDIONDA, EAST BATTIQUITOS LAGOON/HUNT PROPERTIES, WEST BATTIQUITOS LAGOON/SAMMIS PROPERTIES AND VILLAGE REDEVELOPMENT AREA) TO AMEND THE TEXT BY THE ADDITION OF A NEW POLICY WHICH WOULD ALLOW RESIDENTIAL DENSITY INCREASES ABOVE THE MAXIMUM DENSITIES PERMITTED BY THE CITY'S GENERAL PLAN AND LOCAL COASTAL PROGRAM SEGMENTS, TO ENABLE THE DEVELOPMENT OF LOWER-INCOME AFFORDABLE HOUSING.

CASE NAME: RESIDENTIAL DENSITY INCREASES

AFFORDABLE HOUSING

CASE NO: LCPA 93-02 - CITY OF CARLSBAD

WHEREAS, California State law requires that the Local Coastal Program and General Plan, for properties in the Coastal Zone be in conformance;

WHEREAS, a verified application for an amendment to Carlsbad's Local Coastal Program Segments, as shown on Exhibit "LCPA 93-02", dated October 20, 1993, attached to Planning Commission Resolution No. 3545 and incorporated by reference, has been filed with the City Council; and

WHEREAS, said verified application constitutes a request for amendment as provided in Title 21 of the Carlsbad Municipal Code; and

WHEREAS, the City Council did on the 11th day of JANUARY, 1994, hold a duly noticed public hearing as prescribed by law to consider the proposed Local Coastal Program Amendment shown on Exhibit "LCPA 93-02", 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 Plan Amendment.

...

WHEREAS, State Coastal Guidelines requires a six week public review period for any amendment to the Local Coastal Program.

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

A) That the above recitations are correct.

B) No comments were received during the State mandated six week review period, starting on August 26, 1993, and ending on October 7, 1993.

C) That based on the evidence presented at the public hearing, the Council APPROVES LCPA 93-02 as shown on Exhibit "LCPA 93-02", dated October 20, 1993, attached to Planning Commission Resolution No. 3545 and made a part hereof based on the following findings:

Findings:

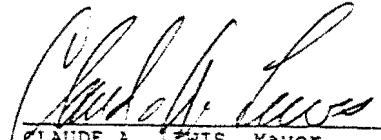
1. The proposed Local Coastal Program Amendment is consistent with all applicable policies of the respective segments of Carlsbad's Local Coastal Program.

2. The proposed amendment is necessary to bring the City's Local Coastal Program into conformance with the General Plan.

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1 PASSED, APPROVED AND ADOPTED at a regular meeting of the City
2 Council of the City of Carlsbad, California, on the 11th day
3 of JANUARY, 1994, by the following vote, to wit:

4 AYES: Council Members Lewis, Stanton, Kulchin, Nygaard, Finnila
5 NCES: None
6 ABSENT: None
7 ABSTAIN: None

8 
9 CLAUDE A. LEWIS, Mayor

10 ATTEST:

11 
12 ALETHA L. RAUTENKRANZ, City Clerk

13 (SEAL)

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LCP POLICIES

MELLO 1

2. STANDARD PACIFIC

Policy 1 - Maximum Density of Development

The Standard Pacific property shall be designated for a medium density residential development with a maximum density of 7 dwelling units per gross acre (See Exhibit 2.1). The property shall be developed using the City's RD-M (Residential-Multiple Zone) or PC (Planned Community) in effect at the date of certification. An overlay zone shall be established incorporating the Coastal Act requirements contained herein (See Exhibit 3.). All permitted uses in the underlying zone shall be conditional uses in the overlay zone. Divisions of land and other developments as defined in the Coastal Act shall be in accord with the requirements of the Policies contained herein. Poinsettia Lane shall be extended only as generally shown on the PRC Toups land use map (See Exhibit 2.1) to the eastern boundary of the site. The location of Poinsettia Lane is in no way determined by this Local Coastal Program (LCP), however, this LCP is not intended to preclude access to agricultural areas to the east.

POLICY 1(A) - AFFORDABLE HOUSING

In order to encourage and enable the development of lower income affordable housing, density increases above the maximum residential densities permitted by this plan may be permitted. Any request to increase residential densities above the densities permitted by the plan, for the purpose of providing lower-income affordable housing, shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center.

3. OCCIDENTAL LAND, INC.

- d. If, by December 1, 1980, the landowners of the Occidental parcels record an irrevocable offer to dedicate an agricultural conservation easement or a similar instrument providing for certain protection of agricultural land over the 57 acre and 22 acre parcels north of Poinsettia Lane, development may be allowed on the 25 acres of Class III soils (See Exhibit 4.2) located immediately east of Paseo del Norte, and at the 28 acres of soil below Class IV in the same parcel of up to 7 units per acre. Said conservation easement or similar instrument shall be free of all prior liens and encumbrances, shall be executed in favor of the People of the State of California, and shall bind the landowners and successors in interest. Said easement may include a term which states that the Commission may modify the easement at its sole discretion if the Commission determines that such modification would be essential to implement the remainder of the Carlsbad LCP.

POLICY 1(A) - AFFORDABLE HOUSING

In order to encourage and enable the development of lower income affordable housing, density increases above the maximum residential densities permitted by this plan may be permitted. Any request to increase residential densities above the densities permitted by the plan, for the purpose of providing lower income affordable housing, shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center.

4. RANCHO LA COSTA

POLICY 1 -- LAND USES

1. Development of the property may occur only under the provisions of the Pacific Rim Country Club and Resort Master Plan, and shall be subject to the requirements of Policy 2 "Agriculture/Planned Development".

2. The land uses allowed by the Master Plan shall be compatible with the City of Carlsbad General Plan as amended and as adopted as of March 1, 1988, to provide a combination of residential, commercial (including visitor serving) and open space uses.
3. Residential density permitted through the Master Plan shall not exceed that allowed by the City of Carlsbad General Plan as of March 1, 1988, except as allowed by Policy 6 below.
4. All land uses and intensity of use shall be compatible with the protection of sensitive coastal resources.
5. Land use intensity shall be consistent with that allowed by the Carlsbad Growth Management Ordinance (Chapter 21.90, Carlsbad Municipal Code) as adopted as of March 1, 1988 except that any increase in the total number of dwelling units proposed in the Master Plan (2836) shall require review and approval of the Coastal Commission through the LCP amendment process.
6. In order to encourage and enable the development of lower income affordable housing, density increases above the maximum residential densities permitted by the Master Plan and the General Plan may be permitted. Any request to increase residential densities above the densities permitted by the plan, for the purpose of providing lower income affordable housing, shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center.

MELLO II

1. ALLOWABLE LAND USES

Policy 1-1 Affordable Housing

In order to encourage and enable the development of lower income affordable housing, density increases above the maximum residential densities permitted by this plan may be permitted. Any request to increase residential densities above the densities permitted by the plan, for the purpose of providing lower income affordable housing, shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center.

AGUA HEDIONDA LAND USE PLAN

1.9 - Building height shall be limited to a maximum of 35 feet. Building setbacks and lot coverage shall be regulated by the applicable zoning designation, except as specifically modified in this plan.

1.10 - The 45 acre parcel owned by SDG&E located on the south shore immediately east of the freeway shall be designated TS, Travel Services. Conversion of the property to commercial development shall be subject to a future specific plan and the applicable policies relating to agricultural conversion. A future specific plan will be required by the city for development of the property.

1.11 - In order to encourage and enable the development of lower income affordable housing, density increases above the maximum residential densities permitted by this plan may be permitted. Any request to increase residential densities above the densities permitted by the plan, for the purpose of providing lower income affordable housing, shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center.

VILLAGE REDEVELOPMENT AREA

The Design Review Board shall promote the effective interdependence for the urban core's several areas by advocating the establishment of pedestrian linkages between the seven sub-areas. These linkages, where feasible, should take the form of landscaped paths or arcades.

VII. DEVELOPMENT GUIDELINES FOR THE VILLAGE REDEVELOPMENT AREA

Compliance with City Regulations

Except as indicated herein, all proposals for projects in the Village Redevelopment Area shall comply with all normal City development regulations pertaining to zoning and land use.

Residential Density Increases - Affordable Housing

In order to encourage and enable the development of lower income affordable housing, density increases above the maximum residential densities permitted by the General Plan and Redevelopment Plan may be permitted. Any request to increase residential densities above the densities permitted by these plans, for the purpose of providing lower income affordable housing, shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center.

Lot Coverage

All buildings, including accessory buildings and structures, and all parking areas and driveways, should not cover more than eighty percent (80%) of the net lot area.

EAST BATIOQUITOS LAGOON/HUNT PROPERTIES

I. AFFORDABLE HOUSING

In order to encourage and enable the development of lower income affordable housing, density increases above the maximum residential densities permitted by this plan may be permitted. Any request to increase residential densities above the densities permitted by the plan, for the purpose of providing lower income affordable housing, shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center.

WEST BATIOQUITOS LAGOON/SAMMIS PROPERTIES

9. Master Plan Approval. The Batioquitos Lagoon Master Plan as adopted by the Carlsbad City Council Ordinance No. 9778 is approved as the Implementing Ordinance for this Land Use Plan. The Master Plan shall be amended to implement the Agricultural Mitigation Fee. The amendment may be certified by the Commission Executive Director without further Commission action. Upon certification by the Executive Director this portion of the Carlsbad Local Coastal Program shall be deemed certified.

10. AFFORDABLE HOUSING

In order to encourage and enable the development of lower income affordable housing, density increases above the maximum residential densities permitted by this plan may be permitted. Any request to increase residential densities above the densities permitted by the plan, for the purpose of providing lower income affordable housing, shall be evaluated relative to: (a) a proposal's compatibility with adjacent land uses; (b) the adequacy of public facilities; and (c) the project site being located in proximity to a minimum of one of the following: a freeway or major roadway, a commercial center, employment opportunities, a City park or open space, or a commuter rail or transit center.

December 7, 1994

ORDINANCE NO. NS-274

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING VARIOUS CHAPTERS OF TITLE 21 OF THE CARLSBAD MUNICIPAL CODE TO REPLACE THE CONDITIONAL USE PERMIT REQUIREMENT FOR SENIOR CITIZEN HOUSING WITH A SITE DEVELOPMENT PLAN REQUIREMENT AND TO REVISE OTHER REQUIREMENTS FOR SENIOR CITIZEN HOUSING.

CASE NAME: SENIOR CITIZEN HOUSING
CASE NO: ZCA 93-05

WHEREAS, the California Government Code Section 65915 permits a developer of a residential project of five (5) or more units on a specific site to request that the project be granted a density bonus and other incentive or concession, or equivalent incentives and concessions for the purpose of providing affordable housing for very low-income or low-income households or for qualifying (senior) residents; and

WHEREAS, the existing City of Carlsbad zone code contains standards for the development of senior citizen housing projects through Conditional Use Permit; and

WHEREAS, the existing City of Carlsbad zone code provisions for senior citizen housing are not in conformance with California Government Code Section 65915; and

WHEREAS, the existing City of Carlsbad zone code provisions for Senior Citizen Housing are not in conformance with Chapter 21.85 of the Carlsbad Municipal Code (City's Inclusionary Housing Ordinance) and City Council Policy No. 43; and

WHEREAS, it is a program of the Housing Element of the City's General Plan to amend the City's current Senior Citizen housing regulations to conform to the provisions of Government Code Section 65915 and to establish standards for location, parking, safety, recreational facilities, medical care and other

aspects of senior oriented housing.

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

SECTION 1: That Title 21, Chapter 21.18, section 21.18.045, of the Carlsbad Municipal Code is repealed and reenacted to read as follows:

21.18.045. Senior Citizen Housing by Site Development Plan.

(a) This section is intended to provide a mechanism and standards for the development of rental or for-sale housing available to senior citizens.

(b) The city may approve a Site Development Plan for privately developed senior citizen housing on property in the R-P zone where the general plan applicable to such property permits residential uses. The provisions of this section shall apply to such permits.

(c) Senior Citizen Housing projects shall meet the following requirements:

(1) Senior housing projects should, whenever reasonably possible, be located consistent with the following locational guidelines:

(A) The proposed project should be located in close proximity to a wide range of commercial retail, professional, social and community services patronized by senior citizens; or have its own private shuttle bus which will provide daily access to these services; and

(B) The proposed project should be located within two to three blocks of a bus or transit stop unless a common transportation service for residents is provided and maintained; and

(C) The proposed project should be located in a topographically level area; and

(D) Development of a senior citizen housing project at the proposed location should not be detrimental to public health, safety and general welfare.

(2) As used in this section, "housing for senior citizens" means housing:

(A) Provided under any state or federal program that the Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or

(B) Intended for, and solely occupied by, persons sixty-two years of age or older; or

(C) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit if the following factors are shown:

(i) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, it must be shown that

1 such housing is necessary to provide important housing
opportunities for older persons, and

2 (ii) That at least eighty percent of the
units are occupied by or reserved for occupancy by at least one
3 person fifty-five years of age or older per unit, and

4 (iii) The publication of, and adherence
to, policies and procedures which demonstrate an intent by the
owner or manager to provide housing for persons fifty-five years
5 of age or older.

6 Significant facilities and services
specifically designed to meet the physical or social needs of
older persons include, but are not limited to, social and
7 recreational programs, continuing education, information and
counseling, recreational, homemaker, outside maintenance and
8 referral services, and accessible physical environment, emergency
and preventative health care programs, congregate dining
9 facilities, transportation to facilitate access to social services
and services designed to encourage and assist residents to use the
services and facilities available to them. The housing facility
need not have all of these features to meet these requirements of
10 this subsection.

11 (D) Upon the death or dissolution of
marriage, or upon hospitalization or other prolonged absence of
the qualifying resident, any qualified permanent resident, as
12 defined by Section 51.3 of the California Civil Code, shall be
entitled to continue his or her occupancy, residency or use of the
restricted dwelling unit as a permitted resident.

13 (3) A senior citizen housing project shall observe
the following development standards:

14 (A) All senior citizen housing projects are
required to comply with all applicable development standards of
the underlying zone, except those which may be modified as an
15 additional incentive granted pursuant to Chapter 21.86 of this
Title;

16 (4) Parking for a senior citizen housing project
shall be provided pursuant to Section 21.44.026(a)(9) and is
17 subject to the following conditions:

18 (A) Whenever possible, parking spaces should
be laid out at either a thirty (30), forty-five (45) or sixty (60)
19 degree angle;

20 (B) Required parking spaces shall be
available to the tenants of the project at no fee;

21 (5) The senior citizen housing project shall
observe the following design criteria:

22 (A) To the maximum extent feasible,
architectural harmony, through the use of appropriate building
14 height, materials, bulk and scale, within the development and
within the existing neighborhood and community shall be obtained;

23 (B) The building(s) shall be finished on all
sides with similar roof and wall materials, colors, and
15 architectural accent features;

24 (C) Laundry facilities must be provided in a
separate room at the ratio of one washer and one dryer for every
25 25 dwelling units or fractional number thereof. At least one
washer and one dryer shall be provided in every senior citizen
housing project. Washers and dryers may be coin operated;

1 (D) Common areas shall be provided in the
senior citizen housing project. The common areas that are
2 provided shall be designed to make these areas useful and
functional for residents. Examples of common areas include but
3 are not limited to the following: a recreation social room, a
common cooking and dining facility, passive open space; and
4 reading/TV rooms. The total amount of common area required in
each senior housing project shall be no less than twenty (20)
5 square feet per dwelling unit. Common space excludes all
stairwells and any balconies of less than forty (40) square feet.
6 The size of the recreation/community-social room may be
appropriately reduced if it is located adjacent to usable outdoor
7 space. Adjacent toilet facilities for men and women shall be
provided. Unless the building is serviced by an elevator, the
8 recreation/community-social room shall be located on the ground
floor;

9 (E) A manager's unit is recommended to be
included in every senior citizen housing project. If provided,
10 the manager's unit shall be a complete dwelling unit and so
designated on all plans. All senior citizen housing projects
which do not have an on-site manager shall provide a posted phone
11 number of the project owner or off-site manager for emergencies or
maintenance problems;

12 (F) All buildings exceeding two stories shall
include elevators;

13 (6) Dwelling units in senior citizen housing
projects shall observe the following requirements:

14 (A) Tubs shall be equipped with at least one
15 grab bar;

16 (B) Tubs and/or showers shall be equipped
with temperature regulating devices;

17 (C) Tub or shower bottom surfaces shall be
slip resistant;

18 (D) Peepholes in entry doors; and

19 (E) All projects are required to comply with
Title 24 of the State Building Code (Disabled Access Regulations).

20 (F) All senior citizen units must conform to
the requirements of the applicable building and housing codes.

21 (7) Upon written request by an applicant, and in
return for his agreement to develop and operate the senior citizen
22 housing project in accordance with this section and Chapter 21.86
(Residential Density Bonus), the final decision making
authority shall allow an increase in the number of dwelling units
permitted per acre (density) subject to the following conditions:

23 (A) A minimum increase of twenty-five percent
(25%) over the Growth Control Point of the applicable General Plan
24 designation or the otherwise maximum allowable residential
dwelling unit density as specified by the applicable master plan
or specific plan, at the time of application, consistent with
25 Section 21.86 of this Title.

26 (B) All senior citizen housing projects
requesting a residential density bonus shall comply with the
27 requirements of Chapter 21.86 of this Title.

28 (C) Any senior citizen housing project
constructed pursuant to this section and/or requesting a
residential density bonus pursuant to Chapter 21.86, shall be

1 required to comply with the inclusionary requirements for
2 residential developments in Chapter 21.85 of this Title. Not less
3 than fifteen percent (15%) of all approved units in any Senior
4 Citizen Housing project shall be set aside for occupancy by and
5 shall be affordable to lower-income households.

(d) Application submittal and review is as follows:

6 (1) Preliminary application: A developer of a
7 senior citizen housing project shall submit a preliminary
8 application prior to the submittal of a formal request for
9 approval. The preliminary application shall include the following
10 information:

(A) A brief description of the proposal
11 including the total number of senior units, density bonus units
12 and affordable senior units proposed;

(B) The zoning, General Plan designations and
13 assessors parcel number(s) of the project site;

(C) A site plan, drawn to scale, which
14 includes: building footprints, driveway and parking layout,
15 building elevations, existing contours and proposed grading; and

(D) A letter identifying what specific
16 incentives (i.e.; density bonus, standards modifications, or
17 financial incentives) are being requested of the City.

18 Within 30 days of receipt of the preliminary application
19 by the Planning Department, the Department shall provide to an
20 applicant, a letter identifying project issues of concern to
21 staff, and the incentives or assistance that the Planning Director
22 can support when making a recommendation to the final decision
23 making authority.

(2) Application: The Site Development Plan (SDP)
24 application for a senior citizen housing project shall be
25 processed along with all otherwise required project application(s)
26 and no additional hearings or approvals shall be required, except
27 as provided herein with regard to the modification of existing
28 standards or other additional incentives. If the application
29 involves a request for direct financial incentives, then any
30 action by the Planning Commission on the application shall be
31 advisory only, and the City Council shall have the authority to
32 make the final decision on the application.

(3) Submittal:

(A) The completed application for a senior
33 citizen housing project requesting a density bonus, modification
34 of development standards or other additional incentives shall
35 include the following information:

(i) A legal description of the total site
36 proposed for development including a statement of present
37 ownership and present and proposed zoning;

(ii) A letter signed by the present owner
38 stating how the project will comply with Government Code Section
39 65915 and stating what is being requested from the City, (i.e.
40 density bonus, modification of development standards, or other
41 additional incentives);

(iii) Site plans and other supporting
42 plans (i.e.; a landscape plan, building elevations and floor
43 plans) per the City's application submittal requirements;

(iv) A detailed vicinity map showing the

1 project location and such details as the nearest market, transit
2 stop, park or recreation center, medical facilities or other
3 related uses and services likely to be patronized by senior
4 citizens;

(v) A set of floor plans for each
5 different type of unit indicating a typically furnished apartment,
6 with dimensions of doorways, hallways, closets, and cabinets;

(vi) A set of first floor plan or other
7 floor showing any common areas and accommodations and;

(vii) A monitoring and maintenance plan.
8 (B) In the case of a request for a
9 modification of development standards or other additional
10 incentives, The applicant shall be required to submit a project
11 pro-forma for the proposed project to demonstrate that the
12 standards modification and/or other requested incentive is
13 necessary to make the project economically feasible.

(C) At the time of plan submittal for
14 building permits, the applicant shall submit a set of detailed
15 drawings for kitchens and bathrooms indicating counter and cabinet
16 heights and depth; type of pulls, faucets, grab-bars; tub and/or
17 shower dimensions, and handicapped turn space where appropriate.

(4) Review: The Planning Director shall evaluate
18 the request and make findings and recommendations based upon the
19 following criteria:

(A) The senior citizen housing project helps
20 achieve the City's senior and affordable housing goals as set
21 forth in the Housing Element of the General Plan;

(B) The density bonus and/or additional
22 incentive(s) must be necessary to make the project economically
23 feasible;

(C) The senior citizen housing project shall
24 not result in density or design that is incompatible with other
25 land uses in the immediate vicinity;

(D) The senior citizen housing project
26 complies with the general plan, zoning and development policies of
27 the City of Carlsbad.

(5) Processing: All senior citizen housing
28 projects shall be given priority in processing.

(e) Monitoring and Enforcement of Site Development Plan
29 Conditions:

(1) To assure compliance with the age requirement
30 of this chapter, all applicants/owners of Senior Citizen Housing
31 projects shall be required to submit, on an annual basis, an
32 updated list of all project tenants, and their age to the City's
33 Housing and Redevelopment Department.

(f) This section is intended to comply with state and
34 federal laws prohibiting age discrimination in housing.

SECTION II: That Title 21, Chapter 21.16 of the
35 Carlsbad Municipal Code is amended by the amendment 1.16.016 to
36 read as follows:

1 "21.16.016. Senior Citizen Housing by Site Development
2 Plan. Senior citizen housing may be permitted by site
3 development plan issued according to the provisions of Section
4 21.18.045 of this title. The development standards of this zone
5 shall apply."

6 SECTION III: That Title 21, Chapter 21.20 of the
7 Carlsbad Municipal Code is amended by the amendment of section
8 21.20.025 to read as follows:

9 "21.20.025. Senior Citizen Housing by Site Development
10 Plan. Senior citizen housing may be permitted by site
11 development plan issued according to the provisions of Section
12 21.18.045 of this title. The development standards of this zone
13 shall apply."

14 SECTION IV: That Title 21, Chapter 21.22 of the
15 Carlsbad Municipal Code is amended by amendment of section
16 21.22.015 to read as follows:

17 "21.22.015. Senior Citizen Housing by Site Development
18 Plan. Senior citizen housing may be permitted by site
19 development plan issued according to the provisions of Section
20 21.18.045 of this title. The development standards of this zone
21 shall apply."

22 SECTION V: That Title 21, Chapter 21.24 of the Carlsbad
23 Municipal Code is amended by the amendment of section 21.24.025 to
24 read as follows:

25 "21.24.025. Senior Citizen Housing by Site Development
26 Plan. Senior citizen housing may be permitted by site
27 development plan issued according to the provisions of Section
28 21.18.045 of this title. The development standards of this zone
shall apply."

SECTION VI: That Title 21, Chapter 21.44 of the
Carlsbad Municipal Code is amended by the amendment of Subsection
21.44.020(a)(9) to read as follows:

"(9) Senior Citizen Housing Projects - Minimum one
space per every two units, plus one space for an on-site managers
unit (when provided) and one guest parking space, subject to
approval of a site development plan."

1 EFFECTIVE DATE: This ordinance shall be effective
2 thirty days after its adoption, and the City Clerk shall certify
3 to the adoption of this ordinance and cause it to be published at
4 least once in a paper of general circulation in the city within
5 fifteen days after its adoption.

6 INTRODUCED AND FIRST READ at a regular meeting of the
7 Carlsbad City Council on the 19th day of APRIL,
8 1994, and thereafter

9 PASSED AND ADOPTED at a regular meeting of the City
10 Council of the City of Carlsbad on the 26th day of APRIL,
11 1994, by the following vote, to wit:

AYES: Council Members Lewis, Stanton, Kulchin, and Finnila

NCES: None

ABSENT: Council Member Nygaard

APPROVED AS TO FORM AND LEGALITY


RONALD R. BALL, City Attorney
4/27/94.


CLAUDE A. LEWIS, Mayor

ATTEST:


ALTHA J. BAUTERGRANZ, City Clerk
KAREN R. KUNDITZ, Assistant City Clerk

ORDINANCE NO. NS-283

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING TITLE 21 OF THE CARLSBAD MUNICIPAL CODE BY AMENDING VARIOUS CHAPTERS AND SECTIONS TO: (1) ADD A DEFINITION FOR SECOND DWELLING UNIT, (2) ALLOW THE DEVELOPMENT OF SECOND DWELLING UNITS THROUGH ADMINISTRATIVE PERMIT IN THE R-A, R-E, R-1, R-2, R-3, R-P, R-T, R-W, AND RD-M ZONES AND AREAS DESIGNATED BY A MASTER PLAN FOR SINGLE-FAMILY DETACHED DWELLINGS IN THE P-C ZONES OF THE CITY, AND (3) AMEND THE REQUIREMENTS FOR THE CREATION OF SECOND DWELLING UNITS IN THE R-A, R-E, R-1, R-2, R-3, R-P, R-T, R-W AND RD-M ZONES AND AREAS DESIGNATED BY A MASTER PLAN FOR SINGLE-FAMILY DETACHED DWELLINGS IN THE P-C ZONES OF THE CITY.

CASE NAME: SECOND DWELLING UNIT ZONE CODE AMENDMENT
CASE NO: ZCA 92-04

WHEREAS, any local agency may, by ordinance, provide for the creation of second units in single-family and multi-family residential zones consistent with the provisions of California Government Code Section 65852.2;

WHEREAS, it is a program of the Housing Element of the City's General Plan to examine the existing Second Dwelling Unit Section of the City's Municipal Code to explore means of better encouraging and facilitating the development of this alternative and affordable housing type.

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

SECTION 1: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.303 to read as follows:

"21.04.303 Second Dwelling Unit.

Second dwelling unit means a residential dwelling unit which is attached or detached from the primary dwelling unit on a lot, and which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or "primary" dwelling is situated."

SECTION 2: That Title 21, Chapter 21.42, Section 21.42.010(11) of the Carlsbad Municipal Code, containing the requirements for creation of second dwelling units through Conditional Use Permit is hereby repealed and subsequent Sections of this Chapter are renumbered accordingly.

SECTION 3: That Title 21, Chapter 21.10 of the Carlsbad Municipal Code is amended by the addition of Section 21.10.015 to read as follows:

"21.10.015. Second Dwelling Unit by Administrative Permit.

(a) The public good is served when there exists in a city, housing which is appropriate for the needs of and affordable to all members of the public who reside within that city. Among other needs, there is in Carlsbad a need for affordable rental housing. Therefore, it is in the public interest for the City to promote a range of housing alternatives in order to meet the affordable rental housing needs of its citizens. This section is intended to provide a rental housing alternative by establishing a procedure to create new second dwelling units.

(b) The provisions of this Section shall apply to single family zones R-A, R-E, and R-1, areas designated by a master plan for single-family detached dwellings in P-C zones and lots within multi-family zones R-2, R-3, R-P, R-T, R-W, and RD-M, which are developed with single-family residences.

(c) Second Dwelling Units: Second dwelling units require an administrative permit. Application submittal and review shall include the following requirements:

(1) Application submittal for an administrative permit: The completed application for an administrative permit shall include the following information:

(A) The name(s) of the owner(s);
(B) The address of the dwelling units;
(C) The assessor's parcel number;
(D) A general floor plan of the second dwelling

unit;
(E) A scaled drawing showing the lot dimension, the location of the primary and second dwelling unit, location of all vehicular parking, and the total square footage of both units;

(F) The consent of the applicant to the physical inspection of the premises prior to the issuance of the administrative permit;

(G) Description and location of water and sanitary (sewer) services;

(H) An applicant signed declaration that the application for the second dwelling unit is not in conflict with existing conditions, covenants, and restrictions (CC&R's) applicable to the title of the subject property; and

1 (I) Any other information required by the Planning
2 Director for a proper review of the application.

3 (2) Administrative permit procedures: The
4 administrative permit for a second dwelling unit shall be
5 processed as follows:

6 (A) An applicant requesting an administrative
7 permit for a second dwelling unit shall so indicate at the time
8 the application is filed.

9 (B) Upon acceptance of a complete application and
10 payment of the required fees for a second dwelling unit, the
11 Planning Director shall give written notice by mail or personal
12 delivery to all property owners within three hundred feet of the
13 subject property, as shown on the latest equalized assessment
14 role, at least fifteen days prior to a decision on an application.

15 (C) Any person so notified may file written
16 objections or a written request to be heard within ten days after
17 the mailing or personal delivery of the notice. If a written
18 request to be heard is filed, the Planning Director shall schedule
19 a hearing and provide written notice to the applicant and the
20 request at least five days prior to the hearing. The hearing is
21 not a public hearing and may be informal.

22 (D) Notice of the Planning Director's decision on
23 an administrative application for a second dwelling unit shall be
24 mailed to the applicant within five days of the date of the
25 decision. If a hearing is held, he shall render his decision
26 within ten days of the conclusion of the hearing.

27 (E) The Planning Director shall announce his
28 decision and findings by letter to the applicant and the letter
shall recite, among other things, the facts and reasons which in
the opinion of the Planning Director make the granting or denial
of the administrative permit necessary to carry out the provisions
and general purpose of this title and whether the administrative
permit is granted or denied. It shall also notice such conditions
and limitations as the Planning Director may impose on the
granting of a permit. The letter shall be sent to any person who
requested or appeared at the hearing.

1 (F) Approval by the Planning Director of an
administrative permit for a second dwelling unit shall be given
only if the requirements of subsection (c)(3) are satisfied.

2 (G) Any decision of the Planning Director pursuant
to this Section may be appealed by any person to the Planning
Commission in accordance with Section 21.54.140 of this Code.

3 (H) Amendments to administrative permits for
second dwelling units may be considered on the same criteria and
under the same procedures as original applications pursuant to
this Section.

4 (3) Review of an administrative permit: In order to
grant an administrative permit for a second dwelling unit, the
following requirements must be met:

5 (A) ~~The owner of the property must continuously~~
6 ~~occupy either the main dwelling unit or the second dwelling unit.~~
7 ~~For purposes of this subsection, "owner" shall include a leasee, if~~
8 ~~the leasehold includes both the main dwelling and the second~~
9 ~~dwelling unit.~~

1 (B) The second dwelling unit shall either be
2 attached to the main dwelling unit and located within the
3 habitable area of the main dwelling unit or detached from the main
4 dwelling unit and located on the same lot as the main dwelling
5 unit.

6 (C) The second dwelling unit must meet the
7 setback, lot coverage, and other development standards applicable
8 to the zone, which are not addressed within this subsection.

9 (D) Attached second dwelling units shall conform
10 to the height limits applicable to the zone and detached second
11 dwelling units shall be limited to one story, except that second
12 dwelling units constructed above detached garages shall be
13 permitted, and shall conform to the height limits applicable to
14 the zone.

15 (E) Garage conversions are prohibited unless
16 replacement off-street garage parking is provided concurrently and
17 in compliance with the requirements of Chapter 21.44 of this
18 title.

19 (F) Second dwelling units shall not be permitted
20 on a lot or parcel having guest or accessory living quarters, or
21 a residential care facility. Existing guest or accessory living
22 quarters may be converted into a second dwelling unit provided
23 that all zoning and structural requirements are met.

24 (G) One additional paved off-street (covered or
25 uncovered) parking space shall be provided for the second dwelling
26 unit and shall comply with the requirements of Chapter 21.44 of
27 this title. The additional parking space may be provided through
28 tandem parking (provided that the garage is setback a minimum of
twenty feet from the property line) or in the front yard setback.

1 (H) Adequate water and sewer capacity and
facilities for the second dwelling unit must be available or made
available.

2 (I) All necessary public facilities and services
must be available or made available.

3 (J) The second unit may be rented and shall not be
4 sold separately from the main dwelling unit unless the lot on
5 which such units are located are subdivided. The lot upon which
6 the second unit is located shall not be subdivided unless each lot
7 which would be created by the subdivision will comply with the
8 requirements of this title and Title 20; and further provided,
9 that all structures existing on each proposed lot will comply with
10 the development standards applicable to each lot.

11 (K) The total area of floor space for an attached
12 or detached second unit shall not exceed 640 square feet.

13 (L) The second dwelling unit shall be
14 architecturally compatible with the main dwelling unit, in terms
15 of appearance, materials, and finished quality, and on sides
16 adjacent to streets, the appearance of a single family dwelling
17 shall be retained.

18 (M) A second dwelling unit which conforms to the
19 requirements of this section shall be allowed to exceed the
20 permitted density for the lot upon which it is located and shall
21 be deemed to be a residential use consistent with the density
22 requirements of the General Plan and the zoning designation for
23 the lot.

1 (N) The size of the lot upon which a second
dwelling unit is proposed shall not be less than the minimum lot
size required of the zone.

2 (O) The Planning Director shall not approve the
administrative permit unless he finds that the second dwelling
unit will not be materially detrimental to the public welfare or
injurious to the property or improvements in such vicinity and
zone in which the property is located.

3 (P) The maximum monthly rental rate for a second
dwelling unit shall be affordable to low income households. The
monthly rent shall not exceed an amount equal to 30 percent of the
gross monthly income of a low-income household, adjusted for
household size, at 80 percent of the San Diego County median
income.

4 (Q) The second dwelling unit shall have a separate
entrance.

5 SECTION 4: That Title 21, Chapter 21.08 of the Carlsbad
Municipal Code is amended by the addition of Section 21.08.015 to
read as follows:

6 "21.08.015. Second Dwelling Unit by Administrative Permit.
Second dwelling units may be permitted by an administrative
permit issued according to the provisions of Section 21.010.015 of
this Title. The development standards of this zone shall apply."

7 SECTION 5: That Title 21, Chapter 21.09 of the Carlsbad
Municipal Code is amended by the addition of Section 21.09.025 to
read as follows:

8 "21.09.025. Second Dwelling Unit by Administrative Permit.
Second dwelling units may be permitted by an administrative
permit issued according to the provisions of Section 21.010.015 of
this Title. The development standards of this zone shall apply."

9 SECTION 6: That Title 21, Chapter 21.38 of the Carlsbad
Municipal Code is amended by the addition of Section 21.38.025 to
read as follows:

10 "21.38.025. Second Dwelling Unit by Administrative Permit.
Second dwelling units may be permitted by an administrative
permit issued according to the provisions of Section 21.010.015 of
this Title in areas designated by a master plan for single-family
detached dwellings. For second dwelling units proposed on
standard lots (minimum 7500 sq.ft. in area) which are developed
with detached single family residences, the development standards
of Chapter 21.10 shall apply. For second dwelling units proposed

11 on substandard lots (less than 7500 sq.ft. in area) which are
developed with detached single family residences, the development
standards of Chapter 21.45 shall apply.

12 SECTION 7: That Title 21, Chapter 21.12 of the Carlsbad
Municipal Code is amended by the addition of Section 21.12.015 to
read as follows:

13 "21.12.015. Second Dwelling Unit by Administrative Permit.
Second dwelling units may be permitted by an administrative
permit issued according to the provisions of Section 21.010.015 of
this Title on lots which are developed with detached single-family
residences. The development standards of this zone shall apply."

14 SECTION 8: That Title 21, Chapter 21.16 of the Carlsbad
Municipal Code is amended by the addition of Section 21.16.017 to
read as follows:

15 "21.16.017. Second Dwelling Unit by Administrative Permit.
Second dwelling units may be permitted by an administrative
permit issued according to the provisions of Section 21.010.015 of
this Title on lots which are developed with detached single-family
residences. The development standards of this zone shall apply."

16 SECTION 9: That Title 21, Chapter 21.45, Section
21.45.090 of the Carlsbad Municipal Code is amended by the
addition of Subsection 21.45.090(p) to read as follows:

17 "(p) Second dwelling units may be permitted on
lots which are developed with detached single family residences
according to the provisions of Section 21.010.015(c), and subject
to the following additional requirements:

18 (1) All second dwelling units within a single
family residential planned unit development shall be required to
either be approved as part of the planned unit development
application or through an amendment to the planned unit
development application.

19 (2) All second dwelling units shall comply
with the development standards of this chapter with the following
exception:

20 (i) Second dwelling units shall be
setback the same distance from the front and side property lines
as the primary dwelling unit on the lot.

21 (ii) Second dwelling units shall be
setback a minimum of ten feet from the rear property line.

1 (iii) Second dwelling units shall not be
2 permitted to be located within any portion of the lot which is
3 counted towards satisfying recreation requirements for the primary
4 residence.

5 (iv) For detached second dwelling units,
6 the distance between the primary dwelling unit and the second
7 dwelling unit shall be not less than ten feet.

8 SECTION 10: That Title 21, Chapter 21.44, Section
9 21.44.020(a) of the Carlsbad Municipal Code is amended by the
10 amendment of Subsection (1) and (2) to read as follows:

11 "Residential.

12 (1) Standard-Single Family, R-1, R-A, E-A and RE zones.

13 Two car garage with the following exceptions:

14 One additional paved off-street (covered or
15 uncovered) parking space shall be provided for a second dwelling
16 unit and shall comply with the requirements of this Chapter. The
17 additional parking space may be provided through tandem parking
18 (provided that the garage is setback a minimum of twenty feet from
19 the property line) or the front yard setback."

20 (2) Planned Unit Developments and Condominiums --- Two
21 standard covered parking spaces. Exception: studio --- 1.5
22 spaces/unit, one covered/unit and second dwelling unit --- 1
23 space/second unit, covered or uncovered. The parking space for a
24 second dwelling unit may be provided through tandem parking
25 (provided that the covered parking spaces for the primary dwelling
26 unit are located within a two-car garage and the garage is setback
27 a minimum of twenty feet from the property line) or in the front
28 yard setback. In addition, parking areas for guest parking must
be provided as follows: 0.5 spaces for each unit up through ten
units, 0.3 spaces for each unit in excess of ten units. Credit
for visitor parking may be given for frontage on local streets
that meet public street standards for detached single-family
residential projects subject to the approval of the planning
commission; not less than twenty-four lineal feet per space
exclusive of driveway entrances and driveway aprons shall be
provided for each parking space, except where parallel parking
spaces are located immediately adjacent to driveway aprons, then
twenty lineal feet may be provided."

SECTION 11: That Title 21, Chapter 21.44, Section
21.44.050 of the Carlsbad Municipal Code is amended by the
amendment of Subsection (a)(1) to read as follows:

"(a) The following general requirements shall apply to all
parking spaces and areas:

(1) Size and Access. Each off-street parking space
shall have an area of not less than one hundred seventy square
feet exclusive of drives or aisles and a width of not less than
eight and one-half feet. Subject to the approval of the Planning

1 Director, up to a two-and-one-half foot overhang may be permitted.
2 Each space shall be provided with adequate ingress and egress.
3 Aisles to and from parking stalls shall not be less than:

(A) Fourteen feet wide for thirty and forty-five
degree parking;

(B) Twenty-four feet wide for ninety degree
parking.

(C) Twenty-four feet wide for ninety degree
parking.

Circulation within a parking area must be such
that a car entering the parking area need not enter a street to
reach another aisle and that a car need not enter a street
backwards. This provision shall not apply to off-street parking
required for one and two-family dwelling units.

When the required parking space for one-
family, two-family or multiple-family structure in any residential
zone is not to be provided in a covered garage, each such required
car space shall be not less than two hundred square feet in area
and shall be so located and/or constructed that it may later be
covered by a garage structure in accordance with the provisions of
this title, with the following exception: second dwelling unit."

SECTION 12: That Title 21, Chapter 21.08, Section
21.08.100 of the Carlsbad Municipal Code is amended by the
amendment of paragraph (1) to read as follows:

"(1) Each dwelling unit shall have a two-car garage,
with a minimum dimension of 20 feet square which is
architecturally integrated with and has an exterior similar to the
dwelling unit, with the following exceptions:

One additional paved off-street (covered or uncovered)
parking space shall be provided for a second dwelling unit and
shall comply with the requirements of Chapter 21.44 of this title.
The additional parking space may be provided through tandem
parking (provided that the garage is setback a minimum of twenty
feet from the property line) or in the front yard setback."

SECTION 13: That Title 21, Chapter 21.09 of the
Carlsbad Municipal Code is amended by the amendment of Section
21.09.140 to read as follows:

"21.09.140. Parking.

Notwithstanding parking requirements of Chapter 21.44, not
fewer than two off-street parking spaces shall be provided for
each residence. The required two spaces shall be covered by a
garage or carport, and the driveway adequately paved with either
concrete or asphalt cement prepared over adequate base. The
following is an exception to the two parking space requirement:

(1) One additional paved off-street (covered or uncovered)
parking space shall be provided for a second dwelling unit and
shall comply with the requirements of Chapter 21.44 of this title.

1 The additional parking space may be provided through tandem
2 parking (provided that the garage is setback a minimum of twenty
3 feet from the property line) or in the front yard setback."

4 SECTION 14: That Title 21, Chapter 21.09 of the
5 Carlsbad Municipal Code is amended by the amendment of Section
6 21.09.190, paragraph (1) to read as follows:

7 "(1) Each dwelling unit shall have a two-car garage,
8 with a minimum dimension of twenty feet square which is
9 architecturally integrated with and has an exterior similar to the
10 dwelling unit with the following exception:

11 One additional paved off-street (covered or uncovered)
12 parking space shall be provided for a second dwelling unit and
13 shall comply with the requirements of Chapter 21.44 of this title.
14 The additional parking space may be provided through tandem
15 parking (provided that the garage is setback a minimum of twenty
16 feet from the property line) or in the front yard setback."

17 SECTION 15: That Title 21, Chapter 21.10, Section
18 21.10.100 of the Carlsbad Municipal Code is amended by the
19 amendment of paragraph (1) to read as follows:

20 "(1) Each dwelling unit shall have a two-car garage,
21 with a minimum dimension of twenty feet square which is
22 architecturally integrated with and has an exterior similar to the
23 dwelling unit with the following exception:

24 One additional paved off-street (covered or uncovered)
25 parking space shall be provided for a second dwelling unit and
26 shall comply with the requirements of Chapter 21.44 of this title.
27 The additional parking space may be provided through tandem
28 parking (provided that the garage is setback a minimum of twenty
feet from the property line) or in the front yard setback."

SECTION 16: That Title 21, Chapter 21.45, Section
21.45.090 of the Carlsbad Municipal Code is amended by the
amendment of Subsection (c) to read as follows:

"(c) Resident Parking. All units must have at least two
full-sized covered residential parking spaces, except for studio
units which shall be provided with a ratio of 1.5 spaces per unit,
for which one space per unit shall be covered, and second dwelling
units which shall be provided with one space (covered or
uncovered) per second unit. The parking space for the second
dwelling unit may be provided through tandem parking (provided
that the covered parking spaces for the primary dwelling are
located within a two-car garage and the garage is setback a
minimum of twenty feet from the property line) or in the front
yard setback. In cases where a fractional parking space is

1 required. The required number of spaces shall be rounded to the
2 nearest highest whole number."

3 SECTION 17: That Title 21, Chapter 21.18 of the
4 Carlsbad Municipal Code is amended by the addition of Section
5 21.18.046 to read as follows:

6 ~~"21.18.046. Second Dwelling Unit by Administrative~~
7 ~~Permit. Second dwelling units may be permitted by an~~
8 ~~administrative permit issued according to the provisions of~~
9 ~~Section 21.010.015 of this title on lots which are developed with~~
10 ~~detached single-family residences. The development standards of~~
11 ~~this zone shall apply."~~

12 SECTION 18: That Title 21, Chapter 21.20 of the
13 Carlsbad Municipal Code is amended by the addition of Section
14 21.20.026 to read as follows:

15 ~~"21.20.026. Second Dwelling Unit by Administrative~~
16 ~~Permit. Second dwelling units may be permitted by an~~
17 ~~administrative permit issued according to the provisions of~~
18 ~~Section 21.010.015 of this title on lots which are developed with~~
19 ~~detached single family residences. The development standards of~~
20 ~~this zone shall apply."~~

21 SECTION 19: That Title 21, Chapter 21.22 of the
22 Carlsbad Municipal Code is amended by the addition of Section
23 21.22 to read as follows:

24 ~~"21.22.016. Second Dwelling Unit by Administrative~~
25 ~~Permit. Second dwelling units may be permitted by an~~
26 ~~administrative permit issued according to the provisions of~~
27 ~~Section 21.010.015 of this title on lots which are developed with~~
28 ~~detached single-family residences. The development standards of~~
this zone shall apply."

SECTION 20: That Title 21, Chapter 21.24 of the
Carlsbad Municipal Code is amended by the addition of Section
21.24.026 to read as follows:

~~"21.24.026. Second Dwelling Unit by Administrative~~
Permit. Second dwelling units may be permitted by an
administrative permit issued according to the provisions of
Section 21.010.015 of this title on lots which are developed with
detached single-family residences. The development standards of
this zone shall apply."

1 EFFECTIVE DATE: This ordinance shall be effective
2 thirty days after its adoption, and the City Clerk shall certify
3 to the adoption of this ordinance and cause it to be published at
4 least once in a newspaper of general circulation within the City
5 within fifteen days after its adoption.

6 INTRODUCED AND FIRST READ at a regular meeting of the
7 Carlsbad City Council on the 14th day of JUNE, 1994,
8 and thereafter

9 PASSED AND ADOPTED at a regular meeting of the City
10 Council of the City of Carlsbad on the 14th day of
11 JUNE, 1994, by the following vote, to wit:

12 AYES: Council Members Lewis, Stanton, Kulchin, Nygaard, Finnila
13 NOES: None
14 ABSENT: None
15

16 APPROVED AS TO FORM AND LEGALITY.

17
18 Ronald R. Ball
19 RONALD R. BALL, City Attorney
6/23/94

20
21 Charles A. Lewis
CHARLES A. LEWIS, Mayor

22 ATTEST:

23
24 Karen R. Kundt
KAREN R. KUNDT, Assistant City Clerk
25
26
27
28

1 RESOLUTION NO. 95-361

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 CARLSBAD, CALIFORNIA, APPROVING AN AMENDMENT TO
4 ALL SIX SEGMENTS OF THE CARLSBAD LOCAL COASTAL
5 PROGRAM TO ADD AFFORDABLE HOUSING POLICIES
6 DEALING WITH INCLUSIONARY HOUSING, DENSITY
7 BONUSES, SECOND DWELLING UNITS AND SENIOR HOUSING
8 AND ADOPT PREVIOUSLY APPROVED COMPANION
9 AFFORDABLE HOUSING ZONE CODE AMENDMENTS
10 IMPLEMENTING CARLSBAD'S LOCAL COASTAL PROGRAM.
11 CASE NAME: AFFORDABLE HOUSING II LOCAL COASTAL
12 PROGRAM AMENDMENT
13 CASE NO: LCPA 95-01

14 WHEREAS, California State Law requires that the Local Coastal Program,
15 General Plan, and Zoning designations for properties in the Coastal Zone be in
16 conformance;

17 WHEREAS, a verified application for an amendment to the Local Coastal
18 Program, as shown on Exhibits "LCPA 95-01-1" and "LCPA 95-01-2", dated October 4,
19 1995, attached to Planning Commission Resolution No. 3773 and incorporated by reference
20 on file with the City Clerk; and

21 WHEREAS, said verified application constitutes a request for a Local
22 Coastal Program Amendment, as provided in Public Resources Code Section 30574 and
23 Article 15 of Chapter 8, Subchapter 2, Division 5.5, Title 14 of the California Code of
24 Regulations (California Coastal Commission Administrative Regulations); and

25 WHEREAS, the City Council did on the 19th day of DECEMBER 1995,
26 hold a duly noticed public hearing as prescribed by law to consider the proposed Local
27 Coastal Program Amendment shown on Exhibits "LCPA 95-01-1" and "LCPA 95-01-2",
28 dated October 4, 1995, attached hereto; 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

1 considered all factors relating to the Local Coastal Program Amendment.

2 WHEREAS, State Coastal Guidelines require a six week public review
3 period for any amendment to the Local Coastal Program.

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

- 6 A. That the foregoing recitations are true and correct.
7
8 B. At the end of the State mandated six week review period, starting
9 June 8, 1995, and ending on July 21, 1995, no public comments have
10 been received.
11
12 C. That based on the evidence presented at the public hearing, the
13 Council APPROVES LCPA 95-01, as shown on Exhibits "LCPA 95-
14 01-1" and "LCPA 95-01-2", dated October 4, 1995, attached to
15 Planning Commission Resolutions No. 3773 and made a part hereof
16 based on the following findings:

17 Findings:

- 18 1. The proposed Local Coastal Program Amendment is consistent with all applicable
19 policies of the City of Carlsbad Local Coastal Program in that any affordable
20 housing within the Coastal Zone processed pursuant to these new affordable
21 housing policies and amended regulations, shall be required to be consistent with
22 all applicable LCP development standards, policies and provisions.
23
24 2. That the proposed amendment is required to maintain consistency between the
25 City's General Plan, zoning code and Local Coastal Program.
26
27 3. The Planning Director has found that, the environmental effects of this project have
28 already been considered in conjunction with previously certified environmental
documents (Negative Declarations) and, therefore, a Notice of Prior Compliance
has been issued on August 23, 1995.

1 PASSED, APPROVED AND ADOPTED at a regular meeting of the City
2 Council of the City of Carlsbad, California, on the 19th day of DECEMBER, 1995,
3 by the following vote, to wit:

4 AYES: Council Members Lewis, Kulchin, Finnilla, Hall

5 NOES: None

6 ABSENT: Council Member Nygaard

7 ABSTAIN: None

8
9
10 
11 CLAUDE A. LEWIS, Mayor

12 ATTEST:

13
14 
15 ALTHEA RAUTENKRANTZ, City Clerk
16 KAREN R. KUNTZ, Assistant City Clerk

17 (SEAL)
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LCP POLICIES

This exhibit includes the proposed affordable housing policy text additions (in redline format) for each of the City's six Local Coastal Program segments (i.e., Mello I, Mello II, Agua Hedionda Land Use Plan, Village Redevelopment Area, East Batiquitos Lagoon/Hunt Properties and West Batiquitos Lagoon/Sammis Properties).

MELLO I

2. STANDARD PACIFIC

Policy 1 - Maximum Density of Development

The Standard Pacific property shall be designated for a medium density residential development with a maximum density of 7 dwelling units per gross acre (See Exhibit 2.1). The property shall be developed using the City's RD-M (Residential-Multiple Zone) or PC (Planned Community) in effect at the date of certification. An overlay zone shall be established incorporating the Coastal Act requirements contained herein (See Exhibit 3.). All permitted uses in the underlying zone shall be conditional uses in the overlay zone. Divisions of land and other developments as defined in the Coastal Act shall be in accord with the requirements of the Policies contained herein. Poinsettia Lane shall be extended only as generally shown on the PRC Toups land use map (See Exhibit 2.1) to the eastern boundary of the site. The location of Poinsettia Lane is in no way determined by this Local Coastal Program (LCP), however, this LCP is not intended to preclude access to agricultural areas to the east.

POLICY 1(B) - AFFORDABLE HOUSING

In order to enable the development of a variety of housing types (i.e., lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities for lower income and senior citizen households, the City will implement an inclusionary housing mandate, which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e., density increases, density bonuses (consistent with State Government Code Sections 65915 and 65915.5) and development standards modifications).

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable

to lower income households. In those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

3. OCCIDENTAL LAND, INC.

- d. If, by December 1, 1980, the landowners of the Occidental parcels record an irrevocable offer to dedicate an agricultural conservation easement or a similar instrument providing for certain protection of agricultural land, over the 57 acre and 22 acre parcels north of Poinsettia Lane, development may be allowed on the 25 acres of Class III soils (See Exhibit 4.2) located immediately east of Paseo del Norte, and at the 28 acres of soil below Class IV in the same parcel of up to 7 units per acre. Said conservation easement or similar instrument shall be free of all prior liens and encumbrances, shall be executed in favor of the People of the State of California, and shall bind the landowners and successors in interest. Said easement may include a term which states that the Commission may modify the easement at its sole discretion if the Commission determines that such modification would be essential to implement the remainder of the Carlsbad LCP.

POLICY 1(B) - AFFORDABLE HOUSING

In order to enable the development of a variety of housing types (i.e., lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities for lower income and senior citizen households, the City will implement an inclusionary housing mandate, which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e., density increases, density bonuses (consistent with State Government Code Sections 65915 and 65915.5) and development standards modifications).

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable to lower income households. In those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

4. RANCHO LA COSTA

POLICY 1 - LAND USES

1. Development of the property may occur only under the provisions of the Pacific Rim Country Club and Resort Master Plan, and shall be subject to the requirements of Policy 2 "Agriculture/Planned Development".
2. The land uses allowed by the Master Plan shall be compatible with the City of Carlsbad General Plan as amended and as adopted as of March 1, 1988, to provide a combination of residential, commercial (including visitor serving) and open space uses.
3. Residential density permitted through the Master Plan shall not exceed that allowed by the City of Carlsbad General Plan as of March 1, 1988, except as allowed by Policy 6 below.
4. All land uses and intensity of use shall be compatible with the protection of sensitive coastal resources.
5. Land use intensity shall be consistent with that allowed by the Carlsbad Growth Management Ordinance (Chapter 21.90, Carlsbad Municipal Code) as adopted as of March 1, 1988 except that any increase in the total number of dwelling units proposed in the Master Plan (2836) shall require review and approval of the Coastal Commission through the LCP amendment process.
6. In order to enable the development of a variety of housing types (i.e. lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities for lower income and senior citizen households, the City will implement an inclusionary housing mandate, which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e. density increases, density bonuses (consistent with State Government Code Sections 65915 and 65915.5) and development standards modifications).

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable to lower income households. In those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

MELLO II

1. ALLOWABLE LAND USES

Policy 1-2 Affordable Housing

In order to enable the development of a variety of housing types (i.e. lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities for lower income and senior citizen households, the City will implement an inclusionary housing mandate, which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e. density increases, density bonuses (consistent with State Government Code Sections 65915 and 65915.5) and development standards modifications).

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable to lower income households. In those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

AGUA HEDIONDA LAND USE PLAN

1.9 - Building height shall be limited to a maximum of 35 feet. Building setbacks and lot coverage shall be regulated by the applicable zoning designation, except as specifically modified in this plan.

1.10 - The 45 acre parcel owned by SDG&E located on the south shore immediately east of the freeway shall be designated TS, Travel Services. Conversion of the property to commercial development shall be subject to a future specific plan and the applicable policies relating to agricultural conversion. A future specific plan will be required by the city for development of the property.

1.12 - In order to enable the development of a variety of housing types (i.e. lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities for lower income and senior citizen households, the City will implement an inclusionary housing mandate, which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e. density increases, density bonuses (consistent with State Government Code Sections 65915 and 65915.5) and development standards modifications).

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable to lower income households. In those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

VILLAGE REDEVELOPMENT AREA

The Design Review Board shall promote the effective interdependence for the urban core's several areas by advocating the establishment of pedestrian linkages between the seven sub-areas. These linkages, where feasible, should take the form of landscaped paths or arcades.

VII. DEVELOPMENT GUIDELINES FOR THE VILLAGE REDEVELOPMENT AREA

Compliance with City Regulations

Except as indicated herein, all proposals for projects in the Village Redevelopment Area shall comply with all normal City development regulations pertaining to zoning and land use.

Affordable Housing

In order to enable the development of a variety of housing types (i.e., lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities for lower income and senior citizen households, the City will implement an inclusionary housing mandate, which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e., density increases, density bonuses (consistent with State Government Code Sections 65915 and 65915.5) and development standards modifications).

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable to lower income households. In those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

Lot Coverage

All buildings, including accessory buildings and structures, and all parking areas and driveways, should not cover more than eighty percent (80%) of the net lot area.

EAST BATIOQUITOS LAGOON/HUNT PROPERTIES

I. AFFORDABLE HOUSING

In order to enable the development of a variety of housing types (i.e., lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities for lower income and senior citizen households, the City will implement an inclusionary housing mandate, which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e., density increases, density bonuses (consistent with State Government Code Sections 65915 and 65915.5) and development standards modifications).

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable to lower income households. In those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

WEST BATIOQUITOS LAGOON/SAMMIS PROPERTIES

9. Master Plan Approval. The Batiquitos Lagoon Master Plan as adopted by the Carlsbad City Council Ordinance No. 9778 is approved as the Implementing Ordinance for this Land Use Plan. The Master Plan shall be amended to implement the Agricultural Mitigation Fee. The amendment may be certified by the Commission Executive Director without further Commission action. Upon certification by the Executive Director this portion of the Carlsbad Local Coastal Program shall be deemed certified.

10. AFFORDABLE HOUSING

In order to enable the development of a variety of housing types (i.e., lower income dwelling units, second dwelling units and senior citizen housing), which provide housing opportunities

for lower income and senior citizen households, the City will implement an inclusionary housing mandate which all residential development will be subject to, and offer a variety of economic incentives to the development community (i.e. density increases, density bonuses (consistent with State Government Code Sections 65915 and 65915.5) and development standards modifications).

The inclusionary housing mandate requires that a minimum of 15% of all units approved in any residential master plan, specific plan, or residential project shall be made affordable to lower income households. If those residential developments which are required to include 10 or more units affordable to lower income households, at least 10% of the lower income units should have 3 or more bedrooms. An in-lieu fee may meet the requirement to construct lower income housing for residential developments of fewer than 7 units.

ORDINANCE NO. NS-232

1 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
2 CARLSBAD, CALIFORNIA, AMENDING TITLE 21 OF THE
3 CARLSBAD MUNICIPAL CODE BY THE ADDITION OF
4 CHAPTER 21.85 TO ESTABLISH REQUIREMENTS FOR THE
5 RESERVATION AND AFFORDABILITY OF HOUSING UNITS
6 FOR LOWER-INCOME HOUSEHOLDS IN RESIDENTIAL
7 PROJECTS UNDER A CITY WIDE INCLUSIONARY HOUSING
8 PROGRAM AND THE PAYMENT OF AN IN-LIEU FEE OR
9 INCLUSIONARY HOUSING IMPACT FEE IN SPECIFIED
10 CIRCUMSTANCES.

11 APPLICANT: CITY OF CARLSBAD
12 CASE NO: ZCA 91-6

13 WHEREAS, Government Code Section 65588(b) requires local jurisdictions to
14 revise their Housing Elements every five years; and

15 WHEREAS, the City of Carlsbad has revised its Housing Element for the period July
16 1991 through June 1996; and

17 WHEREAS, Government code Section 65584(a) requires localities to address the
18 Regional Share housing needs for persons of all income levels in their Housing Elements;
19 and

20 WHEREAS, the City's Regional Share needs are 2,509 Lower-income units of a
21 projected 6,273 total dwelling units needed over a five year period; and

22 WHEREAS, based upon the needs analysis included within its revised Housing
23 Element, the City of Carlsbad finds that Carlsbad is experiencing a lack of housing
24 affordable to lower-income households; and

25 WHEREAS, the City of Carlsbad's lower-income Fair Share Housing objective
26 (minimum good faith effort of guaranteed units) is 1125 low-income units; and

27 WHEREAS, the City's revised Housing Element includes objectives for the provision
28 of 1400 lower-income units (275 units in excess of the Fair Share requirement), and of
the 1400 lower-income units, the City has committed to producing 350 lower-income
units through City initiated development; and

1 WHEREAS, the remaining 1050 lower-income units would have to be provided
2 through some other means; and

3 WHEREAS, due to economic and market conditions, the private market has not
4 produced in the past, nor is likely to produce in the future, an adequate amount of
5 housing units affordable to lower income households to meet the remaining balance of
6 the City's lower-income Fair Share need (1050 units); and

7 WHEREAS, continued new residential development which does not include nor
8 contribute toward the lower cost of housing for lower income households will only serve
9 to further aggravate the current affordable housing shortage; and

10 WHEREAS, new residential development which does not include nor contribute
11 housing for lower income households creates a need for affordable lower income housing
12 by: reducing the supply of residential land upon which affordable housing could have
13 been developed, and increasing population, which creates a demand for typical
14 community services (stores, dry cleaners, gas stations), which are staffed by lower wage
15 employees, who create a demand for lower income housing; and

16 WHEREAS, over the next 5 years, there is an actual need (Regional Need) for 2509
17 lower income units out of a projected 6,273 total dwelling units needed; and

18 WHEREAS, new market rate residential development creates a significant portion
19 of this need; and

20 WHEREAS, the 15% lower-income inclusionary requirement represents 1050 lower-
21 income units which is less than one-half of the actual (Regional Need) need over the next
22 5 years and therefore bears a reasonable relationship to the need created by new
23 residential development; and

24 WHEREAS, the mandatory Inclusionary Housing Program was identified within the
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2 CARLSBAD, CALIFORNIA, AMENDING TITLE 21 OF THE
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7 PROJECTS UNDER A CITY WIDE INCLUSIONARY HOUSING
8 PROGRAM AND THE PAYMENT OF AN IN-LIEU FEE OR
9 INCLUSIONARY HOUSING IMPACT FEE IN SPECIFIED
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16 1991 through June 1996; and

17 WHEREAS, Government code Section 65584(a) requires localities to address the
18 Regional Share housing needs for persons of all income levels in their Housing Elements;
19 and

20 WHEREAS, the City's Regional Share needs are 2,509 Lower-income units of a
21 projected 6,273 total dwelling units needed over a five year period; and

22 WHEREAS, based upon the needs analysis included within its revised Housing
23 Element, the City of Carlsbad finds that Carlsbad is experiencing a lack of housing
24 affordable to lower-income households; and

25 WHEREAS, the City of Carlsbad's lower-income Fair Share Housing objective
26 (minimum good faith effort of guaranteed units) is 1125 low-income units; and

27 WHEREAS, the City's revised Housing Element includes objectives for the provision
28 of 1400 lower-income units (275 units in excess of the Fair Share requirement), and of
the 1400 lower-income units, the City has committed to producing 350 lower-income
units through City initiated development; and

1 WHEREAS, the remaining 1050 lower-income units would have to be provided
2 through some other means; and

3 WHEREAS, due to economic and market conditions, the private market has not
4 produced in the past, nor is likely to produce in the future, an adequate amount of
5 housing units affordable to lower income households to meet the remaining balance of
6 the City's lower-income Fair Share need (1050 units); and

7 WHEREAS, continued new residential development which does not include nor
8 contribute toward the lower cost of housing for lower income households will only serve
9 to further aggravate the current affordable housing shortage; and

10 WHEREAS, new residential development which does not include nor contribute
11 housing for lower income households creates a need for affordable lower income housing
12 by: reducing the supply of residential land upon which affordable housing could have
13 been developed, and increasing population, which creates a demand for typical
14 community services (stores, dry cleaners, gas stations), which are staffed by lower wage
15 employees, who create a demand for lower income housing; and

16 WHEREAS, over the next 5 years, there is an actual need (Regional Need) for 2509
17 lower income units out of a projected 6,273 total dwelling units needed; and

18 WHEREAS, new market rate residential development creates a significant portion
19 of this need; and

20 WHEREAS, the 15% lower-income inclusionary requirement represents 1050 lower-
21 income units which is less than one-half of the actual (Regional Need) need over the next
22 5 years and therefore bears a reasonable relationship to the need created by new
23 residential development; and

24 WHEREAS, the mandatory Inclusionary Housing Program was identified within the
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1 City's revised Housing Element as the best program available to the City to achieve the
2 remaining balance of the City's Fair Share objective for lower-income units; and

3 WHEREAS, the 15% lower-income inclusionary housing requirement will ensure
4 that the remaining balance of the City's Fair Share objectives (lower-income) can be
5 achieved; and

6 WHEREAS, based upon an assumed rate for projected residential development
7 between 1991 and 1996, the imposition of 15% low-income inclusionary housing
8 requirement on future residential development is necessary to achieve the City's Fair
9 Share and Regional Share objectives; and

10 WHEREAS, the 15% lower-income inclusionary housing requirement is necessary
11 to ensure conformance with the Housing Element of the City's General Plan; and will
12 protect the health, safety and welfare of its citizens; and

13 WHEREAS, City staff, in association with an Ad Hoc Committee of master plan and
14 in-fill residential builders and non-profit builders, prepared an economic study of the
15 development of affordable housing within the City of Carlsbad; and

16 WHEREAS, the economic study concludes that while the proposed inclusionary
17 housing requirement, would create an additional economic burden on the private
18 development community, the development of housing affordable to low income
19 households is achievable through cooperative partnerships between the development
20 community, non-profit organizations, and the City; and

21 Whereas, the City's Housing Element identifies programs to provide technical,
22 financial, and standards flexibility incentives to facilitate inclusionary housing
23 development.

24 ...

1 The City Council of the City of Carlsbad, California does ordain as follows:

2 SECTION 1: That Title 21 of the Carlsbad Municipal Code is amended by the
3 addition of Chapter 21.85 to read as follows:

4 Chapter 21.85

5 INCLUSIONARY HOUSING

6 Sections:

7	21.85.010	Purpose and Intent.
8	21.85.020	Definitions.
9	21.85.030	Applicability of Inclusionary Housing Requirement.
10	21.85.040	Construction of Required Inclusionary Units.
11	21.85.050	In-lieu Contributions.
12	21.85.060	Inclusionary Housing Impact Fee.
13	21.85.070	Regulations for New Master Plans or Specific Plans (Approved After the Effective Date of This Ordinance).
14	21.85.080	Regulations for Existing Master Plans and Specific Plans (Approved On or Before the Effective Date of This Ordinance).
15	21.85.090	Regulations for Residential Subdivisions Not Subject to Master Plan or Specific Plan.
16	21.85.100	Regulations for Mobile Home Parks.
17	21.85.110	Combined Inclusionary Housing Projects.
18	21.85.120	Affordable Housing Standards.
19	21.85.130	Incentives to Offset the Cost of Affordable Housing Development.
20	21.85.140	Preliminary Project Application and Review Process.
21	21.85.150	Inclusion of Affordable Housing Agreement as a Condition of Development.
22	21.85.160	Inclusionary Housing Resale Agreement.
23	21.85.170	Eligibility Requirements.
24	21.85.180	Management and Monitoring.
25	21.85.190	Collection of Fees.
26	21.85.200	Separability of Provisions

27 21.85.010. Purpose and Intent.

28 (a) It is an objective of the City, as established by the Housing Element of the City's General Plan, to ensure that all master planned and specific planned communities and all residential subdivisions provide a range of housing opportunities for all identifiable economic segments of the population, including households of lower and moderate income. (i) It is also the policy of the City to:

(1) Require that a minimum of 15% of all approved residential units in any master plan, specific plan, or residential subdivision be restricted to and affordable by lower-income households;

1 (2) Require that for those developments which provide 10 or more units
2 affordable to lower-income households, at least 10% of the lower-income units should
3 have three or more bedrooms; and

4 (3) In specific cases, allow inclusionary requirements to be satisfied through
5 the payment of an in-lieu fee as an alternative to requiring inclusionary units to be
6 constructed on the ground.

7 (4) Require existing, unbuilt residential subdivisions and subdivision
8 proposals with completed applications as of the effective date of this ordinance to pay a
9 housing impact fee to satisfy the inclusionary housing requirement.

10 (b) It is the purpose of this Chapter to ensure the implementation of the City
11 objective and policy stated in subsections (a).

12 (c) Nothing in this Chapter is intended to create a mandatory duty on behalf
13 of the City or its employees under the Government Tort Claims Act and no cause of action
14 against the City or its employees is created by this Chapter that would not arise
15 independently of the provisions of this Chapter.

21.85.020. Definitions.

16 Whenever the following terms are used in this Chapter, they shall have the
17 meaning established by this section:

18 (1) "Affordable housing" means housing for which the allowable housing
19 expenses paid by a qualifying household shall not exceed a specified fraction of the
20 gross monthly income, adjusted for household size, for the following classes of housing:

21 A. Very low-income, unassisted and assisted (State and/or Federal)
22 rental and unassisted and assisted (State and/or Federal) for-sale units: 30 percent of the
23 gross monthly income, adjusted for household size, at 50 percent of the County median
24 income.

25 B. Low-income, unassisted rental and unassisted for-sale units: 30
26 percent of the gross monthly income, adjusted for household size, at 80 percent of the
27 County median income.

28 C. Low-income, assisted (State and/or Federal) rental units: 30
percent of the gross monthly income, adjusted for household size, at 60 percent of the
County median income.

D. Low-income, assisted (State and/or Federal) for-sale units: 30
percent of the gross monthly income, adjusted for household size, at 70 percent of the
County median income.

(2) "Affordable housing agreement" means a legally binding agreement
between a developer and the City to ensure that the inclusionary requirements of this
Chapter are satisfied. The agreement establishes the number of required inclusionary
units, the unit sizes, location, affordability tenure, terms and conditions of affordability
and unit production schedule.

(3) "Allowable housing expense" means the total monthly or annual
recurring expenses required of a household to obtain shelter. For a for-sale unit, allowable
housing expenses include loan principal, loan interest, property and mortgage insurance,
property taxes, home owners association dues and a reasonable allowance for utilities.
For a rental unit, allowable housing expenses include rent, a reasonable allowance for
utilities.

(4) "Assisted (State and/or Federal) unit" means a dwelling unit as defined
in Section 50055 of the California Health and Safety Code.

(5) "Base residential units" means a number of units associated with each
master plan, specific plan, plan phase, or individual development within a master or
specific plan or residential subdivision from which are calculated the lower-income
inclusionary units to be provided in conjunction with that master plan, specific plan,
phase or development or residential subdivision.

(6) "Combined inclusionary housing project" means separate residential
development sites which are linked by a contractual relationship such that some or all
of the inclusionary units which are associated with one development site are produced
and operated at the alternative development site or sites.

(7) "Conversion" means the change of occupancy of a dwelling unit from
owner-occupied to rental or vice versa.

(8) "Density bonus (new residential construction)" means a minimum
density increase of at least twenty-five percent (25%) over either the Growth
Management Control Point of the applicable General Plan designation, as defined in
Section 21.90.045 of this Title, or the otherwise maximum allowable residential density
as specified by the applicable master plan or specific plan, at the time of application.

(9) "Existing Master Plan or Specific Plan" means any master plan or
specific plan approved on or before the effective date of this ordinance.

(10) "Financial assistance" means such assistance to include but not be
limited to the subsidization of fees, infrastructure, land costs, or construction costs, the
use of redevelopment set-aside funds or Community Development Block Grant (CDBG)
funds, or the provision of other direct financial aid, such as cash transfer payments or
other monetary compensation, by the City of Carlsbad.

(11) "Growth Management Control Point" shall have the same meaning as
Chapter 21.90, Section 21.90.045 of this Title.

(12) "Incentives" means such regulatory concessions to include but not be
limited to a density increase, the modification of site development standards or zone code
requirements, approval of mixed use zoning in conjunction with the residential project,
or any other regulatory incentive which would result in an identifiable cost reduction to
enable the provision of affordable housing for lower-income households.

(13) "Inclusionary housing project" means a new residential development
or conversion of existing residential buildings which has at least fifteen percent (15%) or
five percent (5%) of the total units reserved and made affordable to lower-income
households or moderate-income households, respectively, as required by this Chapter.

(14) "Inclusionary unit" means a dwelling unit that will be offered for rent
or sale exclusively to and which shall be affordable to lower-income households, as
required by this Chapter.

(15) "Income" means any monetary benefits that qualifies as income in
accordance with the criteria and procedures used by the City of Carlsbad Housing and
Redevelopment Department for the acceptance of applications and recertifications for the
Section 8 Rental Assistance Program, or its successor.

(16) "Low-income household" means those households whose gross income
is more than 50 percent but does not exceed 80 percent of the median income for San
Diego County as determined annually by the U.S. Department of Housing and Urban
Development.

1 (17) "Lower-income household" means low-income and very low-income
2 households, whose gross income does not exceed 80 percent of the median income for
3 San Diego County as determined annually by the U.S. Department of Housing and Urban
4 Development.

5 (18) "Market-rate unit" means a dwelling unit where the rental rate or sales
6 price is not restricted either by this Chapter or by requirements imposed through other
7 local, state, or federal affordable housing programs.

8 (19) "Net developable acreage (for base residential unit calculations)"
9 means the total number of acres of a subject property minus those lands considered to
10 be undevelopable, as listed in Section 21.53.230 of this Code.

11 (20) "New Master Plan or Specific Plan" means any master plan or specific
12 plan approved after the effective date of this ordinance.

13 (21) "Target income level" means the income standards for very low, and
14 low-income levels within San Diego County as determined annually by the U.S.
15 Department of Housing and Urban Development, and adjusted for family size.

16 (22) "Unassisted unit" means a dwelling unit regarding which no form of
17 assistance has been received from a public body in the production, occupancy and use of
18 said dwelling unit.

19 (23) "Very low-income household" means a household earning a gross
20 income equal to 50 percent or less of the median income for San Diego County as
21 determined annually by the U.S. Department of Housing and Urban Development.

22 21.85.030. Applicability of Inclusionary Housing Requirement.

23 (a) This Chapter shall apply to all residential market rate dwelling units resulting
24 from new construction of rental and "for-sale" projects, as well as the conversion of
25 apartments to air-space condominiums within:

26 (1) New master plans or specific plans (approved after the effective date
27 of this Ordinance);

28 (2) Existing master plans or specific plans (approved on or before the
effective date of this Ordinance) with or without development entitlements (i.e., tentative
maps, final maps, building permits);

(3) Residential subdivisions not located within any master plan or specific
plan area; and

(4) Mobile home developments; and

(5) Tentative maps for the conversion of apartments to air-space
condominiums.

(b) Notwithstanding the foregoing, this Chapter shall not apply to the following:

(1) Those residential units of a project for which building permits have
been issued as of the effective date of this Ordinance;

(2) Existing residences which are altered, improved, restored, repaired,
expanded or extended, provided that the number of units is not increased, however, this
Chapter shall pertain to the subdivision of land for the conversion of apartments to air-
space condominiums;

(3) The construction of a new residential structure which replaces a
residential structure that was destroyed or demolished within two years prior to the
application for a building permit for the new residential structure, provided that the
number of residential units is not increased from the number of residential units of the
previously destroyed or demolished residential structure;

(4) Any residential unit which is accessory as defined in Section 21.04.020
of this Code, the development of which is deemed by the City to be in the public interest;
or

(5) Those residential units for which, consistent with this Chapter, an
Affordable Housing Agreement has been approved by the City, and a deed restriction
recorded restricting the units as affordable for households of lower-income or moderate-
income.

5 21.85.040. Construction of Required Inclusionary Units.

6 (a) For the following classes of residential projects or permits, for which the
7 application is deemed complete on or after the effective date of this Ordinance, the
8 inclusionary housing requirements for lower-income households shall be satisfied through
9 the construction of new units:

10 (1) Any residential project (i.e.; tentative map, tentative map for the
11 conversion of apartments to air-space condominiums, site development plan, planned unit
12 development, redevelopment permit, residential mobile home park permit or conditional
13 use permit) of seven (7) or more dwelling units, for which the application for said project
14 was deemed complete on or after the effective date of this ordinance. Projects of seven
15 (7) or more dwelling units, that have been approved prior to the effective date of this
16 ordinance and that require, as a condition of approval, the processing of subsequent site
17 development plans, shall be subject to the requirements of Chapter 21.85.060 and each
18 dwelling unit will meet the inclusionary requirements by payment of an inclusionary
19 housing impact fee.

20 (2) Any residential tentative map revision, including a tentative map
21 revision for the conversion of apartments to air-space condominiums, of seven (7) or
22 more dwelling units, for which the application is deemed complete on or after the
23 effective date of this Ordinance.

24 (3) Any residential tentative map of seven (7) or more dwelling units, for
25 which the tentative map application was deemed complete on or following the effective
26 date of this ordinance, and is subsequently approved for extension after the effective date
27 of this ordinance.

28 (4) Any residential planned unit development, site development plan,
conditional use permit, residential mobile home park permit or redevelopment permit for
seven (7) or more dwelling units, for which the original project application was deemed
complete on or following the effective date of this ordinance, and is subsequently
approved for amendment after the effective date of this Ordinance.

(b) Notwithstanding, any contrary provisions of Sections 21.85.070, 21.85.080,
21.85.090, and 21.85.100, at the sole discretion of the final decision making authority
of the City, the City may determine that an alternative to the construction of new
inclusionary units is acceptable, which shall be required to be processed through an
Affordable Housing Agreement, consistent with Section 21.85.150 of this Chapter.

(c) In determining the number of inclusionary units that are required to be built
pursuant to the standards of Section 21.85.070 (New Master/Specific Plans), Section
21.85.080 (Existing Master/Specific Plans), Section 21.85.090 (Residential Subdivisions),
and Section 21.85.100 (Mobile Home Parks), fractional units that result from the
formulas contained in these sections may be satisfied by the developer, at the discretion
of the developer, by either of the following alternatives:

1 (1) The fractional inclusionary unit shall be treated as a whole inclusionary
2 unit (i.e.: any resulting fraction shall be rounded up to the next larger integer) and the
3 inclusionary unit shall be built pursuant to the provisions of these sections, or

4 (2) The fractional inclusionary unit shall not be included in the number of
5 units otherwise required to be built pursuant to the provisions of these sections, but the
6 developer shall pay to the City, within 90 calendar days of the hearing date granting
7 approval of the requested discretionary permits, an amount of money equal to the fraction
8 times the average subsidy needed to make affordable to a lower-income household, as
9 appropriate, one newly-constructed typical attached housing unit, as set forth in Section
10 21.85.050 (b) of this Chapter.

11 21.85.050. In-lieu Contributions.

12 (a) For the following classes of residential projects or permits, for which the
13 application was deemed complete on or after the effective date of this Ordinance, the
14 inclusionary housing requirement for lower-income households may be met by the
15 payment to the City of an in-lieu fee or other in-lieu contributions.

16 (1) Any residential project (i.e.: tentative map, tentative map for the
17 conversion of apartments to air-space condominiums, parcel map, planned unit
18 development, site development plan, conditional use permit, residential mobile home park
19 permit or redevelopment permit) of six (6) dwelling units or less, for which the
20 application is deemed complete on or after the effective date of this Ordinance.

21 (2) Any residential tentative map or parcel map revision, including a
22 tentative map revision for the conversion of apartments to air-space condominiums, of six
23 (6) dwelling units or less, for which the application is deemed complete on or after the
24 effective date of this Ordinance.

25 (3) Any residential tentative map or parcel map of six (6) dwelling units
26 or less, for which the map application was deemed complete on or after the effective date
27 of this Ordinance, and is subsequently approved for extension after the effective date of
28 this Ordinance.

(4) Any residential planned unit development, site development plan,
conditional use permit, residential mobile home park permit or redevelopment permit for
six (6) dwelling units or less, for which the application is deemed complete on or after
the effective date of this Ordinance, and is subsequently approved for amendment after
the effective date of this Ordinance.

(5) Development of 6 (six) or fewer new mobile home pads in a mobile
home park, for which the application is deemed complete on or after the effective date
of this Ordinance.

(b) The in-lieu fee to be paid for each market-rate dwelling unit shall be 15
percent of the subsidy needed to make affordable to a lower-income household one
newly-constructed, typical attached-housing unit. This subsidy shall be based upon the
City's determination of the average subsidy that would be required to make affordable
typical, new two-bedroom/one-bath and three-bedroom/two-bath for-sale units and two-
bedroom/one-bath and three-bedroom/two-bath rental units, each with an assumed
affordability tenure of at least 30 years.

(c) The dollar amount and method of payment of the in-lieu fees shall be fixed
by a schedule adopted, from time to time, by resolution of the City Council. Said fee
shall be assessed against the market rate units/pads of a development.

(d) All in-lieu fees collected hereunder shall be deposited in a Housing Trust Fund.
1 Said fund shall be administered by the City and shall be used only for the purpose of
2 providing funding assistance for the provision of affordable housing and reasonable costs
3 of administration consistent with the policies and programs contained in the Housing
4 Element of the General Plan.

(e) At the discretion of the City Council, an irrevocable dedication of land or
4 other non-monetary contribution of a value not less than the sum of the otherwise
5 required in-lieu fee may be accepted in-lieu of providing the required affordable housing
6 units or in-lieu fees. The valuation of any land offered in-lieu shall be determined by an
7 appraisal made by an agent mutually agreed upon by the City and the developer. Costs
8 associated with the appraisal shall be borne by the developer.

(f) Where an applicant/developer is authorized to pay a fee in-lieu of development
9 of affordable housing units, approval of qualifying parcel maps, tentative maps, site
10 development plans, planned unit developments, residential mobile home park permits,
11 redevelopment permits or conditional use permits listed in subsection 21.85.050(a) shall
12 be conditioned upon a requirement to pay the in-lieu fee in an amount established by
13 resolution of the City Council in effect at the time of payment.

(g) As an alternative to paying required in-lieu fee(s), inclusionary housing
14 requirements may be satisfied either through a combined inclusionary housing project,
15 pursuant to Section 21.85.110 of this Chapter or new construction of required
16 inclusionary units, pursuant to Section 21.85.040 of this Chapter.

17 21.85.060. Inclusionary Housing Impact Fee.

18 (a) For the following classes of residential projects, for which the application is
19 deemed complete before the effective date of this Ordinance, the inclusionary housing
20 requirement for lower-income households may be met by the payment to the City of an
21 inclusionary housing impact fee.

22 (1) Residential projects, of any size, establishing individual lots or dwelling
23 units (i.e.: parcel maps, tentative maps, tentative maps for the conversion of apartments
24 to air-space condominiums, site development plans, planned unit developments,
25 conditional use permits, residential mobile home park permits, and redevelopment
26 permits), for which the application was accepted and deemed complete or approved prior
27 to the effective date of this Ordinance.

28 (2) Single family residential projects, (i.e.: parcel maps and tentative maps)
of any size, for which all discretionary approvals, except site development plans, were
granted on or before the effective date of this Ordinance and site development plans are
subsequently required as a condition of the prior approval and are approved after the
effective date of this Ordinance.

(3) Any residential tentative map or parcel map revision, including a
tentative map revision for the conversion of apartments to air-space condominiums, of any
size, for which the application was deemed complete prior to the effective date of this
ordinance and is approved on, before or after the effective date of this Ordinance.

(4) Any residential tentative map or parcel map for which the application
was deemed complete before the effective date of this Ordinance, which was approved
on, before or after the effective date of this Ordinance, and is subsequently approved for
extension on, before, or after the effective date of this Ordinance.

(5) Any residential planned unit development, site development plan, conditional use permit, residential mobile home park permit or redevelopment permit, for which the application was deemed complete before the effective date of this ordinance, which was approved on, before, or after the effective date of this Ordinance, and is subsequently approved for amendment on, before, or after the effective date of this Ordinance.

(b) Those residential projects which were approved on or before the effective date of this Ordinance, and for which a condition of approval was to pay inclusionary in-lieu fees shall instead pay a housing impact fee, in accordance with this Section.

(c) The housing impact fee to be paid for each market-rate dwelling unit shall be 15 percent of the subsidy needed to make affordable to a lower-income household the market-rate rent at a typical existing apartment for a period of 30 years. This subsidy shall be based upon the City's determination of the average subsidy that would be required to make affordable rents for typical one-, two-, three-, and four-bedroom apartments. The average subsidy shall be weighted for the actual demand for housing, by number of bedrooms, as determined by the applications for lower-income affordable housing qualified and approved by the City.

(d) The dollar amount of the inclusionary housing impact fee shall be fixed by a schedule adopted, from time to time, by resolution of the City Council. Said fee shall be assessed against the market rate units of a development.

(e) The inclusionary housing impact fee shall be paid, as an individual fee, on a per market-rate dwelling unit basis at the time of building permit issuance, or prior to the recordation of final map and/or issuance of certificate of compliance for conversions of existing apartments to airspace condominiums.

(f) All housing impact fees collected hereunder shall be deposited in a Housing Trust Fund. Said fund shall be administered by the City and shall be used only for the purpose of providing funding assistance for the provision of affordable housing and reasonable costs of administration consistent with the policies and programs contained in the Housing Element of the General Plan.

21.85.070. Regulations for New Master Plans or Specific Plans. (Approved after the effective date of this Ordinance.)

(a) This Chapter requires the following:

(1) Not less than fifteen percent (15%) of all base residential units in any new master plan or specific plan shall be set aside for occupancy by and shall be affordable to lower-income households.

(b) For those developments which are required to provide ten or more units affordable to lower income households, at least ten percent of the lower income units shall have three or more bedrooms.

(c) The inclusionary housing requirement for lower-income households in a new master plan or new specific plan may not be met by the payment to the City of an in-lieu fee, other in-lieu contributions or inclusionary housing impact fee, with the exception that any resulting fractional inclusionary unit may be satisfied through the payment of a fee, as set forth in Section 21.85.040(c) of this Chapter.

(d) All new master plans and specific plans are required by this Chapter to provide an Inclusionary Housing Plan within the master plan or specific plan document. This Inclusionary Housing Plan will include appropriate text, maps, tables, or figures to establish the basic framework for implementing the requirements of this Chapter. It shall

establish, as a minimum, but not be limited to, the following:

(1) The total number of base residential units of the master plan or specific plan;

(2) The number of required inclusionary units for lower-income households over the entire master plan or specific plan;

(3) The designated sites for the location of the inclusionary units, including but not limited to any sites for locating off-site inclusionary housing projects or combined inclusionary housing projects;

(4) A phasing schedule for production of inclusionary units; and

(5) A general provision stipulating that an Affordable Housing Agreement shall be made a condition of all future discretionary permits for development within the Master or Specific Plan area (i.e. tentative maps, parcel maps, planned unit developments and site development plans). The provision shall establish that all relevant terms and conditions of any Affordable Housing Agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project which are designated for the location of inclusionary units. The Affordable Housing Agreement shall be consistent with Section 21.85.150 of this Chapter.

(6) The location and phasing of inclusionary dwelling units may be modified as a minor amendment to the Master Plan pursuant to Section 21.38.120 of this Title.

(e) For the purpose of determining the number of required lower-income inclusionary units in new master plans and specific plans, the following standards shall apply:

(1) The number of required lower-income inclusionary units shall be obtained by the following formula:

$$\text{Lower-Income Inclusionary units} = \text{"base"} \times 0.15.$$

(f) The base for a new master plan or specific plan is determined by multiplying the net developable acreage of the project site times the growth management control point(s) for the project site's applicable general plan designation(s). If in the course of reviewing a new master plan or specific plan, the final decision making authority of the City determines that the base residential yield of the new master plan or specific plan cannot be achieved, then the base shall be equal to the maximum number of units actually approved by the final decision making authority of the City. If a density bonus is or subsequently becomes awarded, the increased density is not included in the base when determining the number of required inclusionary units relative to the base project yield.

21.85.080. Regulations for Existing Master Plans and Specific Plans. (Approved on or before the effective date of this Ordinance.)

(a) This Chapter requires the following:

(1) Not less than fifteen percent (15%) of all base residential units in any existing master plan or specific plan shall be set aside for occupancy by and shall be affordable to lower-income households.

(b) For those developments which are required to provide ten or more units affordable to lower-income households, at least ten percent of the lower-income units shall have three or more bedrooms.

(c) All existing master plans or specific plans proposed for major amendment, pursuant to Section 21.38.120 of this Code, shall incorporate into the amended master plan or specific plan document an Inclusionary Housing Plan, consistent with Section 21.85.070 (d) of this Chapter.

(d) Consistent with Sections 21.85.040 and 21.85.050 of this Chapter, certain classes of projects or permits within an existing master plan or specific plan may satisfy their inclusionary housing requirement for lower-income households through the payment to the City of an in-lieu fee or other in-lieu contributions.

(e) Consistent with Section 21.85.060 of this Chapter, certain classes of projects or permits within an existing master plan or specific plan may satisfy their inclusionary housing requirement through the payment of an inclusionary housing impact fee.

(f) For the purpose of determining the number of required lower-income inclusionary units in an existing master plan or specific plan, the following standards shall apply:

(1) The number of required lower-income inclusionary units shall be obtained by the following formula:

$$\text{Lower-Income Inclusionary units} = \text{"base"} \times 0.15.$$

(g) The base for an existing master plan or existing specific plan shall be equal to the sum of the maximum number of dwelling units permitted under that existing master plan or specific plan for all phases or individual developments within the existing master plan or specific plan. If a density bonus is or subsequently becomes awarded, the increased density is not included in the base when determining the number of required inclusionary units relative to the base project yield. The base for existing master plan or specific plan phases and developments shall not be less than the maximum number of dwelling units permitted for that phase or development in the existing master plan or specific plan, except for the following specific development phases of an existing master plan or specific plan:

(1) Where building permits were issued, on or before the effective date of this Ordinance, for the construction of new dwelling units approved in a master plan or specific plan phase or individual development area, the number of dwelling units approved via said permits shall be subtracted from the base as otherwise determined for that phase or individual development.

(2) Where a tentative map or final map (which establishes individual residential lots or dwelling units) for any phase or individual development area of a master plan or specific plan was either approved, on or before the effective date of this Ordinance, or the application for said tentative map was received and deemed complete by the Planning Department, before the effective date of this ordinance, and the number of approved dwelling units is less than the maximum number of dwelling units permitted in the master plan or specific plan, then the base shall be equal to the number of dwelling units actually approved on the tentative map or final map for that phase or individual development of the master plan or specific plan.

(3) For any phase or individual development area of a master plan or specific plan for which a tentative map (which establishes individual residential lots or dwelling units) has not been deemed complete or approved, before the effective date of this ordinance, the base shall be equal to the maximum number of dwelling units permitted under that master plan or specific plan for that phase or individual development area. If in the course of reviewing a phase or individual development area of a master or specific plan, the final decision making authority of the City determines that the

maximum number of dwelling units permitted for a phase or individual development area of a master plan or specific plan cannot be achieved, then the base shall be equal to the maximum number of units actually approved by the final decision making authority of the City.

(h) An Affordable Housing Agreement shall be made a condition of all future discretionary permits for development within the master or specific plan area (i.e. tentative maps, parcel maps, planned unit developments and site development plans). The relevant terms and conditions of the Affordable Housing Agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project which are designated for the location of inclusionary units. The Affordable Housing Agreement shall be consistent with Section 21.85.150 of this Chapter.

21.85.090. Regulations for Residential Subdivisions Not Subject to Master Plan or Specific Plan.

(a) This Chapter requires the following:

(1) Not less than fifteen percent (15%) of all base residential units in any residential subdivision shall be set aside for occupancy by and shall be affordable to lower-income households.

(b) Consistent with Sections 21.85.040 and 21.85.050 of this Chapter, certain residential subdivisions may satisfy their inclusionary housing requirement for lower-income households through the payment to the City of an in-lieu fee or other in-lieu contributions.

(c) Consistent with Section 21.85.060 of this Chapter, certain residential subdivisions may satisfy their inclusionary housing requirement through the payment to the City of an inclusionary housing impact fee.

(d) For the purpose of determining the number of required lower-income inclusionary units the following standards shall apply:

(1) The number of required lower-income inclusionary units shall be obtained by the following formula:

$$\text{Lower-Income Inclusionary units} = \text{"base"} \times 0.15.$$

(e) For those developments which are required to provide ten or more units affordable to lower-income households, at least ten percent of the lower-income units shall have three or more bedrooms.

(f) The base for a residential subdivision is determined by multiplying the net developable acreage of the project site times the growth management control point(s) for the project site's applicable general plan designation(s). If in the course of reviewing a residential subdivision project, the final decision making authority of the City determines that the base residential yield of the project site cannot be achieved, then the base shall be equal to the maximum number of units actually approved by the final decision making authority of the City. If a density bonus is or subsequently becomes awarded, the increased density is not included in the base when determining the number of required inclusionary units relative to the base project yield.

(g) Where a residential subdivision was either approved on or before the effective date of this ordinance, or the application for said residential subdivision was received and deemed complete by the Planning Department, before the effective date of this ordinance, and the number of approved dwelling units is less than the base number of dwelling units achievable, then the base shall be equal to the number of dwelling units actually approved on the residential subdivision.

(h) An Affordable Housing Agreement shall be made a condition of the discretionary permits for development of the residential subdivision (i.e. tentative maps, parcel maps, planned unit developments and site development plans). The relevant terms and conditions of the Affordable Housing Agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project which are designated for the location of inclusionary units. The Affordable Housing Agreement shall be consistent with Section 21.85.150 of this Chapter.

21.85.100. Regulations for Mobile Home Parks.

(a) This Chapter requires the following:

(1) Not less than fifteen percent (15%) of all base mobile home coaches and/or pads in any mobile home park shall be set aside for occupancy by and shall be affordable to lower-income households.

(b) The development of (6) six or fewer new mobile home pads in a mobile home park may meet their inclusionary housing requirement for lower-income households by the payment to the City of an in-lieu fee or other in-lieu contributions, consistent with Sections 21.85.040 and 21.85.050 of this Chapter.

(c) For the purpose of determining the number of required lower-income inclusionary units the following standards shall apply:

(1) The number of required lower-income inclusionary units shall be obtained by the following formula:

$$\text{Lower-income Inclusionary units} = \text{"base"} \times 0.15.$$

(d) For those developments which are required to provide ten or more units affordable to lower-income households, at least ten percent of the lower-income units shall have three or more bedrooms.

(e) The base for a mobile home development is determined by multiplying the net developable acreage of the project site times the growth management control point(s) for the project site's applicable general plan designation(s). If in the course of reviewing a mobile home project, the final decision making authority of the City determines that the base residential yield of the project site cannot be achieved, then the base shall be equal to the maximum number of units actually approved by the final decision making authority of the City. If a density bonus is or subsequently becomes awarded, the increased density is not included in the base when determining the number of required inclusionary units relative to the base project yield.

(f) An Affordable Housing Agreement shall be made a condition of the discretionary permits for development of the mobile home park (i.e. tentative maps, residential mobile home park permits, or conditional use permits). The relevant terms and conditions of the Affordable Housing Agreement shall be filed and recorded as a deed restriction on those individual pads or units of a project which are designated for the location of inclusionary units. The Affordable Housing Agreement shall be consistent with Section 21.85.150 of this Chapter.

21.85.110. Combined Inclusionary Housing Projects.

Circumstances may arise from time to time in which the public interest would be served by allowing some or all of the inclusionary units associated with one residential project site to be produced and operated at an alternative site or sites. Where the parties in interest to the sites and the City form an agreement to such an effect, the resulting linked project sites shall be considered to be a single combined inclusionary housing

project. It is the exclusive prerogative of the final decision making authority of the City to determine whether or not it is in the public interest to authorize the residential sites to form a combined inclusionary housing project.

All agreements between parties to form a combined inclusionary housing project shall be made a part of the Housing Agreement (Section 21.85.150 of this Code) required for the sites.

21.85.120. Affordable Housing Standards.

(a) Notwithstanding a developer's request to process a residential project under Chapter 21.86 (Residential Density Bonus) of this Code, all residential projects are subject to and must satisfy the inclusionary housing requirements of this Chapter.

(b) The required inclusionary units shall be constructed concurrent with market rate units unless both the final decision making authority of the City and developer agree within the Affordable Housing Agreement to an alternative schedule for development.

(c) Inclusionary rental units shall remain restricted and affordable to the designated income group for the useful life of the project or housing unit, assuming good faith efforts to maintain the project or housing unit and rehabilitate it as necessary.

(d) After the initial sale of the inclusionary for-sale units to the designated income group, inclusionary for-sale units shall remain affordable for their useful life; or if subsequently sold at a market price to other than targeted households, the sale shall result in the recapture of the City's financial interest in the units, for use in assisting other eligible households.

(e) Inclusionary units should be built on-site and whenever reasonably possible, be distributed throughout the project site.

(f) In certain cases where a combined inclusionary housing project is proposed, the inclusionary units may be provided on a site separate from the site of the market-rate units. Construction of the inclusionary units is limited to sites within the same City quadrant in which the market-rate units are located or sites which are contiguous to the quadrant in which the market rate units are proposed. Where the required inclusionary units are located within a master or specific plan area, the first priority for location of the alternative site is within the same master or specific plan, followed by the same Local Facilities Management Zone. In the event that a Local Facilities Management Zone crosses City quadrants, the required inclusionary units shall be located within the same City quadrant in which the market-rate units are located.

(g) Inclusionary units restricted for lower-income households should be located on sites that are in proximity to or will provide access to employment opportunities, urban services, or major roads or other transportation and commuter rail facilities (i.e. freeways, bus lines) and that are compatible with adjacent land uses.

(h) With the approval of the final decision making authority of the City, the developer/applicant may reduce both the size and amenities of the inclusionary units provided that all units conform to the requirements of the applicable building and housing codes. The design of the inclusionary units shall be reasonably consistent or compatible with the design of the total project development in terms of appearance, materials and finished quality.

(i) Inclusionary projects shall provide a mix of affordable dwelling units (by number of bedrooms) in response to affordable housing demand priorities of the City, whenever feasible.

(j) No building permit shall be issued, nor any development approval granted for a development which does not meet the requirements of this chapter. No inclusionary unit shall be rented or sold except in accordance with this chapter.

21.85.130. Incentives to Offset the Cost of Affordable Housing Development.

The inclusionary housing regulations established by this Chapter are a portion of the requirements which must be met by parties wishing City approvals for the construction of residential developments in the City of Carlsbad. The City shall in good faith consider making available to the development industry incentives or financial assistance to enable residential projects to provide affordable housing to lower-income households. Incentives or financial assistance will be offered by the City to the extent that resources for this purpose are available to the City and approved for such use by the City Council, and to the extent that the residential projects, with the use of incentives or financial assistance, assists in achieving the City's housing goals. To the degree that the City makes available programs to provide incentives or financial assistance to the development industry, developers may make application for such incentives or assistance. However, nothing in this Chapter establishes, directly or through implication, a right for a developer to receive any assistance or incentive from the City or any other party or agency to enable him/her to meet the obligations established by this Chapter. Projects are entitled to density bonuses and/or other incentives in accordance with provisions of state law, pursuant to the provisions of Chapter 21.86. of this code. Any incentives provided by the final decision making authority of the City and the allowable housing expenses established by the final decision making authority of the City shall be set out within the Affordable Housing Agreement pursuant to Section 21.85.150. Furthermore, developers are encouraged to utilize local, state or federal assistance, when available, to meet the affordability standards set forth in Section 21.85.020 (1).

21.85.140. Preliminary Project Application and Review Process.

(a) An applicant/developer proposing an inclusionary housing project, shall submit a preliminary application to the Planning Director prior to the submittal of any formal applications for such housing development. The preliminary application shall include the following information:

- (1) A brief description of the proposal including the number of inclusionary units proposed;
- (2) The Zoning, General Plan designations and assessors parcel number(s) of the project site;
- (3) A site plan, drawn to scale, which includes: building footprints, driveway and parking layout, building elevations, existing contours and proposed grading; and
- (4) A letter identifying what specific incentives (i.e.; standards modifications, density bonus or fee subsidies) are being requested of the City. Justification for each incentive request should also be included.

(b) Within thirty days of receipt of the preliminary application by the Planning Director for projects not requesting incentives or financial assistance, or ninety days for projects requesting incentives or financial incentives, the department shall provide to an applicant/developer, a letter which identifies project issues of concern, the incentives and/or financial assistance that the Planning Director can support when making a recommendation to the final decision-making authority, and the procedures for

compliance with this Chapter. The applicant shall also be provided with a copy of this Chapter and related policies, the pertinent sections of the California Codes to which reference is made in this Chapter and all required application forms.

21.85.150. Inclusion of Affordable Housing Agreement as a Condition of Development.

(a) Applicants/developers, subject to this Chapter, shall demonstrate compliance with this Chapter by the preparation and approval of an Affordable Housing Agreement. A draft Affordable Housing Agreement shall be submitted by the applicant to the City. The terms of the draft Agreement shall be reviewed by the Planning Director and Director of Housing and Redevelopment, who shall formulate a recommendation and refer the matter to the Community Development Director or his designee for final approval. Following the approval and the signing by all parties the completed Affordable Housing Agreement shall be recorded, and the relevant terms and conditions therefrom filed and recorded as a deed restriction on those individual lots or units of a property which are designated for the location of affordable unit. The approval and recordation shall take place prior to final map approval or, where a map is not being processed, prior to the issuance of building permits for such lots or units. The Affordable Housing Agreement shall be binding to all future owners and successors in interest.

(b) An Affordable Housing Agreement, for which the inclusionary housing requirement will be satisfied through new construction of inclusionary units, either on-site, off-site or through a combined inclusionary housing project, shall establish, but not be limited to, the following:

- (1) The number of inclusionary dwelling units proposed;
- (2) The unit size(s) (square footage) of the inclusionary units and the number of bedrooms per inclusionary dwelling unit;
- (3) The proposed location of the inclusionary units;
- (4) Tenure of affordability for inclusionary units (30 year minimum);
- (5) Schedule for production of dwelling units;
- (6) Incentives and/or financial assistance provided by the City;
- (7) Where applicable, terms and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for affordable inclusionary dwelling units;
- (8) Where applicable, terms and conditions governing the initial sale of for-sale inclusionary units; and
- (9) Standards modifications granted by the City.

(c) An Affordable Housing Agreement, for which the inclusionary housing requirement will be satisfied through payment to the City of any in-lieu contributions other than fee monies (i.e. land dedication) shall be required to include the following:

- (1) The method, schedule and value of total in-lieu contributions; and
- (2) A determination of otherwise required per market-rate dwelling unit in-lieu fees as established by the schedule in effect at the time of payment.

(d) An Affordable Housing Agreement will not be required for projects which will be satisfying their inclusionary housing requirement through payment to the City of an in-lieu fee or inclusionary housing impact fee.

1 21.85.160. Inclusionary Housing Resale Agreement.

2 All buyers of for-sale inclusionary units shall enter into an Inclusionary Housing
3 Resale Agreement with the City's Housing Authority prior to purchasing the unit or
4 property. The Resale Agreement shall specify that the title to the subject unit or property
5 may not be transferred without prior approval of the City's Housing Authority.

6 21.85.170. Eligibility Requirements.

7 Only households meeting the standards for designated lower income groups as
8 defined in Section 21.85.020 shall be eligible to occupy inclusionary units.

9 21.85.180. Management and Monitoring.

10 (a) Inclusionary rental units shall be managed/operated by the owner of the units
11 or his or her agent. Each owner of inclusionary rental units shall submit an annual report
12 to the City, at the end of the previous calendar year, identifying which units are
13 inclusionary units, the monthly rent, vacancy information for each inclusionary rental unit
14 for the prior year, monthly income for tenants of each inclusionary rental unit throughout
15 the prior year, and other information as required by the City, while ensuring the privacy
16 of the tenant.

17 21.85.190. Collection of fees.

18 All fees collected under this Chapter shall be deposited into a Housing Trust Fund
19 and shall be expended only for the affordable housing needs of lower-income households,
20 and reasonable costs of administration consistent with the purpose of this Chapter.

21 21.85.200. Separability of Provisions.

22 If any provision of this chapter or the application thereof to any person or
23 circumstances is held invalid, the remainder of the chapter and the application of the
24 provision to other persons not similarly situated or to other circumstances shall not be
25 affected thereby.

26 EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption,
27 and the City Clerk shall certify to the adoption of this ordinance and cause it to be
28 published at least once in the Carlsbad Sun within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council
on the 13th day of April, 1993, and thereafter.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of


1 Carlsbad on the 20th day of APRIL, 1993, by the following vote, to wit:

2 AYES: Council Members Lewis, Stanton, Kulchin

3 NOES: None

4 ABSENT: Council Members Nygaard, Finnila

5 APPROVED AS TO FORM AND LEGALITY

6 
7
8 RONALD R. BALL, City Attorney
9 4.22.93.


CLAUDE A. LEWIS, Mayor

10 ATTEST:

11
12 
13 ALETHA L. RAUTENKRANZ, City Clerk

ORDINANCE NO. NS-233

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING TITLE 21 OF THE CARLSBAD MUNICIPAL CODE BY THE ADDITION OF CHAPTER 21.86 TO ESTABLISH REQUIREMENTS FOR THE RESERVATION AND AFFORDABILITY OF HOUSING UNITS FOR LOWER-INCOME AND MODERATE-INCOME HOUSEHOLDS AND SENIOR CITIZENS IN RESIDENTIAL PROJECTS UNDER A CITY WIDE DENSITY BONUS PROGRAM. APPLICANT: CITY OF CARLSBAD
CASE NO: ZCA 91-05

WHEREAS, the California Government Code Section 65915 permits a developer of a residential project of five (5) or more units on a specific site to request that the project be granted either a minimum 25% density bonus and at least one additional incentive or concession, or incentives of equivalent financial value for the purpose of providing affordable housing for very low-income or low-income households or for qualifying (senior) residents; and

WHEREAS, the California Government Code Section 65915.5 permits a developer proposing to convert apartments to condominiums, to request that the project be granted a minimum 25% density bonus or other incentives of equivalent financial value, in exchange for reserving a specific percentage of the converted condominium units for lower or moderate-income households; and

WHEREAS, the California Government Code Sections 65915 and 65915.5 require that local jurisdictions adopt an ordinance which establishes the procedure for implementing the density bonus/incentive program;

WHEREAS, it is a program of the Housing Element of the City's General Plan to prepare an Ordinance which implements State Government Code Sections 65915 and 65915.5.

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

SECTION 1: That Title 21 of the Carlsbad Municipal Code is amended by the addition of Chapter 21.86 to read as follows:

Chapter 21.86

RESIDENTIAL DENSITY BONUS OR IN-LIEU INCENTIVES

Sections:

21.86.010	Purpose and Intent
21.86.020	Definitions
21.86.030	Regulations for New Residential Construction
21.86.040	Regulations for Condominium Conversions
21.86.050	Combined Density Bonus Housing Projects
21.86.060	Density Bonus, Equivalent In-lieu Incentives, and Additional Incentives
21.86.070	Density Bonus Housing Standards
21.86.080	Expiration of Affordability Tenure
21.86.090	Density Bonus or In-lieu Incentive Application and Review Process
21.86.100	Inclusion of Density Bonus Housing Agreement as a Condition of Development
21.86.110	Density Bonus Resale Agreement
21.86.120	Eligibility Requirements
21.86.130	Management and Monitoring
21.86.140	Administrative Fee for Target Dwelling Units
21.86.150	Separability of Provisions

21.86.010. Purpose and Intent.

The public good is served when there exists in a city, housing which is appropriate for the needs of and affordable to all members of the public who reside within that city. Among other needs, there is in Carlsbad a need for housing affordable to lower-income households and senior citizens. Therefore, it is in the public interest for the City to promote the construction of such additional housing through the exercise of its powers and the utilization of its resources.

(a) It is the purpose of this Chapter to provide incentives to developers for the production of housing affordable to lower-income households, moderate-income households and senior citizens.

(b) It is the purpose of this Chapter to implement the goals, objectives, and policies of the Housing Element of the City's General Plan.

(c) It is the purpose of this Chapter to implement Sections 65915 - 65917, of the California Government Code.

(d) Nothing in this chapter is intended to create a mandatory duty on behalf of the City or its employees under the Government Tort Claims Act and no cause of action against the City or its employees is created by this chapter that would not arise independently of the provisions of this chapter.

21.96.020. Definitions.

Whenever the following terms are used in this Chapter, they shall have the meaning established by this section:

(1) "Additional incentive(s)" means any incentive(s) that is offered in addition to the twenty-five percent (25%) density bonus.

(2) "Affordable housing (Density Bonus)" means housing for which the allowable housing expenses paid by a qualifying household shall not exceed a specified fraction of the gross monthly income, adjusted for household size, for the following classes of housing:

A. Very low-income, rental and for-sale units: 30 percent of the gross monthly income, adjusted for household size, at 50 percent of the County median income.

B. Low-income, rental units: 30 percent of the gross monthly income, adjusted for household size, at 60 percent of the County median income.

C. Low-income, for-sale units: 30 percent of the gross monthly income, adjusted for household size, at 70 percent of the County median income.

D. Moderate-income, for-sale units: 35 percent of the gross monthly income, adjusted for household size, at 110 percent of the County median income.

(3) "Allowable Housing Expense" means the total monthly or annual recurring expenses required of a household to obtain shelter. For a for-sale unit, allowable housing expenses include loan principal, loan interest, property and mortgage insurance, property taxes, home owners association dues and a reasonable allowance for utilities. For a rental unit, allowable housing expenses include rent, and a reasonable allowance for utilities.

(4) "Combined density bonus housing project" means separate residential development sites which are linked by a contractual relationship such that some or all of the target dwelling units and/or density bonus dwelling units which are associated with one development site are produced and operated at an alternative development site or sites.

(5) "Conversion" means the change of occupancy of a dwelling unit from owner-occupied to rental or vice versa.

(6) "Density bonus (condominium conversions)" means a minimum increase of at least twenty-five percent (25%) over the number of apartments within the existing structure or structures proposed for conversion.

(7) "Density Bonus (new residential construction)" means a minimum density increase of at least twenty-five percent (25%) over either the Growth Management Control Point of the applicable General Plan designation, as defined in Section 21.90.045 of this Title, or the otherwise maximum allowable residential density as specified by the applicable master plan or specific plan, at the time of application.

(8) "Density bonus dwelling units" means those residential units granted pursuant to the provisions of this Chapter which are above the maximum allowable residential yield of the project site.

(9) "Density Bonus Housing Agreement" means a legally binding agreement between a developer and the City to ensure that the density bonus requirements of this Chapter are satisfied. The agreement establishes the number of target dwelling units and density bonus dwelling units, the unit sizes, location, affordability tenure, terms and conditions of affordability and unit production schedule.

(10) "Growth Management Control Point" shall have the same meaning as Chapter 21.90, Section 21.90.045 of this Title.

(11) "Housing Development" means a new residential development or conversion of existing residential building(s) of five (5) or more residential dwelling units.

(12) "In-lieu Incentives" means incentives offered by the City, which are of equivalent financial value based upon the land cost per dwelling unit(s), that are offered in-lieu of the twenty-five percent (25%) density bonus and additional incentive.

(13) "Incentives" means such regulatory concessions as stipulated in State Government Code Section 65915(h), to include, but not be limited to the reduction of site development standards or zone code requirements, approval of mixed use zoning in conjunction with the housing project, or any other regulatory incentive which would result in identifiable cost reductions to enable the provision of housing for lower-income households and qualifying residents.

(14) "Income" means any monetary benefits that is determined as income in accordance with the criteria and procedures used by the City of Carlsbad Housing and Redevelopment Department for the acceptance of applications and recertifications for the Section 8 Rental Assistance Program, or its successor.

(15) "Low-income Household" means those households whose gross income is more than 50 percent but does not exceed 80 percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

(16) "Lower-income Household" means low-income and very low-income households, whose gross income does not exceed 80 percent of the area median income.

(17) "Market-rate Unit" means a dwelling unit where the rental rate or sales price is not restricted either by this Chapter or by requirements imposed through other local, state, or federal affordable housing programs.

(18) "Maximum allowable residential yield" means the maximum number of residential units permitted on the project site, which number of units is calculated by multiplying the net developable acreage of the project site times the growth management control point(s) for the project site's applicable residential General Plan designation(s).

(19) "Moderate-income Household" means those households whose gross income is more than 80 percent but does not exceed 120 percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

(20) "Partial Density Bonus" means a density bonus less than twenty-five percent (25%).

(21) "Qualifying Resident" means a resident as defined in Section 51.2 of the California Civil Code.

(22) "Target Dwelling Unit" means a dwelling unit that will be offered for rent or sale exclusively to and which shall be affordable to the designated income group or qualified (senior) resident, as required by this Chapter.

(23) "Target Income Level" means the income standards for very low, low and moderate-income levels within San Diego County as determined annually by the U.S. Department of Housing and Urban Development, and adjusted for family size.

(24) "Very Low-income Household" means a household earning a gross income equal to 50 percent or less of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.

21.86.030. Regulations for New Residential Construction.

(a) The City shall grant either: a density bonus and at least one additional incentive, as set forth in Section 21.86.060(c), or in-lieu incentives of equivalent financial value, as set forth in Section 21.86.060(c) to an applicant or developer of a housing development of at least five (5) units, who agrees to construct the following:

(1) A minimum of twenty percent (20%) of the total units of the housing development as restricted and affordable to low-income households, or

(2) A minimum of ten percent (10%) of the total units of the housing development as restricted and affordable to very low income households; or

(3) A minimum of fifty percent (50%) of the total units of the housing development as restricted to qualified (senior) residents.

(b) In determining the number of density bonus dwelling units to be granted pursuant to the standards of this Section, the maximum allowable residential yield for the site, shall be multiplied by 0.25. Any resulting decimal fraction shall be rounded to the next larger integer.

(c) In determining the number of target dwelling units to be reserved pursuant to the standards of this Section, the maximum allowable residential yield shall be multiplied by either 0.10, 0.20 or 0.50, for very low-income households, low-income households or qualified residents, respectively. The density bonus shall not be included when determining the number of housing units which is equal to ten percent (10%), twenty percent (20%), or fifty percent (50%) of the total units of the housing development. Any resulting decimal fraction shall be rounded to the next larger integer.

(d) In cases where a density increase of less than twenty-five percent (25%) is requested, no reduction will be allowed in the number of target dwelling units required.

(e) In cases where a density increase of more than twenty-five percent (25%) is requested, the requested density increase is an additional density bonus and shall be considered an additional incentive, in accordance to Section 21.86.060(c) of this Chapter. The final decision making authority of the City may at its discretion grant an additional density bonus if a written finding is made by the final decision making authority of the City that the additional density bonus is required in order for allowable housing expenses to be set as affordable. The City in granting an additional density bonus may require some portion of the additional density bonus to be designated as target dwelling units.

(f) In cases where the developer agrees to construct both twenty percent (20%) of the total units for low-income households and ten percent (10%) of the total units for very low-income households, the developer is entitled to only one density bonus and at least one additional incentive.

(g) A Density Bonus Housing Agreement shall be made a condition of the discretionary permits (i.e.; tentative maps, parcel maps, planned unit developments, condominium permits, site development plans and redevelopment permits) for all housing developments that request a density bonus and additional incentives or in-lieu incentives. The relevant terms and conditions of the Density Bonus Housing Agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project development which are designated for the location of target dwelling units. The Density Bonus Housing Agreement shall be consistent with Section 21.86.100 of this Chapter.

21.86.040. Regulations for Condominium Conversions.

(a) The City shall grant either: a density bonus, or in-lieu incentives of equivalent financial value, as set forth in Section 21.86.060(c), to an applicant or developer proposing

to convert apartments to condominiums, and who agrees to provide the following:

(1) A minimum of thirty-three percent (33%) of the total units of the housing development as restricted and affordable to low-income or moderate-income households; or

(2) A minimum of fifteen percent (15%) of the total units of the housing development as restricted and affordable to lower-income households.

(b) An applicant/developer proposing to convert apartments to condominiums shall be ineligible for a density bonus or in-lieu incentives under this Section if the apartments proposed for conversion constitute a housing development for which a density bonus or in-lieu incentives were previously provided under this Chapter.

(c) In determining the number of density bonus dwelling units to be granted pursuant to the standards of this Section, the number of existing apartment units within the structure or structures proposed for conversion shall be multiplied by 0.25. Any resulting decimal fraction shall be rounded to the next larger integer.

(d) In determining the number of target dwelling units to be reserved pursuant to the standards of this Section, the number of existing apartment units within the structure or structures proposed for conversion shall be multiplied by either 0.33 or 0.15, for low or moderate-income households or lower-income households, respectively. The density bonus shall not be included when determining the number of housing units which is equal to thirty-three percent (33%) or fifteen percent (15%) of the total units of the housing development. Any resulting decimal fraction shall be rounded to the next larger integer.

(e) In cases where a density increase of less than twenty-five percent (25%) is requested, no reduction will be allowed in the number of target dwelling units required.

(f) A Density Bonus Housing Agreement shall be made a condition of the discretionary permits (tentative maps, parcel maps, planned unit developments and condominium permits) for all condominium conversion proposals that request a density bonus or in-lieu incentives. The relevant terms and conditions of the Density Bonus Housing Agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project development which are designated for the location of target dwelling units. The Density Bonus Housing Agreement shall be consistent with Section 21.86.100 of this Chapter.

21.86.050. Combined Density Bonus Housing Projects.

Circumstances may arise from time to time in which the public interest would be served by allowing some or all of the density bonus and/or target dwelling units associated with one residential project site to be produced and operated at an alternative site or sites. Where the parties in interest to the sites and the City form an agreement to such an effect, the resulting linked project sites shall be considered to be a single combined density bonus housing project.

It is the exclusive prerogative of the final decision making authority of the City to determine whether or not it is in the public interest to authorize the residential sites to form a combined density bonus housing project.

All agreements between parties to form a combined density bonus housing project shall be made a part of the Density Bonus Housing Agreement (Section 21.86.100 of this Code) required for the sites.

21.86.060. Density Bonus, Equivalent In-lieu Incentives, and Additional Incentives.

(a) Upon application by a developer, pursuant to Section 21.86.030, the final decision-making authority of the City shall grant either: a density bonus and at least one additional incentive or in-lieu incentives of equivalent financial value to qualified lower-income or senior housing developments.

(b) Upon application by a developer, pursuant to Section 21.86.040, the final decision-making authority of the City shall grant either: a density bonus or in-lieu incentives of equivalent financial value to qualified lower-income and/or moderate-income housing developments.

(c) Additional incentives or in-lieu incentives, as defined in Sections 21.86.020(1) and (12) respectively, may include, but are not limited to, the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicle parking spaces that would otherwise be required;

(2) Approval of mixed use zoning in conjunction with the housing development if land uses are compatible with the housing development and mixed use zoning will reduce the cost of developing the housing; or

(3) Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable cost reductions;

(4) Partial or additional density bonus;

(5) Subsidized or reduced planning, plan check or permit fees; and

(6) Direct financial aid including, but not limited to redevelopment set-aside funding, Community Development Block Grant funding, or subsidizing infrastructure, land cost or construction costs or other incentives of equivalent financial value based upon the land costs per dwelling unit.

(d) The value of each incentive will vary from project to project, therefore additional incentives or in-lieu incentives shall be determined on a case-by-case basis.

(e) The City shall provide at least one additional incentive, for qualified housing developments as set forth in Section 21.86.30, upon a written request by the developer unless the City makes a written finding that the additional incentive is not required in order for allowable housing expenses to be set as affordable. The applicant/owner shall be required to show that the additional incentive is economically necessary to make the units affordable as required by this Chapter. The process for requesting an additional incentive and the criteria for evaluating such request is contained in Section 21.86.090 of this Chapter.

(f) It is the exclusive prerogative of the City to offer in-lieu incentives of equivalent financial value, based upon the land cost per dwelling unit, instead of a density bonus and at least one additional incentive.

(g) Where a density bonus would cause a housing development targeted for lower-income households, moderate-income households or qualified seniors to exceed the upper end of the General Plan density range for the project site, then this request shall be evaluated relative to the proposal's compatibility with adjacent land uses and its proximity to employment opportunities, urban services or major roads.

(h) All qualified housing developments as set forth in Sections 21.86.30 and 21.86.40 shall be given priority in processing.

21.86.070. Density Bonus Housing Standards.

(a) Notwithstanding a developer's request to process a residential project pursuant to this Chapter, all residential projects are subject to and must satisfy the requirements (i.e. number of required lower and/or moderate-income units, tenure of affordability, and target income groups) of Chapter 21.85 (Inclusionary Housing) of this Code.

(b) Some of the provisions of this Chapter may satisfy the developer's inclusionary housing obligations (i.e.: 15 percent of the base units reserved as affordable to lower-income households for a minimum 30 year tenure) consistent with Chapter 21.85 of this Code, and other provisions of this Chapter will not.

(c) Required target dwelling units should be constructed concurrent with market rate dwelling units unless both the final decision making authority of the City and the developer/applicant agree within the Density Bonus Housing Agreement to an alternative schedule for development.

(d) Target dwelling units shall remain restricted and affordable to the designated group for a period of at least thirty (30) years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program, under the following circumstances:

(1) Both a density bonus and at least one additional incentive are granted by the City;

(2) In-lieu incentives in the form of direct financial contributions are granted by the City; or

(3) Any target unit which is provided through the conversion of apartments to air space condominiums.

(e) Target dwelling units shall remain restricted and affordable to the designated group for a period of at least ten (10) years under the following circumstances:

(1) Only a density bonus is granted and no additional incentives are granted by the City; or

(2) In-lieu incentives other than direct financial contributions are granted by the City.

(f) Target dwelling units and density bonus dwelling units should be built on-site and, whenever reasonably possible, be distributed throughout the project site.

(g) In certain cases where a combined density bonus housing project is proposed, the target dwelling units and density bonus dwelling units may be provided on a site separate from the site of the market-rate units. Construction of the target dwelling units and density bonus dwelling units is limited to sites within the same City quadrant in which the market-rate units are located. However, in the event that two properties abut a road, which forms a quadrant boundary, and the two properties are contiguous, except for the presence of the roads, then the target dwelling units and/or density bonus units may be provided on the other property. Where the target dwelling units are located within a master or specific plan area, the first priority for location of the alternative site is within the same master or specific plan, followed in order by the same Local Facilities Management Zone. In the event that a Local Facilities Management Zone crosses City quadrants, the target dwelling units and density bonus dwelling units shall be located within the same City quadrant in which the market-rate units are located.

(h) Target dwelling units should be located on sites that are in proximity to or will provide access to employment opportunities, urban services, or major roads or other transportation and commuter rail facilities (i.e. freeways, bus lines) and that are compatible with adjacent land uses.

1 (i) Density bonus projects shall include a mix of target dwelling units (by number
2 of bedrooms) in response to affordable housing demand priorities of the City, whenever
feasible.

3 (j) Density bonus projects shall comply with all applicable development standards,
4 except those which may be modified as an additional incentive as provided herein with
5 regard to additional incentives. In addition, all units must conform to the requirements
6 of the applicable building and housing codes. The design of the target dwelling units
7 shall be reasonably consistent or compatible with the design of the total project
8 development in terms of appearance, materials and finished quality.

9 (k) No building permit shall be issued, nor any development approval granted, for
10 a development which does not meet the requirements of this chapter. No target dwelling
11 unit shall be rented or sold except in accordance with this chapter.

12 21.86.080. Expiration of Affordability Tenure.

13 (a) At the end of the minimum tenure for rental units in projects containing target
14 units or for-sale target dwelling units a notice of availability of the rental project or for-sale
15 target dwelling unit(s) shall be prepared by the property owner and submitted to the
16 Housing and Redevelopment Director. Within 90 days of the notification of availability
17 of the rental project or for sale target dwelling unit(s), the City, or its designee has the first
18 right of refusal to buy the rental project or for-sale target dwelling unit(s) for the purposes
19 of providing affordable housing. Under this option, the City or its designee will make a
20 good faith effort to close escrow within 90 days. The sales price of the rental project or
21 for-sale unit(s) shall be the fair-market appraised value at the time of sale, assuming
22 continued affordability restrictions. The fair-market valuation of the rental project or for-
23 sale target dwelling unit(s) shall be determined by an appraisal made by an agent mutually
24 agreed upon by the City and the property owner. Costs associated with the appraisal shall
25 be borne by the property owner.

26 (b) If the City or its designee fails to exercise its option of first right of refusal to
27 purchase the rental project or for-sale target dwelling unit(s) within 90 days of notification
28 of availability of the rental project or for-sale units, then the target units may be converted
to market-rate units under the following circumstances:

1 (1) The management of the complex intending to convert target rental units
2 to market-rate units shall give notice of such intent, via registered mail, to each affected
3 tenant household and to the City Clerk. Said notice shall be given at least one hundred
4 eighty (180) days prior to the date proposed for conversion to market-rate rents; and

5 (2) Each affected tenant household shall be eligible to receive rental
6 relocation assistance in an amount equal to four (4) months rent, said assistance to be
7 provided by the owner/management company and paid to the tenant at least sixty (60)
8 days prior to conversion to market-rate rents.

9 21.86.090. Density Bonus or In-lieu Incentive Application and Review Process.

10 (a) All residential projects requesting a density bonus, additional incentive(s) or
11 in-lieu incentives pursuant to this Chapter, shall be required to comply with the following
12 application requirements:

13 (1) Application for on-site target dwelling units: Target dwelling units
14 proposed to be developed within the same project site requiring such units shall be
15 designated on the project plans and shall be processed under a Site Development Plan
16 application in addition to the otherwise required project development application(s) (i.e.,

1 tentative maps, parcel maps, planned unit developments, conditional use permits and
2 redevelopment permits). The Site Development Plan shall be processed pursuant to
3 Section 21.53.120 of this Code. No additional hearings or approvals shall be required,
4 except as provided herein with regard to the provision of financial incentives. If the
5 application involves a request to the City for direct financial incentives, then any action by
6 the Planning Commission on the application shall be advisory only, and the City Council
7 shall have the authority to make the final decision on the Site Development Plan
8 application and any related discretionary permits.

9 (2) Application for Combined Density Bonus Housing Projects: Separate
10 development application(s) (including the submittal of a Site Development Plan) shall be
11 processed concurrently for both sites unless the alternative site has previously received
12 its discretionary permits. No additional applications, hearings or approvals shall be
13 required, except as provided herein with regard to the provision of financial incentives.
14 If the application involves a request to the City for direct financial incentives, then any
15 action by the Planning Commission on the application shall be advisory only, and the City
16 Council shall have the authority to make the final decision on all of the required
17 development permits.

18 (b) Preliminary application: An applicant/developer proposing a density bonus
19 housing project, shall submit a preliminary application prior to the submittal of any formal
20 requests for approvals of such housing development. The preliminary application shall
21 include the following information:

22 (1) A brief description of the proposal including the number of target
23 dwelling units and density bonus units proposed;

24 (2) The Zoning, General Plan designations and assessors parcel number(s)
25 of the project site;

26 (3) A site plan, drawn to scale, which includes: building footprints, driveway
27 and parking layout, building elevations, existing contours and proposed grading; and

28 (4) A letter identifying what specific incentives (i.e.; standards modifications,
density bonus, or fee subsidies) are being requested of the City. Within thirty days of
receipt of the preliminary application by the Planning Director for projects not requesting
direct financial assistance from the City, or ninety days for projects requesting direct
financial assistance from the City, the department shall provide to an applicant/developer,
a letter which identifies project issues of concern, the financial assistance that the Planning
Director can support when making a recommendation to the final decision making
authority and the procedures for compliance with this Chapter. The applicant shall also
be provided with a copy of this Chapter and related policies, the pertinent sections of the
California Codes to which reference is made in this Chapter and all required application
forms.

(c) Submittal: The completed application(s) shall include the following
information:

(1) A legal description of the total site proposed for development of the
target dwelling units including a statement of present ownership and present and proposed
zoning;

(2) A letter signed by the present owner stating what incentives, if any, are
being requested from the City;

(3) A detailed vicinity map showing the project location and such details as
the location of the nearest commercial retail, transit stop, potential employment locations,
park or recreation facilities or other social or community service facilities.

1 (4) Site plans, designating the total number of units proposed on the site,
2 including the number of target dwelling units and density bonus dwelling units, and
3 supporting plans per the application submittal requirements.

4 (5) In the case of a request for any incentive(s), a pro-forma for the
5 proposed project to justify the request.

6 (6) In the case of a condominium conversion request, a report documenting
7 the following information for each unit proposed to be converted: the monthly income of
8 tenants of each unit throughout the prior year, the monthly rent for each unit throughout
9 the prior year, and vacancy information for each unit throughout the prior year.

10 (d) Review: The Community Development Director and/or his/her designated staff
11 shall evaluate the request based upon the following criteria:

12 (1) The density bonus housing project helps achieve the City's housing goals
13 for lower-income, moderate-income or qualified senior households, as set forth in the
14 Housing Element of the General Plan;

15 (2) The requested incentive(s) (including, but not limited to, additional
16 density bonuses, requests for a mixed use project, reduction in development standards, or
17 direct or indirect financial contributions) must be necessary to make the project
18 economically feasible;

19 (3) The housing project shall not result in an overall development pattern
20 that is incompatible with other land uses in the immediate vicinity; and

21 (4) The density bonus housing project complies with the General Plan,
22 zoning and development policies of the City of Carlsbad.

23 (5) That the conversion of apartment units to condominiums shall not result
24 in a reduction in the affordable housing stock for lower income groups, as of the most
25 recent inventory.

26 (6) In cases where an applicant/developer agrees to construct a housing
27 development with ten percent (10%) or twenty percent (20%) or fifty percent (50%) of
28 the units restricted and affordable to very low-income, low-income, or qualified households
respectively, and an additional incentive is requested, the Planning Director and/or his staff
cannot disallow the incentive(s) listed in Section 21.86.060(c) on the basis that it is
materially detrimental to public health and safety.

21.86.100. Inclusion of Density Bonus Housing Agreement as a Condition of Development.

(a) Applicants/developers, requesting a density bonus, additional incentives or in-
lieu incentives pursuant to this Chapter, shall demonstrate compliance with this Chapter
by the preparation and approval of a Density Bonus Housing Agreement. A Density
Bonus Housing Agreement shall be submitted by the applicant to the City. The terms of
the draft agreement shall be reviewed by the Planning Director and Director of Housing
and Redevelopment, who shall formulate a recommendation and refer the matter to the
Community Development Director or his/her designee for final approval. Following the
approval and the signing by all parties, the completed Density Bonus Housing Agreement
shall be recorded and the relevant terms and conditions therefrom filed and recorded as
a deed restriction on those individual lots or units of a property which are designated for
the location of target dwelling units. The approval and recordation shall take place prior
to final map approval, or, where a map is not being processed, prior to issuance of
building permits for such lots or units. The Density Bonus Housing Agreement shall be
binding to all future owners and successors in interest.

1 (b) A Density Bonus Housing Agreement for new residential construction
2 processed pursuant to this Chapter shall include the following:

3 (1) The number of density bonus dwelling units granted;

4 (2) The number of lower-income and senior dwelling units proposed;

5 (3) The unit size(s) (square footage) of target dwelling units and the
6 number of bedrooms per target dwelling unit;

7 (4) The proposed location of the lower-income and senior target dwelling
8 units;

9 (5) Tenure of restrictions for target dwelling units (of at least 10 or 30
10 years);

11 (6) Schedule for production of target dwelling units;

12 (7) Incentives and/or financial assistance provided by the City;

13 (8) Where applicable, tenure and conditions governing the initial sale of for
14 sale target units; and

15 (9) Where applicable, tenure and conditions establishing rules and
16 procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and
17 maintaining units for rental target dwelling units.

18 (c) A Density Bonus Housing Agreement for condominium conversions processed
19 pursuant to this Chapter shall be required to include the following:

20 (1) The number of density bonus dwelling units granted;

21 (2) The number of lower and moderate-income dwelling units proposed;

22 (3) The unit size(s) (square footage) of target dwelling units and the
23 number of bedrooms per target dwelling unit;

24 (4) The proposed location of the lower and moderate-income target
25 dwelling units;

26 (5) Tenure of affordability for target dwelling units (30 year minimum);

27 (6) Schedule for production of target dwelling units;

28 (7) In-lieu incentives provided by the City; and

(8) Terms and conditions of for-sale target dwelling units.

(d) Where an Inclusionary Housing Agreement is required pursuant to Section
21.85.160, both the Density Bonus and Inclusionary Housing Agreements shall be
combined into a single Housing Agreement.

21.86.110. Density Bonus Resale Agreement.

(a) All buyers of for-sale target dwelling units shall enter into a Density Bonus
Resale Agreement with the City's Housing Authority prior to purchasing the unit or
property. The Resale Agreement shall specify that the title to the subject property or unit
may not be transferred without prior approval of the City's Housing Authority.

(b) Where an Inclusionary Resale Agreement is required pursuant to Section
21.85.170, both the Resale Agreements for inclusionary for-sale units and target for-sale
units shall be combined into a single Resale Agreement.

21.86.120. Eligibility Requirements.

Only households meeting the standards for lower-income households, moderate-
income households, and qualified (senior) residents as defined in Section 21.86.020 shall
be eligible to occupy target dwelling units.

21.86.130. Management and Monitoring.

Rental target dwelling units shall be managed/operated by the developer or his or her agent. Each developer of rental target dwelling units shall submit an annual report to the City identifying which units are target dwelling units, the monthly rent, vacancy information for each target rental dwelling unit for the prior year, monthly income for tenants of each target rental dwelling unit throughout the prior year, and other information as required by the City, while ensuring the privacy of the tenant.

21.86.140. Administrative Fee for Target Dwelling Units.

Over the minimum tenure of projects containing target dwelling units, the City will either directly or, via one or more third parties, provide a number of recurring services associated with the administration and monitoring of such units. Although the provision of some of these services will be within the normal purview of existing City activities, others will involve new costs to the City for which there are no existing funding sources. Unless and until alternative funding sources are identified, it is necessary to require the builders/owners of residential projects to share in these administrative costs. Therefore, the City Council hereby establishes an administrative fee for target dwelling units, the amount to be established by City Council resolution and paid prior to the issuance of building permit(s).

21.86.150. Separability of Provisions.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption, and the City Clerk shall certify to the adoption of this ordinance and cause it to be published at least once in the Carlsbad Sun within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on the 22nd day of MARCH, 1993, and thereafter.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad on the 28th day of APRIL, 1993, by the following vote, to wit:

AYES: Council Members Lewis, Stanton, Kulchin

NOES: None

ABSENT: Council Members Nygaard, Finnila

APPROVED AS TO FORM AND LEGALITY

Ronald R. Ball
RONALD R. BALL, City Attorney

Claude A. Lewis
CLAUDE A. LEWIS, Mayor

ATTEST:

Aletha L. Rautenkranz
ALETHA L. RAUTENKRANZ, City Clerk

ORDINANCE NO. NS-207

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING CHAPTER 21.53 AND 21.04 OF THE CARLSBAD MUNICIPAL CODE TO ALLOW THE CONSIDERATION OF STANDARDS FOR AFFORDABLE HOUSING PROJECTS.

SECTION 1: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.021 to read as follows:

"21.04.021. Affordable Housing.
"Affordable Housing" means housing for which the allowable housing expenses for a for-sale or rental dwelling unit paid by a household would not exceed 30 percent of the gross monthly income for target income levels, adjusted for household size."

SECTION 2: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.186 to read as follows:

"21.04.186. Household - Low-Income.
"Low-Income Household" means those households whose gross income is at least 50 percent but less than 80 percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development."

SECTION 3: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.187 to read as follows:

"21.04.187. Household - Moderate Income.
"Moderate-Income Household" means those households whose gross income is at least 80 percent but less than 120 percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development."

SECTION 4: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.188.

"21.04.188. Household - Very Low-Income.
"Very Low-Income Household" means a household earning a gross income equal to 50 percent or less of the median income

for San Diego County as determined annually by the U.S. Department of Housing and Urban Development."

SECTION 5: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.189 to read as follows:

"21.04.189. Income Level - Target.
"Target Income Level" means the income standards for very low, low and moderate income levels within San Diego County as determined annually by the U.S. Department of Housing and Urban Development and adjusted for family size."

SECTION 6: That Title 21, Chapter 21.53 of the Carlsbad Municipal Code is amended by the amendment to Section 21.53.120 to read as follows:

"21.53.120. Affordable housing multi-family residential projects - site development plan required.

(a) Notwithstanding anything to the contrary in this code, no building permit or other entitlement shall be issued for any multi-family residential development having more than four dwelling units or an affordable housing project of any size unless a site development plan has been approved for the project. The site development plan shall be processed pursuant to Chapter 21.06 (Q-Overlay Zone) of this code.

A site development plan for a multi-family residential project (not affordable) shall not be required for any project processed pursuant to Chapter 21.45 of this code.

(b) Multi-family residential and affordable housing - Determination.

The Planning Commission shall have the authority to approve, conditionally approve or deny site development plans for a multi-family residential project or affordable housing projects with fifty dwelling units or less. The Planning Commission's decision may be appealed to the City Council as provided in Chapter 21.06. For projects with more than fifty units, the Planning Commission shall hold a public hearing and make a report and recommendation to the City Council. The City Council, after public hearing noticed as provided in Section 21.54.060(1) of this code, shall approve, conditionally approve or deny the site development plan.

(c) Development Standards.
The development (both for multi-family residential and affordable housing) shall be subject to the development standards of the zone in which the development is located and/or any applicable Specific or Master Plan except for affordable housing projects as expressly modified by the site development plan. The site development plan for Affordable Housing Projects may allow less restrictive development standards than specified in the underlying zone or elsewhere provided that the project is in conformity with the General Plan and adopted policies and goals

of the City, and it would have no detrimental effect on public health, safety and welfare. In addition, the Planning Commission or the City Council in approving a site development plan may impose special conditions or requirements which are more restrictive than the development standards in the underlying zone or elsewhere that include provisions for, but are not limited to, the following:

- (1) Density of use;
 - (2) Compatibility with surrounding properties and land uses;
 - (3) Parking standards;
 - (4) Setbacks, yards, active and passive open space required as part of the entitlement process, and on-site recreational facilities;
 - (5) Height and bulk of buildings;
 - (6) Fences and walls;
 - (7) Signs;
 - (8) Additional landscaping;
 - (9) Grading, slopes and drainage;
 - (10) Time period within which the project or any phases of the project shall be completed;
 - (11) Points of ingress and egress;
 - (12) Such other conditions as deemed necessary to ensure conformity with the General Plan and other adopted policies, goals or objectives of the City.
- (d) In addition the Planning Commission or City Council may require that the developer provide public improvements either on or off the subject site as are needed to serve the proposed development or to mitigate public facilities needs or impacts created by the project.
- (e) No more than fifty percent of the portion of a site containing twenty-five to forty percent slopes may be utilized for calculating allowable residential density. Residential development on slopes with an inclination of twenty-five to forty percent inclusive shall be designed to minimize the amount of grading necessary to accommodate the project. For projects within the coastal zone, the grading provisions of the Carlsbad Local Coastal Program shall apply."

SECTION 7: That Title 21, Chapter 21.04, Section 21.04.210 of the Carlsbad Municipal Code is amended to read as follows:

"21.04.210 Lot.

"Lot" means a parcel of record legally created by subdivision map, adjustment plat, certificate of compliance, or a parcel legally in existence prior to incorporation of the lot into the jurisdiction of the City. Any parcel created prior to May 1, 1956, shall be presumed to be lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created. A lot shall have frontage that allows usable access on a dedicated public street or a public dedicated easement accepted by the City. This street or easement shall

have a minimum width of thirty feet. Special lot and street configurations for Affordable Housing projects may be allowed subject to the provisions of Section 21.53.120 of this code."

SECTION 8: That Title 21, Chapter 21.06, Section 21.06.090 of the Carlsbad Municipal Code is amended to read as follows:

"21.06.090 Development standards.

Property in the Q zone shall be subject to the development standards required in the underlying zone and any applicable specific plans, except for Affordable Housing Projects as expressly modified by the site development plan. The site development plan for Affordable Housing Projects may allow less restrictive development standards than specified in the underlying zone or elsewhere provided that the project is in conformity with the General Plan and adopted policies and goals of the City, and it would have no detrimental effect on public health, safety and welfare. In addition, the Planning Commission or the City Council in approving a site development plan may impose special conditions or requirements which are more restrictive than the development standards in the underlying zone or elsewhere that include provisions for, but are not limited to, the following:

- (1) Special setbacks, yards active or passive open space; required as part of the entitlement process;
- (2) Special height and bulk of building regulations;
- (3) Fences and walls;
- (4) Regulation of signs;
- (5) Additional landscaping;
- (6) Special grading restrictions
- (7) Requiring street dedication and improvements (or posting of bonds);
- (8) Requiring public improvements either on or off the subject site that are needed to service the proposed development;
- (9) Time period within which the project or any phases of the project shall be completed;
- (10) Regulation of point of ingress and egress;
- (11) Such other conditions as deemed necessary to insure conformity with the General Plan and other adopted policies, goals or objectives of the City.

However, it is not intended that the review of the Site Development Plan shall include aesthetic aspects such as:

- (1) Color;
- (2) Texture;
- (3) Materials;
- (4) Adornments."

1 EFFECTIVE DATE: This ordinance shall be effective
2 thirty days after its adoption, and the City Clerk shall certify
3 to the adoption of this ordinance and cause it to be published at
4 least once in the Carlsbad Journal within fifteen days after its
5 adoption.

6 INTRODUCED AND FIRST READ at a regular meeting of the
7 Carlsbad City Council on the 14th day of JULY,
8 1992, and thereafter

9 PASSED AND ADOPTED at a regular meeting of the City
10 Council of the City of Carlsbad on the 21st day of JULY,
11 1992, by the following vote, to wit:

12 AYES: Council Members Lewis, Kulchin, Nygaard

13 NOES: None

14 ABSENT: Council Members Larson, Stanton

15 APPROVED AS TO FORM AND LEGALITY

16 *Ronald R. Ball*
17 RONALD R. BALL, Acting City Attorney
18 7.22.92

19 *Claude A. Lewis*
20 CLAUDE A. LEWIS, Mayor

21 ATTEST:

22
23 *Aletha L. Rautenkranz*
24 ALETHA L. RAUTENKRANZ, City Clerk
25
26
27
28