

CALIFORNIA COASTAL COMMISSION

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



June 24, 2008

Wed 10a

TO: COMMISSIONERS AND INTERESTED PARTIES

FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR

SUBJECT: EXECUTIVE DIRECTOR'S DETERMINATION that the action by the City of Carlsbad, certifying the City's Local Coastal Program Amendment No. 1-06D (Density Bonus Revisions), is adequate to effectively certify its local coastal program (for Commission review at its meeting of July 9, 2008)

BACKGROUND

At its March 6, 2008 meeting, the Coastal Commission certified, with suggested its concurrence. modifications, the City of Carlsbad Local Coastal Program Amendment #1-06D, regarding the Density Bonus revisions to the City's Implementation Plan. By its action on March 21, 2008 in the ordinance (NS-889) adopting the ordinances and to submit for final certification, the City Council has acknowledged and accepted all of the Commission's suggested modifications. The modifications addressed clarifications to the Zoning Code that assure for coastal development in the coastal zone that any offset provided pursuant to the code shall be consistent with the applicable provisions of the certified Carlsbad Local Coastal Program Land Use Plan(s), with the exception of density. In addition, under definitions, language was added to clarify that relative to maximum allowable residential density, all environmentally constrained lands identified as non-developable in the general plan, local coastal program, and zoning ordinance shall be excluded from the total area of the project site when calculating maximum density. Last, for the findings for density bonuses, language was added to assure that for development located in the coastal zone, the requested density bonus, any requested incentive(s), concessions(s), and/or waivers or reduction(s) of development standards, are consistent with all applicable requirements of the certified Carlsbad Local Coastal Program Land Use Plan(s), with the exception of density.

As provided for in Section 13544 of the Commission's Code of Regulations, the Executive Director must determine if the action of the City of Carlsbad is legally sufficient to finalize Commission review of the LCP amendment. The City's actions have been reviewed and determined to be adequate by the Executive Director. Section 13554 of the Commission's Code of Regulations then requires this determination be reported to the Commission for concurrence.

RECOMMENDATION

Staff recommends that the Commission **CONCUR** with the Executive Director's determination as set forth in the attached letter (to be sent after Commission endorsement).

June 27, 2008

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July 10, 2008

Mayor Claude A. Lewis
City of Carlsbad - Office of the Mayor
1635 Faraday Avenue
Carlsbad, CA 92008-7314

Re: Certification of City of Carlsbad LCP Amendment No. 1-06D (Density Bonus Revisions)

Dear Mayor Lewis:

The California Coastal Commission has reviewed the City's Ordinance No. NS-889 together with the Commission's action of March 6, 2008 certifying the City of Carlsbad's Local Coastal Program Amendment #1-06D pertaining to the City of Carlsbad's Implementation Plan. In accordance with Section 135.44 of the Commission's code of Regulations, I have made the determination that the City's actions are legally adequate, and the Commission has concurred at its meeting of July 9, 2008.

By its action on May 13, 2008, the city has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The modifications addressed policies and findings designed to protect coastal resources of local, regional and statewide significance by assuring that the requested density bonuses do not exceed the density permitted under Government Code Section 65915 and is consistent with all requirements of the City's certified LCP with the exception of density and that any requested offsets/incentives/concessions to development regulations, etc. are found consistent with the certified LCP or such offsets/incentives/concessions or they shall not be permitted. The City is already issuing coastal development permits in conformance with the certified local coastal program for this area.

In conclusion, I would like to congratulate you and all other elected or appointed officials, staff and concerned citizens for continuing to work towards full implementation for the Coastal Act. We remain available to assist you and your staff in any way possible as you continue to develop and implement the City's local coastal program.

Sincerely,

Peter Douglas
Executive Director

RECEIVED

JUN 05 2008

CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

ORDINANCE NO. NS-889

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING SECTIONS OF CHAPTERS 21.85 AND 21.86 OF THE MUNICIPAL CODE, THEREBY ACCEPTING AND ADMINISTERING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO LCPA 04-17 (DENSITY BONUS AMENDMENT).

CASE NAME: DENSITY BONUS AMENDMENT SUGGESTED MODIFICATIONS

CASE NO.: ZCA 04-10A/LCPA 04-17A

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WHEREAS, the Planning Commission did on February 1, 2006, hold a duly noticed public hearing as prescribed by law to consider Zone Code Amendment (ZCA 04-10) and Local Coastal Program Amendment (LCPA 04-17), and adopted Planning Commission Resolutions No. 5879 and 5880 recommending to the City Council that ZCA 04-10 and LCPA 04-17 be approved; and

WHEREAS, the City Council did on March 21, 2006, hold a duly noticed public hearing as prescribed by law to consider said ZCA 04-10 and LCPA 04-17, and introduced Ordinance No. NS-794 to approve ZCA 04-10, and adopted Resolution No. 2006-065, approving LCPA 04-17, the effective date of which was subject to Coastal Commission approval of said LCPA; and

WHEREAS, the City Council did on March 28, 2006, adopt Ordinance No. NS-794, approving ZCA 04-10, the effective date of which within the coastal zone was subject to Coastal Commission approval of LCPA 04-17; and

WHEREAS, on March 6, 2008, the California Coastal Commission approved LCPA 04-17 with suggested modifications; and

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

WHEREAS, the California Coastal Commission suggested modifications are clarifications of the City's proposed zone amendments rather than further amendments as

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1 described in Government Code Section 65833 and do therefore not require further review by the
2 City's Planning Commission.

3 NOW, THEREFORE, the City Council of the City of Carlsbad does ordain as
4 follows:

5 SECTION 1: That Section 21.85.100 of the Carlsbad Municipal Code, as
6 previously approved pursuant to Ordinance No. NS-794, is modified to read as follows:

7 21.85.100 Offsets to the cost of affordable housing development.

8 A. The city shall consider making offsets available to developers when necessary to
9 enable residential projects to provide a preferable product type or affordability in excess of the
10 requirements of this chapter.

11 B. Offsets will be offered by the city to the extent that resources and programs for
12 this purpose are available to the city and approved for such use by the city council, and to the
13 extent that the residential development, with the use of offsets, assists in achieving the city's
14 housing goals. To the degree that the city makes available programs to provide offsets,
15 developers may make application for such programs.

16 C. Evaluation of requests for offsets shall be based on the effectiveness of the
17 offsets in achieving a preferable product type and/or affordability objectives as set forth within
18 the housing element; the capability of the development team; the reasonableness of
19 development costs and justification of subsidy needs; and the extent to which other resources
20 are used to leverage the requested offsets.

21 D. Nothing in this chapter establishes, directly or through implication, a right to
22 receive any offsets from the city or any other party or agency to enable the developer to meet
23 the obligations established by this chapter.

24 E. Any offsets approved by the city council and the housing affordability to be
25 achieved by use of those offsets shall be set out within the affordable housing agreement
26 pursuant to Section 21.85.140 or, at the city's discretion in a subsequent document.

27 F. Developers are encouraged to utilize local, state or federal assistance, when
28 available, to meet the affordability standards set forth in Sections 21.85.030 and 21.85.040.

G. For development located in the coastal zone, any offset provided pursuant to this
section shall be consistent with the applicable provisions of the certified Carlsbad Local Coastal
Program Land Use Plan(s), with the exception of density.

SECTION 2: That Section 21.86.020.A.17 of the Carlsbad Municipal Code, as
previously approved pursuant to Ordinance No. NS-794, is modified to read as follows:

17. "Maximum allowable residential density" means the maximum density of the
density range allowed by the residential general plan designation(s) applicable to a project site.
All environmentally constrained lands identified as undevelopable in the general plan, local
coastal program, and zoning ordinance shall be excluded from the total area of the project site
when calculating maximum density.

SECTION 3: That Section 21.86.120 of the Carlsbad Municipal Code, as
previously approved pursuant to Ordinance No. NS-794, is modified to read as follows:

21.86.120 Findings for approval.

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A. When a project involves a request for a density bonus, incentive(s) or concession(s), the following findings shall be made as part of the approval of the development application(s) required for the project:

1. The project is consistent with the provisions of this chapter.
2. The requested incentive(s) or concession(s) will result in identifiable, financially sufficient, and actual cost reductions;
3. In cases where an applicant requests a waiver or reduction of development standards, pursuant to section 21.86.060, the requested waiver or reduction of development standard(s) is necessary to make the housing units economically feasible.
4. The requested incentive(s) or concession(s), and/or waiver(s) or reduction(s) of development standards, if any, will not result in an adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, to the public health and safety, the environment, or on any real property that is listed in the California Register of Historical Resources; or, if the request will result in an adverse impact, then the request may be approved if the following finding is made:
 - a. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
5. In cases where an applicant requests to convert apartment units to condominiums, the condominium conversion project shall not result in a reduction in the affordable housing stock for lower-income groups, as of most recent inventory.
6. For development located in the coastal zone, the requested density bonus, and any requested incentive(s), concessions(s), and/or waivers or reduction(s) of development standards, are consistent with all applicable requirements of the certified Carlsbad Local Coastal Program Land Use Plan(s), with the exception of density.

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 a publication of general circulation the City of Carlsbad within fifteen days after its adoption. *(Notwithstanding the preceding, this ordinance shall not be effective until approved by the California Coastal Commission.)*

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INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on the 6th day of May, 2008, and thereafter.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 13th day of May, 2008, by the following vote to wit:


AYES: Council Members Lewis, Kulchin, Hall, Packard and Nygaard.

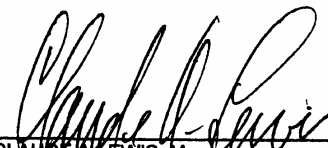
NOES: None.

ABSENT: None.

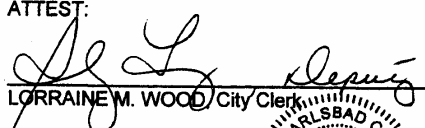
ABSTAIN: None.

APPROVED AS TO FORM AND LEGALITY


RONALD R. BALL, City Attorney
5/14/08



CLAUDE A. LEWIS, Mayor

ATTEST:

LORRAINE M. WOOD, City Clerk
(SEAL)

