

CALIFORNIA COASTAL COMMISSION

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F13b

LCP-6-SAN-20-0045-2 (Inclusionary Housing Regulations)

August 2021

CORRESPONDENCE

From: SanDiegoCoast@Coastal
To: [Llerandi, Alexander@Coastal](mailto:Llerandi,Alexander@Coastal)
Subject: FW: Public Comment on August 2021 Agenda Item Friday 13b - City of San Diego LCP Amendment No. LCP-6-SAN-20-0045-2 (Inclusionary Housing Regulations)
Date: Thursday, August 05, 2021 9:35:10 AM

Hi Alex,
Please see below for a public comment for LCP-6-SAN-20-0045-2.
Thank you,
Isabel

From: Christopher Pederson <cpedersonlaw@gmail.com>
Sent: Thursday, August 5, 2021 9:00 AM
To: SanDiegoCoast@Coastal <SanDiegoCoast@coastal.ca.gov>; Ainsworth, John@Coastal <John.Ainsworth@coastal.ca.gov>; Schwing, Karl@Coastal <Karl.Schwing@coastal.ca.gov>
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Subject: Public Comment on August 2021 Agenda Item Friday 13b - City of San Diego LCP Amendment No. LCP-6-SAN-20-0045-2 (Inclusionary Housing Regulations)

Dear Chair Padilla and Commissioners:

The staff report on the City of San Diego LCP amendment regarding inclusionary housing requirements correctly observes that development standards in the City's LCP - especially the 30' height limit that applies almost everywhere outside downtown - effectively preclude all but the smallest multi-family housing structures. When combined with the City's proposal to apply inclusionary housing requirements only to housing developments with at least 10 units, the LCP's bias against multifamily housing - a bias that is irreconcilable with Coastal Act requirements to concentrate development in urbanized areas, to minimize vehicle miles traveled and energy consumption, and to foster public transit - would mean that almost no new housing in San Diego's coastal zone outside of downtown would be subject to inclusionary housing requirements.

The most straightforward way to address this problem would be to adopt suggested modifications that address the development standards that impede multifamily housing and associated affordable inclusionary housing. The requirements that stifle multifamily housing include not only the city's exclusionary 30' height limit but also excessive off-street parking mandates, low floor-to-area ratio (FAR) standards, and setback requirements.

The Commission should adopt suggested modifications that would allow exceptions to these

quantitative standards to the extent necessary to allow multi-family housing that is subject to the City's proposed inclusionary housing program. The Commission may protect significant coastal resources by specifying that any exceptions must avoid adverse impacts to sensitive habitat, minimize exposure to coastal hazards, and not obstruct significant coastal views. This approach would allow multi-family development with inclusionary housing while protecting coastal resources and advancing the Coastal Act mandates to encourage affordable housing; concentrate development in urban areas; minimize vehicle miles traveled and energy consumption; and foster walking, bicycling, and public transit. (See Pub. Resources Code, §§ 30250, 30252, 30253(d), 30604(f)-(g).)

Unfortunately, the staff report instead recommends suggested modifications that do nothing to address the development standards that constrain multi-family housing. It instead proposes a legally dubious suggested modification that would change the City's threshold for when inclusionary housing requirements apply. In 1981, however, the legislature stripped the Coastal Commission of its authority to impose inclusionary housing requirements and prohibited the Commission from requiring LCPs to include housing policies. (See Cal. Stats. 1981, ch. 1007 (S.B. 626, Mello) ("Mello Act"); Pub. Resources Code, § 30500.1.) More recent amendments to the Coastal Act that require the Commission to encourage affordable housing and allow it to consider environmental justice when reviewing permits and appeals do not alter these basic limitations on the Commission's authority. (See Pub. Resources Code, § 30604 (f)-(h); Cal. Coastal Comm., Legislative Report for April, 2021, Bill Analysis of A.B. 500 (Ward), pp. 2-4:

<https://documents.coastal.ca.gov/reports/2021/4/W6c/W6c-4-2021.pdf>)

In addition, although the staff report faults the City for providing insufficient evidence to support the City's proposed threshold, the report does not point to any substantial evidence in support of staff's proposed alternative threshold. The report points out that Carlsbad and Oceanside have adopted thresholds that are lower than what San Diego proposes, but does not address whether Carlsbad's and Oceanside's inclusionary housing programs have actually resulted in the construction of new affordable housing in those cities' coastal zones or whether they have been an impediment to the construction of new multi-family housing. The report also does not address whether different development standards in those cities affect the feasibility of their inclusionary housing programs. The mere fact that different cities have adopted different criteria does not establish either that San Diego's threshold is too lenient or that the other cities' are feasible or more effective.

The report points out that San Diego's density bonus program applies to housing developments with as few as five units. The density bonus program, however, is voluntary and does not establish mandates that might impede new multi-family housing. In addition, the report does not discuss to what extent small-scale housing projects proposed within the coastal zone have taken advantage of the City's density bonus program.

I do not mean to opine on whether San Diego's proposed inclusionary housing threshold hits the sweet spot of maximizing the production of new affordable housing without chilling the overall production of multi-family housing. The Commission, however, lacks the authority to make that determination and, in any event, the report does not point to any evidence that establishes the feasibility or superiority of staff's recommended threshold.

Rather than embark on the legally questionable and analytically difficult task of justifying a different inclusionary threshold than what the City proposes, the Commission should do what it has the unquestioned legal authority and administrative experience to do: adopt suggested modifications that address how development standards in the LCP impede multi-family housing, and by extension inclusionary affordable multi-family housing.

Thank you for your consideration of my comments.

Sincerely,

Christopher Pederson