



# CITY COUNCIL Agenda

Sept. 1, 2020, 3 p.m.

Council Chamber  
1200 Carlsbad Village Drive  
Carlsbad, CA 92008

## Welcome

We welcome your interest and involvement in the city's legislative process. This agenda includes information about topics coming before the City Council and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website and in the Office of the City Clerk. The City Clerk is also available to answer any questions you have about City Council meeting procedures.

## to Your City Council Meeting

### How to watch



#### City cable channel

Charter Spectrum channel 24  
AT&T U-verse channel 99.



#### City website

[carlsbadca.gov/news/cityty.asp](http://carlsbadca.gov/news/cityty.asp)

### Virtual meeting format

- Per California Executive Order N-29-20, and in the interest of public health and safety, we are temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding City Council and other public meetings online only.
- All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the City Council.

### How to participate

- **By phone:** Sign up at <https://www.carlsbadca.gov/cityhall/clerk/meetings/default.asp> by 2 p.m. the day of the meeting to provide comments live by phone. You will receive a confirmation email with instructions about how to call in.
- **In writing:** Email comments to [clerk@carlsbadca.gov](mailto:clerk@carlsbadca.gov). Comments received by 2 p.m. the day of the meeting will be shared with the City Council prior to the meeting. When e-mailing comments, please identify in the subject line the agenda item to which your comments relate. All comments received will be included as part of the official record. **Written comments will not be read out loud.**
- These procedures shall remain in place during the period in which state or local health officials have imposed or recommended social distancing measures.

### Reasonable accommodations

Persons with a disability may request an agenda packet in appropriate alternative formats as required by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the City Manager's Office at 760-434-2821 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or [manager@carlsbadca.gov](mailto:manager@carlsbadca.gov) by noon on the Monday before the meeting to make arrangements.

*IN THE EVENT A QUORUM OF THE CITY COUNCIL LOSES ELECTRICAL POWER OR SUFFERS AN INTERNET CONNECTION OUTAGE THAT IS NOT CORRECTED WITHIN 15 MINUTES, THE MEETING WILL AUTOMATICALLY BE ADJOURNED. ANY ITEMS NOTICED AS PUBLIC HEARINGS WILL BE CONTINUED TO THE NEXT REGULARLY SCHEDULED MEETING OF THE CITY COUNCIL. ANY OTHER AGENDA ITEMS THE COUNCIL HAS NOT TAKEN ACTION ON WILL BE PLACED ON A FUTURE AGENDA.*

**More information about City Council meeting procedures can be found at the end of this agenda and in the Carlsbad Municipal Code chapter 1.20. PLEASE NOTE: AS A RESULT OF THE WAIVERS IN EXECUTIVE ORDER N-29-20, THE BROWN ACT PERMITS FULL PARTICIPATION BY OFFICIALS IN MEETINGS THROUGH VIDEO OR AUDIO TELECONFERENCE.**

*The City Council also sits as the Carlsbad Municipal Water District Board, Public Financing Authority Board, Community Development Commission and Successor Agency to the Redevelopment Agency. When considering items presented to the Carlsbad Municipal Water District Board, each member receives an additional \$100 per meeting (max \$300/month). When considering items presented to the Community Development Commission each member receives an additional \$75 per meeting (max \$150/month).*

**CALL TO ORDER:**

**ROLL CALL:**

**ANNOUNCEMENT OF CONCURRENT MEETINGS:** None.

**INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

**APPROVAL OF MINUTES:**

Minutes of the Regular Meeting held July 28, 2020

**PRESENTATIONS:**

2019 Citizens of the Year Recognition

**PUBLIC REPORT OF ANY ACTION TAKEN IN CLOSED SESSION:**

**PUBLIC COMMENT:** *In conformance with the Brown Act and California Executive Order No. N-29-20, a total of 15 minutes is provided so members of the public participate in the meeting by submitting comments as provided on the front page of this agenda. The City Council will receive comments as requested up to a total of 15 minutes. All other comments will trail until the end of the meeting. In conformance with the Brown Act, no Council action can occur on these items.*

**CONSENT CALENDAR:** *The items listed under Consent Calendar are considered routine and will be enacted by one motion as listed below. There will be no separate discussion on these items prior to the time the Council votes on the motion unless members of the Council, the City Manager, or the public request specific items be discussed and/or removed from the Consent Calendar for separate action.*

**WAIVER OF ORDINANCE TEXT READING:**

This is a motion to waive the reading of the text of all ordinances and resolutions at this meeting.

1. REPORT ON CITY INVESTMENTS AS OF JULY 31, 2020 – Accept and file report on city investments as of July 31, 2020. (Staff contact: Craig Lindholm and Laura Rocha, Administrative Services)
2. RESCIND CITY COUNCIL POLICIES 6, 7, 32 AND 34 – Adoption of a resolution rescinding City Council Policies 6, 7, 32 and 34. (Staff contact: Sheila Cobian, City Manager’s Department)

**ORDINANCES FOR INTRODUCTION:** None.

**ORDINANCES FOR ADOPTION:**

3. ORDINANCE NO. CS-380 WAIVER OF ADJUSTMENTS TO CITY COUNCIL COMPENSATION FOR 2019 AND 2020 – Adoption of Ordinance No. CS-380 permanently waiving City Council compensation adjustments for 2019 and 2020. (Staff contact: Faviola Medina, City Clerk’s Office)

**City Manager’s Recommendation:** Adopt the ordinance.

## PUBLIC HEARINGS:

4. CTBID ASSESSMENT MODIFICATION PUBLIC HEARING AND ADOPTION OF ORDINANCE NO. CS-381  
– 1) Adoption of a resolution confirming the modified annual report of the Carlsbad Tourism Business Improvement District (CTBID) and levying the modified assessments for fiscal year 2020-21 beginning Nov. 1, 2020; and  
2) Adoption of Ordinance No. CS-381 amending Carlsbad Municipal Code Section 3.37.050 to modify the assessment for the Carlsbad Tourism Business Improvement District. (Staff Contact: Cheryl Gerhardt, Administrative Services Department)

**City Manager's Recommendation:** Take public input, close the public hearing, adopt the resolution and ordinance.

5. UPDATE TO THE CITY'S DENSITY BONUS REGULATIONS TO REFLECT CHANGES IN STATE LAW – Introduction of an ordinance adopting a Zone Code amendment and a Local Coastal Program amendment to update the city's density bonus regulations to reflect changes in state law (Case Name: Density Bonus Amendments 2020; Case No.: ZCA 2020-0001/LCPA 2020-0005). (Staff contact: Corey Funk, Community Development)

**City Manager's Recommendation:** Take public input, close the public hearing and introduce the ordinance.

6. UPDATE TO THE CITY'S DEVELOPMENT REGULATIONS TO ENSURE CONSISTENCY WITH STATE LAW ON ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS – 1) Introduction of an ordinance adopting amendments to the Carlsbad Municipal Code Chapter 5.60 (Short-Term Vacation Rentals) to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units (Case Name: Accessory Dwelling Unit Amendments 2020; Case No.: MCA 2020-0001);  
2) Introduction of an ordinance adopting amendments to Title 21 of the Carlsbad Municipal Code (Zone Code), Village and Barrio Master Plan and Local Coastal Program to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units (Case Name: Accessory Dwelling Unit Amendments 2020; Case No.: ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006). (Staff contact: Corey Funk, Community Development)

**City Manager's Recommendation:** Take public input, close the public hearing and introduce the ordinances.

## DEPARTMENTAL AND CITY MANAGER REPORTS:

7. COVID-19 ACTIONS AND EXPENDITURES REPORT – Receive a report on recent actions and expenditures related to the city's response to the COVID-19 pandemic and provide direction as appropriate. (Staff contact: Geoff Patnoe, City Manager Department)

**City Manager's Recommendation:** Receive the report and provide direction as appropriate.

8. TEMPORARILY SUSPEND COLLECTION OF FEES TO MITIGATE ECONOMIC EFFECTS OF COVID-19 PANDEMIC – Adoption of a resolution empowering the director of emergency services to temporarily suspend the collection of fees for sidewalk café, outdoor display, and curb café permits. (Staff contact: David Graham, Administrative Services)

**City Manager's Recommendation:** Receive the report and adopt the resolution.

9. SPONSORSHIP OF THE GIFT CARLSBAD SHOP LOCAL PROGRAM – Adoption of a resolution appropriating funding to the Carlsbad Chamber of Commerce to sponsor the Gift Carlsbad Shop Local Program. (Staff contact: David Graham, Administrative Services)

**City Manager’s Recommendation:** Receive the report and adopt the resolution.

10. DISCUSSION TO INITIATE REVIEW OF CARLSBAD POLICE POLICIES & PROCESSES, INCLUDING USE OF FORCE AND DE-ESCALATION POLICIES – Consider a request from City Council Member Schumacher to review the following: 1) The administrative reorganization that placed the Homeless Response Plan under the Police Department; 2) Carlsbad Municipal Code Section 2.04.060.B and 2.06.090.B, which allow a City Council Member or the Mayor to serve, without compensation, as a voluntary police officer; 3) City of Carlsbad use of force policy; and 4) City of Carlsbad de-escalation policy. (Staff contact: Sheila Cobian, City Manager’s Department)

**City Manager’s Recommendation:** Receive the report.

11. DESIGNATION OF VOTING DELEGATE AND ALTERNATES FOR LEAGUE OF CALIFORNIA CITIES CONFERENCE – Adoption of a resolution designating a voting delegate and alternates for the League of California Cities Annual Conference to be held virtually on Oct. 7-9, 2020. (Staff contact: Faviola Medina, City Clerk’s Office)

**City Manager’s Recommendation:** Adopt the resolution.

**COUNCIL COMMENTARY AND REQUESTS FOR CONSIDERATION OF MATTERS:**

**City Council Regional Assignments (Revised 4/7/20)**

**Matt Hall**  
**Mayor**  
 North County Mayors and Managers  
 City/School Committee  
 Chamber of Commerce Liaison (primary)  
 Clean Energy Alliance JPA (alternate)  
 San Diego County Water Authority  
 San Diego Regional Economic Development Corporation Board of Directors

**Keith Blackburn**  
**Mayor Pro Tem**  
 Buena Vista Lagoon JPC  
 Encina Wastewater Authority/JAC Board of Directors  
 North County Dispatch Joint Powers Authority  
 Chamber of Commerce Liaison (alternate)  
 SANDAG (1<sup>st</sup> alternate)  
 North County Transit District (alternate)

**Priya Bhat-Patel**  
**Council Member – District 3**  
 SANDAG (2<sup>nd</sup> alternate)  
 North County Transit District (primary)  
 City/School Committee  
 League of California Cities – SD Division  
 Encina Wastewater Authority/JAC Board of Directors (alternate)

**Cori Schumacher**  
**Council Member – District 1**  
 SANDAG (primary)  
 Buena Vista Lagoon JPC  
 Clean Energy Alliance JPA (primary)  
 Encina Wastewater Authority/JAC Board of Directors  
 North County Dispatch Joint Powers Authority (alternate)

## **Vacant – At-Large Council Member**

### **PUBLIC COMMENT:** Continuation of the Public Comments

*This portion of the agenda is set aside for continuation of public comments, if necessary, due to exceeding the total time allotted in the first public comments section. In conformance with the Brown Act, no Council action can occur on these items.*

### **ANNOUNCEMENTS:**

This section of the Agenda is designated for announcements to advise the community regarding events that Members of the City Council have been invited to, and may participate in.

### **CITY MANAGER COMMENTS:**

### **CITY ATTORNEY COMMENTS:**

### **ADJOURNMENT:**

In accordance with Carlsbad Municipal Code (CMC) Section 20.20.20, notice is hereby given that the City Engineer has reviewed and, immediately following this City Council Meeting of September 1, 2020 will approve the following final map:

#### **Carlsbad Tract CT 2019-0002, located generally at 735 Oak Avenue.**

Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- 1) The map substantially conforms to the approved tentative map, and approved alterations thereof and any conditions of approval imposed with said tentative map.
- 2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- 3) The map is technically correct.

Said map will be finalized and recorded, unless an interested party files a valid appeal of the City Engineer's action to City Council no later than 10 calendar days from the date of the City Engineer's action. The appeal shall specifically state the reason(s) for the appeal; see CMC Section 20.20.165 and 21.54.150.

If you have any question about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact the City Clerk's Office at (760) 434-2808.

### **City Council Meeting Procedures (continued from page 1)**

#### **Written Materials**

Written materials related to the agenda that are submitted to the City Council after the agenda packet has been published will be available for review prior to the meeting during normal business hours at the City Clerk's office, 1200 Carlsbad Village Drive and on the city website. To review these materials during the meeting, please see the City Clerk

#### **Visual Materials**

Visual materials, such as pictures, charts, maps or slides, are allowed for comments on agenda items, not general public comment. Please contact the City Manager's Office at 760-434-2820 or [manager@carlsbadca.gov](mailto:manager@carlsbadca.gov) to make arrangements in advance. All materials must be received by the City Manager's Office no later than noon the day before the meeting. The time spent presenting visual materials is included in the maximum time limit provided to speakers. All materials exhibited to the City Council during the meeting are part of the public record. **Please note that video presentations are not allowed.**

## **Decorum**

All participants are expected to conduct themselves with mutual respect. Loud, boisterous and unruly behavior can interfere with the ability of the City Council to conduct the people's business. That's why it is illegal to disrupt a City Council meeting. Following a warning from the presiding officer, those engaging in disruptive behavior are subject to law enforcement action.

## **City Council Agenda**

The City Council follows a regular order of business that is specified in the Carlsbad Municipal Code. The City Council may only make decisions about topics listed on the agenda.

## **Presentations**

The City Council often recognizes individuals and groups for achievements and contributions to the community. Well-wishers often fill the chamber during presentations to show their support and perhaps get a photo. If you don't see an open seat when you arrive, there will likely be one once the presentations are over.

## **Consent Items**

Consent items are considered routine and may be enacted together by one motion and vote. Any City Council member may remove or "pull" an item from the "consent calendar" for a separate vote. Members of the public may pull an item from the consent calendar by requesting to speak about that item. A speaker request form must be submitted to the clerk prior to the start of the consent portion of the agenda.

## **Public Comment**

Members of the public may speak on any city related item that does not appear on the agenda. State law prohibits the City Council from taking action on items not listed on the agenda. Comments requiring follow up will be referred to staff and, if appropriate, considered at a future City Council meeting. Members of the public are also welcome to provide comments on agenda items during the portions of the meeting when those items are being discussed. In both cases, a request to speak form must be submitted to the clerk in advance of that portion of the meeting beginning.

## **Public Hearing**

Certain actions by the City Council require a "public hearing," which is a time within the regular meeting that has been set aside and noticed according to different rules.

## **Departmental Reports**

This part of the agenda is for items that are not considered routine and do not require a public hearing. These items are usually presented to the City Council by city staff and can be informational in nature or require action. The staff report about each item indicates the purpose of the item and whether or not action is requested.

## **Other Reports**

At the end of each meeting, City Council members and the city manager, city attorney and city clerk are given an opportunity to share information. This usually includes reports about recent meetings, regional issues, and recent or upcoming meetings and events.

## **City Council Actions**

### **Resolution**

A resolution is an official statement of City Council policy that directs administrative or legal action or embodies a public City Council statement. A resolution may be introduced and adopted at the same meeting. Once adopted, it remains City Council policy until changed by subsequent City Council resolution.

### **Ordinance**

Ordinances are city laws contained in the Carlsbad Municipal Code. Enacting a new city law or changing an existing one is a two-step process. First, the ordinance is "introduced" by city staff to the City Council. If the City Council votes in favor of the introduction, the ordinance will be placed on a subsequent City Council meeting agenda for "adoption." If the City Council votes to adopt the ordinance, it will usually go into effect 30 days later.

### **Motion**

A motion is used to propose City Council direction related to an item on the agenda. Any City Council member may make a motion. A motion must receive a "second" from another City Council member to be eligible for a City Council vote.



CITY COUNCIL  
**Minutes**

Council Chamber  
1200 Carlsbad Village Drive  
Carlsbad, CA 92008

July 28, 2020 3 p.m.

**CALL TO ORDER:** 3 p.m.

**ROLL CALL:** Hall, Blackburn, Bhat-Patel, Schumacher.

**ANNOUNCEMENT OF CONCURRENT MEETINGS:** The Mayor announced that the City Council is serving as the Carlsbad Municipal Water District Board of Directors on Consent Calendar Item No. 5.

**PLEDGE OF ALLEGIANCE:** Mayor Pro Tem Blackburn led the Pledge of Allegiance.

**INVOCATION:** None.

**APPROVAL OF MINUTES:**

Minutes of the Special Meeting held July 21, 2020.

Motion by Mayor Pro-Tem Blackburn, seconded by Council Member Bhat-Patel, to approve the minutes as presented. Motion carried unanimously, 4/0.

**PRESENTATIONS:** None.

**PUBLIC COMMENT:** None.

**PUBLIC REPORT OF ACTION TAKEN IN CLOSED SESSION:** No reportable action.

**CONSENT CALENDAR:**

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to approve Consent Calendar Item Nos. 1, 2, 4 through 7. Motion carried unanimously, 4/0.

1. **APPROVAL OF THE PURCHASE OF THE OKTA SOFTWARE SUBSCRIPTION RENEWAL FROM CDW-G, LLC** – Adoption of Resolution No. 2020-157 authorizing the city manager or a designee to purchase the Okta Software Subscription renewal from CDW-G, LLC in an amount not to exceed \$381,135 for a three-year term ending Aug. 24, 2023. (Staff contact: Maria Callander, Administrative Services)
2. **LICENSE AGREEMENT WITH CROWN CASTLE TOWERS 06-2** – Adoption of Resolution No. 2020-158 authorizing the city manager to execute a license agreement with Crown Castle Towers 06-02 LLC to operate a wireless communication facility on city property (APN 208-010-38-00, 208-010-39-00, and 208-010-42-00); future Robertson Ranch Community Park site. (Staff contact: Curtis Jackson, Real Estate)

*This item was pulled for discussion by Council Member Schumacher.*

3. AUTHORIZATION TO REQUEST BIDS FOR THE TAMARACK AVENUE AND VALLEY STREET PEDESTRIAN IMPROVEMENT PROJECT – Adoption of resolution approving the plans and specifications, appropriation of additional Gas Tax Funds in the amount of \$150,261, and authorizing the city clerk to advertise for bids for the Tamarack Avenue and Valley Street Pedestrian Improvement Project, Capital Improvement Program Project No. 6335. (Staff contact: John Kim, Public Works)
4. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE NEW VILLAGE ARTS BUILDING ROOF AND EXTERIOR REFURBISHMENT PROJECT – Adoption of Resolution No. 2020-160 approving plans and specifications and authorizing the city clerk to advertise for bids for the New Village Arts Building Roof and Exterior Refurbishment Project, Capital Improvement Program Project No. 4739. (Staff contact John Maashoff, Public Works)
5. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE VALVE REPLACEMENT PHASE II PROJECT – Adoption of Carlsbad Municipal Water District (CMWD) Resolution No. 1643 approving plans and specifications and authorizing the Secretary to the CMWD Board to advertise for bids for the Valve Replacement Phase II, Capital Improvement Program Project No. 5019-E. (Staff contact: Stephanie Harrison and Vicki Quiram, Public Works)
6. ACCEPTANCE OF THE AMERICANS WITH DISABILITIES ACT BEACH ACCESS FEASIBILITY STUDY – Adoption of Resolution No. 2020-161 accepting the Americans with Disabilities Act Beach Access Feasibility Study, including the corresponding concept plans, and directing staff to prepare a request for proposals to pursue the environmental review, agency permitting, engineering and construction documentation phases of the project. (Staff contact: Sheila Cobian, City Manager Department)
7. NOVEMBER 3, 2020 COUNCIL COMPENSATION BALLOT MEASURE – 1) Adoption of Resolution No. 2020-162 ordering the submission to the qualified electors of the City of Carlsbad a certain measure relating to City Council compensation on the general election to be held on Tuesday, November 3, 2020, requesting that the San Diego County Board of Supervisors place the measure on the ballot and provide consolidation services and appropriating the necessary funds; and  
2) Adoption of Resolution No. 2020-163 setting priorities for filing written arguments regarding a city measure pertaining to City Council compensation and directing the city attorney to prepare an impartial analysis; and  
3) Adoption of Resolution No. 2020-164 setting priorities for filing of rebuttal arguments regarding a city measure pertaining to City Council compensation that will be submitted at the November 3, 2020, general municipal election. (Staff contact: Faviola Medina, City Clerk Department)

**CONSENT CALENDAR ITEMS PULLED FOR DISCUSSION:**

*This item was pulled for discussion by Council Member Schumacher.*

3. AUTHORIZATION TO REQUEST BIDS FOR THE TAMARACK AVENUE AND VALLEY STREET PEDESTRIAN IMPROVEMENT PROJECT – Adoption of Resolution No. 2020-159 approving the

plans and specifications, appropriation of additional Gas Tax Funds in the amount of \$150,261 and authorizing the city clerk to advertise for bids for the Tamarack Avenue and Valley Street Pedestrian Improvement Project, Capital Improvement Program Project No. 6335. (Staff contact: John Kim, Public Works)

Council Member Schumacher thanked staff for their work on the project and commented that this will increase safety for pedestrians and the children who walk to school in the area.

Motion by Council Member Schumacher, seconded by Mayor Pro Tem Blackburn, to adopt Resolution No. 2020-159. Motion carried unanimously, 4/0.

**ORDINANCES FOR INTRODUCTION:** None.

**ORDINANCES FOR ADOPTION:** None.

**PUBLIC HEARINGS:**

8. PUBLIC HEARING TO FINALIZE THE 2020 WEED ABATEMENT COST REPORT – Adoption of Resolution No. 2020-165 accepting the 2020 Weed Abatement Cost Report and directing the city clerk to file a certified copy of the resolution with the San Diego County Assessor. (Staff contact: Randy Metz, Fire)

**City Manager’s Recommendation:** Take public input, close the public hearing and adopt the resolution.

Fire Marshall Randy Metz presented the report.

Mayor Hall opened the duly noticed Public Hearing at 3:06 p.m.

Hearing no one wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 3:06 p.m.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-165. Motion carried unanimously, 4/0.

9. AN AMENDMENT TO THE CARLSBAD CORPORATE PLAZA SPECIFIC PLAN PARKING STRUCTURE  
– 1) Introduction of Ordinance No. CS-379 amending the Carlsbad Corporate Plaza Specific Plan (SP 23(H)) to remove the 6,000-square-foot limitation on medical office use for existing office buildings located at 6183-6185 Paseo del Norte within the Mello II segment of the city’s Local Coastal Program and Local Facilities Management Zone 3 (Case Name: Carlsbad Corporate Plaza Parking Structure; Case No.: Amend 2019-002); and  
2) Adoption of Resolution No. 2020-166 approving Minor Site Development Plan and Coastal Development Permit to allow the construction of a 35,360-square-foot, two-level parking structure located over an existing parking lot serving existing office buildings located at 6183-6185 Paseo del Norte within the Mello II segment of the Local Coastal Program and Local

Facilities Management Zone 3 (Case Name: Carlsbad Corporate Plaza Parking Structure; Case No.: SDP 2019-0003/CDP 2019-0005). (Staff contact: Esteban Danna, Community Development)

City Manager's Recommendation: Take public input, close the public hearing, Introduce the ordinance and adopt the resolution.

Associate Planner Esteban Danna and City Planner Don Neu presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Mayor Hall opened the duly noticed Public Hearing at 3:27 p.m.

Hearing no one wishing to speak, Mayor Hall closed the duly noticed Public Hearing at 3:27 p.m.

Council Member Priya Bhat-Patel disclosed that she met with the applicant and the property owner and visited the facility.

Bill Hoffman of Hoffman Planning and Engineering and Scott Leggett, co-owner of NextMed presented a PowerPoint presentation about the project.

Mayor Pro Tem Blackburn disclosed that he has had medical surgeries at the Carlsbad Surgery Center which NextMed is associated with.

City Attorney Celia Brewer titled the ordinance.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to introduce Ordinance No. CS-379 and adopt Resolution No. 2020-166. Motion carried unanimously, 4/0.

#### **DEPARTMENTAL AND CITY MANAGER REPORTS:**

10. **COVID-19 ACTIONS AND EXPENDITURES REPORT** – Receive a report on recent actions and expenditures related to the city's response to the COVID-19 pandemic and provide direction as appropriate. (Staff contact: Geoff Patnoe, City Manager Department)

**City Manager's Recommendation:** Receive the report and provide direction as appropriate.

City Manager Scott Chadwick, Assistant Director of Emergency Services David Harrison, Deputy City Manager of Community Services Gary Barberio, Police Chief Neil Gallucci, Fire Chief Michael Calderwood, Chief Innovation Officer David Graham and Deputy City Manager of Administrative Services Laura Rocha presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Council Member Schumacher asked the City Council if they would be interested in revisiting the eviction moratorium and extending the repayment terms from 3 months to 6 months.

In response to an inquiry from Mayor Hall, Council Member Schumacher explained revisiting the eviction moratorium and repayment extension would include all commercial properties in the City of Carlsbad and not solely those that the City of Carlsbad leases to. She further added that she is hearing from the public if the repayment terms could be extended from 3 months to 6 months.

Minute Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to direct staff to provide an update of the eviction moratorium and consider options for potential action at a future City Council meeting. Motion carried unanimously, 4/0.

11. ADMINISTRATIVE ENFORCEMENT OF THE FACIAL COVERING REQUIREMENTS OF STATE AND COUNTY PUBLIC HEALTH ORDERS – Adoption of a resolution issuing an emergency order mandating face coverings for all persons within Carlsbad city limits in accordance with the most recent San Diego County Order of the health officer and emergency regulations and the most recent California Department of Public Health face covering guidance. (Staff contact: Allegra Frost, City Attorney Department)

**City Manager’s Recommendation:** Adopt the resolution.

Deputy City Attorney Allegra Frost and Assistant Director of Emergency Services David Harrison presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

The following individuals called into the City Council Meeting and shared their comments for the record:

*Sharon McKeeman spoke about some of the harassment she faces for not wearing a face-covering in public. She further commented on her concern for those who do not wear face masks due to medical reasons. She encouraged the City of Carlsbad to understand the medical and ADA exemptions of not wearing a face mask.*

*Liam Ferguson spoke about his concerns regarding face masks and encouraged the City Council to keep Carlsbad free. He further commented that the spread of COVID-19 was likely due to the recent protests seen throughout California.*

Council Member Schumacher asked staff if police was aware of their rights once COVID-19 was deemed a direct threat under the ADA.

In response to an inquiry from Council Member Schumacher, Police Chief Neil Gallucci explained when Carlsbad Police Officers walk up to someone, they need reasonable suspicion before they question the person.

Council Member Schumacher commented that the reasonable suspicion has already been determined via the direct threat of COVID-19.

Deputy City Attorney Allegra Frost explained that the legal precedent that they are looking at is the fourth amendment and not the ADA. She further explained that the legal standard you must meet is that police must have reasonable suspicion to stop someone. She added that to determine if there is reasonable suspicion, the police officer needs to know by looking and observing and determining whether a crime has been committed.

Council Member Schumacher expressed that it is our responsibility to protect the general welfare of our residents. She further added that she wishes to give law enforcement a different track to citing the enforcement of face masks. She questioned that if police or the City Council are not enforcing the face mask requirement, then who is expected to enforce the requirement. She commented that the enforcement issue is currently happening in Carlsbad.

Deputy City Attorney Marissa Kawecki explained that from a prosecution standpoint if someone were to be charged and appeal this violation in an administrative context or in criminal court, the city must consider all constitutional challenges. She further explained that this is not to say that the police cannot go up to someone and attempt to ask questions to determine a medical exemption, but if the individual chooses not to answer the questions, then the police cannot do anything about it. She added that this is a tool that can be useful under certain conditions, but it does not allow police to pursue every individual.

Council Member Schumacher commented that she would like to adopt the resolution but would also like to revisit the City of Carlsbad specific face covering ordinance that is specifically tailored with time, place and manner restrictions specifically to certain locations, walks and stairs and that drills into our indoor businesses.

In response to an inquiry by Mayor Pro Tem Blackburn, City Attorney Celia Brewer commented that the intent of the item presented was to provide an additional tool for enforcement that is within the city's control, and while it may not be used for individual face masks outside, it gives staff a tool for inside.

Mayor Hall expressed that the reason this item is before the City Council is so that the city can be more aggressive in enforcing face masks and the City Council should not shy away from that, but also has heard multiple times today that the city is in conflict with our federal and state constitution and believes all this is going to create further animosity in the community.

Mayor Pro Tem Blackburn explained that he would not be supporting this item because he is not getting the commitment from the City Council that this is not going to be a slippery slope. He wished to make it clear that he absolutely supports the wearing of face masks but is concerned with the slippery slope that this agenda item would bring.

Council Member Schumacher explained that the city does have an underlying current to not enforce and that it is putting the community at risk.

Council Member Bhat-Patel expressed that she doesn't see this issue as a slippery slope, believes is a clear-cut decision, and to put it that way makes the Carlsbad community think that the city is not putting their best interests forward.

Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to adopt the resolution. Motion failed – 2/2 (Hall, Blackburn – No).

Minute Motion by Council Member Schumacher, seconded by Council Member Bhat-Patel, to direct staff to draft a City of Carlsbad specific face covering Ordinance that includes time, place and manner of restrictions on boardwalks, staircases, gatherings and businesses. Motion carried, 3/1 (Hall – No).

*Mayor Hall declared a recess at 5:05 p.m.*

*Mayor Hall reconvened the meeting at 5:15 p.m.*

12. EMPOWER THE DIRECTOR OF EMERGENCY SERVICES TO TEMPORARILY SUSPEND OR MODIFY CERTAIN LAND DEVELOPMENT STANDARDS TO MITIGATE THE ECONOMIC EFFECTS OF THE COVID-19 PANDEMIC STATE OF EMERGENCY ON LOCAL BUSINESSES – Adoption of Resolution No. 2020-167 empowering the Director of Emergency Services to temporarily suspend or modify certain land development standards to mitigate the economic effects of the COVID-19 pandemic state of emergency on local business. (Staff contact: Jeff Murphy, Community Development)

Community Development Director Jeff Murphy presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

City Attorney Celia Brewer commented that this item involves items in the Village and Barrio Master Plan and while Mayor Hall usually recuses himself from discussions on these items Mayor Hall can participate because there are special emergency regulations in the FPPC guidelines that allow him to vote on this item.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-167. Motion carried unanimously, 4/0.

13. ANALYSIS AND OPTIONS ON PHYSICAL CHANGES TO COLLEGE BOULEVARD, FROM CARLSBAD VILLAGE DRIVE TO CANNON – 1) Receive the presentation regarding options on roadway safety and physical changes to College Boulevard, from Carlsbad Village Drive to Cannon Road; and  
2) Adoption of Resolution No. 2020-168 approving implementation of up to 11 speed feedback signs on College Boulevard, North of Cannon Road. (Staff contact: John Kim and Tom Frank, Public Works)

**City Manager's Recommendation:** Receive the presentation and adopt the resolution.

Transportation Director Tom Frank and City Traffic Engineer John Kim presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Council received the presentation.

Motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, to adopt Resolution No. 2020-168. Motion carried unanimously, 4/0.

14. CLEAN ENERGY ALLIANCE LOAN TERMS – 1) Provide feedback on the proposed terms of a potential loan to fund the Clean Energy Alliance’s community choice aggregation program launch; and
- 2) Consider the following options to direct staff to either:
- a. Return to the City Council with a proposed loan agreement based on the terms discussed and agreed on by the City Council to obtain the council’s final approval authorizing the city manager to execute the loan agreement and appropriate the funds
  - b. Adopt a resolution appropriating \$4,450,000 from the city’s unassigned General Fund reserve and authorizing the city manager to negotiate terms, within the City Council’s agreed upon parameters, and execute a loan agreement with the Clean Energy Alliance
  - c. Take no further action on the matter. (Staff contact: Ryan Green, Administrative Services Department and Jason Haber, City Manager Department)

**City Manager’s Recommendation:** Consider options and provide staff with feedback.

Intergovernmental Affairs Director Jason Haber, Assistant Finance Director Ryan Green and Interim CEO Barbara Boswell presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

City Attorney Celia Brewer stated that a comment was received earlier regarding a conflict of duties question involving a Council Member sitting on one agency that is giving a loan to an agency that is receiving a loan but added that it does not apply to Council Members sitting on Joint Power Authority’s.

The following individual called into the City Council Meeting and voiced their comment for the record:

*Anthony Bona spoke regarding a potential conflict of interest with Council Member Schumacher and this item.*

Mayor Hall explained that his biggest concern with this project is the uncertainty behind it and that there is no certain launch date. He also added that in his time of being a Council Member, they have never made a loan to a JPA and that he cannot say with certainty that they could make the 2% discount on the rate structure.

Council Member Bhat-Patel expressed that she would be open to Option A or B tonight and would be making a motion for either as well.

Council Member Blackburn expressed that they he wanted the City of Carlsbad to be the one to make the loan but did not want to tell residents he took a chance with their taxpaying money and made an error. He added that he watched the recent JPA meeting and saw the directors going in different directions which did not instill a lot of confidence in him. He further added that if he could not support the City of Carlsbad as being the lender, then he could not support the city being the loan guarantee entity.

Council Member Schumacher explained that at the last JPA meeting they were grappling with the policy and not frame it as the directors going in different directions. She inquired to staff, what would the ramifications be if the City of Carlsbad were not to be the loan provider.

In response to an inquiry from Council Member Schumacher, Assistant Finance Director Ryan Green responded that the JP Morgan loan would have an estimated interest of \$575,000 whereas the City of Carlsbad is offering close to \$400,000 in interest over a three-year period. He also added that in theory, any savings from the interest rate would be utilized by the Clean Energy Alliance in either one of two ways; either it would apply directly to the rates that they would set or allow for them to buy a cleaner mix of energy. He further added that initially there were three options: the City of Carlsbad loan option, the River City Bank option, and the JP Morgan option. He explained that the JP Morgan loan did not require a guarantee, but the River City Bank loan did and that would not be an option unless the Clean Energy Alliance could find some other means.

Clean Energy Alliance Interim CEO Barbara Boswell explained that while the JP Morgan loan did not require a guarantee, it did have additional covenants that would restrict the board from making discounts for customers.

Council Member Schumacher explained that they would not be able to get savings directly to the customers if the City Council moved forward with the JP Morgan option and that it would not serve the public interest as much as it could which meant that potential customers would be placed at a disadvantage.

Motion by Council Member Bhat-Patel to adopt Option A, seconded by Council Member Schumacher. Motion failed, 2/2 (Hall, Blackburn – No).

15. TRAFFIC & MOBILITY COMMISSION APPOINTMENTS – Adoption of Resolution No. 2020-169 and Resolution No. 2020-170 appointing two members to the Traffic & Mobility Commission. (Staff contact: Tammy McMinn, City Clerk Department)

**City Manager's Recommendation:** Adopt the resolutions.

Council Member Schumacher requested that they vote on each appointment separately. She expressed that she would not be voting for an individual who she has seen attack Council Members verbally and otherwise online and it is toxic, and we need to not be supporting that type of behavior in our commissioners.

Motion by Mayor Hall to adopt Resolution No. 2020-169 re-appointing Monica Gocan. Motion carried, 3/1 (Schumacher – No).

Council Member Bhat-Patel commented that she would like to advocate for her district since there are a lot of traffic and mobility issues in her district and noticed that there was an applicant for District 3 in the pool.

Motion by Mayor Hall to adopt Resolution No. 2020-170 appointing Allan Wanamaker. Motion carried, 3/1 (Schumacher – No).

**COUNCIL REPORTS AND COMMENTS:**

Council Member Schumacher requested that the City Council consider at some point and time for all commissioners, City Council members, and public comments, a meeting decorum request. She added that over the years she has watched commissioners and public comments at City Council meetings really veer off course and would like for the City Council to work together to model for the community what respecting the positions of the City Council office looks like.

Council Member Bhat-Patel expressed appreciation for Council Member Schumacher's comments and agreed with the sentiments that they need to be able to work together, and that unfortunately some of the comments that are made can cause discussions to go in disarray. She added that the City Council needs to focus on what the goals are which are to ensure that they are serving the community to the best of their abilities and that they are not letting those in particular get in the way.

Mayor Hall requested that the City Council add Item No. 5 from the July 23, 2020 Clean Energy Alliance meeting agenda regarding the Inclusive & Sustainable Workforce Policy for discussion at the August 18, 2020 City Council meeting. He explained that the agenda item was important to discuss because the project has varied from the City Councils original direction.

Minute Motion by Mayor Hall, seconded by Mayor Pro Tem Blackburn, to direct staff to bring back to City Council Item No. 5 from the July 23, 2020 Clean Energy Alliance meeting agenda regarding the Inclusive & Sustainable Workforce Policy for discussion at the August 18, 2020 City Council meeting. Motion carried, 3/1 (Schumacher – No).

**CITY MANAGER COMMENTS:** None.

**CITY ATTORNEY COMMENTS:** None.

**CITY CLERK COMMENTS:** None.

**ANNOUNCEMENTS:** None.

**ADJOURNMENT:**

Mayor Hall adjourned the duly noticed Meeting at 6:47 p.m.

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Hector Gomez  
Deputy City Clerk



CITY COUNCIL  
**Staff Report**

**Meeting Date:** Sep. 1, 2020

**To:** Mayor and City Council

**From:** Scott Chadwick, City Manager

**Staff Contact:** Craig Lindholm, City Treasurer  
 craig.lindholm@carlsbadca.gov, 760-602-2473  
 Laura Rocha, Deputy City Manager, Administrative Services  
 laura.rocha@carlsbadca.gov, 760-602-2415

**Subject:** Report on City Investments as of July 31, 2020

**Recommended Action**

Accept and file report on city investments as of July 31, 2020.

**Executive Summary**

The city's Investment Policy requires the city treasurer to report the status of the city's pooled investment portfolio to the City Council each month.

**Discussion & Fiscal Analysis**

The city's pooled investment portfolio as of the month ending July 31, 2020 is summarized below.

<b>Pooled investment portfolio (cash and securities)</b>		
	Current month	Prior month
Par value <sup>1</sup>	\$788,773,526	\$807,311,873
Investment cost	\$796,390,558	\$814,122,940
Amortized cost <sup>2</sup>	\$795,018,467	\$812,848,717
Market value <sup>3</sup>	\$810,026,324	\$827,577,140

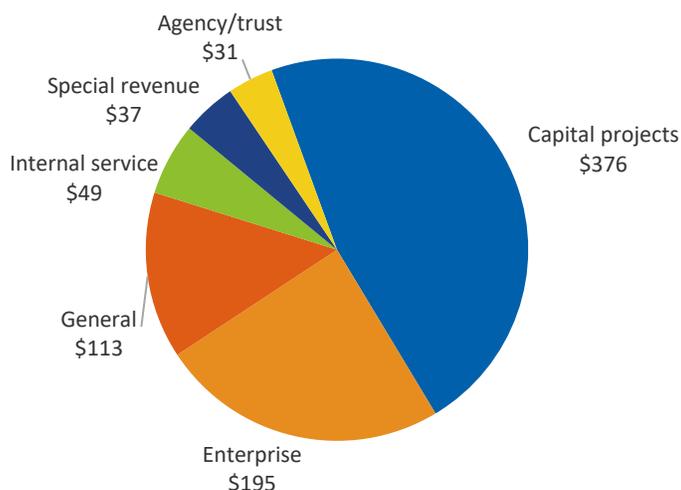
- (1) The face value of the investments.
- (2) The cost of investments adjusted for amortized premiums and discounts.
- (3) The amount at which the investments could be sold. Source of market value is Wells Fargo Bank's custodial report, as of July 31, 2020.

The equity portion of the various funds in the total portfolio is summarized in the graph below. Fund balances are restricted for various purposes. (See Exhibit 7 for a more detailed breakdown.)

### Fund equity in pooled investments

July 31, 2020

(\$ in millions)



### Pooled investment interest income

	Year to date	Current month	Prior month
Cash income	\$1,673,791	\$1,673,791	\$1,100,983

The cash income received is adjusted for any accrued interest purchased.

### Pooled investment performance

	Average life (years)	Yield to maturity	Modified duration
May 2020	1.85	1.77%	1.77
June 2020	1.84	1.69%	1.77
July 2020	1.92	1.61%	1.84

All pooled investments have been made in accordance with the city's Investment Policy, which was adopted Jan. 2, 1985, and last revised Dec. 17, 2019. All investments were initially made in accordance with the city's Investment Policy, however, events after the purchase might have resulted in non-compliance with the current policy. These events are typically a change in the credit rating after a purchase, a change in the city's Investment Policy or a temporary reduction in total portfolio assets.

A temporary reduction in total portfolio assets has caused corporate note ownership to exceed the Investment Policy limit of 30%. All corporate note purchases, when made, resulted in a corporate note percentage of the total portfolio lower than 30% in accordance with the Investment Policy.

Exhibit 8 shows that the investments out of compliance with the current policy had a subsequent change in credit rating. Ratings on five investments have dropped to less than the rating required by the Investment Policy. Corporate notes require a “split rating” of AA from one rating company and an A rating from a second. Mortgage backed securities require an AA rating from one rating company. The city’s Investment Policy allows the city treasurer to determine the course of action that would correct exceptions to the policy. These investments are paying interest at the required times and their principal is considered secure. It is the intent of the city treasurer to hold these assets in the portfolio until maturity unless events indicate they should be sold.

### **Next Steps**

The report on city investments will continue to be produced monthly by the city treasurer.

### **Environmental Evaluation (CEQA)**

Pursuant to California Public Resources Code Section 21065, this action does not constitute a “project” within the meaning of the California Environmental Quality Act in that it has no potential to cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and therefore does not require environmental review.

### **Public Notification and Outreach**

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

### **Exhibits**

1. Investments by cost, market value, cash income, and average yield by class
2. Maturities by classification and length of time at market value
3. Yield comparison & market yield curve
4. Cumulative cash income
5. Maturities, calls, and purchases this quarter
6. Detailed investment report
7. Fund equity in pooled investments
8. Corporate note and mortgage backed security ratings
9. Portfolio allocation at amortized cost by issuer

**City of Carlsbad investment portfolio**

As of July 31, 2020

Investments by cost, market value, cash income, and average yield by class

Class	Investment cost			Market value			Average yield		
	Current month	Prior month		Current month	Prior month		Current month	Prior month	
FA	\$240,976,954	\$238,374,968	\$244,832,920	\$242,273,461	\$	346,875	1.67%	1.75%	
FN	2,750,760	2,750,760	2,998,680	2,997,330	-	-	1.75	1.75	
SN	39,669,269	39,669,269	40,558,475	40,575,352	111,733	111,733	1.82	1.82	
TR	77,117,278	80,628,598	78,654,315	82,219,190	105,709	105,709	1.76	1.75	
CN	239,094,895	234,863,954	245,484,370	240,987,959	439,443	439,443	2.02	2.06	
CD	18,581,755	18,329,263	19,235,504	18,956,503	26,242	26,242	1.98	2.05	
MBS (agency)	8,167,229	7,165,895	8,229,643	7,227,112	15,915	15,915	1.39	1.47	
MBS (non-agency)	-	-	-	-	-	-	0.00	0.00	
Bank account	3,125,562	3,193,463	3,125,562	3,193,463	-	-	0.10	0.10	
Sweep	5,482,105	755,812	5,482,105	755,812	115	115	0.06	0.06	
IRT	1,470,544	3,064,499	1,470,544	3,064,499	12	12	0.01	0.01	
CAMP	1,004,837	1,004,415	1,004,837	1,004,415	422	422	0.30	0.57	
LAIF	158,949,370	184,322,044	158,949,370	184,322,044	627,325	627,325	0.84	1.31	
<b>Total</b>	<b>\$796,390,558</b>	<b>\$814,122,940</b>	<b>\$810,026,324</b>	<b>\$827,577,140</b>	<b>\$1,673,791</b>	<b>\$1,673,791</b>	<b>1.61%</b>	<b>1.69%</b>	

FA - Federal agency notes	MBS - Passthrough/mortgage backed securities
FN - Federal discount notes	Bank account - General cash account
SN - Supranational	Sweep - Overnight cash account
TR - US Treasury	IRT - Investment cash account
CN - Corporate notes	CAMP - California Asset Management Program
CD - Certificate of deposit	LAIF - Local Area Investment Fund

**City of Carlsbad investment portfolio**

As of July 31, 2020

Maturities by classification and length of time at market value

Class	Within 6 months	7 to 12 months	1 to 5 years	Total	% Total
FA	\$16,605,674	\$23,119,349	\$205,107,897	\$244,832,920	30.23%
FN	2,998,680	-	-	2,998,680	0.37
SN	4,606,441	-	35,952,034	40,558,475	5.01
TR	13,318,108	17,431,962	47,904,245	78,654,315	9.71
CN	21,068,025	15,510,698	208,905,648	245,484,370	30.31 (2)
CD	1,742,684	1,765,228	15,727,591	19,235,504	2.37
MBS (agency)	42,000	42,000	8,145,643	8,229,643	1.02 (3)
MBS (non-agency)	-	-	-	-	0.00 (4)
Bank account	3,125,562	-	-	3,125,562	0.39
Sweep	5,482,105	-	-	5,482,105	0.68
IRT	1,470,544	-	-	1,470,544	0.18
CAMP	1,004,837	-	-	1,004,837	0.12
LAIF	158,949,370	-	-	158,949,370	19.62
<b>Totals</b>	<b>\$230,414,029</b>	<b>\$57,869,237</b>	<b>\$521,743,059</b>	<b>\$810,026,324</b>	<b>100.0%</b>
<b>% Totals</b>	<b>28.5%</b>	<b>7.1%</b>	<b>64.4%</b>	<b>100.0%</b>	

**Total within One Year**  
 \$288,283,265 (1)  
 35.6%

Policy: (1) Not less than \$195,096,000 to mature within one year, two-thirds of FY 20-21 operating budget of \$292,643,525.

(2) Policy states that not more than 30% of portfolio is to be invested in corporate notes at time of purchase.

Corporate notes exceeded their 30% limit; all purchases, when made, were within the limit.

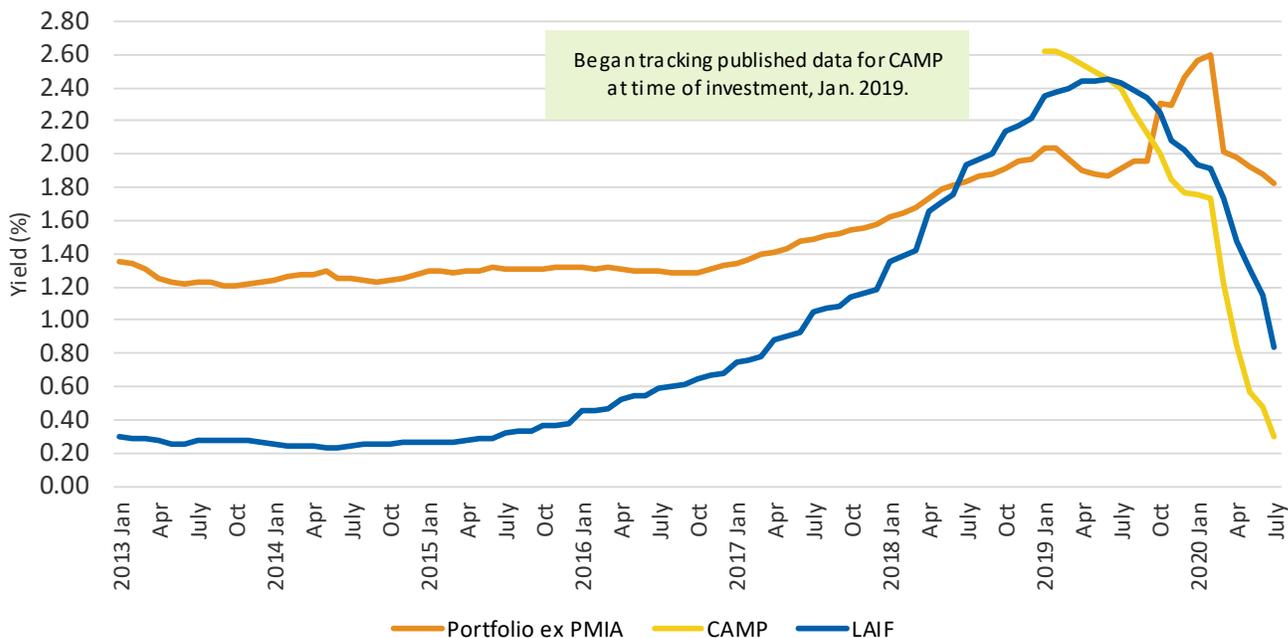
(3) Policy states that not more than 20% of portfolio is to be invested in mortgage backed securities at time of purchase.

(4) Total non-agency mortgage backed securities shall be limited to 5% of the city's portfolio.

City of Carlsbad investment portfolio

Yield comparison

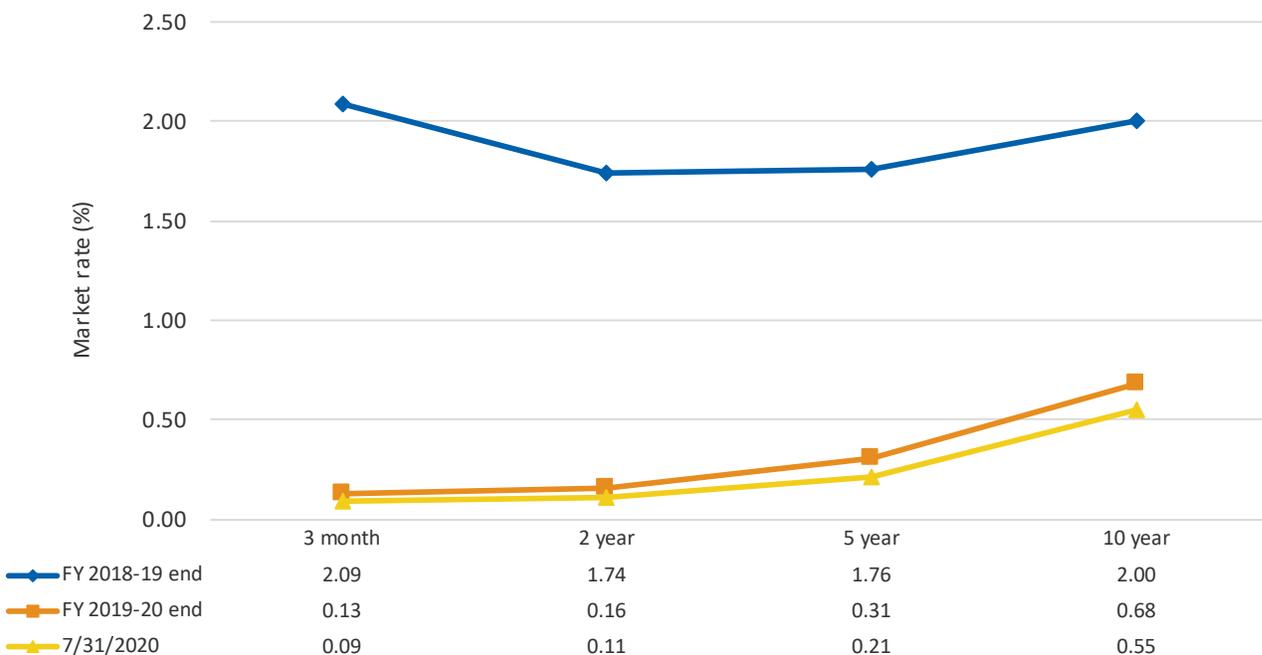
Portfolio yield ex pool money investment accounts (PMIA) vs CAMP yield vs LAIF yield

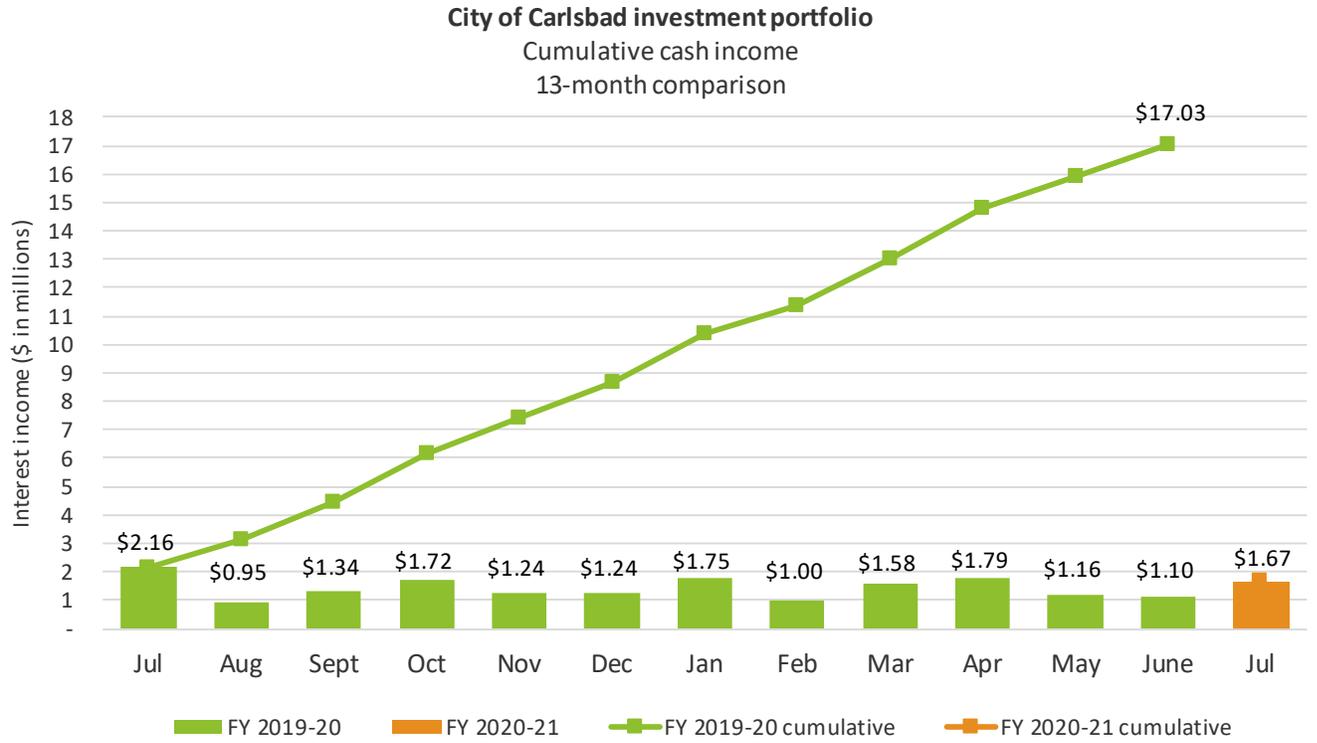


City of Carlsbad investment portfolio

Market yield curve

Fiscal year end compared to current





## City of Carlsbad investment portfolio

Maturities, calls, and purchases this quarter

As of July 31, 2020

## Maturities

CUSIP	Issuer	Settled	Maturity	Par value	Book value	Interest	Total
3138L14F3	FNMA AM1721	12/26/2019	7/27/2020	3,532	3,557	3,580	7,136
3134GBHQ8	FHLMC	4/27/2017	7/27/2020	1,600,000	1,600,000	6,800	1,606,800
3130A5Z77	FHLB	1/21/2016	7/29/2020	2,500,000	2,500,000	22,875	2,522,875
912828XM7	US Treasury	6/7/2017	7/31/2020	2,000,000	2,000,000	16,250	2,016,250
912828XM7	US Treasury	12/2/2016	7/31/2020	1,500,000	1,500,000	12,188	1,512,188
45780PAL9	Institution For Savings	7/31/2015	7/31/2020	249,000	249,000	420	249,420
				7,852,532	7,852,557	62,112	7,914,668

## Calls

CUSIP	Issuer	Settled	Maturity	Redeemed	Par value	Book value	Total
3134GTYS6	FHLMC	07/03/2019	07/01/2022	07/01/2020	2,500,000	2,500,000	2,500,000
3134GSAX3	FHLMC	01/08/2018	07/01/2022	07/01/2020	1,500,000	1,500,000	1,500,000
94988J5Q6	Wells Fargo	02/06/2020	07/23/2021	07/23/2020	3,500,000	3,505,451	3,500,000
3134GSTD7	FHLMC	07/30/2018	07/28/2023	07/28/2020	2,500,000	2,500,000	2,500,000
86789VVL8	Suntrust Bank	01/29/2018	01/30/2023	07/30/2020	246,000	245,752	246,000
					10,246,000	10,251,203	10,246,000

## Purchases

CUSIP	Issuer	Settled	Maturity	Payment	Rate	Par value	Dollar price	Book value
3136G4XZ1	FNMA	7/1/2020	6/30/2025	12/30/2020	0.74%	2,500,000	100.000	2,500,000
06406HCV9	Bank of NY Mellon Corp	7/10/2020	5/15/2024	11/15/2020	0.56%	3,000,000	110.562	3,316,860
3133EC2D5	FFCB	7/10/2020	11/13/2024	11/13/2020	0.39%	1,621,000	108.042	1,751,361
46625HJX9	JP Morgan	7/13/2020	5/13/2024	11/13/2020	0.70%	3,000,000	111.043	3,331,290
478160CJ1	Johnson & Johnson	7/13/2020	1/15/2025	7/15/2020	0.51%	1,000,000	109.064	1,090,640
3133ELU77	FFCB	7/15/2020	10/15/2024	10/15/2020	0.61%	4,000,000	100.000	4,000,000
740367MA2	Preferred Bank	7/17/2020	7/17/2025	8/17/2020	0.50%	249,000	100.000	249,000
30315EAA4	FRESB Multifamily Mortgage	7/24/2020	5/25/2025	8/25/2020	0.83%	1,000,000	100.489	1,004,891
3133ELX66	FFCB	7/24/2020	7/22/2024	1/22/2021	0.44%	2,000,000	100.000	2,000,000
89235MJZ5	Toyota FinS Bank	7/28/2020	7/28/2025	1/28/2021	0.65%	249,000	100.000	249,000
211163KQ2	Continental Bank	7/29/2020	7/29/2025	8/29/2020	0.50%	249,000	100.000	249,000
3133ELZ80	FFCB	7/29/2020	7/29/2025	1/29/2021	0.58%	3,000,000	100.000	3,000,000
						21,868,000	103.267	22,742,042

City of Carlsbad  
Investment summary  
As of July 31, 2020

Settlement	Maturity	Issuer	Par	Invested	Yield	Interest expected	Return
<b>Federal investments</b>							
04/19/16	08/28/20	FHLMC	1,000,000.00	1,017,760.00	1.230%	54,152.50	1,071,912.50
06/08/16	09/11/20	FHLB	3,000,000.00	3,206,160.00	1.214%	161,121.25	3,367,281.25
10/12/16	09/11/20	FHLB	1,800,000.00	1,808,975.18	1.244%	87,893.57	1,896,868.75
04/26/17	10/16/20	FNMA	1,300,000.00	1,332,019.00	1.618%	74,057.39	1,406,076.39
07/22/16	11/27/20	FNMA	3,250,000.00	3,316,612.00	1.165%	166,507.79	3,483,119.79
11/27/17	11/27/20	FHLMC	1,500,000.00	1,500,000.00	1.875%	84,375.00	1,584,375.00
06/15/17	11/30/20	FNMA	1,100,000.00	1,113,618.00	1.630%	62,404.22	1,176,022.22
03/10/17	01/15/21	FAMCA	1,580,000.00	1,576,287.00	2.063%	125,285.22	1,701,572.22
09/09/16	01/25/21	FAMCA	2,000,000.00	2,018,640.00	1.550%	117,071.11	2,135,711.11
10/12/16	02/15/21	TENN	3,000,000.00	3,315,660.00	1.370%	189,058.75	3,504,718.75
08/16/17	02/16/21	FNMA	2,000,000.00	2,000,000.00	1.750%	122,500.00	2,122,500.00
01/10/19	02/23/21	FFCB	1,500,000.00	1,502,895.00	2.605%	82,942.50	1,585,837.50
12/12/18	02/24/21	FHLB	1,000,000.00	977,940.00	2.790%	60,560.00	1,038,500.00
02/14/18	03/12/21	FHLB	1,500,000.00	1,500,768.00	2.357%	108,778.87	1,609,546.87
06/12/18	03/12/21	FHLB	1,000,000.00	976,760.00	2.631%	71,365.00	1,048,125.00
09/29/17	03/26/21	FHLMC	2,535,000.00	2,531,197.50	1.794%	158,701.56	2,689,899.06
01/08/19	04/09/21	FFCB	1,500,000.00	1,504,860.00	2.550%	86,377.50	1,591,237.50
10/26/17	04/26/21	FHLMC	1,975,000.00	1,974,012.50	1.865%	128,868.75	2,102,881.25
10/12/16	06/11/21	FHLB	1,500,000.00	1,559,427.00	1.370%	97,979.25	1,657,406.25
06/15/17	06/15/21	FHLMC	1,400,000.00	1,400,000.00	1.800%	100,800.00	1,500,800.00
04/03/20	06/16/21	FFCB	2,000,000.00	2,004,800.00	0.300%	7,227.78	2,012,027.78
10/26/16	07/14/21	FHLB	2,500,000.00	2,476,850.00	1.328%	155,806.25	2,632,656.25
02/16/17	07/26/21	FHLMC	1,400,000.00	1,392,580.00	2.000%	124,086.67	1,516,666.67
12/19/17	08/12/21	FHLMC	1,000,000.00	967,646.98	2.050%	73,384.27	1,041,031.25
10/28/16	10/07/21	FNMA	2,500,000.00	2,491,075.00	1.450%	178,794.79	2,669,869.79
11/29/16	11/29/21	FFCB	3,000,000.00	3,000,000.00	1.760%	264,000.00	3,264,000.00
04/12/17	12/10/21	FHLB	2,000,000.00	2,003,620.00	1.834%	171,171.67	2,174,791.67
09/10/19	12/13/21	FFCB	2,000,000.00	2,017,240.00	1.490%	67,673.33	2,084,913.33
11/04/19	01/03/22	FAMCA	2,000,000.00	1,998,180.00	2.169%	95,553.01	2,093,733.01
11/12/19	01/13/22	FHLMC	1,000,000.00	1,015,200.00	1.658%	36,324.31	1,051,524.31
03/25/19	02/03/22	FFCB	2,500,000.00	2,483,900.00	2.264%	161,019.44	2,644,919.44
02/23/17	02/23/22	FAMCA	2,600,000.00	2,609,204.00	2.025%	263,796.00	2,873,000.00
03/01/19	03/01/22	FFCB	2,000,000.00	2,000,000.00	2.550%	153,000.00	2,153,000.00
03/29/17	03/29/22	FHLMC	1,500,000.00	1,500,000.00	2.265%	170,625.00	1,670,625.00
05/25/17	04/05/22	FNMA	1,600,000.00	1,600,581.01	1.867%	145,252.32	1,745,833.33
01/09/20	04/05/22	FNMA	2,500,000.00	2,517,775.00	1.550%	87,172.92	2,604,947.92
04/27/17	04/27/22	FHLMC	3,500,000.00	3,545,920.00	2.345%	413,455.00	3,959,375.00
05/19/20	04/27/22	FFCB	2,000,000.00	2,003,480.00	0.210%	8,136.67	2,011,616.67
01/09/20	06/10/22	FHLB	3,000,000.00	3,297,270.00	1.560%	120,084.17	3,417,354.17
06/30/20	06/30/22	FHLMC	3,000,000.00	3,000,000.00	0.300%	18,000.00	3,018,000.00
01/15/20	07/15/22	FHLMC	1,500,000.00	1,500,510.00	1.586%	59,490.00	1,560,000.00
08/28/19	08/26/22	FFCB	1,500,000.00	1,499,565.00	1.860%	83,530.83	1,583,095.83
12/01/17	09/09/22	FHLB	1,750,000.00	1,739,692.50	2.130%	177,335.28	1,917,027.78
07/05/19	09/09/22	FHLB	1,800,000.00	1,874,106.00	1.786%	104,644.00	1,978,750.00
01/15/20	09/09/22	FHLB	2,000,000.00	2,021,180.00	1.590%	84,820.00	2,106,000.00
09/28/17	09/28/22	FNMA	2,500,000.00	2,500,000.00	2.000%	249,861.11	2,749,861.11
03/09/18	10/05/22	FNMA	1,000,000.00	971,120.00	2.000%	120,324.44	1,091,444.44
05/20/20	10/05/22	FNMA	1,923,000.00	2,005,439.01	0.190%	8,903.49	2,014,342.50
10/05/18	10/05/22	FNMA	1,000,000.00	962,570.00	3.000%	117,430.00	1,080,000.00
09/10/19	12/09/22	FHLB	1,500,000.00	1,670,736.00	1.630%	84,545.25	1,755,281.25
04/24/18	12/09/22	FHLB	2,250,000.00	2,215,102.50	2.500%	295,053.75	2,510,156.25
01/06/20	01/06/23	FAMCA	2,000,000.00	2,000,000.00	1.750%	105,000.00	2,105,000.00
03/22/19	03/10/23	FHLB	2,000,000.00	2,028,220.00	2.375%	189,946.67	2,218,166.67
03/16/20	03/16/23	FFCB	2,500,000.00	2,500,000.00	1.050%	78,750.00	2,578,750.00
04/27/20	04/27/23	FNMA	2,000,000.00	2,000,000.00	0.550%	33,000.00	2,033,000.00
05/11/20	08/11/23	FFCB	2,250,000.00	2,250,000.00	0.500%	36,562.50	2,286,562.50
09/13/19	08/14/23	FFCB	1,800,000.00	1,796,580.00	1.650%	116,300.00	1,912,880.00
09/13/19	08/28/23	FFCB	1,000,000.00	997,650.00	1.982%	78,350.00	1,076,000.00
08/24/18	08/24/23	FHLB	1,750,000.00	1,750,000.00	3.125%	273,437.50	2,023,437.50
09/18/18	09/05/23	FFCB	1,000,000.00	991,290.00	2.990%	147,698.89	1,138,988.89
10/10/18	09/05/23	FFCB	2,300,000.00	2,266,190.00	3.125%	349,548.89	2,615,738.89
09/03/19	09/08/23	FHLB	2,000,000.00	2,069,108.00	1.485%	121,551.72	2,190,659.72
02/27/19	09/12/23	FNMA	1,000,000.00	1,016,210.00	2.495%	114,362.92	1,130,572.92
04/16/19	09/12/23	FNMA	1,750,000.00	1,783,757.50	2.410%	187,617.50	1,971,375.00
09/18/18	09/18/23	FHLB	1,000,000.00	999,250.00	3.076%	153,750.00	1,153,000.00
09/28/18	09/28/23	FHLB	1,250,000.00	1,250,000.00	3.200%	200,000.00	1,450,000.00

10/17/18	10/02/23	FFCB	2,500,000.00	2,493,150.00	3.050%	384,922.92	2,878,072.92
02/07/19	10/23/23	FFCB	1,000,000.00	1,017,530.00	2.602%	123,803.33	1,141,333.33
05/09/19	11/08/23	FFCB	2,000,000.00	2,001,700.00	2.280%	205,172.22	2,206,872.22
11/27/18	11/27/23	FHLB	1,800,000.00	1,800,000.00	3.350%	301,500.00	2,101,500.00
12/13/19	11/27/23	FHLMC	1,965,000.00	1,964,017.50	1.788%	138,947.33	2,102,964.83
06/28/19	12/05/23	FFCB	1,500,000.00	1,569,280.50	1.870%	127,682.83	1,696,963.33
05/13/20	12/08/23	FHLB	1,000,000.00	1,107,630.00	0.339%	12,838.75	1,120,468.75
12/18/19	12/18/23	FHLMC	1,500,000.00	1,500,000.00	1.850%	111,000.00	1,611,000.00
05/09/19	12/20/23	FFCB	1,000,000.00	1,052,900.00	3.500%	108,586.11	1,161,486.11
12/28/18	12/28/23	FHLB	2,000,000.00	2,000,000.00	3.100%	310,000.00	2,310,000.00
01/29/19	01/29/24	FHLB	1,500,000.00	1,501,125.00	2.859%	214,500.00	1,715,625.00
05/13/20	01/30/24	FHLMC	2,000,000.00	2,000,000.00	0.550%	40,852.78	2,040,852.78
02/26/19	02/26/24	FHLB	2,500,000.00	2,500,000.00	2.800%	350,000.00	2,850,000.00
03/06/19	02/27/24	FFCB	1,500,000.00	1,498,950.00	2.610%	195,821.25	1,694,771.25
02/28/20	02/28/24	FFCB	2,500,000.00	2,500,000.00	1.550%	155,000.00	2,655,000.00
03/08/19	03/08/24	FHLB	3,000,000.00	3,100,851.00	2.530%	386,649.00	3,487,500.00
03/12/20	03/12/24	FFCB	3,000,000.00	3,000,000.00	1.050%	126,000.00	3,126,000.00
04/09/19	04/05/24	FFCB	2,000,000.00	1,994,380.00	2.360%	234,725.56	2,229,105.56
04/22/20	04/22/24	FFCB	3,000,000.00	3,000,000.00	0.800%	96,000.00	3,096,000.00
05/09/19	05/07/24	FHLB	1,000,000.00	1,005,320.00	2.287%	114,546.67	1,119,866.67
12/19/19	06/03/24	FFCB	3,000,000.00	2,997,750.00	1.830%	246,860.00	3,244,610.00
06/03/20	06/03/24	FFCB	2,000,000.00	2,000,000.00	0.580%	46,400.00	2,046,400.00
08/28/19	06/30/24	FFCB	1,470,000.00	1,517,378.10	1.457%	103,884.90	1,621,263.00
08/28/19	06/25/24	FFCB	1,183,000.00	1,237,524.47	1.457%	85,320.92	1,322,845.39
07/02/19	07/02/24	FHLMC	2,500,000.00	2,500,000.00	2.000%	250,000.00	2,750,000.00
06/27/19	07/15/24	PEFCO	2,500,000.00	2,565,850.00	1.900%	243,292.36	2,809,142.36
07/24/20	07/22/24	FFCB	2,000,000.00	2,000,000.00	0.440%	35,151.11	2,035,151.11
08/08/19	07/26/24	FFCB	2,500,000.00	2,532,125.00	1.582%	197,583.33	2,729,708.33
02/12/20	08/12/24	FHLMC	2,000,000.00	2,000,000.00	1.800%	162,000.00	2,162,000.00
09/03/19	09/03/24	FFCB	4,000,000.00	4,000,000.00	2.000%	400,000.00	4,400,000.00
08/30/19	09/10/24	FFCB	2,500,000.00	2,572,420.00	1.480%	189,024.44	2,761,444.44
09/23/19	09/23/24	FHLMC	1,000,000.00	1,000,000.00	2.100%	10,500.00	1,010,500.00
10/15/19	10/15/24	FFCB	2,000,000.00	2,000,000.00	1.920%	192,000.00	2,192,000.00
10/28/19	10/15/24	FHLMC	2,500,000.00	2,495,000.00	1.917%	237,682.29	2,732,682.29
07/15/20	10/15/24	FFCB	4,000,000.00	4,000,000.00	0.610%	103,700.00	4,103,700.00
10/18/19	10/16/24	FHLB	2,250,000.00	2,250,000.00	2.000%	224,750.00	2,474,750.00
11/15/19	11/01/24	FAMCA	2,000,000.00	1,999,720.00	1.793%	177,887.78	2,177,607.78
07/10/20	11/13/24	FFCB	1,621,000.00	1,751,360.82	0.390%	28,694.40	1,780,055.22
01/10/20	01/10/25	FHLMC	2,000,000.00	2,000,000.00	1.800%	180,000.00	2,180,000.00
01/15/20	01/15/25	FHLMC	2,000,000.00	2,000,000.00	1.900%	190,000.00	2,190,000.00
02/10/20	02/10/25	FHLB	2,500,000.00	2,496,875.00	1.866%	233,125.00	2,730,000.00
02/12/20	02/12/25	FHLMC	1,500,000.00	1,500,000.00	1.800%	680,000.00	2,180,000.00
02/14/20	02/14/25	FHLMC	2,500,000.00	2,500,000.00	1.850%	231,250.00	2,731,250.00
03/06/20	02/21/25	FHLB	2,000,000.00	2,008,202.00	1.050%	185,173.00	2,193,375.00
04/09/20	03/14/25	FHLB	3,000,000.00	3,231,300.00	0.778%	120,002.08	3,351,302.08
04/09/20	04/09/25	FFCB	2,000,000.00	2,000,000.00	1.150%	115,000.00	2,115,000.00
04/09/20	04/09/25	FFCB	2,500,000.00	2,498,125.00	1.165%	145,625.00	2,643,750.00
06/03/20	05/27/25	FFCB	3,500,000.00	3,499,300.00	0.734%	128,024.17	3,627,324.17
06/03/20	05/28/25	FHLMC	2,000,000.00	2,000,000.00	0.750%	74,791.66	2,074,791.66
06/11/20	06/11/25	FHLMC	2,000,000.00	2,000,000.00	0.750%	75,000.00	2,075,000.00
06/30/20	06/30/25	FHLMC	3,000,000.00	3,000,000.00	0.770%	115,500.00	3,115,500.00
07/01/20	06/30/25	FNMA	2,500,000.00	2,500,000.00	0.740%	92,448.61	2,592,448.61
07/29/20	07/29/25	FFCB	3,000,000.00	3,000,000.00	0.580%	87,000.00	3,087,000.00
		<b>Sub total FA</b>	<b>238,652,000.00</b>	<b>240,976,954.07</b>	<b>1.669%</b>	<b>17,753,398.37</b>	<b>258,730,352.44</b>
10/23/15	10/15/20	RFCSP	3,000,000.00	2,750,760.00	1.750%	249,240.00	3,000,000.00
		<b>Sub total FN</b>	<b>3,000,000.00</b>	<b>2,750,760.00</b>	<b>1.750%</b>	<b>249,240.00</b>	<b>3,000,000.00</b>
		<b>Federal investments</b>	<b>241,652,000.00</b>	<b>243,727,714.07</b>		<b>18,002,638.37</b>	<b>261,730,352.44</b>

**Supranationals**

08/03/17	08/10/20	IBRD	2,000,000.00	1,972,100.00	1.600%	95,837.50	2,067,937.50
11/08/18	09/04/20	IBRD	1,100,000.00	1,074,711.00	2.930%	57,859.27	1,132,570.27
01/08/18	10/05/20	IBRD	1,500,000.00	1,486,500.00	2.164%	88,765.62	1,575,265.62
01/08/18	01/18/22	IADB	2,000,000.00	1,988,880.00	2.270%	182,300.56	2,171,180.56
12/18/17	01/26/22	IBRD	2,500,000.00	2,485,325.00	2.150%	219,952.78	2,705,277.78
10/10/17	10/07/22	IBRD	1,300,000.00	1,290,907.89	2.024%	130,763.88	1,421,671.77
02/08/19	10/24/22	IFC	1,500,000.00	1,470,780.00	2.553%	140,553.33	1,611,333.33
05/09/19	10/24/23	IADB	2,000,000.00	2,058,280.00	2.300%	205,886.67	2,264,166.67
01/18/18	01/18/23	IADB	1,700,000.00	1,702,652.00	2.467%	209,848.00	1,912,500.00
01/24/18	01/18/23	IADB	1,000,000.00	997,670.00	2.550%	126,913.33	1,124,583.33
02/19/20	01/27/23	IBRD	1,170,000.00	1,170,538.20	1.734%	59,635.55	1,230,173.75
10/25/19	10/25/23	IBRD	3,000,000.00	3,000,000.00	1.700%	204,000.00	3,204,000.00
02/15/19	02/15/24	IBRD	3,000,000.00	3,000,000.00	2.625%	468,750.00	3,468,750.00
08/29/19	08/28/24	IBRD	2,000,000.00	2,006,920.00	1.428%	142,996.67	2,149,916.67
10/10/19	09/23/24	IBRD	3,500,000.00	3,510,500.00	2.136%	370,863.89	3,881,363.89
12/10/19	09/23/24	IBRD	3,000,000.00	3,006,000.00	1.941%	310,066.67	3,316,066.67
11/13/19	11/13/24	IBRD	1,500,000.00	1,500,000.00	2.050%	153,750.00	1,653,750.00
03/26/20	12/12/24	IBRD	3,500,000.00	3,522,505.00	1.096%	329,777.78	3,829,777.78
01/08/20	12/15/24	IBRD	1,425,000.00	1,425,000.00	1.700%	119,577.30	1,544,577.30
01/27/20	01/15/25	IFC	1,000,000.00	1,000,000.00	1.625%	80,708.33	1,080,708.33

<b>Supranationals</b>	<b>39,695,000.00</b>	<b>39,669,269.09</b>	<b>1.823%</b>	<b>3,698,807.13</b>	<b>43,345,571.22</b>
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**US Treasury**

09/22/15	08/31/20	US Treasury 2.125%	3,000,000.00	3,085,500.00	2.097%	229,396.98	3,314,896.98
10/28/16	10/31/20	US Treasury 1.375%	1,750,000.00	1,759,570.31	1.235%	86,875.85	1,846,446.16
12/02/16	10/31/20	US Treasury 1.375%	1,200,000.00	1,186,200.00	1.680%	78,341.44	1,264,541.44
01/13/17	10/31/20	US Treasury 1.375%	1,300,000.00	1,289,234.38	1.601%	78,611.61	1,367,845.99
01/05/16	12/31/20	US Treasury 2.375%	4,000,000.00	4,127,500.00	1.705%	346,195.00	4,473,695.00
05/05/16	12/31/20	US Treasury 1.75%	2,000,000.00	2,049,174.00	1.205%	113,710.62	2,162,884.62
01/20/17	02/28/21	US Treasury 1.125%	2,750,000.00	2,673,515.63	1.831%	203,567.42	2,877,083.05
02/17/17	02/28/21	US Treasury 1.125%	1,225,000.00	1,194,853.52	1.760%	85,690.25	1,280,543.77
05/09/17	03/31/21	US Treasury 1.25%	1,400,000.00	1,374,786.00	1.730%	93,349.25	1,468,135.25
08/19/16	04/30/21	US Treasury 1.375%	3,000,000.00	3,037,662.00	1.100%	156,145.74	3,193,807.74
12/16/16	05/31/21	US Treasury 2.000%	2,250,000.00	2,250,000.00	2.000%	200,521.98	2,450,521.98
10/28/16	06/30/21	US Treasury 1.125%	2,500,000.00	2,477,400.00	1.325%	154,053.80	2,631,453.80
12/16/16	06/30/21	US Treasury 1.125%	2,650,000.00	2,547,312.50	2.022%	238,058.93	2,785,371.43
02/06/20	07/15/21	US Treasury 2.625%	3,000,000.00	3,048,960.00	1.475%	64,405.38	3,113,365.38
01/20/17	07/31/21	US Treasury 1.125%	1,500,000.00	1,448,203.13	1.925%	145,113.79	1,593,316.92
02/20/18	08/31/21	US Treasury 1.125%	2,000,000.00	1,911,080.00	2.450%	168,167.24	2,079,247.24
12/02/16	09/30/21	US Treasury 2.125%	1,600,000.00	1,615,500.00	1.913%	148,615.38	1,764,115.38
03/10/17	09/30/21	US Treasury 1.125%	1,200,000.00	1,150,500.00	2.078%	111,028.85	1,261,528.85
05/19/17	09/30/21	US Treasury 1.125%	1,500,000.00	1,464,375.00	1.691%	109,303.28	1,573,678.28
02/14/18	09/30/21	US Treasury 2.125%	1,500,000.00	1,486,406.25	2.387%	129,096.84	1,615,503.09
11/17/16	10/31/21	US Treasury 2.00%	2,000,000.00	2,030,000.00	1.683%	168,121.55	2,198,121.55
11/18/16	10/31/21	US Treasury 2.00%	2,000,000.00	2,028,360.00	1.700%	169,651.15	2,198,011.15
11/22/16	11/15/21	US Treasury 2.00%	2,000,000.00	2,016,562.50	1.825%	182,664.02	2,199,226.52
01/06/17	12/31/21	US Treasury 2.125%	4,000,000.00	4,052,128.00	1.850%	371,463.16	4,423,591.16
02/03/17	12/31/21	US Treasury 2.125%	1,850,000.00	1,867,632.81	1.920%	175,237.36	2,042,870.17
11/27/19	12/31/21	US Treasury 2.125%	2,000,000.00	2,022,656.25	1.572%	66,270.38	2,088,926.63
01/20/17	01/31/22	US Treasury 1.50%	3,000,000.00	2,928,555.00	2.000%	297,790.11	3,226,345.11
04/23/19	02/28/22	US Treasury 1.875%	1,500,000.00	1,481,015.63	1.875%	99,232.33	1,580,247.96
03/02/17	03/31/22	US Treasury 1.750%	3,000,000.00	2,963,925.00	2.000%	302,757.69	3,266,682.69
11/20/19	04/15/22	US Treasury 2.25%	1,200,000.00	1,219,125.00	1.571%	45,719.26	1,264,844.26
05/15/17	05/15/22	US Treasury 1.750%	2,000,000.00	1,985,625.00	1.901%	189,375.00	2,175,000.00
08/25/17	07/31/22	US Treasury 1.875%	1,250,000.00	1,257,346.25	1.750%	108,249.03	1,365,595.28
08/31/17	08/31/22	US Treasury 1.875%	3,000,000.00	3,019,290.00	1.740%	261,960.00	3,281,250.00
11/20/19	10/15/22	US Treasury 1.375%	1,500,000.00	1,491,720.00	1.570%	68,126.31	1,559,846.31
02/27/20	10/15/22	US Treasury 1.375%	1,500,000.00	1,509,082.03	1.141%	45,185.39	1,554,267.42
11/28/17	11/15/22	US Treasury 1.625%	1,000,000.00	980,950.00	2.030%	99,716.44	1,080,666.44
07/30/19	02/28/23	US Treasury 2.625%	3,000,000.00	3,085,572.00	1.800%	275,650.83	3,361,222.83

<b>US Treasury</b>	<b>77,125,000.00</b>	<b>77,117,278.19</b>	<b>1.756%</b>	<b>5,867,419.64</b>	<b>82,984,697.83</b>
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Corporate notes

11/03/15	08/07/20	3M Company	3,500,000.00	3,554,215.00	1.660%	279,062.78	3,833,277.78
09/25/15	09/01/20	Johnson & Johnson	1,000,000.00	1,058,028.49	1.718%	87,504.84	1,145,533.33
09/24/15	09/15/20	Automatic Data Processing	4,000,000.00	4,029,600.00	2.090%	418,150.00	4,447,750.00
11/10/15	11/03/20	Microsoft	5,000,000.00	5,018,550.00	1.920%	479,505.56	5,498,055.56
06/10/16	11/03/20	Microsoft	1,500,000.00	1,539,450.00	1.370%	92,466.67	1,631,916.67
11/13/17	11/13/20	Apple Inc.	2,500,000.00	2,497,900.00	2.000%	152,100.00	2,650,000.00
01/07/19	12/15/20	Wal-Mart	1,500,000.00	1,481,805.00	2.545%	73,453.33	1,555,258.33
02/26/18	01/15/21	Wells Fargo Bank NA	2,000,000.00	1,982,700.00	2.914%	167,377.77	2,150,077.77
04/28/16	03/01/21	Exxon Mobil	2,000,000.00	2,042,900.00	1.750%	172,263.67	2,215,163.67
07/26/16	03/01/21	Exxon Mobil	1,000,000.00	1,034,050.00	1.440%	68,038.55	1,102,088.55
09/16/16	04/08/21	Toyota	3,000,000.00	3,031,680.00	1.659%	228,303.33	3,259,983.33
11/18/19	04/26/21	US Bank NA	1,000,000.00	1,019,220.00	1.710%	26,105.00	1,045,325.00
06/13/18	05/16/21	Chevron	3,250,000.00	3,175,770.00	2.920%	273,861.25	3,449,631.25
05/26/16	05/19/21	Alphabet Inc.	1,000,000.00	1,094,000.00	1.651%	86,545.14	1,180,545.14
04/17/17	05/19/21	Alphabet Inc.	2,000,000.00	2,136,700.00	1.883%	159,744.44	2,296,444.44
05/14/17	05/19/21	Alphabet Inc.	2,000,000.00	2,133,400.00	1.900%	159,620.83	2,293,020.83
09/13/16	08/08/21	Microsoft	6,000,000.00	5,995,740.00	1.565%	460,218.33	6,455,958.33
02/07/17	08/08/21	Microsoft	2,000,000.00	1,947,120.00	2.170%	192,466.11	2,139,586.11
02/22/18	08/08/21	Microsoft	1,500,000.00	1,441,912.50	2.730%	138,558.33	1,580,470.83
10/14/16	09/01/21	Coca Cola Company	3,600,000.00	3,581,496.00	1.660%	290,839.00	3,872,335.00
01/10/18	09/01/21	Coca Cola Company	1,500,000.00	1,549,740.00	2.344%	130,522.50	1,680,262.50
12/19/19	10/22/21	Wells Fargo Bank	4,000,000.00	4,122,000.00	1.851%	145,041.67	4,267,041.67
10/10/17	11/03/21	Procter & Gamble	2,000,000.00	1,982,100.00	1.930%	156,072.22	2,138,172.22
12/04/17	11/15/21	Colgate-Palmolive	2,250,000.00	2,271,141.00	2.200%	196,449.62	2,467,590.62
12/23/19	11/16/21	US Bank NA	3,000,000.00	3,091,620.00	1.730%	104,742.50	3,196,362.50
04/03/20	01/21/22	US Bank NA	2,000,000.00	2,016,916.00	1.300%	47,884.00	2,064,800.00
12/20/17	02/06/22	Microsoft	1,250,000.00	1,254,025.00	2.316%	119,808.33	1,373,833.33
11/29/19	02/09/22	Apple Inc.	2,000,000.00	2,017,980.00	1.730%	76,381.11	2,094,361.11
03/07/19	03/03/22	Johnson & Johnson	1,250,000.00	1,236,787.50	2.620%	97,275.00	1,334,062.50
02/24/20	03/03/22	Johnson & Johnson	2,000,000.00	2,029,760.00	1.470%	61,365.00	2,091,125.00
05/07/20	05/03/22	Colgate-Palmolive	3,500,000.00	3,629,465.00	0.420%	30,640.56	3,660,105.56
03/06/17	03/06/22	Exxon Mobil	2,000,000.00	2,003,380.00	2.360%	236,320.00	2,239,700.00
05/23/17	05/11/22	Apple Inc.	3,300,000.00	3,318,150.00	2.181%	358,820.00	3,676,970.00
12/06/17	05/15/22	Berkshire Hathaway	1,503,000.00	1,540,770.39	2.400%	162,504.36	1,703,274.75
01/08/18	05/15/22	Berkshire Hathaway	1,000,000.00	1,023,300.00	2.432%	107,283.33	1,130,583.33
10/09/18	05/15/22	Berkshire Hathaway	1,100,000.00	1,091,810.50	3.220%	126,989.50	1,218,800.00
02/19/19	05/17/22	Toyota	2,000,000.00	2,000,000.00	3.083%	200,044.66	2,200,044.66
01/06/20	05/27/22	Wells Fargo Bank NA	3,000,000.00	3,040,020.00	1.920%	167,839.75	3,207,859.75
08/09/18	06/01/22	Blackrock Inc.	1,000,000.00	1,011,600.00	3.050%	117,306.25	1,128,906.25
12/11/19	06/15/22	Cisco Systems Inc	500,000.00	515,230.00	1.755%	22,436.67	537,666.67
02/20/20	06/20/22	JP Morgan Chase Bank	3,000,000.00	3,000,000.00	1.775%	124,250.00	3,124,250.00
12/19/19	06/26/22	3M Company	2,000,000.00	2,010,920.00	1.777%	89,857.78	2,100,777.78
08/24/17	07/13/22	Toyota	1,500,000.00	1,547,160.00	2.119%	158,056.67	1,705,216.67
01/16/19	07/13/22	Toyota	1,500,000.00	1,483,770.00	3.129%	162,880.00	1,646,650.00
07/01/19	07/13/22	Toyota	2,500,000.00	2,551,875.00	2.090%	160,458.33	2,712,333.33
11/06/17	08/11/22	Procter & Gamble	1,800,000.00	1,799,161.20	2.160%	185,201.30	1,984,362.50
11/09/18	08/11/22	Procter & Gamble	1,900,000.00	1,826,627.70	3.250%	226,786.74	2,053,414.44
05/02/19	08/11/22	Procter & Gamble	2,000,000.00	1,986,800.00	2.150%	154,025.00	2,140,825.00
01/18/18	09/21/22	Novartis Capital Corp	1,500,000.00	1,489,500.00	2.560%	178,400.00	1,667,900.00
10/10/19	11/03/22	Microsoft	2,000,000.00	2,064,180.00	1.514%	98,206.11	2,162,386.11
01/04/18	11/15/22	Colgate-Palmolive	2,000,000.00	1,982,400.00	2.443%	236,475.00	2,218,875.00
09/17/18	11/15/22	Colgate-Palmolive	2,000,000.00	1,935,820.00	3.077%	251,430.00	2,187,250.00
11/18/19	11/18/22	JP Morgan Chase Bank	3,000,000.00	3,000,000.00	3.077%	189,000.00	3,189,000.00
12/06/17	11/29/22	Toyota	2,250,000.00	2,250,000.00	2.125%	238,132.81	2,488,132.81
01/14/19	12/15/22	Wal-Mart	2,720,000.00	2,653,088.00	3.020%	317,442.89	2,970,530.89
12/23/19	12/15/22	Wal-Mart	2,000,000.00	2,032,580.00	1.770%	107,375.56	2,139,955.56
01/24/18	01/26/23	Toyota	3,000,000.00	3,000,000.00	2.750%	412,500.00	3,412,500.00
08/29/19	02/01/23	Colgate-Palmolive	1,000,000.00	1,011,600.00	1.600%	55,133.33	1,066,733.33
09/12/19	02/11/23	Berkshire Hathaway	1,250,000.00	1,296,137.50	1.878%	81,883.33	1,378,020.83
07/31/19	02/23/23	Apple Inc.	3,500,000.00	3,592,680.00	2.039%	262,540.83	3,855,220.83
10/04/19	03/15/23	3M Company	1,762,000.00	1,798,080.47	1.620%	100,144.15	1,898,224.62
03/20/18	03/15/23	Berkshire Hathaway	1,000,000.00	983,890.00	3.101%	153,228.06	1,137,118.06
04/18/18	03/15/23	Berkshire Hathaway	1,750,000.00	1,719,130.00	3.140%	267,083.54	1,986,213.54
04/25/18	03/15/23	Berkshire Hathaway	2,000,000.00	1,953,300.00	3.270%	315,588.89	2,268,888.89
05/07/18	04/11/23	Wal-Mart	1,000,000.00	974,100.00	3.121%	151,558.33	1,125,658.33
12/18/18	04/11/23	Wal-Mart	1,000,000.00	969,800.00	3.301%	141,054.17	1,110,854.17

05/16/19	04/28/23	Bank of New York Mellon	2,000,000.00	2,061,800.00	2.670%	214,700.00	2,276,500.00
06/23/20	04/28/23	Bank of New York Mellon	2,000,000.00	2,168,480.00	0.510%	30,436.67	2,198,916.67
05/02/18	05/01/23	Colgate-Palmolive	4,666,000.00	4,443,179.84	3.140%	712,477.98	5,155,657.82
05/09/18	05/03/23	Apple Inc.	4,000,000.00	3,862,600.00	3.150%	615,800.00	4,478,400.00
08/06/16	06/26/23	Wal-Mart	1,750,000.00	1,763,895.00	3.220%	276,993.89	2,040,888.89
07/25/18	06/26/23	Wal-Mart	1,500,000.00	1,512,000.00	3.220%	238,891.66	1,750,891.66
02/19/19	06/26/23	Wal-Mart	1,000,000.00	1,025,140.00	2.770%	122,665.56	1,147,805.56
07/24/18	07/24/23	US Bank NA	1,250,000.00	1,251,625.00	3.371%	210,756.94	1,462,381.94
01/24/19	07/24/23	US Bank NA	1,000,000.00	1,010,000.00	3.156%	143,000.00	1,153,000.00
02/28/19	07/24/23	US Bank NA	1,800,000.00	1,835,100.00	2.916%	234,520.00	2,069,620.00
12/11/18	07/24/23	US Bank NA	2,500,000.00	2,489,250.00	3.400%	32,347.22	2,521,597.22
02/28/19	08/14/23	Wells Fargo Bank NA	2,000,000.00	2,040,700.00	3.050%	276,038.89	2,316,738.89
10/01/18	08/14/23	Wells Fargo Bank NA	1,500,000.00	1,500,000.00	3.550%	259,297.92	1,759,297.92
05/14/20	09/01/23	Public Service Electric	2,500,000.00	2,700,575.00	0.720%	67,324.31	2,767,899.31
12/23/19	11/20/23	State Street Corporation	2,000,000.00	2,130,440.00	1.958%	158,776.67	2,289,216.67
01/28/19	12/05/23	Johnson & Johnson	1,500,000.00	1,541,250.00	2.765%	204,421.87	1,745,671.87
03/07/19	01/08/24	Toyota	1,000,000.00	1,017,865.00	2.950%	144,144.72	1,162,009.72
01/16/20	01/15/24	Wal-Mart	2,000,000.00	2,067,790.00	1.900%	192,646.11	2,260,436.11
05/16/19	01/23/24	Citibank	1,000,000.00	1,034,870.00	2.836%	136,173.06	1,171,043.06
02/13/20	01/23/24	Citibank	2,500,000.00	2,674,670.00	1.770%	185,260.56	2,859,930.56
02/13/20	01/23/24	Citibank	2,000,000.00	2,142,600.00	1.733%	145,344.44	2,287,944.44
02/20/20	01/23/24	Citibank	1,500,000.00	1,603,710.00	1.780%	111,183.75	1,714,893.75
10/11/19	02/01/24	JP Morgan Chase Bank	1,765,000.00	1,900,834.40	2.000%	158,638.70	2,059,473.10
10/08/19	03/07/24	Microsoft	1,500,000.00	1,581,000.00	1.604%	107,379.17	1,688,379.17
08/29/19	03/18/24	Blackrock Inc.	2,000,000.00	2,162,500.00	1.640%	156,194.44	2,318,694.44
10/28/19	03/18/24	Blackrock Inc.	1,000,000.00	1,071,360.00	1.801%	82,251.11	1,153,611.11
11/14/19	03/18/24	Blackrock Inc.	1,000,000.00	1,065,420.00	1.923%	86,635.56	1,152,055.56
05/14/20	03/18/24	Blackrock Inc.	3,000,000.00	3,300,600.00	0.845%	103,066.67	3,403,666.67
04/24/20	04/22/24	Wal-Mart	2,500,000.00	2,737,467.50	0.875%	92,074.17	2,829,541.67
04/24/20	04/22/24	Wal-Mart	2,000,000.00	2,191,860.00	0.700%	71,773.33	2,263,633.33
07/31/19	05/13/24	JP Morgan Chase Bank	2,000,000.00	2,119,320.00	2.300%	227,471.67	2,346,791.67
07/13/20	05/13/24	JP Morgan Chase Bank	3,000,000.00	3,331,290.00	0.700%	85,585.00	3,416,875.00
07/01/20	05/15/24	Bank of NY Mellon	3,000,000.00	3,316,860.00	0.560%	75,556.67	3,392,416.67
10/17/19	08/22/24	Amazon.com Inc.	2,500,000.00	2,604,850.00	1.860%	234,455.56	2,839,305.56
08/22/19	08/22/24	Amazon.com Inc.	2,000,000.00	2,087,280.00	2.800%	192,097.78	2,279,377.78
02/18/20	10/24/24	Bank of NY Mellon	3,055,000.00	3,093,737.40	1.816%	261,721.85	3,355,459.25
12/23/19	12/23/24	JP Morgan Chase Bank	3,500,000.00	3,500,000.00	2.200%	390,775.03	3,890,775.03
01/15/20	01/15/25	Johnson & Johnson	1,820,000.00	1,882,380.50	1.586%	176,494.50	2,058,875.00
04/08/20	01/15/25	Johnson & Johnson	3,000,000.00	3,231,960.00	0.906%	143,633.75	3,375,593.75
07/13/20	01/15/25	Johnson & Johnson	1,000,000.00	1,090,640.00	0.510%	27,630.83	1,118,270.83
04/13/20	02/14/25	Novartis Capital Corp	3,310,000.00	3,379,576.20	1.300%	210,555.54	3,590,131.74
06/03/20	03/15/25	CME Group Inc	2,771,000.00	3,050,981.84	0.730%	117,656.66	3,168,638.50
06/09/20	03/25/25	Procter & Gamble	1,000,000.00	1,082,240.00	0.703%	35,223.89	1,117,463.89
05/13/20	04/01/25	Florida Power & Light	3,667,000.00	3,980,565.17	1.020%	195,628.34	4,176,193.51
<b>Corporate notes</b>			<b>233,789,000.00</b>	<b>239,094,895.10</b>	<b>2.016%</b>	<b>19,436,307.22</b>	<b>258,531,202.32</b>

Certificate of deposit

08/02/17	08/03/20	Wex Bank	247,000.00	247,000.00	1.850%	13,721.19	260,721.19
08/11/15	08/25/20	Investor Bank	247,000.00	247,000.00	2.000%	24,700.00	271,700.00
09/10/15	09/10/20	Merrick Bank	249,000.00	248,377.50	1.910%	23,655.00	272,032.50
09/22/15	09/16/20	Barclays Bank	248,000.00	248,000.00	2.200%	27,190.31	275,190.31
10/19/15	10/13/20	Comenity Cap Bank	249,000.00	249,000.00	2.000%	24,818.14	273,818.14
12/14/17	12/14/20	Ally Bank	247,000.00	247,000.00	2.100%	15,561.00	262,561.00
01/15/16	01/15/21	Investors Cmnty Bank	249,000.00	249,000.00	1.850%	23,032.50	272,032.50
05/09/18	05/10/21	Connectone Bank	249,000.00	249,000.00	2.850%	21,309.21	270,309.21
06/10/16	06/07/21	Ubs Bank Usa	249,000.00	249,000.00	1.650%	20,508.73	269,508.73
06/21/18	06/21/21	Mercantil Bank	246,000.00	246,000.00	3.000%	22,140.00	268,140.00
06/22/17	06/22/21	Lakeside Bank	249,000.00	249,000.00	1.900%	18,924.00	267,924.00
06/23/16	06/23/21	East Boston Saving	248,000.00	248,000.00	1.500%	18,600.00	266,600.00
06/24/16	06/24/21	First Business Bk	248,000.00	248,000.00	1.500%	18,600.00	266,600.00
06/30/16	06/30/21	First Technology Federal	248,000.00	248,000.00	1.750%	21,700.00	269,700.00
09/21/17	09/21/21	Pinnacle Bank Tn	249,000.00	249,000.00	2.000%	19,920.00	268,920.00
01/12/18	01/12/22	LCA Bank Corporation	246,000.00	246,000.00	2.300%	22,632.00	268,632.00
01/18/17	01/18/22	Mb Financial Bank	249,000.00	249,000.00	2.050%	25,522.50	274,522.50
01/20/17	01/20/22	First Natl Bank	249,000.00	249,000.00	2.050%	25,522.50	274,522.50
01/24/19	01/24/22	Dollar Bank	246,000.00	246,000.00	2.850%	21,033.00	267,033.00
02/12/20	02/14/22	Sallie Mae Bank	247,000.00	247,000.00	1.700%	8,432.52	255,432.52
06/07/17	06/07/22	Mechantile Bank Of	247,000.00	247,000.00	2.100%	25,935.00	272,935.00
07/31/17	07/29/22	KS State Bank	245,000.00	245,000.00	2.100%	25,710.71	270,710.71
08/16/17	08/16/22	Everbank	247,000.00	247,000.00	2.200%	27,170.00	274,170.00
08/30/17	08/30/22	Willamette Valley Bank	249,000.00	249,000.00	2.100%	26,145.00	275,145.00
09/29/17	09/29/22	Allegiane Bank Texs	249,000.00	249,000.00	2.150%	26,767.50	275,767.50
09/14/17	09/14/22	First Bank Of	247,000.00	247,000.00	2.150%	26,552.50	273,552.50
10/18/17	10/18/22	Beneficial Bank	247,000.00	247,000.00	2.150%	26,552.50	273,552.50
10/23/19	10/11/22	Goldman Sachs Bank USA	247,000.00	247,000.00	1.900%	13,898.99	260,898.99
12/22/17	12/22/22	Industrial & Coml Bak China	249,000.00	249,000.00	2.500%	31,125.00	280,125.00
01/11/19	01/11/23	Sterling Bank	246,000.00	246,000.00	3.100%	30,504.00	276,504.00
02/07/20	02/07/23	BMW Bank	247,000.00	247,000.00	1.650%	12,237.67	259,237.67
02/21/20	02/21/23	Wells Fargo Bank	249,000.00	249,000.00	1.750%	13,084.44	262,084.44
04/24/18	04/24/23	Citibank	246,000.00	246,000.00	3.000%	36,900.00	282,900.00
05/08/19	05/08/23	Bank3	249,000.00	249,000.00	2.336%	24,900.00	273,900.00
05/16/18	05/16/23	Belmont Savings Bank	245,000.00	245,000.00	3.050%	37,362.50	282,362.50
06/20/18	06/20/23	RBC Bank	249,000.00	249,000.00	3.150%	39,217.50	288,217.50
07/31/18	07/31/23	Bank Of New England	249,000.00	249,000.00	3.250%	40,462.50	289,462.50
07/31/18	07/31/23	Medallion Bank Utah	249,000.00	249,000.00	3.150%	40,462.50	289,462.50
02/13/19	08/14/23	First Missouri State Bank	246,000.00	246,000.00	2.850%	31,549.50	277,549.50
09/26/18	09/26/23	Bank Midwest	245,000.00	245,000.00	3.150%	38,587.50	283,587.50
09/28/18	09/28/23	Bank Of Baroda	245,000.00	245,000.00	3.300%	40,425.00	285,425.00
11/15/18	10/30/23	National Cooperative Bank	245,000.00	245,000.00	3.450%	41,891.98	286,891.98
11/14/18	11/14/23	Bank Hapoalim Bm	245,000.00	245,000.00	3.500%	42,875.00	287,875.00
11/15/18	11/15/23	Morgan Stanley Pvt Bank	245,000.00	245,000.00	3.550%	43,487.50	288,487.50
11/19/18	11/29/23	State Bank Of India	245,000.00	245,000.00	3.600%	44,100.00	289,100.00
05/16/19	05/16/24	Enterprise Bank	246,000.00	246,000.00	2.600%	31,980.00	277,980.00
05/24/19	05/24/24	Eagle Bank	249,000.00	249,000.00	2.500%	31,125.00	280,125.00
06/28/19	06/28/24	First State Bank Dequeen	249,000.00	249,000.00	2.300%	28,635.00	277,635.00
07/31/19	07/31/24	Capital One	247,000.00	247,000.00	2.250%	27,787.50	274,787.50
08/13/19	08/13/24	HSBC Bank	246,000.00	246,000.00	2.300%	28,290.00	274,290.00
08/30/19	08/30/24	Washington Federal	249,000.00	249,000.00	2.000%	24,900.00	273,900.00
09/13/19	09/13/24	Enerbank Usa	249,000.00	249,000.00	1.750%	21,787.50	270,787.50
09/18/19	09/30/24	Celtic Bank	249,000.00	249,000.00	1.700%	20,956.25	269,956.25
11/26/19	11/26/24	Raymond James Bank NA	247,000.00	247,000.00	1.850%	22,872.54	269,872.54
01/09/20	01/09/25	Morgan Stanley Bank NA	247,000.00	247,000.00	1.900%	23,490.72	270,490.72
02/27/20	02/27/25	Bell Bank Corp	249,000.00	249,000.00	1.600%	19,941.88	268,941.88
02/28/20	02/28/25	Congressional Bank	249,000.00	248,377.50	1.750%	22,433.88	270,811.38
03/13/20	03/13/25	Choice Financial Group	248,000.00	248,000.00	1.100%	13,647.47	261,647.47
03/13/20	03/13/25	American Eagle bank	249,000.00	249,000.00	1.100%	13,702.54	262,702.54
03/18/20	03/18/25	Poppy Bank	249,000.00	249,000.00	1.100%	13,702.54	262,702.54
03/19/20	03/19/25	Somerset Trust	249,000.00	249,000.00	1.000%	12,456.88	261,456.88
03/20/20	03/20/25	Iberia Bank	248,000.00	248,000.00	1.000%	12,406.79	260,406.79
03/27/20	03/27/25	Baycoast Bank	248,000.00	248,000.00	0.950%	11,786.45	259,786.45
03/27/20	03/27/25	American Commerce Bank	249,000.00	249,000.00	0.950%	11,834.03	260,834.03
04/08/20	04/08/25	Capital One	248,000.00	248,000.00	1.600%	19,850.88	267,850.88
05/15/20	05/15/25	Flagstar Bank	248,000.00	248,000.00	0.850%	10,545.77	258,545.77
05/15/20	05/15/25	Encore Bank	249,000.00	249,000.00	0.800%	9,965.41	258,965.41
05/26/20	05/27/25	Haddon Savings Bank	248,000.00	248,000.00	0.750%	9,310.19	257,310.19
05/29/20	05/29/25	Home Loan Inv Bank	249,000.00	249,000.00	0.800%	9,965.41	258,965.41

05/29/20	05/29/25	Pacific Western Bank	249,000.00	249,000.00	0.700%	8,719.77	257,719.77
05/29/20	05/29/25	Malaga Bank	249,000.00	249,000.00	0.700%	8,719.87	257,719.87
06/10/20	06/10/25	Stockman Bank	249,000.00	249,000.00	0.600%	7,474.10	256,474.10
07/17/20	07/17/25	Preferred Bank	249,000.00	249,000.00	0.500%	6,228.46	255,228.46
07/16/20	07/28/25	Toyota Financial Savings Bank	249,000.00	249,000.00	0.650%	8,096.93	257,096.93
07/29/20	07/29/25	Continental Bank	249,000.00	249,000.00	0.500%	6,228.46	255,228.46
<b>Certificate of deposit</b>			<b>18,583,000.00</b>	<b>18,581,755.00</b>	<b>1.975%</b>	<b>1,704,269.61</b>	<b>20,286,024.61</b>

**Mortgage backed securities (agency)**

12/26/19	12/01/22	FNMA AM1721	1,897,107.92	1,910,150.53	2.001%	71,703.08	1,981,853.61
02/04/20	11/01/22	FNMA AM0982	2,000,000.00	2,036,562.50	1.704%	27,844.88	2,064,407.38
04/15/20	11/25/24	FHMS KHG1 A1	3,000,000.00	3,215,625.00	0.999%	1,505.28	3,217,130.28
07/24/20	05/25/25	FRESB MFM	1,000,000.00	1,004,891.00	0.830%	14,527.08	1,019,418.08
<b>Mortgage backed securities (agency)</b>			<b>7,897,107.92</b>	<b>8,167,229.03</b>	<b>1.388%</b>	<b>115,580.32</b>	<b>8,282,809.35</b>

**Cash**

Wells Fargo Bank - General	3,125,562.00	3,125,562.00	0.100%	256.90	3,125,818.90
Sweep account	5,482,105.26	5,482,105.26	0.060%	270.35	5,482,375.61
Wells Fargo Bank - Custody	1,470,543.97	1,470,543.97	0.010%	12.25	1,470,556.22
CAMP	1,004,836.88	1,004,836.88	0.300%	247.77	1,005,084.65
LAIF City	71,466,066.18	71,466,066.18	0.840%	50,026.25	71,516,092.43
LAIF CMWD	71,335,418.15	71,335,418.15	0.840%	49,934.79	71,385,352.94
LAIF CPFA	16,147,885.33	16,147,885.33	0.840%	11,303.52	16,159,188.85
<b>Cash</b>	<b>170,032,417.77</b>	<b>170,032,417.77</b>	<b>0.791%</b>	<b>112,051.83</b>	<b>170,144,469.60</b>

<b>GRAND TOTAL</b>	<b>788,773,525.69</b>	<b>796,390,558.25</b>	<b>1.606%</b>	<b>48,937,074.12</b>	<b>845,305,127.37</b>
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**City of Carlsbad investment portfolio**

Fund equity in pooled investments

As of July 31, 2020

**Cash balance by fund:**

General		112,623,541
Special revenue		37,606,437
Capital projects:		
General capital construction	46,877,078	
Traffic impact fees	24,839,755	
Public facilities fees	28,980,716	
Park development	12,749,414	
TransNet taxes	7,567,850	
Drainage fees	5,491,832	
Special districts	111,117,428	
Infrastructure replacement	122,125,996	
Gas tax	16,057,807	
Capital project subtotal		375,807,876
Enterprise:		
Carlsbad Municipal Water District	131,082,037	
Sewer fund	48,573,624	
Solid waste	6,151,658	
Storm water	8,497,730	
Golf course	576,670	
Enterprise subtotal		194,881,719
Internal service		49,226,516
Trust and agency		31,391,715
<b>Total general ledger balance **</b>		<b>801,537,804</b>
Reconciling adjustments (1)		(6,519,337)
<b>Total treasurer's investment portfolio at amortized cost</b>		<b>795,018,467</b>

\*\*Figures based on best estimate at the time report run on 8/7/2020.

(1) The reconciling adjustments consist of differences between the general ledger which is prepared on an accrual basis and the treasurer's report which is prepared on the cash basis. Accrued interest, amortized premium or discounts and outstanding checks and deposits in transit are not included in the treasurer's summary. Differences between the time journal entries are posted and the time this report is produced may also be a component of the adjustment.

**City of Carlsbad investment portfolio**  
Corporate note and mortgage backed security ratings  
As of July 31, 2020

<b>Corporate notes</b>	Moody's	S&P	Fitch	Outlook
3M Company	A1	A+		Negative/negative
Alphabet Inc.	Aa2	AA+		Stable
Amazon.com Inc.	A2	AA-	A+	Positive/stable/positive
Apple Inc.	Aa1	AA+		Stable
Automatic Data Processing	Aa3	AA		Negative/stable
Bank of New York Mellon	A1	A	AA-	Stable
Berkshire Hathaway	Aa2	AA	A+	Stable
Blackrock Inc.	Aa3	AA-		Stable
Chevron	Aa2	AA		Stable/negative
Cisco Systems Inc.	A1	AA-		Stable
Citibank	A3	BBB+	A	Stable/stable/negative
CME Group	Aa3	AA-	AA-	Stable
Coca Cola Company	A1	A+	A	Stable/negative/stable
Colgate-Palmolive	Aa3	AA-		Stable
Exxon Mobil	Aa1	AA		Negative
Florida Power & Light	Aa2	A+	AA-	Stable
Johnson & Johnson	Aaa	AAA		Negative/stable
JP Morgan Chase Bank	A2	A-	AA-	Stable/stable/negative
Merck & Co	A1	AA-	A+	Stable/negative/stable
Microsoft	Aaa	AAA	AA+	Stable
New York Life	Aaa	AA+	AAA	Negative/stable/stable
Novartis Capital Corp	A1	AA-	AA-	Stable
Procter & Gamble	Aa3	AA-		Stable
Public Service Electric	Aa3	A		Stable
State Street Corporation	A1	A	AA-	Stable
Toyota	A1	A+	A+	Negative
US Bank NA	A1	A+	AA-	Negative/stable/negative
Wal-Mart	Aa2	AA	AA	Stable
Wells Fargo Bank NA	A2	BBB+	A+	Stable/stable/negative
<b>Mortgage backed securities</b>	Moody's	S&P	Fitch	Outlook
FHLMC (KHG1 A1)	Aaa	AAA		Stable
FNMA (AM0982)	Aaa	AAA		Stable
FNMA (AM1721)	Aaa	AAA		Stable

*Ratings of corporate notes must be AA or better by one and A or better another of the three: Moody's, S&P, or Fitch.*

*Ratings of mortgage backed securities must be AA or better by one of the three: Moody's, S&P, or Fitch.*

**Investments with subsequent changes in credit rating \***

<b>Corporate notes</b>	Moody's	S&P	Fitch	Maturity date	Purchased	Book value
3M Company	A1	A+		03/07/24	12/19/19	\$ 8,864,035
Citibank	A3	BBB+	A	01/23/24	02/20/20	\$ 7,397,506
Coca Cola Company	A1	A+	A	09/01/21	01/10/18	\$ 5,110,689
Toyota	A1	A+	A+	01/08/24	07/01/19	\$ 16,810,564
Wells Fargo Bank NA	A2	BBB+	A+	08/14/23	01/06/20	\$ 12,636,609

\* All investments were in compliance with the city's investment policy when initially purchased.

The city's investment policy allows the city treasurer to determine the course of action that would correct exceptions to the policy. All current exceptions are paying interest at the required times. The principal of all investments are considered secure. It is the intent of the city treasurer to hold these assets in the portfolio until maturity unless events indicate they should be sold.

**City of Carlsbad investment portfolio**  
 Portfolio allocation at amortized cost by issuer  
 As of July 31, 2020

<b>Corporate notes</b>	Amortized cost	Portfolio allocation*
3M Company	\$ 8,864,035	1.11%
Alphabet Inc.	5,068,249	0.64%
Amazon.com Inc.	4,658,786	0.59%
Apple Inc.	15,309,449	1.93%
Automatic Data Processing	4,000,727	0.50%
Bank of New York Mellon	10,607,494	1.33%
Berkshire Hathaway	9,607,868	1.21%
Blackrock Inc.	8,532,728	1.07%
Chevron	3,229,909	0.41%
Cisco Systems Inc.	511,355	0.06%
Citibank	7,397,506	0.93%
CME Group	3,041,552	0.38%
Coca Cola Company	5,110,689	0.64%
Colgate-Palmolive	15,379,449	1.93%
Exxon Mobil	5,010,569	0.63%
Florida Power & Light	3,966,653	0.50%
Johnson & Johnson	11,977,652	1.51%
JP Morgan Chase Bank	16,796,764	2.11%
Microsoft	19,272,001	2.42%
Novartis Capital Corp	4,870,445	0.61%
Procter & Gamble	8,726,085	1.10%
Public Service Electric	2,687,564	0.34%
State Street Corporation	2,110,230	0.27%
Toyota	16,810,564	2.11%
US Bank NA	12,660,448	1.59%
Wal-Mart	19,411,886	2.44%
Wells Fargo Bank NA	12,636,609	1.59%
<b>Mortgage backed securities (agency)</b>	Amortized cost	Portfolio allocation*
FHLMC	3,215,625	0.40%
FNMA	4,951,604	0.62%
<b>Federal agencies</b>	Amortized cost	Portfolio allocation**
Federal Agricultural Mortgage Corp.	12,183,056	1.53%
Federal Farm Credit Bank	87,990,157	11.07%
Federal Home Loan Bank	58,019,783	7.30%
Federal Home Loan Mortgage Corp.	48,284,667	6.07%
Federal National Mortgage Assoc.	28,019,008	3.52%
Private Export Funding Corp.	2,551,607	0.32%
RFCO STRIPS	2,989,723	0.38%
Tennessee Valley Authority	3,039,180	0.38%
<b>Other</b>	Amortized cost	Portfolio allocation
Supranational	39,744,835	5.00%
US Treasury	77,157,121	9.71%
Certificate of deposits	18,582,417	2.34%
Cash	170,032,419	21.39%
<b>Total portfolio amortized cost</b>	<b>\$ 795,018,467</b>	

\* No more than 5% may be invested with a single issuer.

\*\*There are no percentage limits on federal agency issuers.



CITY COUNCIL  
**Staff Report**

**Meeting Date:** Sept. 1, 2020

**To:** Mayor and City Council

**From:** Scott Chadwick, City Manager

**Staff Contact:** Sheila Cobian, Assistant to the City Manager  
 Sheila.Cobian@carlsbadca.gov or 760-434-2917

**Subject:** Rescind City Council Policies 6, 7, 32 and 34

**Recommended Action**

Adopt a resolution rescinding City Council Policies 6, 7, 32, and 34.

**Executive Summary**

The City Council's ad hoc Carlsbad Municipal Code and City Council Policy Update Subcommittee decided at its June 24, 2020, meeting to recommend that the full council rescind four City Council policies that are obsolete or conflict with other laws.

Four votes of the council are required to rescind City Council policies.

**Discussion**

The subcommittee was created on July 23, 2019, to work on a comprehensive update on the city's Municipal Code and a review of City Council policies. The subcommittee, comprised of City Council members Blackburn and Schumacher, assists staff from the City Attorney's Office and City Clerk's Office with recommendations for the update.

The policies the subcommittee has recommended for rescission are:

<b>City Council policy</b>	<b>Reason for rescission</b>
6 - Uniform Allowance (Replacement of Uniforms Damaged During Unusual or Emergency Conditions)	Has been added into the memorandums of understanding with city employee groups.
7 - Administration (Uniform Allowance and Rental)	Has been added into the memorandums of understanding with city employee groups.

32 - Public Facilities Management System	Superseded by section 21.90 of the Carlsbad Municipal Code. This Citywide Facilities and Improvement Plan also covers this.
34 - Review of Applications for Development Projects	California Government Code Section 56920 - Planning and Zoning Law addresses the time limits for a lead agency to approve or disapprove development permits.

The subcommittee is continuing to review City Council policies and will be bringing forth additional recommendations in the future.

**Fiscal Analysis**

The fiscal year 2020-21 budgets for the City Attorney’s Office and the City Clerk’s Office include sufficient funding to rescind City Council policies.

**Next Steps**

The City Clerk’s Office will update the City Council policies on the internet and in the city’s electronic document management system to reflect that they have been rescinded.

**Environmental Evaluation (CEQA)**

This action does not constitute a “project” within the meaning of the California Environmental Quality Act under Public Resources Code section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

**Public Notification and Outreach**

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for viewing at least 72 hours prior to the scheduled meeting date.

**Exhibits**

1. City Council resolution
2. City Council policies 6, 7, 32 and 34

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD,  
CALIFORNIA, RESCINDING CITY COUNCIL POLICIES 6, 7, 32, AND 34

WHEREAS, on July 23, 2019, the City Council adopted Resolution 2019-133 creating the ad hoc Carlsbad Municipal Code and City Council Policy Update Subcommittee (Subcommittee) to assist staff with a comprehensive update of the city’s Municipal Code, and expanded the update to include both the Code and City Council Policies (Policies); and

WHEREAS, the Subcommittee recommends the City Council rescind Policies 6, 7, 32, and 34 because they are obsolete or conflict with other laws; and

WHEREAS, the City Council agrees with the Subcommittee's recommendation and has determined that Policies 16, 7, 32, and 34 should be rescinded.

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

1. The above recitations are true and correct.
2. Council Policy 6, Uniform Allowance (Replacement of Uniforms Damaged During Unusual or Emergency Conditions), is rescinded.
3. Council Policy 7, Administration (Uniform Allowance and Rental), is rescinded.
4. Council Policy 32, Public Facilities Management System, is rescinded
5. Council Policy 34, Review of Applications for Development Projects, is rescinded.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the \_\_\_ day of \_\_\_\_\_, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

\_\_\_\_\_  
MATT HALL, Mayor

\_\_\_\_\_  
BARBARA ENGLESON, City Clerk  
(SEAL)

CITY OF CARLSBAD  
COUNCIL POLICY STATEMENT

General Subject: UNIFORM ALLOWANCE

Specific Subject: Replacement of Uniforms  
Damaged During Unusual  
or Emergency Conditions

Policy No. 6

Date Issued 3-2-71

Effective Date 3-2-71

Cancellation Date

Supersedes No.

Copies to: City Council, City Manager, City Attorney, Department and  
Division Heads, Employee Bulletin Boards, Press, File

PURPOSE:

To state City policy regarding replacement of uniforms for police and fire personnel, which have been damaged under unusual or emergency circumstances.

STATEMENT OF POLICY:

The City of Carlsbad shall pay for all or part of the replacement cost of any uniform of a public safety employee when such uniform has been damaged beyond repair while an employee is engaged in duties as a City employee and arising from some unusual or emergency circumstances such as: a police officer's uniform being ripped while apprehending a suspect, or a fireman's uniform being burned or ripped while engaged in fire fighting activities.

It is not meant to replace uniforms damaged due to normal wear and tear or old age. In determining amount of payment, consideration will be given to age of the uniform in question.

PROCEDURE:

The damaged uniform should be turned in to the Department Head, and a formal request made in writing for the replacement of the uniform or equipment, setting forth the circumstances under which it was destroyed or damaged, the approximate condition of the item or garment prior to the damage or destruction, and the exact cost of replacing the item or garment.

CITY OF CARLSBAD  
COUNCIL POLICY STATEMENT

General Subject: ADMINISTRATION

Specific Subject: Uniform Allowance & Rental

Policy No. 7

Date Issued 8-3-71

Effective Date 8-31-71

Cancellation Date

Supersedes No.

Copies to: City Council, City Manager, City Attorney, Department and Division Heads, Employee Bulletin Boards, Press, File

PURPOSE:

To establish a policy of the City Council regarding provision of uniforms and uniform allowances for various employees as specified in the following statement:

STATEMENT OF POLICY:

It is the policy of the City Council:

1. To provide uniforms for those miscellaneous employees required to be uniformed, and to provide safety shoes for those employees whose job lists such a required tool, including Federal or State funded employees who may be hired.
2. To authorize a uniform-clothing allowance for all Police Department safety members, in the amount of \$150.00 annually; and for all miscellaneous Police Department personnel required to be uniformed, in the amount of \$100.00 annually.
  - (a) To provide a "cleaning allowance" of \$5.00 per month for Police Reserve Officers on active duty.
  - (b) To provide a uniform for the Police Cadet. This will be provided for the sum of \$50.00 annually.
3. To authorize a uniform-clothing allowance for all Fire Department safety members required to be uniformed, in the amount of \$150.00 annually.
  - (a) To provide a uniform allowance for the Fire Department volunteers in the amount of \$37.50 each annually.

CITY OF CARLSBAD

COUNCIL POLICY STATEMENT

Policy No. 32 (page 1 of 2)

Date Issued 9-28-82

Effective Date 9-28-82

Cancellation Date

Supersedes No.

General Subject: PUBLIC FACILITIES

Specific Subject: PUBLIC FACILITIES MANAGEMENT SYSTEM (PFMS)

Copies to: City Council, City Manager, City Attorney, Department and Division Heads, Employee Bulletin Boards, Press, File

PURPOSE:

1. To establish a management system (PFMS) that monitors the demand for public facilities that results from new development.
2. To establish seven public facilities - water, sewer, parks, library, circulation and administrative facilities as those to be monitored by PFMS.
3. To establish demand standards as the minimum acceptable service levels to be utilized by PFMS.

BACKGROUND:

The City Council, for a number of years, has been concerned about the impact of new development on the city's ability to provide public facilities and services. City Council has taken several steps to ensure the availability of public facilities concurrent with need as mandated by the city's Public Facilities Element of the General Plan. Council established Policy No. 17 and the concept of the Public Facilities Fee to provide a partial funding source for facilities demanded by new development. In concept, the method of calculating the Public Facilities Fee (PFF) percentage requires an estimated building permit valuation for all new development that will be constructed between and and buildout. The total cost of unfunded facilities needed by that new development is divided by the estimated permit valuation resulting in the PFF percentage. Council also established the Comprehensive Planning Program which included Growth Management. The city hired the private consulting firm of Sedway/Cooke to prepare an Interim Growth Management Report.

The Interim Growth Management Report recommended that that city continue collecting the Public Facilities Fee and also establish a system to monitor the demand for public facilities. City Council directed staff to explore ways to implement the recommendations contained in the Interim Growth Management Report. To that end, staff prepared the July 27, 1982 report that recommends the establishment of the Public Facilities Management System (PFMS).

STATEMENT OF POLICY:

It is the policy of the City Council to establish the Public Facilities Management System (PFMS).

The PFMS will provide an informational link to decision makers,

CITY OF CARLSBAD

COUNCIL POLICY STATEMENT

Policy No. 32 (page 2 of 2)

Date Issued 9-28-82

Effective Date 9-28-82

Cancellation Date

Supersedes No.

General Subject:

Specific Subject:

Copies to: City Council, City Manager, City Attorney, Department and Division Heads, Employee Bulletin Boards, Press, File

which will coordinate the Capital Improvement Program (CIP), Goals and Objectives and Operating Budget. The PFMS will monitor the impact of new development on public facilities. Periodic PFMS monitoring reports will provide early warning regarding public facility needs prior to the CIP preparation. The PFMS monitoring will also aid the City Council when they review and adopt the city's goals and objectives each year. Expansion and upgrading of facilities that are identified in the PFMS monitoring report as becoming inadequate can be made a priority Council goal and objective.

Information from the PFMS will also aid in coordinating the operating budget with the CIP. The same PFMS information that will give decision makers an early warning on public facilities needs can also be used in assuring the availability of maintenance and operation monies from the operating budget for those public facilities.

It is also the policy of the City Council to establish the specific public facilities as well as the minimum service levels which will be monitored by the PFMS. The following is the list of public facilities and their minimum service levels that will be monitored by PFMS:

- 1. Water - Demand fully uses the design capacity.
- 2. Sewer - Average daily flow equals design capacity.
- 3. Parks - At least two acres of developed community parks, 2.5 acres of Special Resource Areas, and 0.5 acres of Special Use Facilities.
- 4. Library - At least 0.6 square feet per capita.
- 5. Fire Protection - When 1,500 additional units are within five-minute response time of a future fire station that station should be built.
- 6. Circulation - Traffic volume should be less than 90% of road capacity.
- 7. Administrative-Facilities - Facility space should be at least that for the target populations listed below:

<u>Space Requirement in Sq. Ft.</u>	<u>Target Populations</u>
64,540	35,000
101,000	60,000
115,000	100,000

The details of PFMS are outlined in the July 27, 1982 staff report to the City Council titled: Public Facilities Management System.

## COUNCIL POLICY STATEMENT

Policy No. 34

Date Issued 6/11/84

General Subject: DEVELOPMENT PROJECTS

Effective Date 6/11/84

Specific Subject: STAFF REVIEW OF APPLICATIONS  
FOR DEVELOPMENT PROJECTS.

Cancellation Date

Supersedes No.

Copies to: City Council, City Manager, City Attorney, Department and  
Division Heads, Employee Bulletin Boards, Press, FilePURPOSE

To establish a policy and procedure to insure an orderly and thorough review of all applications for development projects which require consideration by the Planning Commission and City Council.

STATEMENT OF POLICY

It is the policy of the City Council to require that all applications for development projects have a thorough, comprehensive review by staff before the projects are scheduled for consideration by the Planning Commission and City Council. In order to insure that sufficient time is provided for this review, it is the policy of the City Council to establish a procedure for determining the order in which projects are reviewed. In general, the normal scheduling of applications for development projects shall be based on the order in which the applications are filed with the City. When the workload does not permit the normal scheduling of all applications filed with the City, staff shall not schedule more applications than staff can review in a thorough, comprehensive and efficient manner. Priority for processing and scheduling shall be given to those applications for which all information is complete and all issues have been addressed. In this regard, the following procedures shall apply:

1. Once the application is filed with the City, staff shall review the application for completeness, complexity of project and unresolved issues.
2. If the application is complete and no issues are identified, the project shall be forwarded for normal scheduling based on the order in which the application is filed with the City.
3. If additional information is needed, unresolved issues are identified or additional time is needed for review of the application, staff shall forward its findings to the Issue Review Committee consisting of Director of Building and Planning, the City Engineer and the Land Use Planning Manager. Guidelines for determining major unresolved issues shall include the following:

CITY OF CARLSBAD

COUNCIL POLICY STATEMENT

Policy No.34

Date Issued 6/11/84

Effective Date 6/11/84

Cancellation Date

Supersedes No.

General Subject: DEVELOPMENT PROJECTS

Specific Subject: STAFF REVIEW OF APPLICATIONS FOR DEVELOPMENT PROJECTS.

Copies to: City Council, City Manager, City Attorney, Department and Division Heads, Employee Bulletin Boards, Press, File

- A. Size, scale or complexity of project.
- B. Major environmental concerns.
- C. Inadequate plans or insufficient information.
- D. Major circulation/traffic problems.
- E. Major engineering concerns (drainage, soils, sewer).
- F. Project requires change in general plan, zoning, master plan or other city ordinance.

4. The Issue Review Committee shall review the findings of staff. If confirmed, the project shall be put on hold and the project applicant shall be notified of the problems or issues. The project shall not be scheduled for consideration by the Planning Commission or City Council until the issues have been addressed and an adequate, thorough recommendation can be made by staff.

5. The Issue Review Committee shall review all projects put on hold on a monthly basis to determine the status of the issues or problems. Once all the issues or problems have been resolved, the project shall be forwarded for normal scheduling based on the existing workload.

ATTACHMENTS: Processing Flow Chart

**APPLICATION SUBMITTED**

**PLANNING REVIEW**

**ENGINEERING REVIEW**

**ISSUES IDENTIFIED**

**NO ISSUE IDENTIFIED**

**ISSUE REVIEW  
COMMITTEE**

**DIRECTOR OF BUILDING AND PLANNING  
CITY ENGINEER  
LAND USE PLANNING MANAGER**

**NORMAL SCHEDULING**

**ISSUE CONFIRMED  
& APPLICANT NOTIFIED-  
PROJECT PUT ON HOLD**

**ONE MONTH**

**ISSUE REVIEW  
COMMITTEE**

**ISSUE NOT RESOLVED**

**ISSUE RESOLVED**



CITY COUNCIL  
**Staff Report**

**Meeting Date:** Sept. 1, 2020  
**To:** Mayor and City Council  
**From:** Scott Chadwick, City Manager  
**Staff Contact:** Faviola Medina, City Clerk Services Manager  
faviola.medina@carlsbadca.gov, 760-434-5989  
**Subject:** Adoption of Ordinance No. CS-380 – Waiver of Adjustments to City Council Compensation for 2019 and 2020

**Recommended Action**

Adopt Ordinance No. CS-380 permanently waiving any adjustments to City Council compensation for 2019 and 2020.

**Executive Summary /Discussion**

Ordinance No. CS-380 was introduced and first read at the City Council meeting held Aug. 25, 2020. On a motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, the City Council unanimously voted to introduce the ordinance. The second reading allows the City Council to adopt the ordinance, which will become effective thirty days after the adoption.

**Fiscal Analysis**

None.

**Next Steps**

The city clerk will have the ordinance, or summary of the ordinance, published in a newspaper of general circulation within fifteen days following adoption of the ordinance.

**Environmental Evaluation (CEQA)**

This action does not constitute a “project” within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either direct physical change in the environment or a reasonably foreseeably indirect physical change in the environment and therefore does not require environmental review.

**Public Notification and Outreach**

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to scheduled meeting date.

**Exhibits**

1. Ordinance No. CS-380

**ORDINANCE NO. CS-380**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, PERMANENTLY WAIVING CITY COUNCIL COMPENSATION ADJUSTMENTS FOR 2019 AND 2020

WHEREAS, Carlsbad Municipal Code Section 2.04.010 requires any adjustment in City Council compensation be made or permanently waived by ordinance in January of each year; and

WHEREAS, the issue of City Council compensation was not presented to the City Council in either January of 2019 or January of 2020; and

WHEREAS, at this time the City Council wishes to permanently waive any adjustment to the compensation of City Council members for January 2019 and January 2020.

NOW, THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows:

1. The City Council waives any adjustments to the compensation of City Council members for January 2019 or January 2020.

EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 25th day of August, 2020, and thereafter

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PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the \_\_\_ day of \_\_\_\_\_, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

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CELIA A. BREWER, City Attorney

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MATT HALL, Mayor

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BARBARA ENGLESON, City Clerk

(SEAL)



## CITY COUNCIL Staff Report

**Meeting Date:** Sept. 1, 2020  
**To:** Mayor and City Council  
**From:** Scott Chadwick, City Manager  
**Staff Contact:** Cheryl Gerhardt, Finance Manager  
cheryl.gerhardt@carlsbadca.gov, 760-602-2468  
**Subject:** Carlsbad Tourism Business Improvement District Assessment  
Modification: Public Hearing, Confirmation of Modified Annual Report,  
and Ordinance Adoption

### Recommended Actions

1. Hold a public hearing on the modification of the assessment for the Carlsbad Tourism Business Improvement District and determine whether there is a majority protest.
2. In the absence of a majority protest, adopt an ordinance amending Carlsbad Municipal Code (CMC) Section 3.37.050 – Carlsbad Tourism Business Improvement District.
3. Adopt a resolution confirming the district advisory board’s modified annual report and levying the modified assessment for the remainder of fiscal year 2020-21, beginning Nov. 1, 2020.

### Executive Summary/Discussion

The City of Carlsbad established the Carlsbad Tourism Business Improvement District in 2005 under the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code Section 36500 et seq.). The district generates funds to administer marketing and visitor programs to promote the City of Carlsbad as a tourism visitor destination and to fund projects, programs, and activities, including appropriate administrative charges, that benefit hotels within the district’s boundaries. An appointed advisory board makes recommendations on expenditures for the district’s programs and activities, makes recommendations for the district’s annual budget, and provides end-of-year financial reports.

The district’s assessment is currently a flat fee of \$1 per occupied room per night for all transient occupancies, or temporary lodging rentals. The assessment has not been modified since the district was established.

On June 26, 2020, the district’s advisory board sent the City Council a letter recommending the City Council modify the assessment to be 2% of gross short-term room rental revenue for all transient occupancies. The additional assessment revenue will enable the district to provide improved services and activities to the assessed businesses.

On July 14, 2020, the City Council adopted a resolution of intention to modify the assessment as recommended. The City Council also scheduled a public meeting for Aug. 25, 2020 and a public

hearing for Sept. 1, 2020. All affected businesses were notified of this resolution and of the public meeting and public hearing dates.

On Aug. 25, 2020, the City Council held a public meeting, the purpose of which was to allow the City Council to receive public comments and testimony on the assessment modification. The purpose of the Sept. 1, 2020 public hearing is to allow the City Council to hear and consider all protests against the assessment modification. If there are written protests from affected business owners who will pay 50% or more of the modified assessment levies, the City Council may not take any further action to modify the assessment for one year.

Modifying the assessment requires the passage of an ordinance amending CMC 3.37.050 – Carlsbad Tourism Business Improvement District. The City Council introduced an ordinance amending CMC 3.37.050 at its Aug. 25, 2020 meeting. If there is no majority protest, the City Council may adopt the ordinance following the Sept. 1, 2020 public hearing.

As part of the process for levying an annual assessment, the advisory board is required to submit a report describing the improvements and activities to be funded with the assessment proceeds. The City Council approved the report for the fiscal year 2020-21 assessment at the City Council’s meeting on June 2, 2020 and confirmed the report at its meeting on June 23, 2020. (The confirmation of the report authorizes the assessment to be levied against the affected businesses.) Because the proposed modified assessment will increase the assessment proceeds available for fiscal year 2020-21, the advisory board has provided a modified fiscal year 2020-21 report. The City Council approved the report at its Aug. 25, 2020 meeting. To levy the modified assessment, the City Council must confirm the report at its Sept. 1, 2020 meeting.

### **Fiscal Analysis**

The \$1 per room night assessment rate is estimated to generate \$800,000 in revenue in fiscal year 2020-21 for the district’s activities. Modifying the assessment to 2% of the gross short-term room rental revenue would increase fiscal year 2020-21 estimated revenue to \$1.2 million.

### **Next Steps**

If adopted, the ordinance amending CMC 3.37.050 – Carlsbad Tourism Business Improvement district will become effective 30 days after adoption, but the modified assessment would commence Nov. 1, 2020.

### **Environmental Evaluation (CEQA)**

This action does not constitute a “project” within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

### **Public Notification**

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date. In addition, following the adoption of the Resolution of Intention, a notice was mailed to all affected business owners on July 17, 2020, which began a mandatory 45-day period during which the owners may protest the modification.

## Exhibits

1. City Council resolution
2. Ordinance amending Carlsbad Municipal Code 3.37.050 - Carlsbad Tourism Business Improvement District
3. Highlighted amendments to CMC 3.37.050
4. Letter from Carlsbad Tourism Business Improvement District Advisory Board
5. Adopted Resolution of Intention
6. Notice of Public Meeting and/or Public Hearing
7. Written protests

**RESOLUTION NO.**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, CONFIRMING THE MODIFIED ANNUAL REPORT OF THE CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT (CTBID) AND LEVYING THE MODIFIED ASSESSMENTS FOR FISCAL YEAR 2020-21 BEGINNING NOV. 1, 2020

WHEREAS, the Carlsbad Tourism Business Improvement District (CTBID) was formed in accordance with the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code, § 36500 et seq.) (the "Act"); and

WHEREAS, Section 36533 of the Act requires the CTBID Advisory Board to present a report to the City Council for review and approval for each fiscal year for which assessments are to be levied and collected to pay the cost of the improvements and activities described in the report; and

WHEREAS, the CTBID Advisory Board submitted an Annual Report to the City Council for FY 2020-21, which the City Council approved at its meeting on June 2, 2020 and confirmed at its meeting on June 23, 2020; and

WHEREAS, the current assessment for the CTBID is a flat fee of \$1 per occupied room per night for all transient occupancies; and

WHEREAS, on June 26, 2020, the Advisory Board sent the City Council a letter recommending the City Council modify the assessment to be 2% of gross short-term room rental revenue for all transient occupancies; and

WHEREAS, on July 14, 2020, the City Council adopted a Resolution of Intention to modify the assessment as recommended; and

WHEREAS, the City Council conducted a public meeting on Aug. 25, 2020 to receive public comments and testimony on the assessment modification; and

WHEREAS, the City Council conducted a public hearing on Sept. 1, 2020 to hear and consider all protests against the assessment modification; and

WHEREAS, all affected businesses were notified of the Resolution of Intention and of the public meeting and public hearing dates; and

WHEREAS, the City Council did not receive written protests from affected business owners who will pay 50% or more of the modified assessment levies; and

WHEREAS, the CTBID Advisory Board submitted to the City Council a modified Annual Report for FY 2020-21 based on the proposed modified assessment; and

WHEREAS, the City Council approved the modified Annual Report for FY 2020-21 at its meeting on Aug. 25, 2020.

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

1. That the above recitations are true and correct.
2. That the City Council confirms the CTBID Advisory Board's modified Annual Report for FY 2020-21 (Attachment A).
3. That the boundaries of the CTBID shall be the legal boundaries of the City of Carlsbad.
4. That as of Nov. 1, 2020, the assessment to be levied shall be 2% of gross short-term room rental revenue for all transient occupancies, as defined in Carlsbad Municipal Code Section 3.12.020, due and payable to the City of Carlsbad's finance department at the same time and in the same manner as the payment of transient occupancy tax.
5. That the adoption of this resolution shall constitute the levy of the modified assessment for the CTBID for FY 2020-21, beginning Nov. 1, 2020 through June 30, 2021.

PASSED, APPROVED AND ADOPTED at a Meeting of the City Council of the City of Carlsbad on the \_\_ day of \_\_\_\_\_, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

\_\_\_\_\_  
MATT HALL, Mayor

\_\_\_\_\_  
BARBARA ENGLESON, City Clerk  
(SEAL)

**Carlsbad Tourism and Business Improvement District (CTBID)  
2020-2021 Modified Annual Report**

**Method of Assessment:** The CTBID includes all hotel businesses located within the CTBID boundaries. The assessment shall be levied on all hotel businesses, existing and future, within the City of Carlsbad based upon 2% of gross short-term room rental revenue for all transient occupancies as defined in section 3.12.020(7) of the Carlsbad Municipal Code. The amount of assessment shall be separately stated from the amount of the rent and other taxes charged, and each transient shall receive a receipt for payment from the operator. The assessment will be remitted monthly, based on 2% of gross short-term room rental revenue for the previous month.

**Assessment Funding Purpose:** To administer marketing and visitor programs to promote the City of Carlsbad as a tourism visitor destination and to fund projects, programs, and activities, including appropriate administrative charges that benefit hotels within the boundaries of the District.

**2019-20 Work Plan:** Last fiscal year, the CTBID contracted with Carlsbad Convention and Visitors Bureau (dba Visit Carlsbad) to provide tourism marketing services for Carlsbad. In addition, \$20,000 in grants were awarded to fund events to increase the overnight stays in Carlsbad hotels.

The previously adopted CTBID 2020-21 budget included a reduced funding level of \$800,000 for Visit Carlsbad. This reduced funding level is the result of reduction in assessment revenue due to Covid-19. The services provided will focus primarily on post Covid-19 marketing recovery efforts. The majority of this will be done by interactive marketing and group sales. Funding also includes managing the visitor center and publications. The increase in the assessment from \$1 per room night to 2% of gross revenue will result in an estimated budget of \$1,200,000, and goes into effect November 1. This increased revenue will provide additional funding for marketing during the recovery. Due to the uncertainty of the tourism economy at this time, the CTBID Board will revisit the budget mid-year as well as the Visit Carlsbad contract to make adjustments based on the needs at that time.

Detail of the modified 2020-21 budget is shown on the following page.

**2020-21 CTBID Budget**

Program Areas	Description	2016-17 Actuals	2017-18 Actuals	2018-19 Actual	2019-20 Actual	2020-21 Adopted Budget	2020-21 Modified Budget
Carryover Fund Balance		\$655,774	\$722,331	\$696,716	\$640,318	617,131	617,131
<u>Revenues:</u>							
CTBID Assessment	\$1 per room night	1,205,851	1,246,944	1,333,001	1,088,859	800,000	1,200,000
Interest Earnings		1,658	2,535	26,920	21,385		
Total Estimated Revenues		1,207,509	1,249,479	1,359,921	1,110,244	800,000	1,200,000
<u>Expenditures:</u>							
2% Admin. Fee - City	2% of CTBID assessment revenue, for collection of CTBID assessment and accounting for CTBID	24,116	24,896	26,644	21,045	16,000	24,000
CCVB Payment	To operate visitor center, market and promote Carlsbad	978,612	1,130,216	1,244,575	1,040,326	800,000	800,000
Staff support	Staff support to the CTBID - 2% of revenues	19,224	16,972	15,649	20,446	16,000	24,000
Professional Services	Civitas Contract				32,960		12,000
CTBID Grants	Grant program established by CTBID Board	119,000	103,011	129,451	18,654	75,000	35,000
Total Expenses		1,140,952	1,275,095	1,416,319	1,133,431	907,000	895,000
<b>Ending Fund Balance</b>	Contingency for Revenue shortfall	\$722,331	\$696,716	\$640,318	\$617,131	510,131	922,131

**Visit Carlsbad Expenses**

	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	
	<b>Actuals</b>	<b>Actuals</b>	<b>Budget</b>	<b>Request</b>	
<b>Labor</b>	348,088	406,478	422,051	434,324	
<b>Advertising Campaign</b>	7,095	7,923	156,000	156,000	
<b>Digital MKtg</b>	247,764	235,610	250,000	250,000	
<b>Group</b>	184,259	198,967	301,100	194,500	
<b>PR Contract</b>	95,099	224,353	185,000	190,000	
<b>G&amp;A</b>	27,911	29,323	35,649	30,676	
<b>Other promotion</b>	35,725	39,929	41,800	42,500	
	<b>945,941</b>	<b>1,142,583</b>	<b>1,391,600</b>	<b>1,298,000</b>	<b>37%</b>
<b>Reserves</b>	722332				

**Agreement Date**

11/8/2019	\$40,000	6 Months	\$6,000/month
paid	(16,480)	12/19/2019	
paid	(6,240)	2/6/2020	
paid	(2,240)	6/30/2020	
	\$15,040		

5/15/2020	\$20,000	6 Months	\$6,000/month
Paid	-8000	6/4/2020	
Paid	-6000	7/23/2020	
	\$6,000		

**ORDINANCE NO. CS-381**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING CARLSBAD MUNICIPAL CODE SECTION 3.37.050 TO MODIFY THE ASSESSMENT FOR THE CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City of Carlsbad established the Carlsbad Tourism Business Improvement District (CTBID) in 2005 under the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code § 36500 et seq.); and

WHEREAS, the CTBID generates funds to administer marketing and visitor programs to promote the City of Carlsbad as a tourism visitor destination and to fund projects, programs, and activities, including appropriate administrative charges, that benefit hotels within the CTBID's boundaries; and

WHEREAS, an appointed advisory board (Board) makes recommendations on expenditures for the CTBID's programs and activities, makes recommendations for the CTBID's annual budget, and provides end-of-year financial report; and

WHEREAS, the CTBID assessment is currently a flat fee of \$1 per occupied room per night for all transient occupancies; and

WHEREAS, the assessment has not been modified since the CTBID was established; and

WHEREAS, on June 26, 2020, the Board sent the City Council a letter recommending the City Council modify the assessment to be 2% of gross short-term room rental revenue for all transient occupancies; and

WHEREAS, the additional assessment revenue will allow the CTBID to provide improved services and activities to assessed businesses; and

WHEREAS, on July 14, 2020, the City Council adopted a Resolution of Intention to modify the assessment as recommended; and

WHEREAS, the City Council conducted a public meeting on August 25, 2020 to receive public comments and testimony on the assessment modification; and

WHEREAS, the City Council conducted a public hearing on September 1, 2020 to hear and consider all protests against the assessment modification; and

WHEREAS, all affected businesses were notified of the Resolution of Intention and of the public meeting and public hearing dates; and

WHEREAS, the City Council did not receive written protests from affected business owners who will pay 50% or more of the modified assessment levies; and

WHEREAS, the City Council received, approved, and confirmed a modified FY 2020-21 annual report for the CTBID.

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

1. The above recitations are true and correct.
2. As of Nov. 1, 2020, Carlsbad Municipal Code Section 3.37.050 is amended to read:

**3.37.050 Levy and collection of assessments.**

The CTBID will include all hotel businesses located within the CTBID boundaries. An assessment shall be levied on all hotel businesses, existing and future, within the City of Carlsbad of two percent (2%) of gross short-term room rental revenue for all transient occupancies as defined in Section 3.12.020 of the Carlsbad Municipal Code. The amount of the assessment shall be separately stated from the amount of the rent and other taxes charged, and each transient shall receive a receipt for payment from the operator. The assessment will be collected monthly, based on two percent (2%) of gross short-term room rental revenue for the previous month. New hotel businesses within the boundaries will not be exempt from the levy of assessment authorized by Section 36531. Assessments pursuant to the CTBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax. No assessment shall be imposed upon occupancies of any federal or State of California officer or employee when on official business nor on occupancies of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

EFFECTIVE DATE: This ordinance shall be effective 30 days from the date of its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 25th day of August, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the \_\_\_ day of \_\_\_\_\_, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

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CELIA A. BREWER, City Attorney

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MATT HALL, Mayor

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BARBARA ENGLESON, City Clerk

(SEAL)

**PROPOSED AMENDMENTS TO  
CARLSBAD MUNICIPAL CODE SECTION 3.37.050**

**3.37.050 Levy and collection of assessments.**

The CTBID will include all hotel businesses located within the CTBID boundaries. ~~The~~An assessment shall be levied on all hotel businesses, existing and future, within the City of Carlsbad ~~based upon a flat fee~~ of two percent (2%) of gross short-term room rental revenue ~~one dollar per occupied room per night~~ for all transient occupancies as defined in Section 3.12.020 of the Carlsbad Municipal Code. The amount of the assessment shall be separately stated from the amount of the rent and other taxes charged, and each transient shall receive a receipt for payment from the operator. The assessment will be collected monthly, based on two percent (2%) of gross short-term room rental revenue ~~on one dollar per occupied room per night in revenues~~ for the previous month. New hotel businesses within the boundaries will not be exempt from the levy of assessment authorized by Section 36531. Assessments pursuant to the CTBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax. No assessment shall be imposed upon occupancies of any federal or State of California officer or employee when on official business nor on occupancies of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

June 26, 2020

Honorable Mayor and Councilmembers  
City of Carlsbad  
1200 Carlsbad Village Drive  
Carlsbad, CA 92008

Re: Carlsbad Tourism Business Improvement District Assessment Modification

Honorable Mayor and Councilmembers:

As the Carlsbad Tourism Business Improvement District ("District") advisory board, we hereby recommend that the City Council modify the District.

Specifically, we request that the assessment rate of the district be modified. The current assessment rate is \$1.00 per paid-occupied-room per night. We request modifying the assessment rate to two percent (2%) of gross short-term room rental revenue.

We ask that you consider this item at your July 14, 2020 meeting. If you have any questions or comments, please contact me at 760-419-7788.

Thank you,



Tim Stripe  
Chair, CTBID Advisory Board

Cc: Cheryl Gerhardt

**RESOLUTION NO. 2020-134**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, DECLARING ITS INTENTION TO MODIFY THE ASSESSMENT RATE FOR THE CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT, FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND PUBLIC HEARING ON THE MODIFICATION, AND GIVING NOTICE OF THE PUBLIC MEETING AND PUBLIC HEARING

WHEREAS, pursuant to the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code § 36500 et seq.) (the "89 Law"), the City Council has established the Carlsbad Tourism Business Improvement District ("District"); and

WHEREAS, the 89 Law authorizes the District's advisory board at any time to recommend the City Council modify the basis and method of levying the assessment rate of the District; and

WHEREAS, the District's advisory board submitted a written recommendation that the City Council modify the District assessment rate from \$1 per occupied room night for all transient occupancies to 2% of gross short-term room rental for all transient occupancies; and

WHEREAS, the 89 Law establishes the procedure to modify the assessment rate which includes adopting a Resolution of Intention, providing notice to affected business owners, holding a public meeting, holding a public hearing, and adopting an ordinance modifying the assessment rate.

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

1. The above recitations are true and correct.
2. The City Council declares its intention to modify the District assessment rate from \$1 per occupied-room per night for all transient occupancies to 2% of gross short-term room rental revenue for all transient occupancies.
3. As with the current assessment, the modified assessment would be levied on all hotel businesses, existing and in the future, within the District boundaries.
4. The District boundaries continue to be consistent with the boundaries of the City of Carlsbad.
5. The modified assessment rate would go into effect on November 1, 2020.
6. The improvements and activities proposed for the District that shall be funded by the levy of assessments on businesses within the District boundaries include:
  - a. General promotion of business activities within the District;
  - b. Promotion of public events which benefit businesses in the District and which take place on or in public places within the District;
  - c. Decoration of any public place within the District; and

- d. Acquisition, construction, installation or maintenance of improvements identified in Section 36510 of the 89 Law.
7. Funds remaining at the end of any District term may be used in subsequent years in which the District assessments are levied as long as they are used consistent with the requirements of Carlsbad Municipal Code Section 3.27.070.
8. The CTBID Advisory Board will continue to serve as the advisory board of the District.
9. The District advisory board shall submit an annual report, which shall include a budget for operations and activities to be undertaken by the District for the ensuing calendar year, to the City Council pursuant to Section 36533 of the 89 Law.
10. The time and place for a public meeting for comments on the modification of the District assessment rate is set for 3 p.m. on Aug. 25, 2020 at City Hall, 1200 Carlsbad Village Drive, Carlsbad, CA 92008.
11. The time and place for the public hearing on the modification of the District assessment rate is set for 3 p.m. on Sept. 1, 2020 at City Hall, 1200 Carlsbad Village Drive, Carlsbad, CA 92008.
12. At the public meeting and public hearing, the testimony of all interested persons for or against modifying the District will be heard.
13. A protest against modifying the District, as provided in Section 36524 of the 89 Law, must be made in writing. A written protest may be withdrawn, in writing, at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person signing the protest is interested, sufficient to identify the business and its address. If the person signing the protest is not shown on the official records of the City of Carlsbad as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business, or the authorized representative. Any protest as to the regularity or evidence of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made. Written protests must be received by the City Clerk's Office before the close of the public hearing, and may be delivered to the City Clerk Office at 1200 Carlsbad Village Drive, Carlsbad, CA 92008.
14. If, at the conclusion of the public hearing, there are of record written protests by the owners of businesses within the District that will collectively pay 50% or more of the proposed modified District assessment rate, no further proceedings to modify the assessment rate shall occur for a period of one year from the date of the finding of a majority protest.
15. Further information regarding the proposed modified District assessment rate may be obtained from the City Clerk, at 1200 Carlsbad Village Drive, Carlsbad, CA 92008 or by contacting Cheryl Gerhardt, staff for the Carlsbad Tourism Business Improvement District, at (760) 602-2468.

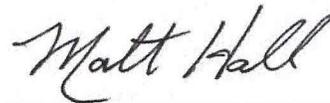
16. The City Clerk is instructed to provide notice of the public meeting and public hearing by mailing notice and a complete copy of this Resolution of Intention to each and every business owner in the District on or before July 17, 2020.

PASSED, APPROVED AND ADOPTED at a Meeting of the City Council of the City of Carlsbad on the 14th day of July 2020, by the following vote, to wit:

AYES: Hall, Blackburn, Bhat-Patel, Schumacher.

NAYS: None.

ABSENT: None.



MATT HALL, Mayor



BARBARA ENGLESON, City Clerk

(SEAL)



**NOTICE OF PUBLIC MEETING AND PUBLIC HEARING CONCERNING THE MODIFICATION OF THE CARLSBAD  
TOURISM BUSINESS IMPROVEMENT DISTRICT ASSESSMENT RATE**

**NOTICE IS HEREBY GIVEN** that on July 14, 2020, the City Council of the City of Carlsbad adopted a Resolution of Intention to modify the Carlsbad Tourism Business Improvement District (the "CTBID") assessment rate as set forth in the Resolution of Intention.

**NOTICE IS HEREBY FURTHER GIVEN** that at 3:00 PM on August 25, 2020, at City Hall, 1200 Carlsbad Village Drive, Carlsbad, CA 92008, a public meeting shall be held to allow public testimony regarding the modification of the CTBID assessment rate as set forth in the Resolution of Intention.

**NOTICE IS HEREBY FURTHER GIVEN** that 3:00 PM on September 1, 2020, at City Hall, 1200 Carlsbad Village Drive, Carlsbad, CA 92008, has been set as the time and place for a public hearing at which time the City Council proposes to modify the CTBID assessment rate as set forth in the Resolution of Intention.

**Location:** The CTBID includes all hotel businesses located within the boundaries of the City of Carlsbad.

**Services:** The CTBID is designed to provide specific benefits to payors by increasing demand for overnight visitation to hotels within the CTBID boundaries. Revenues collected shall be used for the following:

- General promotion of business activities within the CTBID;
- Promotion of public events which benefit businesses in the CTBID and which take place on or in public places within the CTBID;
- Decoration of any public place within the CTBID; and
- Acquisition, construction, installation or maintenance of improvements identified in California Streets and Highways Code Section 36510.

**Cost:** The proposed assessment modification would increase the current assessment rate of \$1 per occupied room per night for all transient occupancies to 2% of gross short-term room rental revenue for all transient occupancies.

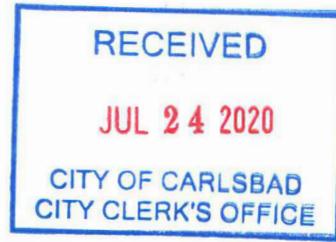
**Protest:** Any owner of a lodging business within the CTBID that will be subject to the assessment may protest the modification of the CTBID assessment rate. Written protests must be received by the City Clerk of the City of Carlsbad before the close of the scheduled public hearing. If written protests are received from the owners of lodging businesses in the CTBID who 50% or more of the estimated annual assessments to be levied, the CTBID assessment rate shall not be modified.

**You may mail a written protest to: Office of the City Clerk, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, CA 92008**

COVID-19 pandemic related public health orders may prevent your personal appearance at the public meeting or the public hearing. If your personal appearance is permitted, you may appear at the public meeting or the public hearing and submit a written protest at that time.

**Information:** Should you desire additional information about the proposed CTBID assessment rate modification contact: Cheryl Gerhardt, Carlsbad Tourism Business Improvement District Staff, 1635 Faraday Ave., Carlsbad, CA 92008

July 22<sup>nd</sup>, 2020



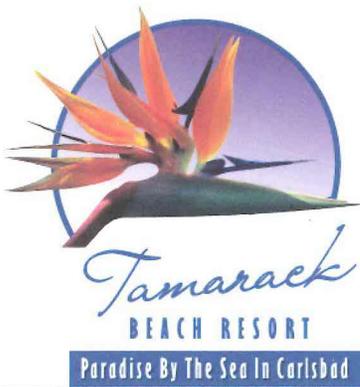
To whom it may concern,

I am the owner of the AirBnB at 2373 Jefferson St., Carlsbad CA 92008. I am already taxed TO DEATH. If you increase the CTBID rate from \$1/room to 2% of gross I will sell my home and move away from this area. You have already failed miserably to address the homeless epidemic and made the beach illegal for a time; this was a criminal decision. I am at the end of my rope. 10% of gross to the City becoming 12% on top of state and federal taxes is literal theft.

I am writing to protest and demand that you not increase these taxes further.

Sincerely,

Clint Muhe



RECEIVED

AUG 03 2020

CITY OF CARLSBAD  
CITY CLERK'S OFFICE

July 25, 2020

City Clerk of the City of Carlsbad

This is to protest the proposed modification of the CTBID assessment rate. The proposed change is outrageous in size. To most of the affected properties it would be a 400% increase or more and that is an outrageous increase. If this increased money is truly needed, look to all the Airbnb type rentals that take away from the very properties you are supposed to be helping. They get the benefits from the CTBID tax without supporting their share.

Tamarack Beach Hotel

3200 Carlsbad Blvd

Kenneth and Mary Jo Voertman, Owners

A HELM MANAGED RESORT

RECEIVED

AUG 10 2020

CITY OF CARLSBAD  
CITY CLERK'S OFFICE

Annette Granstedt Revocable Trust

Carlsbad Ca. 92008

20 July 2020

Office of the City Clerk  
City Clerk  
City of Carlsbad  
1200 Carlsbad Village Drive.  
Carlsbad Ca. 92008

Dear City Clerk:

I am writing you to protest the proposed modification of the CTBID assessment.

My reason for protesting this assessment is the current climate regarding the COVID-19 pandemic. Not only is this pandemic a fluid situation economically but also socially. The general public has lost income as well as the ability to travel feeling safe. This increased assessment is an unneeded strain on the hospitality industry and our guests at this time. The hospitality industry is already facing waves of cancellations, shutdowns, negative consumer sentiment, decreased prices for lodging, less nights booked, and increasing costs coupled with heightened safety measures.

It is my hope other business owners within the CTBID write into the City to protest this assessment so our voices can be heard. I believe the City of Carlsbad will do what is right for our local business owners and those who come to visit our wonderful city.

Sincerely,

Annette Granstedt  
Owner/Trustee of Annette Granstedt Revocable Living Trust

DocuSigned by:

*Annette Granstedt*

228DBF6E27B5459...

7/20/2020 | 3:51 PM PDT

August 11, 2020

To: Office of the County Clerk  
City of Carlsbad  
1200 Carlsbad Village Drive  
Carlsbad, CA 92001

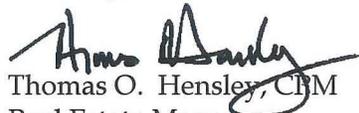
Re: CTBID Assessment Rate Increase

To Whom It May Concern:

As the management agent (The Helm Management Co.) for two commercial properties currently paying the assessment, we want to protest the subject increase rate to 2% of the gross short term rental income.

Both properties located at, 3200 Carlsbad Blvd., Carlsbad, CA 92001, Tamarack Beach Resort Hotel and Tamarack Beach Resort Vacation Owners Association are now paying the assessment. With the Covid-19 crisis resulting in lower incomes and the uncertain future, the owners of the Hotel and the Board of the timeshare association feel this is not the proper time for the business economy to justify this increase.

Sincerely,

  
Thomas O. Hensley, CFM  
Real Estate Manager



ACCREDITED  
MANAGEMENT  
ORGANIZATION®

Sept. 1, 2020



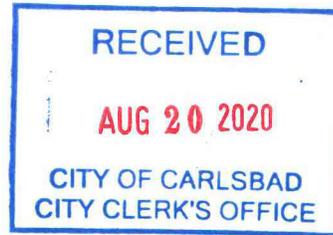
CERTIFIED  
PROPERTY  
MANAGER®

Item #4

Page 22 of 23

August 17, 2020

Office of the City Clerk  
City of Carlsbad  
1200 Carlsbad Village Dr.  
Carlsbad, CA 92008



Re: Modification of CTBID Assessment Rate

To Whom It May Concern:

We own a STVR within the coastal area of Carlsbad. At this time, we are opposed to modification of the assessment rate as set forth in the Resolution of Intention we received by mail.

We are not opposed in general to the modification, we are opposed at this time due to Covid-19. We feel with the general decline of the economy, now is not the time to impose additional assessments. At such time as the economy recovers, we would be willing to reconsider and revisit the issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "John and Lorna Hoopes".

John and Lorna Hoopes

Property located at:

Carlsbad, CA 92008



CITY COUNCIL  
**Staff Report**

**Meeting Date:** Sept. 1, 2020

**To:** Mayor and City Council

**From:** Scott Chadwick, City Manager

**Staff Contact:** Corey Funk, Associate Planner  
corey.funk@carlsbadca.gov, 760-434-4645

**Subject:** Update to the City's Density Bonus Regulations to Reflect Changes in State Law

**Case Name:** Density Bonus Amendments 2020

**Case No.:** ZCA 2020-0001/ LCPA 2020-0005

**Recommended Action**

Hold a public hearing and introduce an ordinance adopting a zoning code amendment (ZCA 2020-0001) and Local Coastal Program amendment (LCPA 2020-0005) to update the city's density bonus regulations to reflect changes in state law.

**Executive Summary**

This is a city-initiated amendment to the Carlsbad Municipal Code and Local Coastal Program to update the city's density bonus regulations to reflect changes in state law.

The proposed amendments repeal Chapter 21.86, density bonus housing standards, and replace it with the proposed ordinance attached as Exhibit 1. The Planning Commission voted unanimously June 17, 2020, to recommend City Council approval of the amendments and the Municipal Code and City Council Policy Update Subcommittee directed on July 22, 2020, that the proposed amendments be forwarded to the City Council, along with the answers to procedural questions that have been addressed in this staff report.

This item is being brought to the City Council because amendments to the zoning code and local coastal program must be approved by the council under to Carlsbad Municipal Code Section 21.52.050.

**Discussion**

**Background**

State density bonus law (Government Code Section 65915, attached as Exhibit 3) allows a developer to increase density on a property above the maximum limit set by a city's local general plan. In addition, qualifying applicants can also receive reductions in required development standards such as setbacks, height limits and parking requirements when such deviations are necessary to achieve the density allowed under state law. In exchange for a density increase, a developer must reserve a certain number of the new dwelling units reserved

for very low, low, or moderate-income households, or for other qualifying housing types such as senior housing, for a period of not less than 55 years.

The requirement for a local density bonus ordinance is stipulated in the state's density bonus law as follows:

*§65915(a)(1): "A city...shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city... from complying with this section."*

It is important to note that a jurisdiction may not enact local laws that conflict with state law or prohibit what the legislature intended to authorize.<sup>1</sup>

Because the city is compelled to comply with state density bonus allowances, and given the statute above, the city's density bonus ordinance should focus more on the permit processing requirements for density bonus applications, and not just be a copy of the state law. Staff is proposing to remove code language that repeats state mandates, just referencing the state codes instead, while introducing requirements and standards for processing and reviewing applications. Referring to state law on density bonus standards will also help reduce the need to regularly update the city's ordinance when the state makes changes to the law, which has been occurring on an annual basis over the past several years.

### **Changes in state law**

Assembly Bill 1763, effective January 1, 2020, amends Section 65915 to help reduce costs associated with the development of affordable housing. The three main changes enacted by AB 1763 are:<sup>2</sup>

- Existing density bonus law provides developers up to a 35% increase in project densities, set on a sliding scale based on the amount of affordable housing provided. For housing projects where 100% of the units are affordable to low and very low-income residents, AB 1763 more than doubles the density bonus to 80%. Additionally, projects that are 100% affordable and located within a half mile of a major transit stop are allowed a height increase above existing zoning height limits of up to an additional three stories or 33 feet.
- Under existing density bonus law, projects qualifying for a density bonus are currently entitled to up to three incentives and concessions, depending on the number of affordable units provided. AB 1763 provides for a fourth incentive and concession for 100% affordable projects.
- Existing density bonus law also establishes special parking ratio requirements for qualifying projects. For housing projects that qualify as a special needs or supportive housing development, AB 1763 eliminates all local parking requirements.

<sup>1</sup>Cal Const Art XI, Section 7; Northern Cal. Psychiatric Soc'y v. City of Berkeley (1986) 178 CA 3d 90

<sup>3</sup> CMC §20.04.020 & §20.12.090 (subdivisions); §21.45.050.B & §21.45.050 Table B (planned development permits); and, §21.53.120 & §21.06.070 (site development permits).

## Proposed ordinance

The proposed ordinance found in Exhibit 1 complies with the requirements of state density bonus law and can be summarized as follows.

- The ordinance amendment is required as part of the city's Housing Element Program 3.3, which requires that the city promote the use of current density bonus allowances to help facilitate the development of housing for low- and very low-income households. Completing this requirement is important to show program compliance to the state Department of Housing and Community Development as the city proceeds with the latest update of the city's Housing Element.
- The ordinance amendment captures changes made in state density bonus law by AB 1763. (Compliance with the city's Growth Management Plan is evaluated by staff on a case-by-case basis for projects whose developers request a density bonus.)
- Over the past several years, the state legislature has made several modifications to density bonus law to encourage the development of more affordable housing. More changes are expected in the coming years. These state-initiated modifications often require annual changes and updates to the city's local code. The proposed ordinance focuses more on the city's permit processing requirements for density bonus applications, while deferring to the state law on density bonus requirements and allowances. This will help reduce the need to process local code amendments if state law changes in the future.
- Educational materials, specifically, a department information bulletin, have also been prepared to help customers navigate density bonus law and city processing requirements (Exhibit 4). Staff can update this bulletin as future changes to state law occur. The bulletin includes these sections:
  - Density Bonus Information Bulletin  
The main section of this bulletin outlines the city's development and processing requirements to receive the benefits provided for under state law in simple direct terms and includes the following topics: project eligibility; applicant permitting requirements; explanation on how density bonus is calculated; what qualifies as concessions, incentives, or waivers; and the findings the city must make to deny a concession, incentive, or waiver.
  - Density Bonus Supplemental Checklist  
This supplemental application checklist is new for city applicants and will be required to be completed for all density bonus applications being processed under Government Code Section 65915. This helps staff and the public better understand how density bonus law is being applied to the project and why requested standards need to be waived to ensure that the project follows state law.
  - Density Bonus Calculation Chart  
This chart provides the specific density bonuses to be awarded, in keeping with state law, in relation to the affordable housing type in one easy-to-read location. (The

bonus awards in the state density bonus law are not centrally located, making them difficult for customers to find.)

### **Commission and subcommittee reviews**

The proposed amendments were considered by the Planning Commission, the Airport Land Use Commission and the City Council Carlsbad Municipal Code and Policy Update Subcommittee. Their actions are summarized below.

#### Planning Commission

The Planning Commission conducted a public hearing on June 17, 2020, and unanimously recommended approval (7-0) of the zone code amendment and Local Coastal Program amendment to the City Council. No public comments were submitted to the city or received at the Planning Commission hearing (Exhibits 5-7).

#### Airport Land Use Commission

The proposed amendments affect land within the airport influence area, which covers a large portion of Carlsbad and includes residential properties. The Airport Land Use Commission, the San Diego County Regional Airport Authority, reviewed the amendment May 20, 2020, and found it to be consistent with the McClellan-Palomar Airport Land Use Compatibility Plan (Exhibit 8). It should be noted that during review of the city's proposed amendments, the Airport Land Use Commission received a comment letter asking for a continuance for the item until the Airport Land Use Compatibility Plan could be updated to reflect the most recent Airport Master Plan for McClellan-Palomar Airport. A copy of the comment letter to the Airport Land Use Commission and city staff's response can be found in Exhibit 9.

#### City Council Carlsbad Municipal Code and Policy Update Subcommittee

On July 22, 2020, this City Council subcommittee considered the proposed edits and educational materials and generally supported the approach to revise the ordinance to focus more on process while deferring as much as possible to the state law on allowances and standards. Questions were raised about the amount of latitude given to cities to deviate from state law. Staff confirmed that cities do not have the legal authority to adopt rules that are more restrictive than state law. Their authority is largely limited to procedural matters and to adopting regulations that provide more flexibility and allowances than state law allows.

Questions were also raised by members of the subcommittee about whether, under current decision-making procedures, a density bonus application that includes a waiver, concession or incentive that allows a deviation of the development standards could be approved administratively (that is, by the city planner). The short answer is no. State density bonus law and the ability to receive a waiver, concession or incentive only applies to developers of housing projects proposing five or more dwelling units. Under Carlsbad Municipal Code.<sup>3</sup>, the decision-making body for any multi-unit residential development project that proposes five or more dwelling units is the Planning

<sup>3</sup> CMC §20.04.020 & §20.12.090 (subdivisions); §21.45.050.B & §21.45.050 Table B (planned development permits); and, §21.53.120 & §21.06.070 (site development permits).

Commission, while the city planner is the decision-maker for projects proposing four or fewer units.

### **Fiscal Analysis**

There is no anticipated fiscal impact from this item.

### **Next Steps**

Following the City Council's introduction of the ordinance, it will be scheduled at the City Council's next meeting for adoption. The amendments to the city zoning code will become effective 30 days after adoption outside of the Coastal Zone. Inside the Coastal Zone, the amendments will become effective when the California Coastal Commission approves the Local Coastal Program Amendment. Staff will submit an application to the California Coastal Commission for the Local Coastal Program Amendment following City Council adoption of the ordinance.

### **Environmental Evaluation (CEQA)**

The city finds that the proposed amendments to the Zone Code are exempt from environmental review pursuant to the common sense exemption, Section 15061(b)(3) of the California Environmental Quality Act Guidelines, because there would be no possibility of them having a significant effect on the environment. The ordinance being considered specifies how the city will comply with and implement state density bonus law, and adoption is required pursuant to Government Code Section 65915(a). The density bonuses, incentives and waivers permitted by the ordinance are required by state law, and this ordinance does not permit any density bonuses, incentives, or waivers other than those required by state law.

### **Public Notification**

This amendment has been posted online since May 15, 2020. In addition, a six-week public review period for the Local Coastal Program Amendment began on May 15, 2020, and ended on July 21, 2020. Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

### **Exhibits**

1. City Council ordinance
2. Proposed revisions to the proposed amendments
3. Government Code Section 65915
4. Community Development Informational Bulletin – Density Bonus
5. Planning Commission Staff Report, dated June 17, 2020
6. Planning Commission Resolution No. 7373
7. Planning Commission Minutes, dated June 17, 2020
8. Airport Land Use Commission consistency determination, dated May 20, 2020
9. Public comment letter to Airport Land Use Commission, with city staff response

ORDINANCE NO.: \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING A ZONE CODE AMENDMENT AND A LOCAL COASTAL PROGRAM AMENDMENT TO UPDATE THE CITY'S DENSITY BONUS REGULATIONS TO REFLECT CHANGES IN STATE LAW.

CASE NAME: DENSITY BONUS AMENDMENTS 2020

CASE NO: ZCA 2020-0001/LCPA 2020-0005

WHEREAS, Sections 65915 – 65918 of the California Government Code, known as State Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the jurisdictional boundaries of that city or county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements.

WHEREAS, on Oct. 9, 2019, California Governor Gavin Newsom signed Assembly Bill 1763 (“AB 1763”) into law, which amended Section 65915 to further encourage and incentivize the application of State Density Bonus Law; and

WHEREAS, SB 1763 took effect Jan. 1, 2020, and existing provisions of the City of Carlsbad Municipal Code are inconsistent with the new law provisions; and

WHEREAS, California Government Code Section 65915(a) requires that all cities adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented; and

WHEREAS, staff has prepared a Zone Code Amendment ZCA 2020-0001 and Local Coastal Program Amendment LCPA2020-0005 pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and,

WHEREAS, the Carlsbad Zone Code is the implementing ordinance of the Carlsbad Local Coastal Program, and therefore, an amendment to the Zone Code also constitutes an amendment to the Local Coastal Program; and

WHEREAS, pursuant to California Coastal Commission Regulations, a six-week public review period for the Local Coastal Program Amendment began on May 15, 2020 and ended on June 26, 2020; and

WHEREAS, on May 20, 2020, the Airport Land Use Commission reviewed and found the proposed Zone Code Amendment consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on June 17, 2020, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0001/LCPA 2020-0005; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7373 recommending to the City Council that ZCA 2020-0001/LCPA 2020-0005 be approved; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0001/LCPA 2020-0005; 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, including written public comments, if any, related to ZCA 2020-0001/LCPA 2020-0005; and

NOW THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows that:

1. The above recitations are true and correct.
2. The findings of the Planning Commission in Planning Commission Resolution No. 7373 shall also constitute the findings of the City Council.
3. Chapter 21.86 of the Carlsbad Municipal Code is hereby repealed and replaced to read as follows:

## **Chapter 21.86 DENSITY BONUS**

### **21.86.010 Purpose.**

The public good is served when there exists in a city, housing which is appropriate for the needs of and affordable to the public who reside within that city. There is in the City of Carlsbad a need for housing affordable to various groups, such as lower income, moderate income and senior citizen households. 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 utilization of its resources to facilitate the development of quality housing affordable for these types of households.

- A. It is the purpose of this section to specify how compliance with Government Code Section 65915 et seq. ("State Density Bonus Law") will be implemented, as required by Government Code Section 65915, subdivision (a).
- B. It is the purpose of this section to implement the goals, objectives and policies of the Housing Element of the city's General Plan.

- C. It is the purpose of this section to provide the implementing framework, as it relates to affordable housing density bonuses, and offer concessions and incentives for eligible housing developments which are consistent with the city's long-standing commitment to provide for affordable housing.

**21.86.020 Definitions.**

The definitions found in State Density Bonus Law shall apply to the terms contained in this section.

**21.86.030 Applicability.**

A housing development as defined in State Density Bonus Law shall be eligible for a density bonus and other regulatory incentives that are provided by State Density Bonus Law when the applicant seeks and agrees to provide very-low, low or moderate income housing units, or units intended to serve seniors, transitional foster youth, disabled veterans, homeless persons, and lower income students in the threshold amounts specified in State Density Bonus Law. A housing development includes only the residential component of a mixed-use project. A commercial development as defined in Section 21.86.110 shall be eligible for a commercial development bonus as provided in Section 21.86.110.

The granting of a density bonus, incentive or concession, pursuant to this section, shall not be interpreted, in and of itself, to require a general plan amendment, development code amendment, zone change, other discretionary approval, or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.

**21.86.040 Application Requirements.**

- A. Any applicant requesting a density bonus and any incentive(s), waiver(s), parking reductions, or commercial development bonus provided by State Density Bonus Law shall submit a density bonus report as described below concurrently with the filing of the planning application for the first discretionary permit required for the housing development, commercial development, or mixed-use development. The requests contained in the density bonus report shall be processed concurrently with the planning application. The applicant shall be informed whether the application is complete consistent with California Government Code Section 65943.
- B. The density bonus report shall include the following minimum information:
  - 1. Requested Density Bonus.
    - a. Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.

- b. A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.
- c. The zoning and general plan designations and assessor's parcel number(s) of the housing development site.
- d. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.
- e. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very-low or lower income households in the five-year period preceding the date of submittal of the application.
- f. If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in California Government Code Section 65915, subdivision (g) can be met.

2. Requested Concession(s) or Incentive(s).

In the event an application proposes concessions or incentives for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each incentive requested, shown on a site plan if appropriate:

- a. The City's usual development standard and the requested development standard or regulatory incentive.
- b. Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.
- c. If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the cost of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed-use zoning will provide for affordable housing costs or rents.

3. Requested Waiver(s).

In the event an application proposes waivers of development standards for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:

- a. The City's usual development standard and the requested development standard.
- b. Reasonable documentation that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.

4. Requested Parking Reduction.

In the event an application proposes a parking reduction for a housing development pursuant to California Government Code Section 65915, subdivision (p), a table showing parking required by the zoning regulations, parking proposed under Section 65915, subdivision (p), and reasonable documentation that the project is eligible for the requested parking reduction.

5. Child Care Facility.

If a density bonus or incentive is requested for a child care facility in a housing development, reasonable documentation that all of the requirements included in California Government Code Section 65915, subdivision (h) can be met.

6. Condominium Conversion.

If a density bonus or incentive is requested for a condominium conversion, reasonable documentation that all of the requirements included in California Government Code Section 65915.5 can be met.

7. Commercial Development Bonus.

If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement and the proposed commercial development bonus, as defined in Section 21.86.110, and reasonable documentation that each of the standards included in Subsection 21.86.110(C) has been met.

8. Fee.

Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the Density Bonus Plan with State Density Bonus Law.

**21.86.050 Density Bonus.**

All calculations are rounded up for any fractional numeric value in determining the total number of units to be granted, including base density and bonus density as well as the resulting number of affordable units needed for a given density bonus project.

- A. If a housing development qualifies for a density bonus under more than one income category, or additionally as a senior citizen housing development as defined in Chapter 21.84 and State Density Bonus Law, or as housing intended to serve transitional foster youth, disabled veterans, homeless persons, or lower income students, the applicant shall identify the categories under which the density bonus would be associated and granted. Density bonuses from more than one category can be combined up to the maximum allowed under State Density Bonus law.
- B. The density bonus units shall not be included in determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law.
- C. The applicant may elect to accept a lesser percentage of density bonus than *the housing development* is entitled to, or no density bonus, but no reduction will be permitted in the percentages of required affordable units contained in California Government Code Section 65915, subdivisions (b), (c), and (f). Regardless of the number of affordable units, no housing development shall be entitled to a density bonus of more than what is authorized under State Density Bonus Law.

**21.86.060 Incentives.**

- A. Incentives include incentives and concessions as defined in State Density Bonus Law. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to State Density Bonus Law.
- B. Nothing in this section requires the provision of direct financial incentives for the housing development, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The city, at its sole discretion, may choose to provide such direct financial incentives.

**21.86.070 Local Coastal Program Consistency.**

- A. State Density Bonus Law provides that it shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Cal. Public Resources Code § 30000 et seq.), and further provides that the granting of a density bonus or an incentive shall not be interpreted, in and of itself, to require a local coastal plan amendment.
- B. For development within the coastal zone, any requested density bonus, incentive(s), waiver(s), parking reduction(s), or commercial development bonus shall be consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.

**21.86.080 Review Procedures.**

All requests for density bonuses, incentives, parking reductions, waivers, or commercial development bonuses shall be considered and acted upon by the approval body with authority to approve the development within the timelines prescribed by California Government Code Section 65950 et seq., with right of appeal to the City Council.

- A. Eligibility for Density Bonus, Incentive(s), Parking Reduction, and/or Waiver(s) for a Housing Development. To ensure that an application for a housing development conforms with the provisions of State Density Bonus Law and the Coastal Act, the staff report presented to the decision-making body shall state whether the application conforms to the following requirements of state law as applicable:
  - 1. The housing development provides the affordable units or senior housing required by State Density Bonus Law to be eligible for the density bonus and any incentives, parking reduction, or waivers requested, including the replacement of units rented or formerly rented to very-low and low income households as required by California Government Code Section 65915, subdivision (c)(3).
  - 2. Any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of California Government Code Section 65915, subdivision (k)(2).
  - 3. The development standards for which a waiver is requested would have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.
  - 4. The housing development is eligible for any requested parking reductions under California Government Code Section 65915, subdivision (p).
  - 5. If the density bonus is based all or in part on donation of land, all of the requirements included in California Government Code Section 65915, subdivision (g) have been met.

6. If the density bonus or incentive is based all or in part on the inclusion of a child care facility, all of the requirements included in California Government Code Section 65915, subdivision (h) have been met.
  7. If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, all of the requirements included in California Government Code Section 65915.5 have been met.
  8. If the housing development is in the coastal zone, the requested density bonus and any requested incentive(s), waiver(s), or parking reduction(s) are consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.
- B. If a commercial development bonus is requested for a commercial development, the decision-making body shall make a finding that the development complies with all of the requirements of Subsection 21.86.110(C), that the city has approved the partnered housing agreement, and that the commercial development bonus has been mutually agreed upon by the city and the commercial developer. If the project is in the coastal zone, the decision-making body shall also find that the commercial development bonus is consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.
- C. The decision-making body shall grant an incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
1. The proposed incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in California Health and Safety Code Section 50052.5, or for affordable rents, as defined in California Health and Safety Code Section 50053; or
  2. The proposed incentive would be contrary to state or federal law; or
  3. The proposed incentive would have a specific, adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
- D. The decision-making body shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

1. The proposed waiver would be contrary to state or federal law; or
  2. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
  3. The proposed waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
- E. If any density bonus, incentive, parking reduction, waiver, or commercial development bonus is approved pursuant to this chapter, the applicant shall enter into an affordable housing agreement or senior housing agreement with the city pursuant to Section 21.86.090.

**21.86.090 Affordable Housing Agreement and Senior Housing Agreement.**

- A. Affordable Housing Agreement. Except where a density bonus, incentive, waiver, parking reduction, or commercial development bonus is provided for a market-rate senior housing development, the applicant shall enter into an affordable housing agreement with the city, in a form approved by the city attorney, to be executed by the city manager, to ensure that the requirements of this section are satisfied. The affordable housing agreement shall guarantee the affordability of the affordable units for a minimum of 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program; shall identify the type, size and location of each affordable unit; and shall specify phasing of the affordable units in relation to the market-rate units.
- B. Senior Housing Agreement. Where a density bonus, waiver, or parking reduction is provided for a market-rate senior housing development, the applicant shall enter into a restrictive covenant with the city, running with the land, in a form approved by the city attorney, to be executed by the city manager, to require that the housing development be operated as “housing for older persons” consistent with state and federal fair housing laws.
- C. The executed affordable housing agreement or senior housing agreement shall be recorded against the housing development prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development. The affordable housing agreement or senior housing agreement shall be binding on all future owners and successors in interest.
- D. The affordable housing agreement shall include, but not be limited to, the following:
  1. The number of density bonus dwelling units granted;

2. The number and type of affordable dwelling units
3. The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;
4. The proposed location of the affordable dwelling units;
5. Schedule for production of affordable dwelling units;
6. Incentives or concessions or waivers provided by the city;
7. Where applicable, tenure and conditions governing the initial sale of the affordable units;
8. Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for affordable rental dwelling units
9. Marketing plan; publication and notification of availability of affordable units;
10. Compliance with federal and state laws;
11. Prohibition against discrimination;
12. Indemnification;
13. City's right to inspect units and documents;
14. Remedies.

**21.86.100 Design and Quality.**

- A. The city may not issue building permits for more than 50 percent of the market rate units until it has issued building permits for all of the affordable units, and the city may not approve any final inspections or certificates of occupancy for more than 50 percent of the market rate units until it has issued final inspections or certificates of occupancy for all of the affordable units.
- B. Affordable units shall be comparable in exterior appearance and overall quality of construction to market rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the city.
- C. The number of bedrooms of the affordable units shall at least equal the minimum number of bedrooms of the market rate units.

**21.86.110 Commercial Density Bonus.**

- A. The following definitions shall apply to Commercial Density Bonus:

1. "Commercial development" means a development project for nonresidential uses.
  2. "Commercial development bonus" means a modification of development standards mutually agreed upon by the city and a commercial developer and provided to a commercial development eligible for such a bonus under Subsection 21.86.110(C). Examples of a commercial development bonus include an increase in floor area ratio, increased building height, or reduced parking.
  3. "Partnered housing agreement" means an agreement approved by the city between a commercial developer and a housing developer identifying how the commercial development will provide housing available at affordable ownership cost or affordable rent consistent with Subsection 21.86.110(C). A partnered housing agreement may consist of the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial developer and the housing developer are each partners, members, shareholders, or other participants, or a contract between the commercial developer and the housing developer for the development of both the commercial development and the housing development.
- B. When an applicant proposes to construct a commercial development and has entered into a partnered housing agreement approved by the city, the city shall grant a commercial development bonus mutually agreed upon by the developer and the city. The commercial development bonus shall not include a reduction or waiver of fees imposed on the commercial development to provide for affordable housing.
- C. The requirements for commercial development bonus are as follows, which also be described in the partnered housing agreement:
1. The housing development shall be located either: (A) on the site of the commercial development; or (B) on a site within the city that is within one-half mile of a major transit stop and is located in close proximity to public amenities, including schools and employment centers.
  2. At least 30 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for low-income households, or at least 15 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for very low-income households.
  3. The commercial developer must agree either to directly build the affordable units; donate a site consistent with subparagraph 1 above for the affordable units; or make a cash payment to the housing developer for the affordable units.
- D. Any approved partnered housing agreement shall be described in the city's Housing Element annual report as required by California Government Code Section 65915.7, subdivision (k).

**21.86.120 Interpretation.**

If any portion of this chapter conflicts with State Density Bonus Law or other applicable state law, state law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with State Density Bonus Law.

**21.86.130 Inclusionary housing.**

All housing development projects are required to provide affordable housing units in accordance with Chapter 21.85, Inclusionary Housing, of this title. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of this chapter, those affordable dwelling units provided to meet the inclusionary requirement established pursuant to Chapter 21.85 of this title shall be counted toward satisfying the density bonus requirements of this chapter.

**21.86.140 Severability.**

If any provision of this chapter or its application 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. (Ord. CS-102 § CXVI, 2010; Ord. NS-794 § 11, 2006)

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUSTIDE THE COASTAL ZONE:

This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE:

This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0005, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the \_\_\_ day of \_\_\_\_\_, 2020, by the following vote, to wit:

AYES:

NOES:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
CELIA A. BREWER, City Attorney

\_\_\_\_\_  
MATT HALL, Mayor

\_\_\_\_\_  
BARBARA ENGLESON, City Clerk  
(SEAL)

**ZCA 2020-0001/ LCPA 2020-0005 – Density Bonus Amendments 2020****Proposed revisions to Carlsbad Municipal Code Chapter 21.86**

*Note: This exhibit includes amendments made to Chapter 21.86 by Ordinance CS-368 on January 14, 2020.*

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**Chapter 21.86 ~~RESIDENTIAL DENSITY BONUS AND INCENTIVES OR CONCESSIONS~~****21.86.010 Purpose.**

The public good is served when there exists in a city, housing which is appropriate for the needs of and affordable to the public who reside within that city. There is in the City of Carlsbad a need for housing affordable to various groups, such as lower income, moderate income and senior citizen households. 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 utilization of its resources to facilitate the development of quality housing affordable for these types of households.

- A. It is the purpose of this section to specify how compliance with Government Code Section 65915 et seq. (“State Density Bonus Law”) will be implemented, as required by Government Code Section 65915, subdivision (a).
- B. It is the purpose of this section to implement the goals, objectives and policies of the Housing Element of the city’s General Plan.
- C. It is the purpose of this section to provide the implementing framework, as it relates to affordable housing density bonuses, and offer concessions and incentives for eligible housing developments which are consistent with the city's long-standing commitment to provide for affordable housing.

**21.86.020 Definitions.**

The definitions found in State Density Bonus Law shall apply to the terms contained in this section.

**21.86.030 Applicability.**

A housing development as defined in State Density Bonus Law shall be eligible for a density bonus and other regulatory incentives that are provided by State Density Bonus Law when the applicant seeks and agrees to provide very-low, low or moderate income housing units, or units intended to serve seniors, transitional foster youth, disabled veterans, homeless persons, and lower income students in the threshold amounts specified in State Density Bonus Law. A housing development includes only the residential component of a mixed-use project. A commercial development as defined in Section 21.86.110 shall be eligible for a commercial development bonus as provided in Section 21.86.110.

The granting of a density bonus, incentive or concession, pursuant to this section, shall not be interpreted, in and of itself, to require a general plan amendment, development code amendment, zone change, other discretionary approval, or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.

**21.86.040 Application Requirements.**

A. Any applicant requesting a density bonus and any incentive(s), waiver(s), parking reductions, or commercial development bonus provided by State Density Bonus Law shall submit a density bonus report as described below concurrently with the filing of the planning application for the first discretionary permit required for the housing development, commercial development, or mixed-use development. The requests contained in the density bonus report shall be processed concurrently with the planning application. The applicant shall be informed whether the application is complete consistent with California Government Code Section 65943.

B. The density bonus report shall include the following minimum information:

1. Requested Density Bonus.

a. Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.

b. A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.

c. The zoning and general plan designations and assessor's parcel number(s) of the housing development site.

- d. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.
- e. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very-low or lower income households in the five-year period preceding the date of submittal of the application.
- f. If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in [California](#) Government Code Section 65915, subdivision (g) can be met.

## 2. Requested Concession(s) or Incentive(s).

In the event an application proposes concessions or incentives for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each incentive requested, shown on a site plan if appropriate:

- a. The City's usual development standard and the requested development standard or regulatory incentive.
- b. Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.
- c. If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the cost of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed-use zoning will provide for affordable housing costs or rents.

### 3. Requested Waiver(s).

In the event an application proposes waivers of development standards for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:

- a. The City's usual development standard and the requested development standard.
- b. Reasonable documentation that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by [California](#) Government Code Section 65915.

### 4. Requested Parking Reduction.

In the event an application proposes a parking reduction for a housing development pursuant to [California](#) Government Code Section 65915, [subdivision \(p\)](#), a table showing parking required by the zoning regulations, parking proposed under Section 65915, [subdivision \(p\)](#), and reasonable documentation that the project is eligible for the requested parking reduction.

### 5. Child Care Facility.

If a density bonus or incentive is requested for a child care facility in a housing development, reasonable documentation that all of the requirements included in [California](#) Government Code Section 65915, [subdivision \(h\)](#) can be met.

### 6. Condominium Conversion.

If a density bonus or incentive is requested for a condominium conversion, reasonable documentation that all of the requirements included in [California](#) Government Code Section 65915.5 can be met.

### 7. Commercial Development Bonus.

If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement and the proposed commercial development bonus, as defined in [Section 21.86.110](#), and reasonable documentation that each of the standards included in [Subsection 21.86.110\(C\)](#) has been met.

8. Fee.

Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the Density Bonus Plan with State Density Bonus Law.

**21.86.050 Density Bonus.**

All calculations are rounded up for any fractional numeric value in determining the total number of units to be granted, including base density and bonus density, as well as, the resulting number of affordable units needed for a given density bonus project.

- A. If a housing development qualifies for a density bonus under more than one income category, or additionally as a senior citizen housing development as defined in Chapter 21.84 and State Density Bonus Law, or as housing intended to serve transitional foster youth, disabled veterans, homeless persons, or lower income students, the applicant shall identify the categories under which the density bonus would be associated and granted. Density bonuses from more than one category can be combined up to the maximum allowed under State Density Bonus law.
- B. The density bonus units shall not be included in determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law.
- C. The applicant may elect to accept a lesser percentage of density bonus than the housing development is entitled to, or no density bonus, but no reduction will be permitted in the percentages of required affordable units contained in California Government Code Section 65915, subdivisions (b), (c), and (f). Regardless of the number of affordable units, no housing development shall be entitled to a density bonus of more than what is authorized under State Density Bonus Law.

**21.86.060 Incentives.**

- A. Incentives include incentives and concessions as defined in State Density Bonus Law. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to State Density Bonus Law.
- B. Nothing in this section requires the provision of direct financial incentives for the housing development, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The city, at its sole discretion, may choose to provide such direct financial incentives.

**21.86.070 Local Coastal Program Consistency.**

- A. State Density Bonus Law provides that it shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Cal. Public Resources Code § 30000 et seq.), and further provides that the granting of a density bonus or an incentive shall not be interpreted, in and of itself, to require a local coastal plan amendment.
- B. For development within the coastal zone, any requested density bonus, incentive(s), waiver(s), parking reduction(s), or commercial development bonus shall be consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.

**21.86.080 Review Procedures.**

All requests for density bonuses, incentives, parking reductions, waivers, or commercial development bonuses shall be considered and acted upon by the approval body with authority to approve the development within the timelines prescribed by California Government Code Section 65950 et seq., with right of appeal to the City Council.

- A. Eligibility for Density Bonus, Incentive(s), Parking Reduction, and/or Waiver(s) for a Housing Development. To ensure that an application for a housing development conforms with the provisions of State Density Bonus Law and the Coastal Act, the staff report presented to the decision-making body shall state whether the application conforms to the following requirements of state law as applicable:

  - 1. The housing development provides the affordable units or senior housing required by State Density Bonus Law to be eligible for the density bonus and any incentives, parking reduction, or waivers requested, including the replacement of units rented or formerly rented to very-low and low income households as required by California Government Code Section 65915, subdivision (c)(3).
  - 2. Any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of California Government Code Section 65915, subdivision (k)(2).
  - 3. The development standards for which a waiver is requested would have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.
  - 4. The housing development is eligible for any requested parking reductions under California Government Code Section 65915, subdivision (p).

5. If the density bonus is based all or in part on donation of land, all of the requirements included in [California Government Code Section 65915, subdivision \(g\)](#) have been met.
  6. If the density bonus or incentive is based all or in part on the inclusion of a child care facility, all of the requirements included in [California Government Code Section 65915, subdivision \(h\)](#) have been met.
  7. If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, all of the requirements included in [California Government Code Section 65915.5](#) have been met.
  8. If the housing development is in the coastal zone, the requested density bonus and any requested incentive(s), waiver(s), or parking reduction(s) are consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.
- B. If a commercial development bonus is requested for a commercial development, the decision-making body shall make a finding that the development complies with all of the requirements of [Subsection 21.86.110\(C\)](#), that the city has approved the partnered housing agreement, and that the commercial development bonus has been mutually agreed upon by the city and the commercial developer. If the project is in the coastal zone, the decision-making body shall also find that the commercial development bonus is consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.
- C. The decision-making body shall grant an incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
1. The proposed incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in [California Health and Safety Code Section 50052.5](#), or for affordable rents, as defined in [California Health and Safety Code Section 50053](#); or
  2. The proposed incentive would be contrary to state or federal law; or
  3. The proposed incentive would have a specific, adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant,

quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.

D. The decision-making body shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

1. The proposed waiver would be contrary to state or federal law; or
2. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
3. The proposed waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.

E. If any density bonus, incentive, parking reduction, waiver, or commercial development bonus is approved pursuant to this chapter, the applicant shall enter into an affordable housing agreement or senior housing agreement with the city pursuant to Section 21.86.090.

#### **21.86.090 Affordable Housing Agreement and Senior Housing Agreement.**

A. Affordable Housing Agreement. Except where a density bonus, incentive, waiver, parking reduction, or commercial development bonus is provided for a market-rate senior housing development, the applicant shall enter into an affordable housing agreement with the city, in a form approved by the city attorney, to be executed by the city manager, to ensure that the requirements of this section are satisfied. The affordable housing agreement shall guarantee the affordability of the affordable units for a minimum of 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program; shall identify the type, size and location of each affordable unit; and shall specify phasing of the affordable units in relation to the market-rate units.

B. Senior Housing Agreement. Where a density bonus, waiver, or parking reduction is provided for a market-rate senior housing development, the applicant shall enter into a restrictive covenant with the city, running with the land, in a form approved by the city attorney, to be executed by the city manager, to require that the housing development

be operated as “housing for older persons” consistent with state and federal fair housing laws.

C. The executed affordable housing agreement or senior housing agreement shall be recorded against the housing development prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development. The affordable housing agreement or senior housing agreement shall be binding on all future owners and successors in interest.

D. The affordable housing agreement shall include, but not be limited to, the following:

1. The number of density bonus dwelling units granted;
2. The number and type of affordable dwelling units
3. The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;
4. The proposed location of the affordable dwelling units;
5. Schedule for production of affordable dwelling units;
6. Incentives or concessions or waivers provided by the city;
7. Where applicable, tenure and conditions governing the initial sale of the affordable units;
8. Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for affordable rental dwelling units
9. Marketing plan; publication and notification of availability of affordable units;
10. Compliance with federal and state laws;
11. Prohibition against discrimination;
12. Indemnification;
13. City’s right to inspect units and documents;
14. Remedies.

**21.86.100 Design and Quality.**

- A. The city may not issue building permits for more than 50 percent of the market rate units until it has issued building permits for all of the affordable units, and the city may not approve any final inspections or certificates of occupancy for more than 50 percent of the market rate units until it has issued final inspections or certificates of occupancy for all of the affordable units.
- B. Affordable units shall be comparable in exterior appearance and overall quality of construction to market-rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the city.
- C. The number of bedrooms of the affordable units shall at least equal the minimum number of bedrooms of the market-rate units.

**21.86.110 Commercial Density Bonus.**

- A. The following definitions shall apply to Commercial Density Bonus:

  - 1. “Commercial development” means a development project for nonresidential uses.
  - 2. “Commercial development bonus” means a modification of development standards mutually agreed upon by the city and a commercial developer and provided to a commercial development eligible for such a bonus under Subsection 21.86.110(C). Examples of a commercial development bonus include an increase in floor area ratio, increased building height, or reduced parking.
  - 3. “Partnered housing agreement” means an agreement approved by the city between a commercial developer and a housing developer identifying how the commercial development will provide housing available at affordable ownership cost or affordable rent consistent with Subsection 21.86.110(C). A partnered housing agreement may consist of the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial developer and the housing developer are each partners, members, shareholders, or other participants, or a contract between the commercial developer and the housing developer for the development of both the commercial development and the housing development.
- B. When an applicant proposes to construct a commercial development and has entered into a partnered housing agreement approved by the city, the city shall grant a commercial development bonus mutually agreed upon by the developer and the city. The

commercial development bonus shall not include a reduction or waiver of fees imposed on the commercial development to provide for affordable housing.

C. The requirements for commercial development bonus are as follows, which also be described in the partnered housing agreement:

1. The housing development shall be located either: (A) on the site of the commercial development; or (B) on a site within the city that is within one-half mile of a major transit stop and is located in close proximity to public amenities, including schools and employment centers.

2. At least 30 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for low-income households, or at least 15 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for very low-income households.

3. The commercial developer must agree either to directly build the affordable units; donate a site consistent with subparagraph 1 above for the affordable units; or make a cash payment to the housing developer for the affordable units.

D. Any approved partnered housing agreement shall be described in the city's Housing Element annual report as required by California Government Code Section 65915.7, subdivision (k).

**21.86.120 Interpretation.**

If any portion of this chapter conflicts with State Density Bonus Law or other applicable state law, state law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with State Density Bonus Law.

**21.86.130 Inclusionary housing.**

All housing development projects are required to provide affordable housing units in accordance with Chapter 21.85, Inclusionary Housing, of this title. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of this chapter, those affordable dwelling units provided to meet the inclusionary requirement established pursuant to Chapter 21.85 of this title shall be counted toward satisfying the density bonus requirements of this chapter.

**21.86.140 Severability.**

If any provision of this chapter or its application 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. (Ord. CS-102 § CXVI, 2010; Ord. NS-794 § 11, 2006)

**21.86.010 Purpose and intent.**

~~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 housing affordable to lower income households, and special needs groups, including homeless persons, foster youth, disabled veterans, lower income students 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.~~

~~B. It is the purpose of this chapter to provide a means for granting density bonuses and incentives or concessions to developers for the production of housing affordable to lower and moderate income households, homeless persons, foster youth, disabled veterans, lower income students and senior citizens.~~

~~C. It is the purpose of this chapter to implement the goals, objectives, policies and programs of the housing element of the city's general plan.~~

~~D. It is the purpose of this chapter to implement Sections 65915 through 65918 of the California Government Code.~~

~~E. This chapter is not 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.~~

~~F. This chapter does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976. Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this chapter and Division 20 (commencing with Section 30000) of the Public Resources Code. (Ord. CS 242 § 3, 2014; Ord. NS 794 § 11, 2006)~~

**21.86.020 Definitions.**

~~A. Whenever the following terms are used in this chapter, they shall have the meaning established by this section:~~

~~1. “Affordable housing” means housing for which the allowable housing expenses paid by a qualifying household shall not exceed a specified fraction of the county median income, adjusted for household size, as follows:~~

~~a. Extremely low income, rental and for sale units: the product of thirty percent times thirty percent of the county median income, adjusted for household size.~~

~~b. Very low income, rental and for sale units: the product of thirty percent times fifty percent of the county median income, adjusted for household size.~~

~~c. Low income, rental units: the product of thirty percent times sixty percent of the county median income, adjusted for household size.~~

~~d. Low income, for sale units: the product of thirty percent times seventy percent of the county median income, adjusted for household size.~~

~~e. Moderate income, for sale units: allowable housing expenses shall not be less than twenty eight percent of the gross income of the household, nor exceed the product of thirty five percent times one hundred ten percent of the county median income, adjusted for household size.~~

~~2. “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 and interest at the time of initial purchase by the homebuyer, allowances for property and mortgage insurance, property taxes, homeowners’ association dues and a reasonable allowance for utilities as defined by the Code of Federal Regulations (24CFR982). For a rental unit, allowable housing expenses include rent and a utility allowance as established and adopted by the City of Carlsbad housing authority, as well as all monthly payments made by the tenant to the lessor in connection with use and occupancy of a housing unit and land and facilities associated therewith, including any separately charged fees, utility charges, or service charges assessed by the lessor and payable by the tenant.~~

~~3. “Child day care center” shall have the same meaning as defined in Section 21.83.020(D) of this title.~~

~~4. “Common interest development” means any of the following (as defined in Section 4100 of the California Civil Code):~~

~~a. A community apartment project;~~

~~b. A condominium project;~~

~~c. A planned development;~~

~~d. A stock cooperative.~~

~~5. “Conversion” means the change of occupancy of a dwelling unit from owner-occupied to rental or vice versa.~~

~~6. “Density bonus” means an increase over the maximum allowable gross residential density as specified by the land use element of the general plan in effect at the time of application submittal or if elected by the applicant, a lesser percentage of density increase, including but not limited to, no increase in density.~~

~~7. “Density bonus dwelling units” means those residential units granted pursuant to the provisions of this chapter, which are above the maximum allowable residential density of the project site.~~

~~8. “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, among other things, 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.~~

~~9. “Development standard” means a site or construction condition/requirement that applies to a housing development pursuant to any ordinance, general plan element, master or specific plan, or other city condition, requirement, law, policy, resolution or regulation. A “development standard” may include, but is not limited to a height limitation, a setback requirement, a floor area ratio, an onsite open space requirement or a parking ratio.~~

~~10. “Equivalent size” means that replacement units contain at least the same total number of bedrooms as the units being replaced.~~

~~11. “Extremely low income household” means those households whose gross income is equal to or less than thirty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.~~

~~12. “Floor area ratio” means the ratio of gross building area of the eligible housing development, excluding structured parking areas, proposed for the project divided by the net lot area. For purposes of this paragraph, “gross building area” means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.~~

~~13. “Housing development” means a development project for five or more residential units, including mixed-use developments, and may also include the following:~~

~~a. A subdivision or common interest development consisting of residential units or unimproved lots; or~~

~~b. A project to either substantially rehabilitate and convert an existing commercial building to residential use; or~~

~~c. —A project to substantially rehabilitate an existing two family or multiple-family dwelling structure(s), where the rehabilitation results in a net increase to five or more available residential units.~~

~~14. —“Incentives or concessions” means such regulatory incentives or concessions as stipulated in California Government Code Section 65915(k), to include, but not be limited to, the reduction of site development standards or zone code requirements or architectural design requirements, approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located, or any other regulatory incentive or concession which would result in identifiable and actual cost reductions to provide for affordable housing costs or rents for the targeted units.~~

~~15. —“Income” means any monetary benefits that qualify as income in accordance with the criteria and procedures used by the City of Carlsbad housing and neighborhood services department for the acceptance of applications and recertifications for the tenant based rental assistance program, or its successor.~~

~~16. —“Low income household” means those households whose gross income is more than fifty percent but does not exceed eighty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.~~

~~17. —“Lower income household” means low income, very low income and extremely low income households, whose gross income does not exceed eighty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.~~

~~18. —“Lower income students” means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code.~~

~~19. —“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.~~

~~20. —“Maximum allowable residential density” means the maximum density of the density range allowed by the general plan land use 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.~~

~~21. “Moderate income household” means those households whose gross income is more than eighty percent but does not exceed one hundred twenty percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development.~~

~~22. “Qualifying resident” means a resident as defined in Chapter 21.84 of this title and Section 51.2 of the California Civil Code.~~

~~23. “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.~~

~~24. “Total units” means the number of dwelling units in a housing development, excluding the density bonus dwelling units awarded pursuant to this chapter or any other local ordinance granting a greater density bonus.~~

~~25. “Very low income household” means a household earning a gross income equal to fifty percent or less of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development. (Ord. CS 242 § 4, 2014; Ord. CS 164 § 12, 2011; Ord. NS 889 § 2, 2008; Ord. NS 794 § 11, 2006)~~

#### **~~21.86.030 Inclusionary housing.~~**

~~All housing development projects are subject to Chapter 21.85— Inclusionary Housing, including projects that also qualify for a density bonus under this chapter. The affordable housing requirements of the two chapters are not cumulative. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of this chapter, those affordable dwelling units provided to meet the inclusionary requirement established pursuant to Chapter 21.85 of this title shall also be counted toward satisfying the density bonus requirements of this chapter. For projects that qualify for a density bonus, the inclusionary housing requirement shall be based on the total residential units approved for the project, including any density bonus dwelling units awarded pursuant to this chapter. (Ord. CS 242 § 5, 2014; Ord. NS 794 § 11, 2006)~~

#### **~~21.86.040 Density bonus for housing developments.~~**

~~—A. The decision-making body shall grant one density bonus, as specified in subsection B of this section, and incentives or concessions, as set forth in Section 21.86.050 of this chapter, when an applicant seeks and agrees to construct a housing development of at least five units, excluding any units permitted by the density bonus awarded pursuant to this chapter, that will contain at least any one of the following:~~

- ~~1.—A minimum of ten percent of the total units of the housing development as restricted and affordable to lower income households;~~
- ~~2.—A minimum of five percent of the total units of the housing development as restricted and affordable to very low income households;~~
- ~~3.—A senior citizen housing development as defined in Section 21.84.030(A)(7) of this title and Section 51.3 and 51.12 of the California Civil Code, or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code;~~
- ~~4.—A minimum of ten percent of the total units in a common interest development restricted and affordable to moderate income households, provided that all units in the development are offered to the public for purchase;~~
- ~~5.—A minimum of ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the California Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this paragraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units; or~~
- ~~6.—Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:
  - ~~(i) —All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full-time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subparagraph, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subparagraph is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.~~
  - ~~(ii) —The applicable twenty percent units will be used for lower income students. For purposes of this paragraph, “lower income students” means students who have a household income and asset level that does not exceed~~~~

~~the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this paragraph shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subparagraph (i), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subparagraph.~~

~~(iii) The rent provided in the applicable units of the development for lower income students shall be calculated at thirty percent of sixty five percent of the area median income for a single room occupancy unit type.~~

~~(iv) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (d) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subparagraph.~~

~~(v) For purposes of calculating a density bonus granted pursuant to this paragraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this paragraph shall be subject to a recorded affordability restriction of 55 years.~~

~~B. When an applicant seeks and agrees to construct a housing development meeting the criteria specified in subsection A of this section, the decision making body shall grant a density bonus subject to the following:~~

~~1. The amount of density bonus to which a housing development is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentages established in subsection A of this section, as follows:~~

~~a. For housing developments meeting the criteria of subsection (A)(1) of this section, the density bonus shall be calculated as follows:~~

**Table A**  
**Density Bonus for Housing Developments with Units Affordable to Low-Income Households**

<b>Percentage of Low-Income Units (Minimum 10% required)</b>	<b>Percentage of Density Bonus to be Granted (Additional 1.5% density bonus for each 1% increase above the 10% minimum)</b>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

b. ~~For housing developments meeting the criteria of subsection (A)(2) of this section, the density bonus shall be calculated as follows:~~

**Table B**  
**Density Bonus for Housing Developments with Units Affordable to Very Low-Income Households**

<b>Percentage of Very Low-Income Units</b>	<b>Percentage of Density Bonus to be Granted</b>
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

c. ~~For housing developments meeting the criteria of subsection (A)(3) of this section, the density bonus shall be twenty percent of the number of senior housing units.~~

d. ~~For housing developments meeting the criteria of subsection (A)(4) of this section, the density bonus shall be calculated as follows:~~

**Table C**  
**Density Bonus for Common Interest Developments with Units**  
**Affordable to Moderate Income Households**

Percentage of Moderate Income Units	Percentage of Density Bonus to be Granted
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

e. ~~For housing developments meeting the criteria of subsection (A)(5) of this section, the density bonus shall be twenty percent of the number of the type of units giving rise to a density bonus under that subsection.~~

~~f. For housing developments meeting the criteria of subsection (A)(6) of this section, the density bonus shall be thirty five percent of the student housing units.~~

~~2. The amount of density bonus to which a housing development is entitled shall not exceed thirty five percent.~~

~~3. The applicant may elect to accept a lesser percentage of density bonus than specified in this subsection.~~

~~4. If a housing development includes a combination of target dwelling unit types that meet two or more of the criteria specified in subsection A of this section, the applicant shall elect one applicable density bonus.~~

~~C. When an applicant for a tentative subdivision map, parcel map, or other housing development approval donates land to the city, in accordance with this subsection, the applicant shall be entitled to a density bonus for the entire development, as follows:~~

**Table D  
Density Bonus for Land Donation**

<del>Percentage of Very Low Income Units</del>	<del>Percentage of Density Bonus to be Granted</del>
<del>10</del>	<del>15</del>
<del>11</del>	<del>16</del>
<del>12</del>	<del>17</del>
<del>13</del>	<del>18</del>
<del>14</del>	<del>19</del>
<del>15</del>	<del>20</del>
<del>16</del>	<del>21</del>
<del>17</del>	<del>22</del>
<del>18</del>	<del>23</del>
<del>19</del>	<del>24</del>
<del>20</del>	<del>25</del>
<del>21</del>	<del>26</del>
<del>22</del>	<del>27</del>
<del>23</del>	<del>28</del>
<del>24</del>	<del>29</del>
<del>25</del>	<del>30</del>
<del>26</del>	<del>31</del>
<del>27</del>	<del>32</del>
<del>28</del>	<del>33</del>
<del>29</del>	<del>34</del>
<del>30</del>	<del>35</del>

~~1. A density bonus granted pursuant to this subsection shall not exceed thirty five percent.~~

~~2. If an applicant seeks both the density bonus pursuant to this subsection and subsection A of this section, both density bonuses shall be granted up to a maximum combined density bonus of thirty five percent.~~

~~3. An applicant shall be eligible for the density bonus described in this subsection only if all of the following conditions are met:~~

~~a. The land is donated and transferred to the city no later than the date of approval of the final subdivision map, parcel map or housing development application.~~

~~b. The developable acreage, zoning classification and general plan land use designation of the land being donated are sufficient to permit construction of the units affordable to very low income households in an amount not less than ten percent of the number of residential units of the proposed development.~~

~~c. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty units, and has the appropriate: 1) general plan land use designation; 2) zoning classification with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2 of the California Government Code, and 3) is or will be served by adequate public facilities and infrastructure.~~

~~d. The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or housing development, except that the city may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the California Government Code if the design is not reviewed by the city prior to the time of transfer.~~

~~e. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 21.86.100 of this chapter, which shall be recorded on the property at the time of the transfer.~~

~~f. The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to the developer.~~

~~g. The transferred land shall be within the boundary of the proposed development or, if the city agrees, within one quarter mile of the boundary of the proposed development.~~

~~h. Prior to the approval of the final subdivision map, parcel map or housing development application, the developer shall identify a proposed source of funding for the very low income units.~~

~~D. In cases where an applicant requests a density bonus of more than what is specified in this section, the city council may grant the requested additional density bonus, subject to the following:~~

~~1. The project meets the requirements of this chapter.~~

~~2. The additional density bonus shall be considered an incentive, in accordance with Section 21.86.050 of this chapter.~~

~~3. The city council may require some portion of the additional density bonus units to be designated as target dwelling units.~~

~~E. The city council may grant a proportionately lower density bonus than what is specified by this section for developments that do not meet the requirements of this chapter.~~

~~F. The density bonus dwelling units granted pursuant to this chapter shall not be included when determining the number of housing units required by this chapter to be reserved for income restricted households.~~

~~G. When calculating any density, including the base density, the density bonus, or the required number of target dwelling units, any calculations resulting in fractional units shall be separately rounded up to the next whole number.~~

~~H. For the purposes of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application in a housing development, but do not have to be based upon individual subdivision maps or parcels.~~

~~I. The density bonus units shall be permitted in geographic areas of the housing development other than the areas where the units for lower income households are located.~~

~~J. 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 incentives or concessions. 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 21.86.130 of this chapter.~~

~~K. An applicant shall be ineligible for a density bonus or any other incentives or concessions under this chapter if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if rental dwelling~~

~~units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through the city's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:~~

~~1. The proposed housing development, inclusive of the units replaced pursuant to this subsection, contains affordable units at the percentages set forth in this section.~~

~~2. Each unit in the development, exclusive of a manager's unit or units, is affordable to and occupied by either a lower or very low income household.~~

~~3. For the purposes of this subsection, "replaces" shall mean either of the following:~~

~~a. If any rental dwelling unit(s) is occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within Carlsbad, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in this subsection in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within Carlsbad, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. The replacement units shall be subject to the affordability tenure requirements specified in Section 21.86.100.~~

~~b. If all rental dwelling units have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application.~~

~~The replacement units shall be provided at an affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at the highpoint, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low income and very low income renter households occupied these units in the same proportion of low income and very low income renter households to all renter households within Carlsbad, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. The replacement units shall be subject to the affordability tenure requirements specified in Section 21.86.100. (Ord. CS 280 § 1, 2015; Ord. CS 242 §§ 6—8, 2014; Ord. NS 794 § 11, 2006)~~

**21.86.050 Incentives and concessions for housing developments.**

~~A. When an applicant requests a density bonus pursuant to Section 21.86.040(A) of this chapter, the decision-making body shall grant incentives or concessions, subject to the following:~~

- ~~1. An applicant shall submit a proposal for any specific incentives or concessions requested pursuant to this section.~~
- ~~2. The decision-making body shall grant the incentive(s) or concession(s) requested by the applicant unless, based upon substantial evidence, any of the following findings are made in writing:
  - ~~a. The incentive or concession does not result in identifiable and actual cost reductions, consistent with Section 21.86.020(A)(14) to provide for affordable housing costs as defined in Section 21.86.020(A)(1) of this chapter.~~
  - ~~b. The incentive or concession would have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households. As used in this paragraph, and as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, a "specific, adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.~~
  - ~~c. The incentive or concession would be contrary to state or federal law.~~~~

3. ~~The applicant shall receive the following number of incentives or concessions:~~
  - a. ~~One incentive or concession for projects that include at least ten percent of the total units for lower income households, at least five percent for very low income households, or at least ten percent for persons and families of moderate income in a common interest development.~~
  - b. ~~Two incentives or concessions for projects that include at least twenty percent of the total units for lower income households, at least ten percent for very low income households, or at least twenty percent for persons and families of moderate income in a common interest development.~~
  - c. ~~Three incentives or concessions for projects that include at least thirty percent of the total units for lower income households, at least fifteen percent for very low income households, or at least thirty percent for persons and families of moderate income in a common interest development.~~
  
4. ~~An incentive or concession may include any of the following:~~
  - a. ~~A reduction in site development standards or a modification of zoning code or architectural design requirements (excluding State Building Standards), that results in identifiable and actual cost reductions. A reduction/modification to standards or requirements may include, but is not limited to, a reduction in minimum lot size, setback requirements, and/or in the ratio of vehicular parking spaces that would otherwise be required.~~
  - b. ~~Approval of mixed use zoning in conjunction with the housing development if: (i) commercial, office, industrial or other land uses will reduce the cost of the housing development; and (ii) the commercial, office, industrial, or other land uses are compatible with the housing development and the existing or planned future development in the area where the proposed project will be located.~~
  - c. ~~Other regulatory incentives or concessions that result in identifiable and actual cost reductions.~~
  - d. ~~The city council may, but is not required to, provide direct financial incentives, including the provision of publicly owned land, or the waiver of fees or dedication requirements.~~
  
5. ~~The applicant shall show that the requested incentive(s) or concession(s) will result in identifiable and actual cost reductions. (Ord. CS 280 § 2, 2015; Ord. CS 242 § 9, 2014; Ord. NS 794 § 11, 2006)~~

**21.86.060 Waiver or reduction of development standards.**

~~A. In addition to the incentives or concessions permitted by Section 21.86.050 of this chapter, an applicant may seek a waiver or reduction of development standards that will have the effect of physically precluding the construction of a housing development meeting the criteria of Section 21.86.040(A) of this chapter at the densities or with the incentives or concessions permitted by this chapter.~~

~~1.—The applicant shall provide evidence that the development standard(s) requested to be waived or reduced will have the effect of physically precluding the construction of a housing development at the densities or with the incentives or concessions permitted by this chapter.~~

~~2.—A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 21.86.050 of this chapter.~~

~~B. The decision-making body shall grant the requested waiver or reduction of development standards, unless, based upon substantial evidence, any of the following findings are made in writing:~~

~~1.—The development standard(s) requested to be waived or reduced will not have the effect of physically precluding the construction of a housing development at the densities or with the incentives or concessions permitted by this chapter.~~

~~2.—The requested waiver or reduction of development standards would have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. As used in this subsection, and as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California Government Code, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.~~

~~3.—The waiver or reduction of development standards would be contrary to state or federal law. (Ord. CS 242 § 10, 2014; Ord. NS 794 § 11, 2006)~~

#### ~~**21.86.070 Density bonus and incentives for condominium conversions.**~~

~~A. When an applicant proposes to convert apartments to condominiums, the decision-making body shall grant either a density bonus or other incentives of equivalent financial value, as set forth in Section 21.86.050(A) of this chapter, if the applicant agrees to provide the following:~~

~~1.—A minimum of thirty three percent of the total units of the proposed condominium conversion project as restricted and affordable to low income or moderate income households; or~~

~~2.—A minimum of fifteen percent of the total units of the proposed condominium conversion project as restricted and affordable to lower income households.~~

~~B. For purposes of this section “density bonus” means an increase in units of twenty five percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.~~

~~C. For purposes of this section, “other incentives of equivalent financial value” shall not be construed to require the city to provide monetary compensation but may include the waiver or reduction of requirements that might otherwise apply to the proposed condominium conversion project.~~

~~D. The density bonus dwelling units shall not be included when determining the number of housing units required to be reserved for income restricted households.~~

~~E. When calculating the density bonus, or the required number of target dwelling units, any calculations resulting in fractional units shall be separately rounded up to the next whole number.~~

~~F. Nothing in this section shall be construed to require that the city approve a proposal to convert apartments to condominiums.~~

~~G. An applicant/developer proposing to convert apartments to condominiums shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Sections 21.86.040 and 21.86.050 of this chapter.~~

~~H. 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 other 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 21.86.130 of this chapter.~~

~~I. An applicant shall be ineligible for a density bonus, or any other incentives or concessions under this chapter if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if rental dwelling units have been vacated or demolished in the five year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through the city’s valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in Section 21.86.040(K)(3) of this chapter, and either of the following applies:~~

~~1.—The proposed condominium project, inclusive of the units replaced pursuant to Section 21.86.040(K)(3) of this chapter, contains affordable units at the percentages set forth in subsection A.~~

~~2.—Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household. (Ord. CS-280 § 3, 2015; Ord. NS-794 § 11, 2006)~~

~~**21.86.075—Development bonus with commercial development and partnered housing.**~~

~~A.—When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subsection C. to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city shall grant to the commercial developer a development bonus as prescribed in subsection B. The housing shall be constructed on the site of the commercial development or on a site that includes all of the following:~~

~~1.—Within the city;~~

~~2.—In close proximity to public amenities including schools and employment centers; and~~

~~3.—Located within one half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the California Public Resources Code.~~

~~B.—The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the city, that may include, but are not limited to, any of the following:~~

~~1.—Up to a twenty percent increase in maximum allowable intensity in the General Plan;~~

~~2.—Up to a twenty percent increase in maximum allowable floor area ratio;~~

~~3.—Up to a twenty percent increase in maximum height requirements;~~

~~4.—Up to a twenty percent reduction in minimum parking requirements;~~

~~5.—Use of a limited-use/limited-application elevator for upper floor accessibility; or~~

~~6.—An exception to the zoning ordinance or other land use regulation.~~

~~C.—For the purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial~~

~~developer will contribute affordable housing, and shall be approved by the decision-making body.~~

~~D. For the purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:~~

~~1. The commercial developer may directly build the units;~~

~~2. The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing; or~~

~~3. The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.~~

~~E. For the purposes of this section, subsection 21.86.040(K) shall apply.~~

~~F. Nothing in this section shall preclude any additional allowances or incentives offered to developers by the city pursuant to law or regulation.~~

~~G. If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement described in subsection C, the city may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.~~

~~H. In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least thirty percent of the total units for low-income households or at least fifteen percent of the total units for very low-income households.~~

~~I. Nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under this chapter.~~

~~J. A development bonus pursuant to this section shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing.~~

~~K. The city shall submit to the Department of Housing and Community Development, as part of the annual report required by California Government Code Section 65400 (Housing Report), information describing a commercial development bonus approved pursuant to this section, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the city, and the number of affordable units constructed as part of the agreements.~~

~~L. For purposes of this section, "partner" shall mean formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing developer for the development of both the commercial and the affordable housing properties.~~

~~M. This section shall remain in effect only until January 1, 2022, and as of that date is repealed.~~

### ~~21.86.080 Housing developments with child day care centers.~~

~~A. When an applicant proposes to construct a housing development that conforms to the requirements of Section 21.86.040(A) of this chapter, and includes a child day care center that will be located on the premises of, as part of, or adjacent to, the project, the following provisions shall apply:~~

~~1. The decision-making body shall grant either of the following:~~

~~a. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child day care center; or~~

~~b. An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child day care center.~~

~~2. The decision-making body shall require, as a condition of approval of the housing development, that the following occur:~~

~~a. The child day care center shall remain in operation for a period of time that is as long as or longer than the period of time during which the target dwelling units are required to remain affordable, pursuant to Section 21.86.100 of this chapter; and~~

~~b. Of the children who attend the child day care center, the children of very low, lower, or moderate income households shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low, lower, or moderate income households pursuant to Section 21.86.040(A) of this chapter.~~

~~3. Notwithstanding any requirement of this section, the decision-making body shall not be required to provide an additional density bonus, incentive or concession for a child day care center if it finds, based on substantial evidence, that the community has an adequate number of child day care centers. (Ord. NS-794 § 11, 2006)~~

## **~~21.86.090 Density bonus housing standards.~~**

~~A. Required target dwelling units shall 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.~~

~~B. Whenever feasible, target dwelling units and density bonus dwelling units should be built on-site (within the boundary of the proposed development) and, whenever reasonably possible, be distributed throughout the project site.~~

~~C. Whenever feasible, 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.~~

~~D. Whenever feasible, target dwelling units should vary in size and number of bedrooms, in response to affordable housing demand priorities of the city.~~

~~E. Density bonus projects shall comply with all applicable development standards, except those which may be modified as an incentive or concession, or as otherwise provided for in this chapter. In addition, all units must conform to the requirements of the applicable building and housing codes. The design of the target dwelling units shall be reasonably consistent or compatible with the design of the total project development in terms of appearance, materials and finished quality.~~

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

~~G. Upon the request of the applicant, the parking ratio (inclusive of handicap and guest parking) for a housing development that conforms to the requirements of Section 21.86.040(A) of this chapter shall not exceed the ratios specified in Table E or as noted, below. If the applicant does not request the parking ratios specified in this section or the project does not conform to the requirements of Section 21.86.040(A) of this chapter, the parking standards specified in Chapter 21.44 of this code shall apply.~~

~~1. If a development includes the maximum percentage of low or very low income units provided for in Section 21.86.040(A) and is located within one-half mile of a major transit stop, as defined in the State Public Resources Code (subdivision (b) of Section 21155), and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5~~

~~spaces per bedroom. For purposes of this subsection, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.~~

~~2.—If a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in State Health and Safety Code Section 50052.5, then, upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:~~

~~a.——If the development is located within one-half mile of a major transit stop, as defined in State Public Resources Code (subdivision (b) of Section 21155), and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.~~

~~b.——If the development is a for rent housing development for individuals who are 62 years of age or older that complies with State Civil Code (Sections 51.2 and 51.3), the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.~~

~~c.——If the development is a special needs housing development, as defined in State Health and Safety Code (section 51312), the ratio shall not exceed 0.3 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.~~

~~3.—If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded down to the next whole number.~~

~~4.—For purposes of this section, a housing development may provide “on-site” parking through tandem parking or uncovered parking, but not through on-street parking.~~

~~5.—The applicant may request parking incentives or concessions beyond those provided in this section, subject to the findings specified in Section 21.86.050(A)(2) of this chapter.~~

~~6.—Notwithstanding subsections (G)(1) and (G)(2) of this section, if the city or an independent consultant has conducted an area-wide or citywide parking study in the last seven years, then the city may impose a higher vehicular parking ratio not to exceed the ratio described in Table E, based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low- and very low-~~

~~income individuals, including seniors and special needs individuals. The city shall pay the costs of any new study. The city shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.~~

**Table E  
Parking Ratio for Housing Developments**

<b>Dwelling Unit Size</b>	<b>On-Site Parking Ratio</b>
<del>0-1 bedrooms</del>	<del>1 space per unit</del>
<del>2-3 bedrooms</del>	<del>2 spaces per unit</del>
<del>4 or more bedrooms</del>	<del>2.5 spaces per unit</del>

~~(Ord. CS-311 § 1, 2017; Ord. CS-242 § 11, 2014; Ord. NS-794 § 11, 2006)~~

**21.86.100 Affordability tenure.**

~~A. All low and very low income rental dwelling units that qualified the housing project for a density bonus shall remain restricted and affordable to the designated group for a period of at least 55 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the target dwelling unit(s) shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.~~

~~B. All very low, low and moderate income for sale dwelling units that qualified the housing project for a density bonus shall be subject to the following:~~

~~1. The initial occupant(s) of the target dwelling unit(s) shall be persons and families of very low, low or moderate income, as required, and the units shall be offered at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code.~~

~~2. Unless in conflict with the requirements of another public funding source or law, the target dwelling unit(s) shall be subject to an equity sharing agreement that specifies:~~

~~a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.~~

~~b. Upon resale, the city shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership.~~

~~i. For the purposes of this subsection, the city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any~~

~~down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.~~

~~ii. For the purposes of this subsection, the city's proportionate share of appreciation shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of initial sale.~~

~~3. If the city provides a direct financial contribution to the housing development through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the target dwelling unit(s) shall remain affordable to the designated income group for at least 30 years.~~

~~C. For rental projects, the city or its designee shall have a one time first right of refusal to purchase any project containing affordable units offered for sale at the end of the minimum tenure of affordability. The first right of refusal to purchase the rental project shall be submitted in writing to the housing and neighborhood services director. Within 90 days of its receipt, the city shall indicate its intent to exercise the first right of refusal for the purpose of providing affordable housing. (Ord. CS 280 § 4, 2015; Ord. CS 242 § 12, 2014; Ord. CS 164 § 12, 2011; Ord. NS 794 § 11, 2006)~~

#### **~~21.86.110 Application process.~~**

~~A. The granting of a density bonus, incentive or concession, pursuant to this chapter, shall not be interpreted, in and of itself, to require a general plan amendment, zone code amendment, local coastal plan amendment, zone change, other discretionary approval, or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.~~

~~B. Preliminary Application. A preliminary application may be submitted prior to the submittal of any formal development application for a housing project that includes a request for a density bonus, incentive(s) or concession(s). The preliminary application should include the following information:~~

~~1. A brief description of the proposal including the number of target dwelling units and density bonus 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, existing contours and proposed grading;~~

~~4.—A letter identifying what specific density bonus, incentives or concessions (e.g., standards modifications, additional density bonus, or fee waiver, etc.) are being requested of the city; and~~

~~5.—The planning division shall provide to an applicant/developer, a letter that identifies project issues of concern and the procedures for compliance with this chapter.~~

~~C. Formal Application. A request for a density bonus, incentive(s) or concession(s), pursuant to this chapter, does not require a discretionary approval. The request shall be processed as part of the development applications for a housing development, as otherwise required in other sections of this code (e.g., site development plan, tentative map, parcel map, planned unit development, conditional use permit, redevelopment permit, etc.).~~

~~1.—If the project involves a request for direct financial incentives from the city, then any action by the planning commission on the application shall be advisory only, and the city council shall have the authority to make the final decision on any discretionary permits related to the project.~~

~~2.—The following information shall be included with the development application(s) required for the project:~~

~~a.——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;~~

~~b.——A letter signed by the present owner stating what specific density bonus, incentives or concessions, waivers or modifications in development standards are being requested from the city;~~

~~c.——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;~~

~~d.——Site plans, designating the total number of units proposed on the site, including the number and location of target dwelling units and density bonus dwelling units, and supporting plans per the application submittal requirements;~~

~~e.——In the case of a request for any incentive(s) or concession(s), evidence that the request will result in identifiable and actual cost reductions in accordance with the provisions of Section 21.86.050 of this chapter;~~

~~f.——In the case of a request for a waiver or reduction of development standards, pursuant to Section 21.86.060 of this chapter, evidence that the development standard being waived or reduced will have the effect of physically precluding the construction of the development at the densities or with the concessions or incentives permitted by this chapter;~~

~~g. In the case of a condominium conversion request, a report with sufficient evidence to determine whether replacement dwelling units are required pursuant to Section 21.86.040(K);~~

~~h. In the case of a request for a density bonus on property that contains or did contain rental dwelling units, a report with sufficient evidence to determine whether replacement dwelling units are required pursuant to Section 21.86.040(K); and~~

~~i. The number of parking spaces proposed and whether applicant is requesting a parking ratio pursuant to Section 21.86.090(G).~~

~~3. Upon submittal, the planning division will review the application for completeness within the timelines specified in Government Code Section 65943. If the application is determined to be complete, the planning division shall so notify the applicant in writing, along with a determination as to the following:~~

~~a. The amount of density bonus, calculated pursuant to Section 21.86.040(B), for which the applicant is eligible;~~

~~b. If the applicant requests a parking ratio pursuant to Section 21.86.090(G)(6), the parking ratio for which the applicant is eligible; and~~

~~c. If the applicant requests incentives or concessions pursuant to Section 21.86.050, or waivers or reductions of development standards pursuant to Section 21.86.060, whether the information provided in the application is adequate for the city to make a determination as to those incentives, concessions, or waivers or reductions of development standards.~~

~~4. Any determination required by paragraph 3 above shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.~~

~~5. The city planner is authorized to modify all administrative procedures, forms, checklists, and templates as necessary to ensure expeditious processing of a density bonus application consistent with this chapter.~~

~~(Ord. CS 280 § 5, 2015; Ord. CS 242 § 13, 2014; Ord. CS 164 § 11, 2011; Ord. NS 794 § 11, 2006)~~

#### **21.86.120 Findings for approval.**

~~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 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 avoid physically precluding the construction of a housing development at the densities or with the incentives or concessions permitted by this chapter.~~

~~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 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), concession(s), and/or waiver(s) or reduction(s) of development standards, are consistent with this chapter and Division 20 (commencing with Section 30000) of the Public Resources Code.~~

~~7.—The requested incentive(s) or concession(s), and/or waiver(s) or reduction(s) of development standards would be contrary to state or federal law. (Ord. CS 242 §§ 14, 15, 2014; Ord. NS 889 § 3, 2008; Ord. NS 794 § 11, 2006)~~

### **21.86.130 Density bonus housing agreement.**

~~A. Applicants/developers, requesting a density bonus, incentives or concessions pursuant to this chapter, shall demonstrate compliance with this chapter by executing a density bonus housing agreement prepared by the city housing and neighborhood services director and submitted to the developer for signature.~~

~~B. Density bonus housing agreements for projects involving a request for direct financial incentives from the city shall be subject to city council approval; otherwise, the agreement shall be subject to the approval of the community and economic development director.~~

~~C. Following the approval and the signing by all parties, the completed density bonus housing agreement, with approved site development plan, shall be recorded against the entire development, including market rate lots/units; and the relevant terms and~~

~~conditions therefrom filed and recorded as a deed restriction or regulatory agreement on those individual lots or units of a property which are designated for the location of target dwelling units.~~

~~D. The approval and signing by all parties of the density bonus housing agreement shall take place prior to final map approval, and the agreement shall be recorded concurrent with the final map recordation or, where a map is not being processed, prior to issuance of building permits for such lots or units.~~

~~E. The density bonus housing agreement shall be binding to all future owners and successors in interest.~~

~~F. A density bonus housing agreement for a housing development or condominium conversion project processed pursuant to this chapter shall include, but not be limited to, the following:~~

- ~~1. The number of density bonus dwelling units granted;~~
- ~~2. The number and type (e.g., restricted to lower or moderate income households) of target dwelling units proposed;~~
- ~~3. The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;~~
- ~~4. The proposed location of the target dwelling units;~~
- ~~5. Schedule for production of target dwelling units;~~
- ~~6. Incentives or concessions provided by the city;~~
- ~~7. Where applicable, tenure and conditions governing the initial sale of for sale target units;~~
- ~~8. Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for rental target dwelling units; and~~
- ~~9. Where applicable, requirements for other documents to be approved by the city, such as marketing, leasing and management plans; financial assistance/loan documents; resale agreements; and monitoring and compliance plans. (Ord. CS-164 §§ 12, 14, 2011; Ord. NS-794 § 11, 2006)~~

**~~21.86.140 Agreement processing fee.~~**

~~The city council may establish by resolution, fees to be paid by the applicant to defray the city's cost of preparing and/or reviewing all density bonus housing agreements. (Ord. NS 794 § 11, 2006)~~

~~**21.86.150 Severability.**~~

~~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. (Ord. CS 102 § CXVI, 2010; Ord. NS 794 § 11, 2006)~~

**State of California**

**GOVERNMENT CODE**

**Section 65915**

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65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local

government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient

students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (d) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of the total units, exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the

replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income

households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(D) Four incentives or concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse

impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall not be eligible for, and shall not receive, a waiver or reduction of development standards pursuant to this subdivision, other than as expressly provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f).

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20

6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21

27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32

28  
29  
30

33  
34  
35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the

concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California 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 vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low-income or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(Amended (as amended by Stats. 2018, Ch. 937) by Stats. 2019, Ch. 666, Sec. 1. (AB 1763) Effective January 1, 2020.)

This Information Bulletin outlines the development and processing requirements to receive the benefits provided for under the State Density Bonus Law.

## BACKGROUND

State Density Bonus Law (Gov. Code §65915 - 65918) allows a developer to increase density on a property above the maximum set under a city's local land use plan (Carlsbad General Plan). In addition, qualifying applicants can also receive reductions in required development standards such as setbacks, height limits, and parking requirements. In exchange for the increased density, a certain number of the new dwelling units must be reserved for very low, low, or moderate-income households, seniors or the other eligible projects listed below.

## PROJECT ELIGIBILITY

Any housing development that proposes **five or more** units and incorporates at least one of the requirements below is eligible for a density bonus.

- 5% units restricted to "Very Low Income"
- 10% units restricted to "Low Income" or "Moderate Income"
- 10% units restricted for transitional foster youth, disabled veterans, or homeless
- 20% units for "Low Income" student housing
- A senior housing project
- An age-restricted mobile home park
- Projects which include a child care facility

Units must be restricted to their level of affordability for at least 55 years by a recorded document. Eligibility is established by state law. A city may not enact or impose local laws that conflict with State law or prohibit what the legislature intends to authorize.

## HOW IS DENSITY BONUS CALCULATED?

The number of additional units allowed under this program is set on a sliding scale, based on two factors:

- The percentage of units in the project that will be set aside as affordable; and,
- The household income category of those affordable units (very low, low, or moderate household income).

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## Documents Referenced

- [State Density Bonus Law \(Gov. Code §65915 - 65918\)](#)
  - [Density Bonus Ordinance \(Carlsbad Muni. Code Ch. 21.86\)](#)
  - [Density Bonus Application Checklist](#)
  - [Density Bonus Calculation Chart](#)
- 

State law requires that all density calculations resulting in ANY fractional units shall be rounded up to the next whole number. This applies to both base density and density bonus calculations.

Notwithstanding the above, State law requires that the percentage of affordable units on the site must exceed the percentage established in the sliding scale. The city interprets this requirement to mean that the fractional percentage of units being reserved as affordable must be rounded down to the nearest whole number.

Also, while the city utilizes a "mid-range" density calculation for determining the allowable number of units on a property, state law requires that density bonus be calculated based upon the maximum density allowed under the zoning ordinance.

## THEORETICAL EXAMPLE

A property is 1.003 net acres in size, with a zoning designation of R-15 (15 dwelling units per acre). This results in a maximum base density of 15.05 units for this site (1.003 acres multiplied by 15 units per acre), which rounds up to 16 units.

The applicant proposes that two of the units will be reserved for *low-income* households. This results in 12.5% of the 16 units that will be reserved for affordable housing, which rounds down to 12%.

Based on the sliding scale found in the attached Density Bonus Table, with 12% of the units reserved as affordable, the project's base density can increase by 23%, for a total of 19.68 units, which rounds up to 20 total units.

## WHAT ARE CONCESSIONS/INCENTIVES?

In many cases, a development project must be modified and/or reduced to comply with established objective design standards and other regulations such as limits/requirements on building height, setback, parking, and on-site open space requirements.

Concessions and incentives, as defined under State law, allow a developer to deviate from those design standards and/or regulations when such regulations potentially make the project economically infeasible for the developer to build.

The number of concessions/incentives that can be requested by a developer varies by the amount and type of reserved affordable units being proposed, as reflected in the chart below.

Percentages between these ranges are rounded down. For example, the sample project that reserved 12% of the units for low income receives one concession/incentive.

Income Category	% of Reserved Units			
	5%	10%	15%	Up to 80%
Very Low	5%	10%	15%	Up to 80%
Low	10%	20%	30%	Up to 80%
Moderate	10%	20%	30%	Up to 20%
Senior	n/a	n/a	100%	n/a
<b>Max. # of Incentives</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4*</b>
*To qualify for 4 incentives, a project must reserve <u>at least 80% of the units for lower income households</u> (very low, low, or combination thereof). The remaining 20% may be reserved for moderate income households.				

### HOW DO YOU DETERMINE ECONOMIC INFEASIBILITY?

As part of the request for a concession/incentive, the applicant must provide evidence that the design standard/regulation causes the project to become too expensive to build. This can be accomplished through a financial pro-forma or other similar study or analysis.

The study must demonstrate that the requested concession/incentive results in identifiable, financially sufficient, and actual cost reductions that contribute significantly to the economic feasibility of the reserved affordable units.

### WHAT ARE WAIVERS?

Waivers are yet another form of assistance under state law, separate from concessions and incentives. A waiver is a reduction in development standards and other regulations when those requirements potentially make the construction of the project *physically infeasible*, if not approved.

Unlike concessions and incentives, there is no limit in the number of waivers an applicant can request. Furthermore, while the developer must justify the need for a waiver, a pro-forma (or other similar analysis) is not required.

### CAN THE CITY DENY A CONCESSION/INCENTIVE OR WAIVER?

Yes. Nothing in state law requires a local government to grant an incentive or waiver that will potentially result in a specific, adverse impact upon public health, safety, the environment or on any property listed in the California Register of Historic Resources. Issues to be aware of when evaluating potential development locations include the following non-exhaustive list:

- A proposed density bonus project that would be located within an airport compatibility zone found to be inconsistent with the compatibility criteria
- A proposed density bonus project that would be located within a FEMA floodway
- A proposed density bonus project that would be located at a Hazardous Waste Site, pursuant to California Government Code Section 65962.5
- A proposed density bonus project that would be located within a High Fire Severity Overlay Zone

Additionally, State Density Bonus Law provides that it shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976, and further provides that the granting of a density bonus or an incentive shall not be interpreted, in and of itself, to require a local coastal plan amendment.

The burden of proof is on the city to demonstrate if there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Under the law, the court shall award the plaintiff attorney's fees and costs should the City not adequately justify the denial of a concession/incentive or waiver.

### YOUR OPTIONS FOR SERVICE

Formal application(s) for a density bonus project will be required to submit information requested under the Density Bonus Supplemental Application Checklist, as required under Carlsbad Municipal Code §21.86.040. To improve process review, an appointment is required to walk through project submittal and processing requirements.

**NOTE:** Please refer to State Density Bonus Law Government Code (§65915 et seq.) for additional details with respect to conformance/associated regulations.





# DENSITY BONUS SUPPLEMENTAL CHECKLIST P-XX

Community Development

Planning Division  
1635 Faraday Avenue  
(760) 602-4610  
www.carlsbadca.gov

The information listed in this checklist is required to be completed for all residential development applications being processed under Government Code §65915 – 65918 (State Density Bonus Law). Please prepare the required materials/information described in this checklist and submit in one document entitled “Supplemental Application – Density Bonus Program”. Refer to [Information Bulletin P-###](#) for additional information.

## PROJECT LOCATION

- Include the street address and APN(s) of the subject property.

## PROPERTY DESCRIPTION

- Include information about the property and immediate area such as general location, prior uses on-site, site characteristics (i.e., slopes, habitat, drainage), neighborhood setting, General Plan designation, zoning designation, and maximum density allowed by zoning.

## PROJECT DESCRIPTION

Describe the proposed project. Please make sure to include the following information.

- Total number of lots/units proposed (maximum density and density bonus units)
  - Type of housing proposed and any anticipated construction phasing
  - Number, location and income level of the proposed affordable units
  - Project access, infrastructure, and any proposed amenities/open space

## DENSITY CALCULATIONS

Indicate the number of lots proposed and how many are proposed to be designated as affordable. Include the following information:

- Show all density calculations
  - Income levels of the affordable units
  - Number of “Concessions/Incentives” requested
  - Number of “Waivers” requested

## CONCESSION(S)/INCENTIVE(S), if requested<sup>1</sup>

Please provide evidence demonstrating that the requested concession/incentive results in identifiable, financially sufficient, and actual cost reductions that contribute significantly to the economic feasibility of the reserved affordable units. Please include the following in the response.

- Provide specific information on and discussion of each concession/incentive proposed
- Include discussion of why the findings to deny grant of the proposed concession/incentive are not supportable for the proposed project:
    - Why the concession/incentive is required to provide for affordable housing costs, or for rents to targeted units to be set as provided under state law?
    - Would the grant of the concession/incentive have a specific adverse impact upon public health and safety or the physical environment or listed historical property? If yes, are there

feasible methods to mitigate or avoid such impacts without rendering the development unaffordable?

**WAIVERS(S), if requested<sup>2</sup>**

Please provide evidence demonstrating that the requested Waiver from a required development standard is necessary in order for development to be physically feasible. Please include the following in the response.

- Provide specific information on and discussion of each concession/incentive proposed
- Provide specific information on and discussion of each waiver/reduction proposed. Include discussion of why the findings to deny grant of the proposed waivers/reductions are not supportable for the proposed project:
  - How would application of the development standard proposed to be waived/reduced physically preclude the construction of the development at the density proposed or with proposed concessions/incentives?
  - Would the waiver or reduction have a specific adverse impact upon public health and safety or the physical environment or listed historical property? If yes, are there feasible methods to mitigate or avoid such impacts without rendering the development unaffordable?

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<sup>1</sup> Cities are required to grant concessions or incentives (referred to as concessions) to a developer that seeks and agrees to include affordable units in their development. One to three concessions are available for each development depending on the percentage of affordable housing that will be included within the development. A concession is one of three things (Gov. Code §65915, subd. (k)(1)-(3)):

- A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed minimum building standards that result in identifiable, financially sufficient and actual costs reductions. Development Standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation. (Gov. Code §65915, subd. (o)(1)).
- Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if such uses are compatible with the housing project and the existing or planned development in the area.
- Other regulatory concessions proposed by the developer or city that result in identifiable, financially sufficient and actual cost reductions.

The City shall grant the concession unless one or more of the following written findings can be made (Gov. Code §65915, subd. (d)(1)(A)-(C)):

- The concession is not required in order to provide for affordable housing costs, or for rents for the targeted units.
- The concession would have a “specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households.”
- The concession would be contrary to state and federal law.

<sup>2</sup> In addition to concessions, an applicant may submit a proposal for a waiver or reduction (referred to as waiver) of development standards. (Gov. Code §65915, subd. (e)(1)). In no case may a city apply any development standard that will have the effect of physically precluding the construction of a development at the density or concessions permitted. The City shall grant the waiver unless one or more of the following written findings can be made (Gov. Code §65915, subd. (e)(1)):

- The waiver will have a specific adverse impact upon health, safety, or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- The waiver will have a specific adverse impact on any real property listed in California Register of Historical Resources.
- The waiver would be contrary to state and federal law.

# DENSITY BONUS TABLE

<b>% of Total Units Reserved Affordable</b>	<b>Very Low Income Density Bonus <sup>(1)</sup></b>	<b>Low Income Density Bonus <sup>(2)</sup></b>	<b>Moderate Income Density Bonus <sup>(3)</sup></b>	<b>Land Donation Density Bonus <sup>(4)</sup></b>	<b>Senior Density Bonus <sup>(5)</sup></b>
5%	20%	-	-	-	20%
6%	22.5%	-	-	-	20%
7%	25%	-	-	-	20%
8%	27.5%	-	-	-	20%
9%	30%	-	-	-	20%
10%	32.5%	20%	5%	15%	20%
11%	35%	21.5%	6%	16%	20%
12%	35%	23%	7%	17%	20%
13%	35%	24.5%	8%	18%	20%
14%	35%	26%	9%	19%	20%
15%	35%	27.5%	10%	20%	20%
16%	35%	29%	11%	21%	20%
17%	35%	30.5%	12%	22%	20%
18%	35%	32%	13%	23%	20%
19%	35%	33.5%	14%	24%	20%
20%	35%	35%	15%	25%	20%
21%	35%	35%	16%	26%	20%
22%	35%	35%	17%	27%	20%
23%	35%	35%	18%	28%	20%
24%	35%	35%	19%	29%	20%
25%	35%	35%	20%	30%	20%
26%	35%	35%	21%	31%	20%
27%	35%	35%	22%	32%	20%
28%	35%	35%	23%	33%	20%
29%	35%	35%	24%	34%	20%
30%	35%	35%	25%	35%	20%
31%	35%	35%	26%	35%	20%
31%	35%	35%	27%	35%	20%
33%	35%	35%	28%	35%	20%
34%	35%	35%	29%	35%	20%
35%	35%	35%	30%	35%	20%
36%	35%	35%	31%	35%	20%
37%	35%	35%	32%	35%	20%
38%	35%	35%	33%	35%	20%
39%	35%	35%	34%	35%	20%
40%	35%	35%	35%	35%	20%

(1) Government Code §65915(f)(2)

(2) Government Code §65915(f)(1)

(3) Government Code §65915(f)(4)

(4) Government Code §65915(g)(1)

(5) Government Code §65915(f)(3); No affordable units are required for senior housing units to receive a density bonus.

Item No.

4

P.C. AGENDA OF: June 17, 2020

Application complete date: n/a

Project Planner: Corey Funk

Project Engineer: n/a

**SUBJECT:** ZCA2020-0001/LCPA2020-0005 – DENSITY BONUS AMENDMENTS 2020 – Request for a recommendation to approve a Zone Code Amendment and Local Coastal Program Amendment to update the city’s density bonus regulations to reflect changes in state law. The city planner has determined that the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because the amendments do not have the potential to cause a significant effect on the environment.

## I. RECOMMENDATION

That the Planning Commission **ADOPT** Planning Commission Resolution No. 7373 **RECOMMENDING APPROVAL** of Zone Code Amendment ZCA 2020-0001 and Local Coastal Program Amendment LCPA 2020-0005, based on the findings contained therein.

## II. PROJECT DESCRIPTION AND BACKGROUND

### A. State Density Bonus Law

State density bonus law (Government Code §65915 – 65918, see Attachment 2) allows a developer to increase density (the number of new, market-rate dwelling units) on a property above the maximum set under a city’s local land use plan (Carlsbad General Plan). In addition, qualifying applicants can also receive reductions in required development standards such as setbacks, height limits and parking requirements when such deviations are necessary to achieve the density allowed under state law. In exchange for a density increase (up to a maximum of 35 percent), a certain number of the new dwelling units must be reserved for very low, low, or moderate-income households, or for other qualifying housing types such as senior housing, for a period of not less than 55 years.

The requirement for a local density bonus ordinance is stipulated under state density bonus law, as reflected below:

#### *§65915(a)*

*“All cities...shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city...from complying with this section.”*

## B. Proposed Ordinance

It is important to note that a jurisdiction may not enact local laws that conflict with state law or prohibit what the legislature intends to authorize<sup>1</sup>. The proposed ordinance found in Exhibit A of Attachment 1 complies with the requirements of state density bonus law and can be summarized as follows.

- The ordinance amendment is required as part of the city's Housing Element Program 3.3, which requires that the city promote the use of (current) density bonus allowances to help facilitate the development of housing for low and very low-income households. Completing this requirement is important to show program compliance to the Department of Housing and Community Development (HCD) as the city proceeds with the 6<sup>th</sup> Cycle Housing Element.
- The ordinance amendment captures changes made in state density bonus law by Assembly Bill 1763 since the city's local ordinance was last amended in 2019.
- Over the past several years, the state legislature has made several modifications to density bonus law to encourage more affordable housing development. More changes are expected in the coming years. These state-initiated modifications often require regular changes/updates to our local code. As such, the proposed ordinance focuses more on the city's permit processing requirements for density bonus applications, while deferring to the state law on density bonus requirements and allowances. This will help reduce the need to process local code amendments when state law changes in the future.
- Educational materials have also been prepared to help customers navigate density bonus law and city processing requirements; specifically, a department information bulletin (Attachment 3). These materials are provided to the Planning Commission as informational items, no action is requested. Staff can update the information bulletin as needed due to future changes to state law. The sections of the bulletin are described below:
  - Density Bonus Information Bulletin

This information bulletin outlines the city's development and processing requirements to receive the benefits provided for under the state law in simple direct terms and includes the following topics: project eligibility; applicant permitting requirements; explanation on how density bonus is calculated; what qualifies as concessions, incentives, or waivers; and the findings the city must make to deny a concession, incentive, or waiver.
  - Density Bonus Supplemental Checklist

This supplemental application checklist is new for city applicants and will be required to be completed for all density bonus applications being processed under Government Code §65915. This helps staff and the public better understand how

<sup>1</sup>Cal Const Art XI, Section 7; Northern Cal. Psychiatric Soc'y v. City of Berkeley (1986) 178 CA 3d 90

density bonus law is being applied to the project and why requested standards need to be waived to ensure that the project follows state law.

- Density Bonus Calculation Chart

This chart provides the specific density bonuses to be awarded, pursuant to state law, in relation to the affordable housing type in one easy to read location (bonus awards in the state density bonus law are not centrally located, making it difficult for customers to follow).

### **III. ANALYSIS**

The proposed amendments to the Zone Code repeal Chapter 21.86 and replace it with the proposed City Council ordinance provided in Exhibit A of Attachment 1. Assembly Bill 1763, effective January 1, 2020, amends Section 65915 of the Government Code with changes that are designed to help reduce costs associated with the development of affordable housing. A summary<sup>2</sup> of the three main changes enacted by Assembly Bill 1763 is shown below:

- Existing density bonus law provides developers up to a 35% increase in project densities, set on a sliding scale based on the amount of affordable housing provided. For housing projects where 100% of the units are affordable to low and very low income residents, Assembly Bill 1763 more than doubles the density bonus to 80%. If the project is located within a half mile of a major transit stop, Assembly Bill 1763 also eliminates all restrictions on density and allows a height increase of up to three stories or 33 feet.
- Under existing density bonus law, projects qualifying for a density bonus are currently entitled to up to three incentives and concessions, depending on the amount of affordable units provided. Assembly Bill 1763 provides a fourth incentive and concession for 100% affordable projects.
- Existing density bonus law also sets special parking ratio requirements for qualifying projects. For housing projects that qualify as a special needs or supportive housing development, Assembly Bill 1763 completely eliminates all local parking requirements.

The proposed amendments are consistent with state density bonus law and fully implement the changes made by Assembly Bill 1763. The proposed amendments are consistent with the Carlsbad General Plan and directly implement General Plan Housing Element Program 3.3, which requires the city to ensure consistency with state density bonus law. The amendment is also consistent with other provisions of the Zoning Ordinance not being amended. Compliance with the Growth Management Plan is evaluated on a case by case basis for development projects that request a density bonus.

The proposed amendments affect land within the airport influence area, which covers a large portion of Carlsbad and includes residential properties; however, the amendment is consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan in that it does not propose any land use or development standard changes that affect compatibility with the plan's safety, noise, airspace protection and overflight criteria. The Airport Land Use Commission (San Diego County Regional Airport Authority) reviewed the amendment and found it to be consistent with the McClellan-Palomar Airport

<sup>2</sup> Meyers Nave, January 13, 2020, *AB 1763 Allows Affordable Housing to be Built Denser and Taller*, <https://www.meyersnave.com/ab-1763-allows-affordable-housing-to-be-built-denser-and-taller/> Sept. 1, 2020

Land Use Compatibility Plan. A comment letter was submitted to the Airport Land Use Commission in regard to the determination of consistency for the proposed amendments, which is included along with the city response in Attachment 4.

Local Coastal Program Amendment LCPA 2020-0005 is required to ensure consistency with Zone Code Amendment ZCA 2020-0001. The proposed LCP amendment meets the requirements of, and is in conformity with, with the policies of Chapter 3 of the Coastal Act and all applicable policies of the Carlsbad LCP not being amended by this amendment. The amendments do not conflict with any regulation, land use designations or policies, with which development must comply.

#### **IV. ENVIRONMENTAL REVIEW**

The city finds that the proposed amendments to the Zone Code are exempt from environmental review pursuant to the common sense exemption, Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, since there would be no possibility of a significant effect on the environment. The ordinance being considered specifies how the city will comply with and implement state density bonus law, and adoption is required pursuant to Government Code §65915(a). The density bonuses, incentives, and waivers permitted by the ordinance are required by state law, and this ordinance does not permit any density bonuses, incentives, or waivers other than those required by state law.

#### **ATTACHMENTS:**

1. Planning Commission Resolution No. 7373
  - a. Exhibit A – City Council Ordinance: Density Bonus
2. State Density Bonus Law (Government Code Sections 65915 – 65918)
3. Information Bulletin on Density Bonus
4. Comment letter



**GOVERNMENT CODE - GOV**

**TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]**

*( Heading of Title 7 amended by Stats. 1974, Ch. 1536. )*

**DIVISION 1. PLANNING AND ZONING [65000 - 66301]**

*( Heading of Division 1 added by Stats. 1974, Ch. 1536. )*

**CHAPTER 4.3. Density Bonuses and Other Incentives [65915 - 65918]**

*( Chapter 4.3 added by Stats. 1979, Ch. 1207. )*

**65915.**

(a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e),

whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city and county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any

subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (d) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(G) One hundred percent of the total units, exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), (F), or (G) of paragraph (1).

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) (A) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(B) (i) Except as otherwise provided in clause (ii), rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), rents for all units in the development, including both base density and density bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families

above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(D) Four incentives or concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision

(f) shall not be eligible for, and shall not receive, a waiver or reduction of development standards pursuant to this subdivision, other than as expressly provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30

10	32.5
11	35

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17

23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16

12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

- (A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.
- (B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income

households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a

childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California 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 vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low-income or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that

exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through on street parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdiction wide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and

the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

*(Amended (as amended by Stats. 2018, Ch. 937) by Stats. 2019, Ch. 666, Sec. 1. (AB 1763) Effective January 1, 2020.)*

#### 65915.5.

(a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for

carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

(g) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, and either of the following applies:

(1) The proposed condominium project, inclusive of the units replaced pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, contains affordable units at the percentages set forth in subdivision (a).

(2) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(h) Subdivision (g) does not apply to an applicant seeking a density bonus for a proposed housing development if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

*(Amended by Stats. 2014, Ch. 682, Sec. 2. (AB 2222) Effective January 1, 2015.)*

#### 65915.7.

(a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subdivision (c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city, county, or city and county shall grant to the commercial developer a development bonus as prescribed in subdivision (b). Housing shall be constructed on the site of the commercial development or on a site that is all of the following:

(1) Within the boundaries of the local government.

(2) In close proximity to public amenities including schools and employment centers.

(3) Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(b) The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the jurisdiction, that may include, but are not limited to, any of the following:

(1) Up to a 20-percent increase in maximum allowable intensity in the General Plan.

- (2) Up to a 20-percent increase in maximum allowable floor area ratio.
  - (3) Up to a 20-percent increase in maximum height requirements.
  - (4) Up to a 20-percent reduction in minimum parking requirements.
  - (5) Use of a limited-use/limited-application elevator for upper floor accessibility.
  - (6) An exception to a zoning ordinance or other land use regulation.
- (c) For the purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city, county, or city and county.
- (d) For the purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:
- (1) The commercial developer may directly build the units.
  - (2) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.
  - (3) The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.
- (e) For the purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 shall apply.
- (f) Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.
- (g) If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement described in subdivision (c), the local government may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.
- (h) In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low-income households.
- (i) Nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under Section 65915.
- (j) A development bonus pursuant to this section shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing.
- (k) A city or county shall submit to the Department of Housing and Community Development, as part of the annual report required by Section 65400, information describing a commercial development bonus approved pursuant to this section, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements.
- (l) For purposes of this section, "partner" shall mean formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing

developer for the development of both the commercial and the affordable housing properties.

(m) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

*(Added by Stats. 2016, Ch. 747, Sec. 2. (AB 1934) Effective January 1, 2017. Repealed as of January 1, 2022, by its own provisions.)*

#### **65916.**

Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

*(Added by Stats. 1979, Ch. 1207.)*

#### **65917.**

In enacting this chapter, it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

*(Amended by Stats. 2001, Ch. 115, Sec. 14. Effective January 1, 2002.)*

#### **65917.2.**

(a) As used in this section, the following terms shall have the following meanings:

(1) "Eligible housing development" means a development that satisfies all of the following criteria:

(A) The development is a multifamily housing development that contains five or more residential units, exclusive of any other floor area ratio bonus or incentive or concession awarded pursuant to this chapter.

(B) The development is located within one of the following:

(i) An urban infill site that is within a transit priority area.

(ii) One-half mile of a major transit stop.

(C) The site of the development is zoned to allow residential use or mixed-use with a minimum planned density of at least 20 dwelling units per acre and does not include any land zoned for low density residential use or for exclusive nonresidential use.

(D) The applicant and the development satisfy the replacement requirements specified in subdivision (c) of Section 65915.

(E) The development includes at least 20 percent of the units, excluding any additional units allowed under a floor area ratio bonus or other incentives or

concessions provided pursuant to this chapter, with an affordable housing cost or affordable rent to, and occupied by, persons with a household income equal to or less than 50 percent of the area median income, as determined pursuant to Section 50093 of the Health and Safety Code, and subject to an affordability restriction for a minimum of 55 years.

(F) The development complies with the height requirements applicable to the underlying zone. A development shall not be eligible to use a floor area ratio bonus or other incentives or concessions provided pursuant to this chapter to relieve the development from a maximum height limitation.

(2) "Floor area ratio" means the ratio of gross building area of the eligible housing development, excluding structured parking areas, proposed for the project divided by the net lot area. For purposes of this paragraph, "gross building area" means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.

(3) "Floor area ratio bonus" means an allowance for an eligible housing development to utilize a floor area ratio over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city or county, calculated pursuant to paragraph (2) of subdivision (b).

(4) "Major transit stop" has the same meaning as defined in Section 21155 of the Public Resources Code.

(5) "Transit priority area" has the same meaning as defined in Section 21099 of the Public Resources Code.

(b) (1) A city council, including a charter city council or the board of supervisors of a city and county, or county board of supervisors may establish a procedure by ordinance to grant a developer of an eligible housing development, upon the request of the developer, a floor area ratio bonus, calculated as provided in paragraph (2), in lieu of a density bonus awarded on the basis of dwelling units per acre.

(2) In calculating the floor area ratio bonus pursuant to this section, the allowable gross residential floor area in square feet shall be the product of all of the following amounts:

(A) The allowable residential base density in dwelling units per acre.

(B) The site area in square feet, divided by 43,560.

(C) 2,250.

(c) The city council or county board of supervisors shall not impose any parking requirement on an eligible housing development in excess of 0.1 parking spaces per unit that is affordable to persons and families with a household income equal to or less than 120 percent of the area median income and 0.5 parking spaces per unit that is offered at market rate.

(d) A city or county that adopts a floor area ratio bonus ordinance pursuant to this section shall allow an applicant seeking to develop an eligible residential development to calculate impact fees based on square feet, instead of on a per unit basis.

(e) In the case of an eligible housing development that is zoned for mixed-use purposes, any floor area ratio requirement under a zoning ordinance or land use element of the general plan of the city or county applicable to the nonresidential

portion of the eligible housing development shall continue to apply notwithstanding the award of a floor area ratio bonus in accordance with this section.

(f) An applicant for a floor area ratio bonus pursuant to this section may also submit to the city, county, or city and county a proposal for specific incentives or concessions pursuant to subdivision (d) of Section 65915.

(g) (1) This section shall not be interpreted to do either of the following:

(A) Supersede or preempt any other section within this chapter.

(B) Prohibit a city, county, or city and county from providing a floor area ratio bonus under terms that are different from those set forth in this section.

(2) The adoption of an ordinance pursuant to this section shall not be interpreted to relieve a city, county, or city and county from complying with Section 65915.

*(Added by Stats. 2018, Ch. 915, Sec. 1. (AB 2372) Effective January 1, 2019.)*

### 65917.5.

(a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used

for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

*(Amended by Stats. 2008, Ch. 179, Sec. 112. Effective January 1, 2009.)*

**65918.**

The provisions of this chapter shall apply to charter cities.

*(Added by Stats. 1979, Ch. 1207.)*

Web link:

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=4.3.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=4.3.&article=)

This Information Bulletin outlines the development and processing requirements to receive the benefits provided for under the California Density Bonus Law.

## BACKGROUND

State Density Bonus Law (Gov. Code §65915 - 65918) allows a developer to increase density on a property above the maximum set under a city's local land use plan (Carlsbad General Plan). In addition, qualifying applicants can also receive reductions in required development standards such as setbacks, height limits, and parking requirements. In exchange for the increased density, a certain number of the new dwelling units must be reserved for very low, low, or moderate-income households, seniors or the other eligible projects listed below.

## PROJECT ELIGIBILITY

Any housing development that proposes **five or more** units and incorporates at least one of the requirements below is eligible for a density bonus.

- 5% units restricted to "Very Low Income"
- 10% units restricted to "Low Income" or "Moderate Income"
- 10% units restricted for transitional foster youth, disabled veterans, or homeless
- 20% units for "Low Income" student housing
- A senior housing project
- An age-restricted mobile home park
- Projects which include a child care facility

Units must be restricted to their level of affordability for at least 55 years by recorded document. Eligibility is established by state law. A city may not enact or impose local laws that conflict with State law or prohibit what the legislature intends to authorize.

## HOW IS DENSITY BONUS CALCULATED?

The number of additional units allowed under this program is set on a sliding scale, based on two factors:

- The percentage of units in the project that will be set aside as affordable; and,
- The household income category of those affordable units (very low, low, or moderate household income).

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## Documents Referenced

- [State Density Bonus Law \(§65915 - 65918\)](#)
  - [Carlsbad Municipal Code, Density Bonus Ordinance \(§21.86\)](#)
  - [Density Bonus Application Checklist](#)
  - [Density Bonus Calculation Chart](#)
- 

State law requires that all density calculations resulting in ANY fractional units shall be rounded up to the next whole number. This applies to both base density and density bonus calculations.

Notwithstanding the above, State law requires that the percentage of affordable units on the site must exceed the percentage established in the sliding scale. The city interprets this requirement to mean that the fractional percentage of units being reserved as affordable must be rounded down to the nearest whole number.

Also, while the City of Carlsbad utilizes a "mid-range" density calculation for determining the allowable number of units on a property, state law requires that density bonus be calculated based upon the maximum density allowed under the zoning ordinance.

## THEORETICAL EXAMPLE

A property is 1.003 net acres in size, with a zoning designation of R-15 (15 dwelling units per acre). This results in a maximum base density of 15.05 units for this site (1.003 acres multiplied by 15 units per acre), which rounds up to 16 units.

The applicant proposes that two of the units will be reserved for *low-income* households. This results in 12.5% of the 16 units that will be reserved for affordable housing, which rounds down to 12%.

Based on the sliding scale found in the attached Density Bonus Table, with 12% of the units reserved as affordable, the project's base density can increase by 23%, for a total of 19.68 units, which rounds up to 20 total units.

## WHAT ARE CONCESSIONS/INCENTIVES?

In many cases, a development project must be modified and/or reduced to comply with established objective design standards and other regulations such as limits/requirements on building height, setback, parking, and on-site open space requirements.

Concessions and incentives, as defined under State law, allow a developer to deviate from those design standards and/or regulations when such regulations potentially make the project economically infeasible for the developer to build.

The number of concessions/incentives that can be requested by a developer varies by the amount and type of reserved affordable units being proposed, as reflected in the chart below.

Percentages between these ranges are rounded down. For example, the sample project that reserved 12% of the units for very low income receives two concessions/incentives.

Income Category	% of Reserved Units			
	5%	10%	15%	Up to 80%
Very Low	5%	10%	15%	Up to 80%
Low	10%	20%	30%	Up to 80%
Moderate	10%	20%	30%	Up to 20%
Senior	n/a	n/a	100%	n/a
<b>Max. # of Incentives</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4*</b>
*To Qualify for 4 incentives, a project must reserve at least 80% of the units for lower income households (Very Low, Low, or combination thereof). The remaining 20% may be reserved for Moderate Income Households.				

### HOW DO YOU DETERMINE ECONOMIC INFEASIBILITY?

As part of the request for a concession/incentive, the applicant must provide evidence that the design standard/regulation causes the project to become too expensive to build. This can be accomplished through a financial pro-forma or other similar study or analysis.

The study must demonstrate that the requested concession/incentive results in identifiable, financially sufficient, and actual cost reductions that contribute significantly to the economic feasibility of the reserved affordable units.

### WHAT ARE WAIVERS?

Waivers are yet another form of assistance under State law, separate from concessions and incentives. A waiver is a reduction in development standards and other regulations when those requirements potentially make the construction of the project *physically infeasible*, if not approved.

Unlike concessions and incentives, there is no limit in the number of waivers an applicant can request. Furthermore, while the developer must justify the need for a waiver, pro-forma (or other similar analysis) is not required.

### CAN THE CITY DENY A CONCESSION/INCENTIVE OR WAIVER?

Yes. Nothing in State law requires a local government to grant an incentive or waiver that will potentially result in a specific, adverse impact upon public health, safety or environment. Issues to be aware of when evaluating potential development locations include the following (please note: not an exhaustive list):

- A proposed density bonus project that would be located within an airport compatibility zone found to be inconsistent with the compatibility criteria

- A proposed density bonus project that would be located within a FEMA floodway
- A proposed density bonus project that would be located at a Hazardous Waste Site, pursuant to Section 65962.5 of the Government Code
- A proposed density bonus project that would be located within a High Fire Severity Overlay Zone

Additionally, State Density Bonus Law provides that it shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976, and further provides that the granting of a density bonus or an incentive shall not be interpreted, in and of itself, to require a local coastal plan amendment.

The burden of proof is on the jurisdiction to determine if there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Under the law, the court shall award the plaintiff attorney's fees and costs should the City not adequately justify the denial of a concession/incentive or waiver.

### YOUR OPTIONS FOR SERVICE

Formal application(s) for a density bonus project will be required to submit information requested under the Density Bonus Supplemental Application Checklist, as required under CMC§21.86.040. To improve process review, an appointment is required to walk through project submittal and processing requirements.

**NOTE:** Please refer to State Density Bonus Law Government Code (§65915 et al) for additional details with respect to conformance/associated regulations.





# DENSITY BONUS SUPPLEMENTAL CHECKLIST P-XX

Community Development

Planning Division  
1635 Faraday Avenue  
(760) 602-4610  
www.carlsbadca.gov

The information listed in this checklist is required to be completed for all residential development applications being processed under Government Code §65915 – 65918 (State Density Bonus Law). Please prepare the required materials/information described in this checklist and submit in one document entitled “Supplemental Application – Density Bonus Program”. Refer to [Information Bulletin P-###](#) for additional information.

## PROJECT LOCATION

- Include the street address and APN(s) of the subject property.

## PROPERTY DESCRIPTION

- Include information about the property and immediate area such as general location, prior uses on-site, site characteristics (i.e., slopes, habitat, drainage), neighborhood setting, General Plan designation, zoning designation, and maximum density allowed by zoning.

## PROJECT DESCRIPTION

Describe the proposed project. Please make sure to include the following information.

- Total number of lots/units proposed (maximum density and density bonus units)
  - Type of housing proposed and any anticipated construction phasing
  - Number, location and income level of the proposed affordable units
  - Project access, infrastructure, and any proposed amenities/open space

## DENSITY CALCULATIONS

Indicate the number of lots proposed and how many are proposed to be designated as affordable. Include the following information:

- Show all density calculations
  - Income levels of the affordable units
  - Number of ‘Concessions/Incentives’ requested
  - Number of ‘Waivers’ requested

## CONCESSION(S)/INCENTIVE(S), if requested<sup>1</sup>

Please provide evidence demonstrating that the requested concession/incentive results in identifiable, financially sufficient, and actual cost reductions that contribute significantly to the economic feasibility of the reserved affordable units. Please include the following in the response.

- Provide specific information on and discussion of each concession/incentive proposed
- Include discussion of why the findings to deny grant of the proposed concession/incentive are not supportable for the proposed project:
    - Why is the concession/incentive required to provide for affordable housing costs, or for rents to targeted units to be set as provided under State law?
    - Would the grant of the concession/incentive have a specific adverse impact upon public health and safety or the physical environment or listed historical property? If yes, are there

feasible methods to mitigate or avoid such impacts without rendering the development unaffordable?

**WAIVERS(S), if requested<sup>2</sup>**

Please provide evidence demonstrating that the requested Waiver from a required development standard is necessary in order for development to be physically feasible. Please include the following in the response.

- Provide specific information on and discussion of each concession/incentive proposed
- Provide specific information on and discussion of each waiver/reduction proposed. Include discussion of why the findings to deny grant of the proposed waivers/reductions are not supportable for the proposed project:
  - How would application of the development standard proposed to be waived/reduced physically preclude the construction of the development at the density proposed or with proposed concessions/incentives?
  - Would the waiver or reduction have a specific adverse impact upon public health and safety or the physical environment or listed historical property? If yes, are there feasible methods to mitigate or avoid such impacts without rendering the development unaffordable?

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<sup>1</sup> Cities are required to grant concessions or incentives (referred to as concessions) to a developer that seeks and agrees to include affordable units in their development. One to three concessions are available for each development depending on the percentage of affordable housing that will be included within the development. A concession is one of three things (Section 65915(k)(1, 2 &3)):

- A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed minimum building standards that result in identifiable, financially sufficient and actual costs reductions. Development Standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation. (Section 65915(o)(1)).
- Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if such uses are compatible with the housing project and the existing or planned development in the area.
- Other regulatory concessions proposed by the developer or city that result in identifiable, financially sufficient and actual cost reductions.

The City shall grant the concession unless one or more of the following written findings can be made (Section 65915(d)(1)(A, B & C)):

- The concession is not required in order to provide for affordable housing costs, or for rents for the targeted units.
- The concession would have a “specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households.”
- The concession would be contrary to state and federal law.

<sup>2</sup> In addition to concessions, an applicant may submit a proposal for a waiver or reduction (referred to as waiver) of development standards. (Section 65915(e)(1)). In no case may a city apply any development standard that will have the effect of physically precluding the construction of a development at the density or concessions permitted. The City shall grant the waiver unless one or more of the following written findings can be made (Section 65915(e)(1)):

- The waiver will have a specific adverse impact upon health, safety, or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- The waiver will have a specific adverse impact on any real property listed in California Register of Historical Resources.
- The waiver would be contrary to state and federal law.

# DENSITY BONUS TABLE

<b>% of Total Units Reserved Affordable</b>	<b>Very Low Income Density Bonus <sup>(1)</sup></b>	<b>Low Income Density Bonus <sup>(2)</sup></b>	<b>Moderate Income Density Bonus <sup>(3)</sup></b>	<b>Land Donation Density Bonus <sup>(4)</sup></b>	<b>Senior Density Bonus <sup>(5)</sup></b>
5%	20%	-	-	-	20%
6%	22.5%	-	-	-	20%
7%	25%	-	-	-	20%
8%	27.5%	-	-	-	20%
9%	30%	-	-	-	20%
10%	32.5%	20%	5%	15%	20%
11%	35%	21.5%	6%	16%	20%
12%	35%	23%	7%	17%	20%
13%	35%	24.5%	8%	18%	20%
14%	35%	26%	9%	19%	20%
15%	35%	27.5%	10%	20%	20%
16%	35%	29%	11%	21%	20%
17%	35%	30.5%	12%	22%	20%
18%	35%	32%	13%	23%	20%
19%	35%	33.5%	14%	24%	20%
20%	35%	35%	15%	25%	20%
21%	35%	35%	16%	26%	20%
22%	35%	35%	17%	27%	20%
23%	35%	35%	18%	28%	20%
24%	35%	35%	19%	29%	20%
25%	35%	35%	20%	30%	20%
26%	35%	35%	21%	31%	20%
27%	35%	35%	22%	32%	20%
28%	35%	35%	23%	33%	20%
29%	35%	35%	24%	34%	20%
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36%	35%	35%	31%	35%	20%
37%	35%	35%	32%	35%	20%
38%	35%	35%	33%	35%	20%
39%	35%	35%	34%	35%	20%
40%	35%	35%	35%	35%	20%

(1) Government Code §65915(f)(2)

(2) Government Code §65915(f)(1)

(3) Government Code §65915(f)(4)

(4) Government Code §65915(g)(1)

(5) Government Code §65915(f)(3); No affordable units are required for senior housing units to receive a density bonus.

**June 4, 2020**  
**ALUC Meeting**

**ITEM 2 -**  
**COMMUNICATION**  
**RECEIVED FROM**  
**THE PUBLIC**



June 1, 2020

Citizens for a Friendly Airport  
7040 Avenida Encinitas, Suite 104-467  
Carlsbad, CA 92011

San Diego Regional Airport Authority  
Airport Land Use Commission  
SDCRAA Administration Building  
3225 No. Harbor Drive  
San Diego, California 92101

Mailing Address  
SDCRAA  
P.O. Box 82776  
San Diego, CA 92138-2776

**c/o and Requested Distribution to Addressees Prior to Thursday June 4, 2020 meeting by Tony R. Russell, CRM, MMC. [clerk@san.org and SDCRAA General Phone: 619 400-2400] Director | Board Services/Authority Clerk**

Members: C. April Boiling (Chairperson), Catherine Blakespear, Greg Cox, Mark Kersey, Robert T. Lloyd, Paul McNamara, Paul Robinson, Johanna S. Schiavoni, Mark B. West and Ex-Officio Board Members: Gustavo Dallarda, Col. Charles B. Dockery, Gayle Miller AND President/CEO Kimberly J. Becker

SDRAA Legal Counsel: Amy Gonzalez. [Amy.Gonzalez@san.org]  
VIA: Attn: Ms. Diane Casey (Assistant to CEO Kimberly J. Becker [DCasey@san.org])

State of California  
Department of Transportation  
Division of Aeronautics  
P.O. Box 942873  
Sacramento, CA 94273-0001  
[General Info Phone: 916 654-2852]  
Attn: Amy Choi [CT Org Chart hard to read]  
c/o Cal Trans Director [See May 2020 CT org chart]

City of Carlsbad  
1200 Carlsbad Village Dr.  
Carlsbad, CA 92008  
FOR: City Council, City Manager, City Attorney  
c/o Carlsbad City Clerk  
Clerk@carlsbadca.gov

**Re: (1) Request for Continuance of ALUC Proposed Consistency Determination Scheduled for June 4, 2020 as ALUC Agenda Item 2 Re: Consistency of Carlsbad Zoning Density with 2010/2011 Palomar Airport Land Use Compatibility Plan; and  
(2) Request for ALUC Expedited Processing of an Update to 2010/2011 McClellan-Palomar Airport Land Use Compatibility Plan as a Result of County 2018 – 2038 Palomar Airport Master Plan and PUC and State Aeronautics Manual Requirements**

Ladies and Gentlemen:

On Friday May 29, 2020, Citizens for a Friendly Airport (C4FA) received SDCRAA ALUC notice of the ALUC's intent to act on ALUC Agenda Item 2 on June 4, 2020.

By ALUC Agenda Item 2, Carlsbad requests that the ALUC find that the Carlsbad zoning changes related to Carlsbad high density development are consistent with the development and operation of McClellan-Airport, a County of San Diego owned and operated airport. C4FA clearly disagrees with Carlsbad.

The Airport, though within Carlsbad, is surrounded by developable land in the cities of Carlsbad, Vista, and unincorporated areas of the County of San Diego.

C4FA requests a continuance until ALUC staff has prepared a report to the ALUC members analyzing the points below and until ALUC has given the public more time to review this matter.

Alternatively, if the ALUC proceeds with this item, we request that the ALUC deny a finding of consistency. The ALUC would not have enough data to determine whether the ALUC is complying with (1) the California Public Utilities Code (PUC) and (2) the State of California Aeronautics Manual, which State law requires ALUCs to follow, and (3) an UPDATED Palomar Airport LUCP.

Because Covid ALUC hearing restrictions make communicating orally with the ALUC and Carlsbad difficult, we request that this letter be read into the record at the ALUC June 4, 2020 meeting and all related meetings of the Carlsbad City Council. Only in this way, can we be assured that (1) our concerns have been recognized by ALUC members and (2) that members of the public who are able to watch a broadcast of the ALUC meeting are apprised of the specific C4FA concerns. Because this C4FA letter is from a group of citizens, we request the ALUC allow more than the ALUC-allotted 3 minutes to read the letter into the record.

The 2010/2011 McClellan-Palomar Airport LUCP is out of date for four reasons.

1. *The ALUC Failed to Update the Palomar Airport LUCP by 2016 and Failed to Conform to the State Aeronautics Manual.* As C4FA pointed out in great detail in its September 2018 twenty-nine page letter to the ALUC, the Palomar Airport 2010/2011 LUCP was out of date long before County adopted its October, 2018 new Palomar Airport Master Plan (PMP) to convert Palomar Airport from an FAA rated B-II airport to an FAA D-III airport. For purposes of the Administrative Record, we incorporate the C4FA September 2018 letter by reference.

According to the California Department of Aeronautics Manual, LUCPs should be updated every 5 years. Palomar Airport was due for an update in 2016 – especially since it appears that the SDCRAA ALUC 2011 update was made shortly after the ALUC assumed responsibility under State law from SANDAG. In other words, the newly created Authority and ALUC had little experience in preparing LUCPs at that time. Consequently, it overlooked various issues as C4FA pointed out in its 2018 letter.

2. *The ALUC Failed to Review the County 2018 Palomar Airport Master Plan (PMP) Prior to the Time the County Board of Supervisors Acted on its 2020 PMP and Related PMP EIR.*

The county and the SDRAA ALUC are denying the public a reasonable opportunity to comment on the consistency of proposed zoning changes by cities around Palomar Airport with a CURRENT Palomar Airport LUCP. Just a few facts supporting that conclusion include the following:

- The ALUC is not a Neutral Arbiter of Consistency Issues. In 2010, the ALUC’s “parent,” the full SDCRAA adopted a Regional Strategic Airport Plan (RASP). The RASP lists many ways in which county airports, including specifically Palomar Airport, can expand. While we recognize that the SDCRAA is in the business of promoting airports, the SDCRAA has a PUC statutory duty to act impartially. Having adopted a RASP promoting airport expansions, the SDCRAA should not be undertaking ALUC actions that give the public only the barest notice related to an out-of-date Palomar Airport LUCP.
- The ALUC Failure to Review the County 2018 PMP Prior to Board of Supervisor PMP Action Denied County and the Public 1/8 of the Information that County’s PMP Promised to Provide the Public. When circulated, the County’s PMP and PMP EIR expressly promised the public and reviewing public agencies that County would analyze 8 distinct issues.

One specifically listed issue was the impact of the Palomar Airport D-III conversion and construction of \$100,000,000 plus of Palomar Airport runway extensions and runway relocation improvements on the noise and safety of surrounding communities.

The PUC expressly delegates to ALUCs the duty to prepare Land Use Compatibility Plans so that private and public owners near an airport know if development of their lands will be restricted by noise and safety zones.

Because the ALUC failed to timely act, the County PMP and PMP EIR provide no specific information as to how County Palomar Airport expansion affects development of land parcels outside the airport that will be restricted.<sup>1</sup>

- We understand that the PUC and/or State Aeronautics Manual require an airport owner and operator to submit proposed airport changes to the ALUC prior to the time the owner/operator adopts its plan. That requirement suggests that the Cal Trans Division of Aeronautics expected airport owners and operators to receive

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<sup>1</sup> County and Carlsbad often say Palomar Airport improvements will again be reviewed in the future and hence the 2018 County PMP does not by itself impact safety and the environment. That argument fails for two reasons. First, no one will ever know whether the Supervisors would have adopted the 2018 PMP in the format proposed – which governs Palomar Airport development for 20 years – if the noise and safety impacts on surrounding property owners were known. Those impacts could only be known if the ALUC had timely acted to update the Palomar Airport LUCP. Secondly, the County and Carlsbad argument that the 2028 PMP does not trigger impacts until Palomar Airport physically expands conflicts with an ongoing County and Carlsbad argument. They say that the county cannot limit the size and speed of aircraft using Palomar Airport. Since at least 1990 County has been attracting FAA-rated C and D larger, faster, more fuel-laden airport to Palomar. The Palomar Airport runway does not meet FAA Design Manual requirements for such aircraft. Hence, the existing ALUC LUCP is out of date.

ALUC input before adopting proposed plans. However, county submitted its 2018 PMP to the ALUC only about two weeks before county's Board of Supervisor PMP adoption. We are not aware of any substantive comments that the ALUC has provided to county regarding an updated LUCP as of May 2020.

3. *The ALUC has Failed to Timely Update the ALUC 2010/2011 Palomar Airport LUCP.* Almost two years have passed since C4FA's September 2018 letter to the ALUC noting Palomar Airport LUCP deficiencies and since the Board of Supervisor's October 2018 adoption of its 20-year Palomar Airport Master Plan. And, we understand that the county's proposed 2018 PMP was available to ALUC staff in draft in 2017. Having ignored 3 years of lead time, the ALUC cannot claim in good faith that it is maintaining a CURRENT LUCP that fairly appraises property owners near Palomar Airport of the noise and safety ALUC zone restrictions on their property. In the meantime, many property sales could be occurring substantially affecting buyers and sellers.

The City of Carlsbad, the County of San Diego, and the ALUC are well aware of the problems that lack of ALUC transparency has caused to private property owners surrounding Palomar Airport. We understand that several land parcels just west of Palomar Airport resulted in several proceedings and lawsuits against Carlsbad, the County, and the ALUC from 2014 to 2020.

In a lawsuit concerning 5817 Dryden Place, Carlsbad, CA, the plaintiffs alleged that as a result of the ALUC restrictions, which essentially converted the property from first class office space to a warehouse with very limited occupancy, their property had been unfairly taken and/or restricted. We understand that County bought the Dryden Place property for approximately \$6,000,000 to resolve this most recent lawsuit.

*IF the ALUC had given proper notices to property owners around Palomar Airport when the property was first restricted, the City of Carlsbad, the County, and the ALUC would have avoided hundreds of hours of effort, hundreds of thousands of dollars in attorney fees, and likely a County purchase price substantially below the \$6,000,000.*

4. *Lastly, the ALUC Fails to Provide Adequate Notice to Property Owners Surrounding Airports Who May be Impacted by ALUC Property Noise, Safety, and Occupancy Restrictions. Federal and State Constitutional Due Process Requires More than a Brown Act Blanket Notice of ALUC Agenda Items given to the community generally. The ongoing ALUC inadequate processes have caused prejudice to private property owners surrounding Palomar Airport as noted in the Dryden Place example above.*

For the above reasons, C4FA requests the ALUC continue its consistency review until ALUC staff may prepare a staff report for ALUC members as outlined in this letter or deny the finding of consistency as noted initially in this letter. Please especially note that a June 4, 2020 ALUC consistency determination would automatically fail to comply with county's current Palomar Airport Master Plan, which the county adopted in 2018 and for which the ALUC has failed to designate noise and safety zones.

Thank you for your review and consideration of this letter.

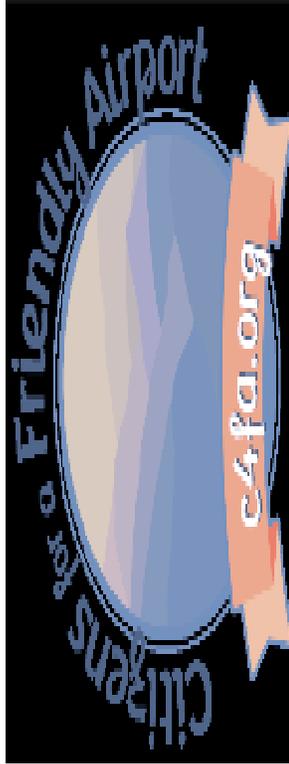
*Hope Nelson*

C4FA by Hope Nelson. [Signing authority for HN given to Ray Bender]

ATTACHMENT: C4FA September 19, 2018 letter noted in text above.

Cc: Cory Briggs, Attorney for C4FA in pending actions with Carlsbad and County.

2020 5 SDCRAA ALUC Palomar Consistency Letter Final Final Final



September 19, 2018

Citizens for a Friendly Airport  
 7040 Avenida Encinitas, Suite 104-467  
 Carlsbad, CA 90211

San Diego Regional Airport Authority  
 Airport Land Use Commission  
 SDCRAA Administration Building  
 3225 No. Harbor Drive  
 San Diego, California 92101

Members: C. April Boiling, Greg Cox, Jim Desmond, Mark Kersey, Robert T. Lloyd, Paul Robinson, Johanna S. Schiavoni,  
 Michael Schumacher, Mark B. West and Ex-Officio Board Members: Tim Gubbins, Jacqueline Wong-Hernandez, Col. Jason Woodworth  
 President/CEO Kimberly J. Becker

SDRAA Legal Counsel: Amy Gonzalez  
 VIA: Attn: Ms. Diane Casey (Assistant to CEO Kimberly J. Becker [DCasey@san.org]) [Note: Email name and address we were given when  
 calling SDRAA today Wednesday, September 19.]

**Re: ALUC Processing of Update to 2010/2011 McClellan-Palomar Airport Land Use  
 Compatibility Plan As a Result of County 2018 – 2038 Palomar Master Plan**

Ladies & Gentlemen:

We understand that the County of San Diego Board of Supervisors will likely approve its twenty-year McClellan-Palomar Airport Master Plan and certify its Programmatic EIR on October 10, 2018. We also understand that the SD ALUC will be updating the 2010/2011 MP Land Use Compatibility Plan to comply with state requirements.<sup>1</sup>

The C4fa-detailed-comments follow in the table below. Please assure that these comments are considered by ALUC staff and the ALUC members when preparing the update.

But a few new comments are appropriate in light of county comments in the last week.

When preparing its MP LUCP update, the ALUC needs to look at the actual Palomar Master Plan (PMP) projects county proposes – as opposed to the labels that county is trying to give its PMP in its last minute effort to overcome public comments on its PMP and Draft PEIR. Here is why.

- *Palomar Critical Design Aircraft.* County's PMP concedes that more than 500 annual C and D operations have occurred at Palomar annually over the last 15 years. In fact, the number exceeds 10,000 annually in most years. The FAA requires the Airport Reference Code (ARC) to conform to the actual critical design aircraft. Yet county's recent papers suggests it may "maintain" Palomar as a B-II airport.
- *Runway Safety Area.* County has said in its PMP that it will ultimately place an EMAS [350-foot Engineered Materials Arresting System] at each runway end. However, county's PMP says it won't install the east end EMAS for at least 13 years. These facts make it apparent why county may want to continue to say Palomar is a B-II airport when the proper FAA critical aircraft design ARC designation is C. An FAA C designation requires 1000-foot runway safety areas (RSAs) at each end of the Palomar paved runway. Or an FAA-approved EMAS. County's clear desire – even with an initial 200-foot runway extension – is to operate without an east end EMAS. As a result an aircraft taking off toward the east and overshooting the runway travels into the Palomar Unit 3 19 acre runway east end landfill, which has a methane gas collection system beginning about 4 feet below the sandy surface.
- *PMP Wingspan Separation.* Quite clearly what county is trying to claim is that it is maintaining a B-II airport to soothe public objections but build projects to meet FAA ARC D requirements. The best example of this is county's plan to increase the

<sup>1</sup> The CalTrans State Aeronautics Handbook, which State law requires the ALUC to follow, recommends an update at least every 5 years. So the MP LUCP update was due several years ago, especially in light of the very substantial development of the vacant land around Palomar Airport and within 2 miles of it.

distance between the Palomar taxiway centerline and runway centerline so that larger C and D aircraft with wider wingspans can concurrently operate.

- *Runway Width.* The FAA requirement for runway width of a B airport is 75 feet to 100 feet. Yet county now has a 150-foot runway and will relocate the runway with a similar width.

Thank you for considering the C4fa comments. **Please confirm your receipt of this email and the distribution of the comments to Raymond Bender at [benderbocan@aol.com](mailto:benderbocan@aol.com) and 760 752-1716. We also request (1) actual notice of all meetings at which the ALUC will consider the MP LUCP Update and (ii) copies of all materials that ALUC provides ALUC members at least two weeks before the meeting at which the ALUC considers an MP LUCP update so that C4fa members have a fair opportunity to review the issues. That process will allow better C4fa input at the upcoming ALUC meeting considering the MP LUCP Update. We also request that the ALUC determine and provide actual notice to the property owners surrounding Palomar Airport that may be impacted by Updated ALUC MP LUCP noise and safety maps. As mentioned in the table below, we understand that some owners whose property was impacted by the 2010/2011 ALUC MP LUCP Update did not timely receive actual noise and were substantially adversely affected.**

**PLEASE ESPECIALLY NOTE THAT THE BELOW TABLE CONTAINS SEVERAL SCREEN SHOTS WHICH MAY TAKE A MINUTE TO APPEAR ON THE COMPUTER SCREEN. PLEASE ASSURE THE SCREEN SHOTS ARE PRESENT BEFORE REPRODUCING COPIES FOR THE INTENDED RECIPIENTS.**

**Comments of Citizens for a Friendly Airport (C4FA.org) on ALUC Update of  
2010/2011 McClellan-Palomar Land Use Compatibility Plan as a Result of  
County's New Twenty Year Palomar Master Plan**

Preliminary Comments:

- **C4fa.** Citizens for a Friendly Airport is a citizens group, whose members have provided comments to County and Carlsbad on (i) the March 2018 County PMP Programmatic EIR (PEIR); and (ii) the June 2018 County re-circulated portions of the PEIR.<sup>2</sup> C4fa maintains a website at C4fa to inform the public about the impacts of county's proposed Palomar Master Plan projects.

<sup>2</sup> After receiving comments from the city of Carlsbad's nationally recognized aviation law firm (Kaplan, Kirsch, and Rockwell) and the public, county in June 2018 requested further PEIR comments on biological, greenhouse gas (GHG), energy consumption, and Runway Protection Zone (RPZ) issues. By August 6, 2018 Carlsbad and the public again commented noting major deficiencies in the county PEIR assumptions, facts, methodologies, and analyses.

- **C4fa McClellan- Palomar Land Use Compatibility Plan [LUCP] Concerns.**

- Based on reviewing the process previously followed by the SDRAA ALUC, Carlsbad residents are concerned that the ALUC process does not sufficiently analyze or inform the public of ALUC restrictions on lands near the airport.
- For instance, at a Carlsbad Council meeting earlier this year, two businessmen appeared before the Council and noted (i) ALUC restrictions have caused them to lose more than \$1 million, essentially converting a first class office building, to use for limited storage and (ii) they became aware of ALUC LUCP restrictions incidentally, not by ALUC actual notice.
- The ALUC should assure that new ALUC restrictions resulting from the county 2018 PMP and/or Airport Layout Plan (ALP) are properly adopted with **actual notice** to the property owners who may be impacted so they can timely provide their input to the ALUC.

- **C4fa Public Input.** C4fa members have appeared before the Carlsbad City Council five times since February 2018 to provide the council information related to county's PMP and PEIR and also attended PMP workshops. County operates MP pursuant to Carlsbad CUP 172, which county says in its current PMP and PEIR, that county need not comply with.

- **Savecarlsbad.com** For the last two years, one C4fa member (Graham Thorley) has maintained the website [www.savecarlsbad.com](http://www.savecarlsbad.com) to inform the public of Palomar-related issues.

- **Carlsbadpatch.com & San Diego Free Press Palomar Info.** For the last four years, one C4fa member (Ray Bender) has posted more than 200 articles on Carlsbadpatch.com related to Palomar developments and had seven articles published in the San Diego Free Press related to Palomar issues.

- **The 3 PMP Projects.** The county 2018 PMP proposes three basic Palomar Airport expansion projects:

- **D-III Conversion:** Converting Palomar from an FAA-rated B-II airport to a D-III airport to handle a higher percentage of corporate jets and passengers by regularly scheduled air carriers. County forecasts a future passenger level of 304,000 to 575,000 depending on marketing success. In December 2016, Supervisor Horn stated it was

time for Palomar to replace the GA aircraft with the larger, faster commercial aircraft. **Attachment A** to these comments provides a transcript of Mr. Horn's comments, which advise small aircraft to move to other airports.<sup>3</sup>

- **200-foot Runway Extension & West End EMAS & East End RSA (Near Term).**
- **Runway Relocation north about 100 feet, and a total either 800-foot extension or 900-foot extension from 4900 feet to 5700 or 5800 feet, and EMAS at both west and east ends (Longer Term).** County's PMP and PEIR conceal the 900-foot extension (rather than 800-foot extension) in the following way.

- **At the December 15, 2016 BOS meeting, four of the five BOS members accepted the SD consultant Kimley-Horn recommendation for an up to 800-foot extension.** Supervisor Horn did not he pressed the consultant to come up with an extra 100-feet.
- **On the surface, the 2018 PMP projects refer to an up to 800-foot extension.** However, Kimley-Horn as directed by Supervisor Horn suggested a massive west runway end retaining wall costing about \$12 million in order to create additional land.
- **County in the past, without any fanfare or notice to the SDCRAA ALUC increased the Palomar runway from 4700-feet to the current 4900-feet.**
- **In other words, quite clearly what the BOS intends to do is approve an unneeded west end \$12 million retaining wall so that county at some time in the future with a CEQA negative declaration can add 100 feet to its then 800 cumulative extension.**
- **CONCLUSION: The ALUC needs to pin the county down or simply analyze a 900-foot runway extension rather than an 800-foot runway extension.**

- **D-III Conclusion:**
- **Although county in the last week has suggested it might label Palomar as a B-II airport, its PMP makes clear that it is undertaking improvements for a D-III airport. The PMP improvements documenting that include D-III sized runway lengths and widths; installing 350-foot EMASs [eventually] in lieu of 1,000 foot RSAs to meet D-III FAA RSA requirements; building a \$12 million runway west end massive retaining wall, which is not needed for an 800-foot runway extension but is needed for a 900-foot runway extension; and installing \$8.6 million of navigational aids. As noted initially above, judge county not by its labels but by the actual improvements it intends and passenger levels it forecasts, which determine the size of the ALUC-designated noise and safety areas.**

<sup>3</sup> As the SDCRAA recognized when it prepared its 2010 Regional Airport Strategic Plan (RASP), the SDCRAA can divert aircraft from Lindbergh Field by changing rate structures that discourage Lindbergh Field use and encourage aircraft to Palomar. This is just one example of how increased FAA-rated C and D aircraft using Palomar will displace the smaller general aviation aircraft.

- **Specific McClellan-Palomar Land Use Compatibility Plan Issues.** C4fa members have reviewed the 2010/2011 McClellan-Palomar LUCP. Based on that review, we request that ALUC staff discuss the below issues in its report and recommendation to the ALUC members when considering how to update the 2010/2011 MP LUCP.
- **Table Part A below discusses specific ALUC compatibility issues that the county PMP project elements raise. Table Part B below indicates why various sections in the ALUC 2010/2011 MP LUCP require updating.**

**PART**

**LUCP Issues raised by the County 2018 PMP Project Elements**

**Preliminary Note:**

The SDCRAA ALUC airport Land Use Compatibility Plan (LUCP) process follows the guidance set forth in the CalTrans Division of Aeronautics “*California Land Use Planning Handbook*.” In § 2.4.2 entitled *ALUCP Amendments* at page 2-9, the Handbook states: “*A comprehensive review and update is recommended at least every five years. The ALUC last updated the McClellan-Palomar LUCP in 2010/2011, about 7 years ago.*”

As noted below, in the last 12 months alone, Carlsbad has authorized construction projects within 3 miles of the airport totaling more than 1,000,000 square feet. Accordingly the ALUC should be starting a “comprehensive” MP LUCP review even before county submits its proposed \$110,000,000 Twenty-Year Palomar Master Plan project expansion.

Also, note that when the ALUC last updated the MP LUCP, the ALUC used the Cal Trans 2002 Handbook edition. [See § 1.2 at page 1-4 of 2010/2011 MP LUCP.]

In short, a new ALUC analysis redefining airport-related noise and safety zones needs to take into account (i) considerable Carlsbad development near the airport, (ii) the latest requirements of the 2011 Cal Trans Handbook, and (iii) county’s desire to both extend its runway 800-feet over a methane emitting landfill and to relocate the runway and convert Palomar from an FAA-rated B-II airport to an FAA-rated D-III airport.

#	Issue	Old v. New and/or	Requested ALUC Analysis & Points to be Considered
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1	Runway Size	Clarifications	<ul style="list-style-type: none"> <li>• Advise how the 5 existing noise areas and 5 existing safety areas will change</li> <li>• Points to consider include: <ul style="list-style-type: none"> <li>○ <b>Post 2010 Carlsbad Development.</b> Carlsbad has permitted many hotels and developments just south of Palomar Airport Road (PAR) within 2 miles of MP since the 2011 LUCP;</li> <li>○ <b>D.R. Horton Runway Approach Development.</b> As these comments are written, D.R. Horton is building many new townhouses directly within the Palomar east approach path;</li> <li>○ <b>20-Fold Forecasted Increase in Passenger Traffic.</b> County forecasts air carrier annual passenger increases from less than 15,000 today to between 304,000 and 575,000 in its twenty-year plan<sup>4</sup>.</li> <li>○ <b>Displacement of GA Aircraft and Upward Swing in FAA-Rated C and D Aircraft.</b> Supervisor Horn at a Board of Supervisor meeting set a goal of displacing general aviation aircraft in favor of commercial aircraft. [See our Table Attachment A, Horn 12/15/16 Transcript.]</li> </ul> </li> </ul> <p>When FAA-rated A and B aircraft crash, they carry comparatively few people and comparatively little fuel. When FAA-rated C and D aircraft crash, they typically carry far more people and fuel and crash at faster speeds. The table below provides a rough listing of fuel and passenger loads. In the last four years, Palomar has handled few air carriers and very light passenger loads. Most B and C aircraft operations were corporate with the aircraft carrying 2 to 8 people. As the table shows, as aircraft size, speed, and fuel carriage increases, the aircraft in a crash is a bigger bomb capable of causing great damage. The many manufactured housing units about 2 miles east of the Palomar Airport runway would easily be destroyed by a large</p>
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<sup>4</sup> As the current MP LUCP notes (See C-5 of Appendix C) ALUC-designated safety zones take into account harm to aircraft occupants as well as safety on the ground.

aircraft crashing into the mobile home park.

**REQUEST: When calculating its new MP LUCP safety areas, the ALUC should include its own Risk Safety Table showing how converting Palomar from a B-II airport to a D-III airport or D-III airport and changing the aircraft mix will increase safety concerns. How will the size of the impact areas and dispersion areas change with D-III aircraft v. A or B aircraft?**

Comparative Risks: A v. B v. C v. D Aircraft				
Size	Max Take Off Weight	Max Approach Speed (knots)	Max People at Risk on Aircraft	Max Fuel Load (lbs.) and (gal)
A	2,750 pounds	91	2	432 (72 gal)
B	?	121	30	
C	?	141	60	?
D	91,000 pounds	166	110	41,300 (6,883 gal)

- Advise how the 5 noise and 5 safety areas will change again when county both shifts its runway north and extends the runway 800 feet in total.

- Points to Consider – in addition to those in Item 1 above – discuss the issues below.
  - **Added Threats to ECR Traffic.** With the existing 4900-foot runway, landing aircraft touch down about 1200 feet from ECR. With a 5700-foot runway, landing aircraft will touch town about 400 feet from ECT. At an approach speed of 166

Phase 2: 100-foot North Relocation and Rebuild: 4900-foot to 5700 feet<sup>5</sup>

Runway Size

2

<sup>5</sup> We are aware that the 2010/2011 MP LUCP refers to the ALUC analyzing runways in the range of 4,000 to 6,000 feet in length. However that analysis involved a B-II airport serving 90% small GA aircraft with comparatively few passengers. As noted in the table above, a Palomar Airport handling predominantly B, C, and D aircraft and hundreds of thousands more passengers raises entirely different safety considerations.

			<p>knots, the aircraft travels about 280 feet per second. So an 800-foot extended runway will place 100,000 pound landing aircraft about 1.5 seconds from ECR traffic. It appears that landing aircraft would be about 100 feet above ECR car and truck roofops. When updating the MP LUCP, please provide the accurate data to replace our estimated data and assess the increased risk.</p> <ul style="list-style-type: none"> <li>○ <b>Added Threats to Areas North of Relocated Runway &amp; Taxiway.</b> Relocating the runway north removes north Palomar Airport aircraft parking. That movement combined with faster, larger aircraft increases the chance of an errant aircraft sliding into private property north of the runway. Assess this risk.</li> <li>○ <b>Changes in Risks Resulting from EMAS Installs.</b> Palomar now has no Engineered Material Arresting Systems (EMASs). County plans to install two EMASs, one at each relocated runway end (with the east end EMAS delayed about 15 years.) EMASs are meant to control rolling aircraft (at the end of takeoff or end of landing) traveling no more than about 70 knots). However, an EMAS install requires the county to designate a “buffer” area between the interior EMAS and runway-landing threshold. In short, the landing runway threshold will be displaced to assure landing aircraft touching down at 121 to 166 knots do not enter the EMAS closest to landing. Accordingly, the threshold displacement alters the approach RPZ area. In the updated MP LUCP, distinguish the approach and departure RPZs and explain how county PMP project changes affect their designation.</li> <li>● <b>REQUEST: In the updated MP LUCP, address the issues discussed above.</b></li> </ul>
3	County-Designated RPZ Areas	County's June 21, 2018 Re-circulated PEIR RPZ Areas	<ul style="list-style-type: none"> <li>● County's June 21, 2018 Re-circulated PEIR parts includes redrawn RPZs for various Palomar Airport alternatives. For the many reasons set forth in our August 2018 comments, to the county PEIR re-circulation, the county-depicted RPZs are incomplete and often misdrawn. See the Bender comment Items 31 – 43 at pages 51 – 75 of the Comments on the County Re-circulated PEIR portions. We mailed hard copies of our comments to the ALUC during the week of August 6. The ALUC also has our binder comments from March 2018, which describe in detail why county's PMP and PEIR fail to comply with Government Code Planning and Zoning requirements, which we understand the ALUC needs to review to find that the County General Plan is consistent with the ALUC Updated 2018 MP LUCP.</li> </ul>

		<ul style="list-style-type: none"> <li>• Rather than repeat all of our PMP PEIR RPZ comments, we incorporate them by reference. In sum: <ul style="list-style-type: none"> <li>○ County is incorrect when it suggests that future RPZ areas will be smaller than current RPZ areas. The increased airport mix of faster, larger aircraft will enlarge the areas. If the ALUC disagrees, please explain in your updated MP LUCP.</li> <li>○ In preparing the RPZ areas, county has failed to properly account for EMAS installations and EMAS/runway buffer areas.</li> <li>○ County has failed to provide drawings actually showing the property owners impacted by new RPZs.</li> </ul> </li> <li>• <b>REQUEST: In the updated MP LUCP, address the issues above.</b></li> </ul>
4	Passenger Load and Larger Aircraft	<ul style="list-style-type: none"> <li>• Increase from 15,000 to as much as 575,000</li> <li>• The ALUC 2010/2011 MP LUCP refers to a then existing 15,000 annual Palomar passengers with projected passengers of 35,000.<sup>6</sup></li> <li>• County's 2018 PMP forecasts a low passenger range by 2036 of 304,000<sup>7</sup> (county's PAL 1) annual passengers and a high of 575,000 (county's PAL 2).<sup>8</sup></li> <li>• <b>REQUEST: The ALUC Updated 2018 MP LUCP needs to assess the increased passenger risk resulting from:</b> <ul style="list-style-type: none"> <li>○ Up to 15 to 20 times as many passengers being handled; and</li> <li>○ Passengers using 100 seat aircraft rather than 30 to 50 seat aircraft, which means crashes will occur with substantially more fuel aboard and likely at faster speeds.</li> </ul> </li> </ul>
<b>PART B</b> <b>Comments on Sections in the ALUC 2010/2011 MP LUCP Requiring Updating</b>		

<sup>6</sup> See MP LUCP, Table IV-2 at page 4-13.

<sup>7</sup> See 2018 PMP, Table 3.17 at page 3-33.

<sup>8</sup> See 2018 PMP, page 4-2 and county based this number on an earlier ALUC RASP.

**Comments on ALUC 2010/2011 MP LUCP Chapter 1 entitled *Introduction***

1	§ 1.1, Overview p. 1-1	<ul style="list-style-type: none"> <li>• Compatibility v. Consistency</li> </ul>	<ul style="list-style-type: none"> <li>• <b>ALUC Terminology: Compatibility v. Consistency.</b> Throughout the LUCP, the ALUC uses the terms “compatibility” and “consistency.” ALUC does not well define the difference between the terms. Clarification would be helpful. <ul style="list-style-type: none"> <li>○ We understand “compatibility” to focus on whether local community land use policies around Palomar are compatible with the standards established in the Cal Trans, Division of Aeronautics, Land Use Planning Handbook and the standards that ALUC establishes.</li> <li>○ In contrast, we understand the term “consistency” to focus on whether (i) local community-adopted General Plans are “consistent” with the ALUC-established airport compatibility standards or (ii) inconsistent because a local entity has qualified its acceptance. . .</li> <li>○ We especially focus on this issue as a result of a C4fa member conversation with ALUC staff last year. In that conversation, the staff member was especially sensitive to the use of these two different terms. We wish to be accurate. Precise guidance would be helpful.</li> </ul> </li> <li>• <b>REQUEST: If our understanding of the meaning of the two terms is incorrect, please clarify the correct use of these terms in the ALUC updated MP LUCP. If our understanding is correct, revise the MP LUCP to more clearly make the distinction. Consider supplementing the ALUC MP LUCP definitions, which occur later in § 2.2.</b></li> <li>• <b>MP LUCP Statutory References.</b> The MP LUCP Appendix A reproduces various laws. It would be helpful if the MP LUCP crossed referenced Appendix A when citing the law.</li> </ul>
	§ 1.1.2 Statutory Requirements p. 1-2 et	<ul style="list-style-type: none"> <li>• PUC References</li> <li>• ALUC – FAA Jurisdictional Issue</li> </ul>	<ul style="list-style-type: none"> <li>• At p. 1-3, the MP LUCP notes that the “<i>ALUC has no jurisdiction over federal lands.</i>” Due to the 2018 county PMP projects proposed, interesting issues arise as to how the foregoing limitation impacts ALUC noise and safety areas for the following reasons: <ul style="list-style-type: none"> <li>○ <b>FAA Leased Lands.</b> The ALUC needs to clarify what “<i>federal lands</i>” means. The</li> </ul> </li> </ul>

seq	<p>FAA does not own the MP northeast parcel at El Camino Real (ECR) and Palomar Airport Road (PAR). However, the 2018 county PMP lists among the projects that will be carried out the installation of \$8.6 million dollars of navigational improvements that will be necessary on the northeast parcel as a result of county extending its runway 800 feet eastward. County leases various land areas on the northeast parcel to the FAA. <b>Question: Are lands leased to the FAA within ALUC jurisdiction? Are lands leased to the FAA within the city of Carlsbad land use jurisdiction?</b></p>	<ul style="list-style-type: none"> <li>○ <b>RPZs.</b> If lands leased to the FAA are not within ALUC jurisdiction, how does that conclusion impact, if at all, the designation of RPZ zones and other safety zones that the ALUC designates in its updated MP LUCP? We understand that in the past, the ALUC – when determining the five safety zones around Palomar – has included the northeast parcel as the Runway Protection Zone (RPZ)</li> </ul>	<ul style="list-style-type: none"> <li>● <b>REQUEST: In the updated MP LUCP, explain:</b> <ul style="list-style-type: none"> <li>○ <b>Whether the ALUC does or does not have jurisdiction over lands that the county leases to the FAA for navigational aids and provide the FAA correspondence confirming the ALUC’s conclusion.</b></li> <li>○ <b>Whether and how such leased land impacts the ALUC designation of MP LUCP noise and safety zones.</b></li> </ul> </li> </ul>
		<ul style="list-style-type: none"> <li>● <b>ALUC NOTICES TO PROPERTY OWNERS.</b><sup>9</sup> MP LUCP § 1.1.2 discusses laws applicable to the ALUC creating an MP LUCP but says nothing about what notices the land owners affected by ALUC designation of noise and safety zones are entitled to. The importance of this issue is shown by recalling recent history.</li> </ul>	<ul style="list-style-type: none"> <li>○ <b>Adversely Affected Landowners.</b> We understand that several months ago several businessmen owning land within MP LUCP land-restricted areas appeared before the Carlsbad city council. They noted that ALUC restrictions had greatly restricted the</li> </ul>
		<ul style="list-style-type: none"> <li>● <b>Public Notice Issues Related to ALUC Adoption of MP LUCP</b></li> </ul>	

<sup>9</sup> The C4fa comments are general in nature. No attempt is made to analyze legal issues. We note though that the ALUC restricting land uses around Palomar without first giving actual notice to known property owners in a relatively restricted area seems to raise federal and state due process issues similar to those arising in condemnation and inverse condemnation actions.

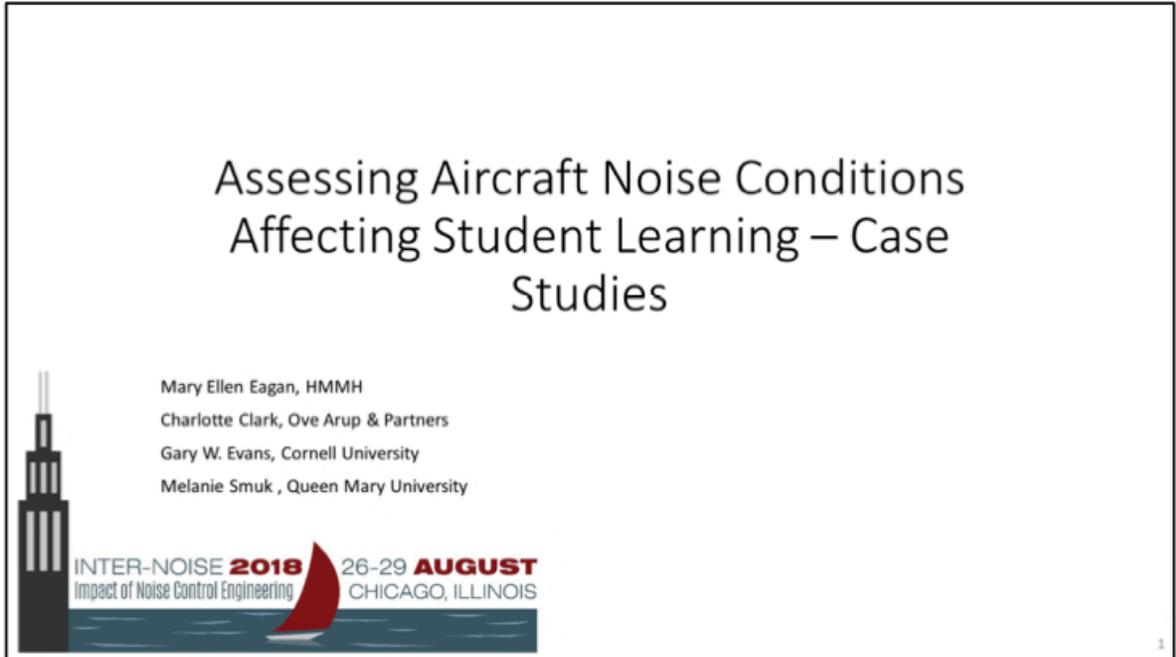
				<p>value of their office facility, perhaps by as much as \$ 1 million. They indicated they had never been given actual notice of the restrictions. The Carlsbad Council refused to grant a variance for use of the property.</p> <ul style="list-style-type: none"> <li>○ <b>Due Process Standard.</b> We have no idea what the ALUC position is on this issue. Perhaps it is (i) the ALUC has no obligation to give actual notice to affected property owners or (ii) constructive notice by publication in newspapers is adequate. C4fa has no notice of what the legal standard is. And that is precisely the point. The ALUC is undertaking regulation without fully informing those regulated what their rights are. If the ALUC is constructively taking property by regulation, property owners should be given actual notice so they can appear at the ALUC meeting at which their property interests may be adversely affected.</li> <li>● <b>REQUEST: In §1.1.2 of the updated MP LUCP, explain what notices the ALUC will give to property owners affected by its proposed noise and safety zone designations. If the ALUC position is that no actual notices are required, explain why not. Also state the newspapers that the ALUC does use when it publishes notices of its actions.</b></li> </ul>
<b>Comments on ALUC 2010/2011 MP LUCP Chapter 2 entitled <i>Airport Land Use Commission Policies</i></b>				
2	<p>§ 2.2.14 CNEL p. 2-3</p>	<ul style="list-style-type: none"> <li>● Berkeley Keep Jets Over the Bay, 111 Cal.Rptr.2d 598 SNEL</li> </ul>	<ul style="list-style-type: none"> <li>● The MP LUCP states in § 2.2.14 that CNEL is the land use metric adopted by the State of California for land use planning. State law includes both legislative and court made law. In <i>Berkeley Keep Jets Over the Bay</i>, the court concluded that airport planning also required analysis of Single Noise Events (SNELs). The MP LUCP definitions in § 2.2 do not address this issue.</li> <li>● <b>REQUEST: In its updated MP LUCP, explain how the ALUC will consider the SNEL analysis issue in its analysis now that the court has required it. In that discussion, explain how SNELs affect student learning. See for instance the August 2018 report entitled “Assessing Aircraft Noise Conditions Affecting Student Learning – Case Studies” by Arup and Partners and Cornell University and Queen Mary University. We reproduce the cover page from the report below to aid you in finding it.</b></li> </ul>	

§ 2.4  
Airport  
Impact  
Types,  
p. 2-10  
and §3.6  
Over-  
flights at  
pp. 3-55  
et seq

- Overflights

**Recall also that the ALUC has identified its responsibility to assess the impacts of aircraft Over flights. [ See MP LUCP p. 2-11; MP LUCP §2.4.2(d)]. In MP LUCP § 3.6, the ALUC does discuss overflight policies. However, the ALUC in essence simply says that if you are a property buyer and get notice that an airport is nearby, the ALUC has satisfied its obligation because the State dictates such notice.**

**But telling property owners that the airport may affect their homes is entirely different from forewarning them that their children’s education may be impacted – as the noted report documents.**



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- **Overflights.** Various MP LUCP sections, including § 2.4.1 and § 3.6, refer to aircraft overflights as one of the four ALUC concerns. In a nutshell, the ALUC says it can do little if anything about such flights. Perhaps the ALUC could improve its analysis. For instance general aviation over flights dump lead from leaded aviation fuel on houses below.<sup>10</sup>

- **Overflights trigger both noise and safety concerns.** Neither the FAA, nor county, nor ALUC describe what over flights are proper and which are not.
- We suspect that few if any ALUC Board members could explain when overflights violate the law by being too low as related to the distance of aircraft taking off and arriving at Palomar. We did not see anything in the MP LUCP, which explains this.

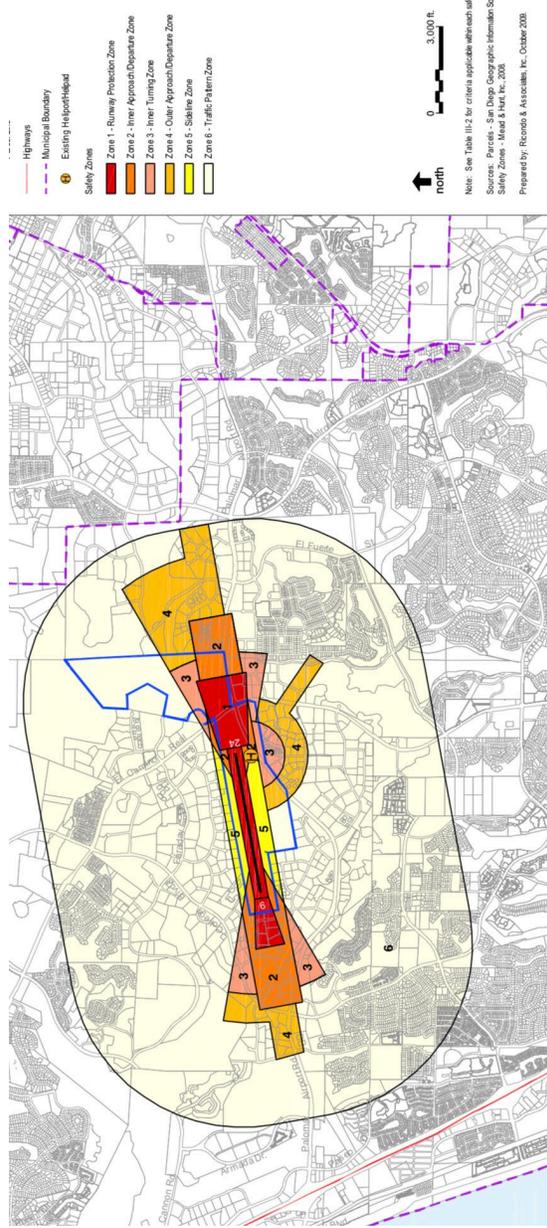
- **REQUEST: In the ALUC MP LUCP, state (i) when aircraft arriving at and leaving Palomar Airport are deemed to be too low and hence raise safety concerns, (ii) the written source of the info that the ALUC is using, and (iii) the official complaint procedure with contact info that concerned members of the community may use when such situations occur.**

**From the perspective of C4fa, the ALUC shirks its duty if its response is: Talk to the FAA or Talk to the County. We understand that the answer to the foregoing question needs to relate the aircraft altitude to its distance from Palomar and perhaps to the type of aircraft (FAA-rated A, B, C, or D).**

<sup>10</sup> Because the use of leaded aviation fuel is so bad, we understand that the present FAA target to eliminate the sale of leaded aviation fuel is December 2018. However, private GA pilots tell us that leaded additives are readily available and when the sale of leaded aviation fuel is eliminated, they will simply use the additives – rather than buying a new engine or retrofitting their old engines at substantial cost.

Also, provide an answer in terms of meaningful street locations. An answer along the lines of: *Aircraft departing Palomar must be at least x feet above mean sea level when more than y miles from the airport does not tell the reader where the x mile limit is. The ALUC can accomplish that by including in its updated MP ALUC Thomas Guide Atlas maps with appropriate radii from the airport shown.*

- The ALUC 2010/2011 MP LUCP Exhibit III-2 [“Compatibility Policy Map Safety] shows the ALUC Safety Zone 4 stopping just shy of the Vista Municipal boundary. If the Palomar runway is extended 800-feet to the east, it appears based on the Exhibit III-2 scale that property owners within the city of Vista will be impacted. The colored LUCP Exhibit III-2 provides better information but a reproduced black and white Exhibit III-2 is reproduced below.



Consistency of  
Vista General  
Plan with ALUC  
Compatibility  
Plan

§2.4 and  
§ 2.6.1  
and § 2.8  
and § 2.9  
and §  
2.12

	<p>2.4 and § 2.6.1 and § 2.8 and § 2.9 and § 2.12</p>	<p>Consistency of County General Plan with ALUC Plan Compatibility Plan</p>	<ul style="list-style-type: none"> <li>• Based on the county 2018 Palomar Master Plan, it appears the ALUC needs to resolve an issue it has not previously recognized. <ul style="list-style-type: none"> <li>○ Note from the MP LUCP Exhibit III-2 above that the county airport has an irregular parcel outlined in blue (in the original drawing) in a north-south orientation.</li> <li>○ This irregular parcel crosses the Runway Protection zone and safety zones 2, 3 and 4.</li> <li>○ That parcel is on the Northeast corner of El Camino Real (ECR) and Palomar Airport Road (PAR).</li> <li>○ In theory, county operates Palomar Airport pursuant to Carlsbad Conditional Use Permit (CUP) 172. However – <ul style="list-style-type: none"> <li>▪ The Carlsbad CUP 172 boundaries [as shown in a CUP attachment] do not extend across El Camino Real to the Northeast airport parcel.</li> <li>▪ Moreover, County in its 2018 PMP and in related statements has said that it is not bound to comply with Carlsbad planning or zoning because county is a superior governmental entity.</li> </ul> </li> <li>○ Although county has adopted a General Plan as required by the Government Code, the GP on its face states that it applies to the unincorporated areas of the county.</li> <li>○ Accordingly, if county wants to build any structures within the irregular parcel outlined in blue noted above – which county owns – there is neither a Carlsbad General Plan nor a County General Plan.</li> <li>○ Conclusion: Until either (i) county says any structures it wishes to place within the irregular blue shaped area are subject to Carlsbad Planning and Zoning or (ii) county amends its General Plan in accordance with Government Code requirements to apply county planning and zoning to the affected area, it would be impossible for the ALUC to make the statutorily required finding of consistency with the ALUC’s updated MP LUCP.</li> <li>○ Note: The same issue applies at Gillespie Field and should be addressed in the Gillespie LUCP.</li> </ul> </li> <li>• <b>REQUEST: In the Updated MP LUCP, advise (i) how the county PMP projects will impact Vista residents and (ii) what actual notices the ALUC will give to Vista property owners impacted by the county Palomar Runway extension.</b></li> </ul>
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		<ul style="list-style-type: none"> <li>• <b>REQUEST: In the Updated MP LUCP, advise how the ALUC will address the issue of county placing structures in the irregularly shaped blue area noted above when structures in this area exist in a “No Man’s Land” currently not regulated by Carlsbad (because the county denies the Carlsbad jurisdiction) and not regulated by the county because the county plan applies to unincorporated areas of the county and the relevant area is with the boundaries of the city of Carlsbad.</b></li> </ul>
<p><b>Comments on ALUC 2010/2011 MP LUCP Chapter 3 entitled <i>McClellan-Palomar Airport Policies and Maps</i></b></p>		
<p>3 § 3.2 § 3.2.1 § 3.2.2</p>	<p>Compatibility Zone Designation</p>	<ul style="list-style-type: none"> <li>• These sections seem inconsistent for these reasons: <ul style="list-style-type: none"> <li>○ § 3.2.1 suggests that the 2010/2011 MP LUCP is based on the FAA approved 2008 ALP, which refers to an ultimate ARC of C-II.</li> <li>○ § 3.2.2 in contrast refers to ALUC-designated safety zones based on “general aviation” aircraft [as opposed to commercial sized aircraft].</li> <li>○ The risk to people on the ground in safety zones and the size of the crash debris field increase dramatically as aircraft increase in weight, fuel carried, and speed.</li> <li>○ Similarly, the risk to people in a crashing aircraft increase dramatically depending on whether an FAA-rated 90,000 pound aircraft carrying 6,000 pounds of fuel, and traveling faster carries 5 corporate passengers or 100 commercial air carrier passengers.</li> <li>○ In short, did the ALUC 2010/2011 safety zones analysis base its zone designations on the 10,000+ larger aircraft then using Palomar [despite the inaccurate designation of the critical design aircraft as the Falcon] or only on the “general aviation” aircraft that the 2010/2011 MP LUCP refers to? Where is the supporting proof and calculations of the crash debris fields to support the ALUC conclusion?</li> </ul> </li> <li>• <b>REQUEST: In the Updated MP LUCP (i) address the issues noted above and (ii) rather than referring to “general aviation” aircraft, provide a table showing the heaviest, most fuel laden, and fastest aircraft used to determine the crash safety areas and debris fields. Also in a technical Appendix provide the assumptions, methodology, and</b></li> </ul>

			computer model used to determine the noise and safety zones so that a consultant retained by the public may review them.
§ 3.2.2	Runway Length and Orientation		<ul style="list-style-type: none"> <li>• <b>REQUEST:</b> Because county plans to relocate its runway northward, and hence change the orientation of the runway, which the ALUC analyze in 2010/2011, in the Updated MP LUCP, show how the safety areas change. Presumably, that analysis means increasing the restrictions on some property owners and reducing the restrictions on others. Likely, such changes will have a material financial impact on such owners. Accordingly, in the Updated MP LUCP, provide maps and lists of property owners impacted to assure that such property owners received proper procedural due process of the intended changes.</li> </ul>
§ 3.3	Noise Compatibility Policies for McClellan-Palomar Airport		<ul style="list-style-type: none"> <li>• The ALUC noise analysis applies CNEL principles only. In <i>Berkeley Keep Jets Over the Bay</i>, 111 Cal.Rptr.2d 598, the California courts imposed an additional noise analysis requirement to account for numbers of Single Noise Event Levels (SNEL).</li> <li>• <b>REQUEST:</b> In the Updated MP LUCP also provide a SNEL analysis especially as it relates to Carlsbad schools near the airport. As noted in Item 2 at page 14 above a 2018 study of the impact of noise on schools shows that student learning can be substantially disrupted by aircraft noise. If the ALUC does not provide an SNEL analysis, explain why so that the issues are properly framed for court review.</li> </ul>
<b>Comments on ALUC 2010/2011 MP LUCP Chapter 4 entitled Background Data: McClellan-Palomar Airport and Environs</b>			
4	Table IV-2 at p. 4-13 and 4-14	Enplanements	<ul style="list-style-type: none"> <li>• Note that the 2010/2011 MP LUCP assumed 15,000 to 35,000 annual enplanements whereas the 2018 PMP forecasts 304,000 to 575,000 annual enplanements.</li> <li>• In other words prior Palomar operations endangered about 30 persons per aircraft and forecasts about 100 persons per aircraft being endangered.</li> </ul>

		<p>Metroplex Flight Path Changes</p> <p>Helicopter flight path changes resulting from new hospitals and schools.</p>	<ul style="list-style-type: none"> <li>• In addition the increased passenger load means higher numbers of larger, faster, more fuel-laden aircraft flying, which changes the size and shape of the crash debris zone.</li> <li>• Note also that the FAA’s implementation of NextGen [which fans out flight paths over a broader area as reflected by noise suits against the FAA from communities now suffering noises in neighborhoods not formerly in issue] changes the Flight Track usage at Table IV-2 on page 4-14, which the ALUC relied on to prepare its 2010/2011.</li> <li>• Also, Table IV-2 at page 4-15 relied for its analysis on the location of certain hospital and schools. We understand that in the last 8 years, more schools and hospitals have been built and presumably will be addressed in the Updated MP LUCP since crash locations for helicopters ferrying patients will change.</li> </ul>
<p>Table IV-3 at p. 4-23 and 4-24</p>	<p>Improvements near runway</p> <p>County General Plan Consistency</p>	<ul style="list-style-type: none"> <li>• Table IV-3 is seriously out of date. In the last 4 years alone, Carlsbad has approved major commercial (many hotels) and residential units within 2 miles of an extended Palomar runway. The new ViaSat HQ campus alone is nearly 1,000,000 square feet.</li> <li>• The ALUC information in Table IV-3 at p. 4.24 related to the County General Plan confuses us. <ul style="list-style-type: none"> <li>○ Palomar Airport as well as much of the impact noise and safety areas are within the city of Carlsbad.</li> <li>○ In its 2018 PMP, the county says that – as a superior governmental entity – county is not bound by Carlsbad Planning and Zoning.</li> <li>○ We also understand that the County General Plan expressly says that it applies only to unincorporated areas. Any county Palomar Airport owned areas within Carlsbad [such as the entire airport Palomar parcel on the northeast corner of Palomar Airport Road and El Camino Real] is within the city of Carlsbad.</li> <li>○ It appears therefore that county uses county land in a “NO MAN’s” land not covered by the Carlsbad General Plan and not covered by the County General Plan or the GP policies..</li> <li>○ Accordingly, it appears that the last half of Table IV-3 on p. 4.24 is incorrect. Please update and explain what changes will be made and why. Please assure that the</li> </ul> </li> </ul>	

	§4.3.2 at p. 4-33	Compatibility Data: Safety	<p>ALUC is basing its revision on what the San Diego Board of Supervisors has actually adopted in writing, as opposed to merely San Diego staff opinions.</p> <ul style="list-style-type: none"> <li>• This section reliefs on various flight paths for its designation of safety zones. As noted above, the FAA introduction of Metroplex changes the prior data – as will relocation and extension of the runway from 4900 feet to 5700 feet.</li> <li>• <b>REQUEST: Address the issues noted above in the ALUC Updated MP LUCP.</b></li> </ul>
<b>Comments on ALUC 2010/2011 MP LUCP Appendix C entitled <i>Airport Land Use Compatibility Concepts</i></b>			
1.	ALUC 2010/2011 Safety Analysis	See Appendix C [Airport Land Use Compatibility Concepts]	<ul style="list-style-type: none"> <li>• At page C-6, the ALUC notes that the State Aeronautics Division Handbook requires analysis of commercial and general aviation airport safety contours. <ul style="list-style-type: none"> <li>○ The ALUC then presents Exhibits C-1 and C-2, which respectively depict accident safety distribution contours for arriving and departing general aviation aircraft.<sup>11</sup></li> <li>○ The ALUC did not provide similar exhibits depicting accident safety distribution contours for commercial arriving and departing aircraft.</li> <li>○ As suggested above, we would expect commercial aircraft crash debris fields to be significantly different in shape and size due to their size, much greater fuel capacity, and speed.</li> </ul> </li> <li>• <b>REQUEST: In the updated MP LUCP, add the commercial debris fields so safety impacts can be assessed of Palomar transitioning from a B-II airport to a D-III airport. When showing the fields superimpose them over actual properties owned so that such owners have proper notice as to how their properties may be restricted.</b></li> </ul>

<sup>11</sup> We assume the Exhibit term “accident distribution contour” is a euphemism for the distribution of aircraft debris during a midair safety event [loss of aircraft parts] or crash into the ground.

	<ul style="list-style-type: none"> <li>• At page C-6, the ALUC also notes that ALUC-designated safety zones have a “spatial” and “time” element. When the ALUC prepared its 2010/2011 MP LUCP, the FAA had not yet implemented its Next Generation [NextGen] Satellite Aircraft guidance system.<sup>12</sup> In 2010 (see p. C-7), the ALUC assumed aircraft approaches extended 2000 feet on either side of the runway centerline. NexGen changes this assumption. <ul style="list-style-type: none"> <li>○ Under the FAA pre-NextGen FAA Control Tower procedures, aircraft tended to have more uniform, repetitive flight paths.</li> <li>○ In contrast, under NextGen, which Palomar is in the process of implementing, flight paths will “fan out” into broader departure and arrival patterns. Accordingly, it is foreseeable that the ALUC safety zones will broaden. How this occurs is no doubt a difficult analytic problem, possibly requiring ALUC to retain aviation experts.</li> <li>○ We simply note that a properly updated ALUC MP LUCP will address this issue.</li> </ul> </li> <li>• <b>REQUEST: In the updated ALUC MP LUCP explain what criteria the ALUC uses to assess the number of feet that aircraft will approach and depart from the Palomar runway under NextGen instead of the currently used 2000-foot ALUC assumption.</b></li> <li>• At page C-14, in Table C-1 entitled “<i>Safety Zone Aircraft Accident Risk Characteristics</i>,” the ALUC evaluates various aircraft maneuver risks. It did not evaluate risks associated with Engineered Material Arresting Systems (EMAS) because Palomar in 2010/2011 did not have any EMASs. <ul style="list-style-type: none"> <li>○ The county 2018 PMP proposes installation of EMAS systems in phases. As noted above, an EMAS is designed to handle aircraft</li> </ul> </li> </ul>
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<sup>12</sup> In the San Diego region, the FAA has referred to NexGen as its Metroplex Plan, possibly due to the substantial community opposition and lawsuits that NexGen has generated.

overshooting a runway at about 70 miles per hour.

- An EMAS at the approach end of a landing aircraft is NOT designed for the approaching aircraft use. FAA-rated C and D aircraft can approach at up to 141 knots. Hence, approaching aircraft must avoid the approach end EMAS at all costs.
- In addition, an aircraft taking off easterly from Palomar [the Santa Anna Wind scenario] today has 1000 feet of actual sandy area outside the runway in which to stop. If the runway is extended 800 feet and an east end EMAS installed, any aircraft overshooting the runway and EMAS will endanger heavy traffic on El Camino Real, which adjoins the airport.
- An EMAS designed for 70 knot aircraft will not stop an aircraft on takeoff traveling 100 knots. This scenario can occur whenever an aircraft has a mechanical defect or physically incapacitated pilot.

- **REQUEST: Accordingly, in the ALUC updated MP LUCP explain how a Palomar installation of EMAS systems both improves and reduces safety and changes the ALUC-safety-designated zones under various assumptions. If the runway is extended 800-feet and an East end EMAS is added, the threat to traffic on El Camino Real (perhaps 100 feet from the EMAS end) seems significantly higher for aircraft entering the EMAS at above the 70 knot design speed – as where the aircraft encounters a mechanical failure.**

- At page C- 15, the 2010/2011 MP LUCP discusses the “consequences variable.” Specifically, how large is the “swath size,” area over which accident debris is spread and hence the property and people on the ground at risk in a crash. The existing LUCP refers to a swath size of about a football field for general aviation aircraft. However, the existing LUCP provides no data for commercial aircraft.

- Since county plans to convert Palomar from an FAA-rated B-II

				<p>airport to a D-III airport, the number of heavy, fast moving aircraft carrying 2,000 to 6,000 pounds of aviation fuel will increase substantially.</p> <ul style="list-style-type: none"> <li>○ The consequences variable also takes into account the contamination that aircraft crashes may cause. On October 15, 2013, county's consultant SCS Engineers provided the county a report discussing the highly toxic materials that aircraft today routinely carry. Please obtain a copy of the full report from the county to review all consequence hazards. We attach the first page of the report at the end of this table. We also quote several report sentences listing the (i) pathogenic materials, (ii) radioactive materials, (iii) highly flammable materials, (iv) corrosive materials, and (v) cryogenic liquids turning to harmful gases that aircraft routinely carry.</li> </ul> <ul style="list-style-type: none"> <li>● <b>REQUEST: In the updated MP LUCP, describe the swath size for various commercial aircraft that will use Palomar in the future. Break out the swath size by size, speed, and expected fuel loads on larger aircraft.</b></li> <li>● <b>REQUEST: In the updated MP LUCP, describe how the swath size enlarges when aircraft liquids turn to dangerous gases. In other words, crashing aircraft parts endanger only property and persons within the debris field. But the winds blow chorine and other gases over a wider area. Address this issue in your updated MP LUCP.</b><sup>13</sup></li> <li>● At page C-16, the old MP LUCP notes that safety area designation depends in part on density and intensity requirements. In the last 7 years, Carlsbad developers have added substantial high density facilities along Palomar Airport Road including multiple hotels. Currently, a major</li> </ul>
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<sup>13</sup> Many private and governmental Risk Management Plans [such as those involving property with large tank farms storing hydrocarbon and/or chemical products] provide such analysis.

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<sup>14</sup> The FAA so-called “Advisory Circulars” (ACs) establish the protocol that airports receiving FAA grant funds must follow. The county has previously received in excess of \$30 million in FAA grant funds.

that can protect vehicles on roads adjacent to airports.

- **REQUEST: In the Updated MP LUCP (i) identify the increased risks to traffic on ECR from a county 800-foot runway extension and (ii) identify measures by which this risk could be reduced.**
- At page C-20, the 2010/2011 MP LUCP notes: “Among other hazards to flight, bird strikes represent the most widespread concern.” The ALUC then references FAA open landfill requirements. However, it appears that the ALUC 2010-2011 LUCP made no effort to evaluate (i) the number of bird strikes affecting aircraft using Palomar or (ii) the amount of birds in the area. In the past, bird strikes presented mainly risks to a few corporate flyers and air carrier passengers. However, county’s new 20-year plan proposes to serve 304,000 to 575,000 air carrier passengers.
- **In the Updated MP LUCP (i) identify the level of concern that bird strikes may cause at Palomar [Note: The MP website available to pilots notes substantial birds in the spring.]; (ii) identify the extent to which birds displaced by construction of more than 1,000,000 feet of empty land within 3 miles of the airport may be diverted to the MP northeast corner of ECR and PAR; and (iii) restrictions that might reduce the bird population in conformance with applicable laws.**

**Comments on ALUC 2010/2011 MP LUCP App D, Methods for Determining Concentrations of People**

- By imposing its restrictions, the ALUC has the power to reduce the value of property by more than 50%. Accordingly, the manner of calculating restrictions should be clear. Appendix D does not do that.
- Appendix D has several tables providing information but gives no examples of real life situations to explain how the ALUC applies the data. Laypersons owning property in a possibly impacted safety area are left to guess how the ALUC makes its calculations.

			<ul style="list-style-type: none"> <li>• <b>REQUEST: In the Updated MP LUCP, provide at least 10 examples of how the restrictions on commercial and industrial property and on governmental property such as schools is calculated. When providing the calculations, state the assumptions the ALUC is making, the specific data source relied on, and show the calculations.</b></li> <li>• <b>REQUEST: It appears that relocation of the runway may reduce restrictions on a few properties. Identify these properties [recognizing that reduced restrictions are contingent on the runway actually being relocated] so that the ALUC has inversely condemned property by restrictions no longer applicable. Show the revised safety area borders precisely so that properties benefiting from a runway relocation may be properly identified.</b></li> </ul>
<b>Comments on ALUC 2010/2011 MP LUCP Appendix D entitled <i>General Plan Consistency Checklist</i></b>			
1	Consistency		<ul style="list-style-type: none"> <li>• <b>Request: As noted above, verify the impacted property that is and is not within the County General Plan, which appears to apply only to unincorporated areas of the county.</b></li> <li>• <b>Request: If impacted properties are owned by the county but within the city of Carlsbad, verify that the county will comply with the ALUC restrictions since county has said it need not abide by Carlsbad planning and zoning.</b></li> </ul>

Attachment A  
 Transcript of Supervisor Bill Horn December 15, 2016 Board of Supervisor  
 Statement Documenting Conversion of Palomar to Airport for Larger Commercial Aircraft in Place of  
 General Aviation Recreational Aircraft

Board of Supervisors Meeting Dec 16, 2015, 9am

Agenda item #3 - Options for New Master Plan for McClellan-Palomar Airport

[http://sdcountry.granicus.com/MediaPlayer.php?view\\_id=9&clip\\_id=1709](http://sdcountry.granicus.com/MediaPlayer.php?view_id=9&clip_id=1709)

Spoken by Bill Horn

"I think this is a big huge commercial driver here. And I think we're planning an airport for, if not 50 years maybe 100. Um, so I'm a private pilot, I'm sympathetic to airplane owners but I think the folks that are tied down on the North side of the runway need to move to Fallbrook or someplace else. You have a huge commercial operations going here with a lot of corporate jets coming in and out of there. This is the driver, this is the impetus for us lengthening the runway and doing all these safety issues there. It's no longer a little small airport um, that you can fly in and out of with your Cessna 210 um, so I think that those folks need to be put on notice that they're going to have to move 'cause you're going to have to have that space and you're not going to be able to move them to the fixed space operator space. I mean you're cutting back on their businesses so um, the purpose of this whole thing was to examine the economic feasibility of expanding and increasing activity.

I think the concerns of the public as you have these meetings of course, are going to be noise, but if we expand the runway um, that noise will be a lot less because that footprint will go way down um, and so, and I know your alternatives here, you're basically looking at the 800 ft. I would like you to also, because I'm concerned about if we, I want you to also leave the 900 ft in your study because I don't want to have to come back and sit down and decide if we got the money from the Feds to build 900 ft and then all the sudden, we don't, we haven't studied it so I don't want to have to go through that again. So I realize your preferred and we're going to probably approve going ahead with your preferred and but I just want to make sure we haven't eliminated the 900 ft, and a couple of other issues. I know you guys are nice to the pilots and I appreciate that. I don't want them down here picketing us but at the same time, as a private pilot, I think that maybe you ought to move, we ought to move, some of these planes or make

an opportunity for them to move to either Fallbrook or Borrego or I don't know. I know French Valley is in Riverside County and they would probably like the aircraft also. I just think the days of a the majority of this activity being recreational are over um, and so this is a very, very viable commercial operation so we are planning for the next 50 years, if not 100. So I want us to keep all the options available.

With that being said, we can go to speakers or staff or whatever. I just don't want to narrow this down to a focus groups input 'cause I don't know what their concern is. My concern is the economic viability of this airport and the Northern Region and very obviously, if you look at Lindberg, you know they're pretty much at capacity. I know Greg can talk to us about that but uh, I think we have a great option here and I think we ought to use it. So with that said, having ruined the whole soup mix you go ahead."

County Consultant SCS Engineers Report Entitled  
Evaluation of Possible Environmental Impacts of An Aircraft Crash  
Into the Landfill Cover at Palomar Airport Landfill

Bender Comment: We provide the title page and relevant SCS report excerpts. The title page follows the excerpts for technical computer insert reasons. We are of course aware that the ALUC focuses on land outside Palomar Airport. We provide the report because it well describes the environmental risks of a large fuel laden aircraft crashing anywhere. Hence, it is relevant to the ALUC's designation of Safety Zones outside the Airport.

**Identification of Palomar Aircraft Crash Hazards**

- **Spillage of flammable liquids such as Jet fuel:** *“These fuels are highly combustible, burn at extremely high temperatures, can be corrosive to aircraft equipment and are highly toxic to human beings ... Ignition of the jet fuel or other flammable material, upon impact, could also be highly probable.” [p. 3]*
- **Burning of solids.** *“Post-crash fires can result in burning of ... aircraft batteries and electrical equipment, engines, tires, wheels, pathogenic substances, radioactive materials, and metals such as aluminum and fiber-reinforced polymer composites of the aircraft fuselage and wings. ... If the crash occurs during the dry season, grass fire could ignite and spread to other areas of the site and create secondary environmental issues such as smoke (air quality issues), as well as possible offsite wildfires and or burn, smoke and or structural damage to other onsite or offsite property.” P. 3]*
- **Spillage of cryogenic liquid.** *“Cryogenic liquids ... are used as cooling agents to reduce engine temperatures ... These liquids are ... on the Hazardous Materials Information System. Hence, even low quantities of cryogenic liquids can expand into large volumes of gases ... If not stored in containers with adequate pressure-relief devices, enormous pressures can build up within the containers. The impact from an aircraft rash can cause a sudden rapid increase in the internal pressure of the container. Results can range from damage to surrounding equipment, structures, explosions, called ‘boiling liquid expanding vapor explosion,’ to asphyxiation hazards.” [p. 4]*
- **Pressurized liquid and/or vapor release.** *“Aircraft utilize a variety [of] hydraulic and pneumatic accumulators, which contain pressurized air or fluids that assist in the operation of equipment ... [R]upture can] lead to sudden discharge of large amounts of pressurized fluids, resulting in destruction of property, and possibly injury to persons in proximity to the rupture.” [p. 4]*

➤ *Pipe rupture. “Impact from an aircraft crash may result in extensive damage to nearby above/below-grade utility lines. Damage or rupture of a buried water, gas or storm drain line, could contaminate nearby soils and water bodies. Emission release from pipes could severely compromise the air quality and even cause explosions, depending on the contents of the carrier pipes. Impact to piping associated with the GCCS [methane gas collection and control system] may damage the system and cause a release of LFG to the atmosphere. If the LFG concentration is within flammable ranges and an ignition source is present, explosions or fires may occur. ...” [p. 4]*

Environmental Consultants  
and Contractors

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San Diego, CA 92123

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**SCS ENGINEERS**

October 15, 2013  
File No. 01213281.00

DRAFT

Mr. Jason Forga, P.E.  
County of San Diego  
Department of Public Works  
5510 Overland Avenue, Suite 210  
San Diego, CA 92123

**Subject: Evaluation of Possible Environmental Impacts of a Potential Aircraft Crash into the Landfill Cover at Palomar Airport Landfill, Carlsbad, California**

Dear Mr. Forga:

The County of San Diego (County) is currently evaluating the possibility of extending the east end of the existing runway at the McClellan-Palomar Airport (Airport). Since the Airport is constructed on a closed landfill site equipped with a below-grade landfill gas (LFG) collection and control system (GCCS), SCS Engineers (SCS) was retained to evaluate the possible environmental impacts of a potential aircraft crash into the landfill cover at the site. Please note that this report attempts to evaluate the worst case "what-if" scenario, and assumes that the impact from an aircraft crash into the landfill cover would result in uncovering buried solid waste materials and damage to the GCCS. Whether or not this scenario is possible, is beyond the scope of this report. Further analysis on whether or not the landfill cover could be penetrated by an aircraft impact, and to what degree, may be the subject of a future study. These services were approved by the County, and Task Order #250 was issued authorizing work on August 30, 2013.

**1 BACKGROUND**

Palomar Airport, located in Carlsbad, California, is owned and operated by the County (Figure 1: Location Map). The airport is partially located over a closed landfill site, which operated as a Class III municipal solid waste (MSW) disposal facility between 1962 and 1975. Over time, the anaerobic decomposition of the organic waste components buried in the landfill produces a by-product gas known as "LFG". LFG primarily consists of about 50 percent methane and 50 percent carbon dioxide. It also includes trace amounts of nitrogen and oxygen, and minute amounts of non-methane organic compounds (NMOCs) and inorganic compounds. Methane, is a principle component of natural gas, and is explosive at concentrations of 5 percent and 15 percent by volume, in air. Hence, to prevent possible hazards associated with the migration of methane beyond the limits of the buried waste footprint, a below-grade GCCS has been installed on the site that collects and disposes the collected LFG in an enclosed flare.

**PLANNING COMMISSION RESOLUTION NO. 7373**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, RECOMMENDING APPROVAL OF A ZONE CODE AMENDMENT AND A LOCAL COASTAL PROGRAM AMENDMENT TO UPDATE THE CITY'S DENSITY BONUS REGULATIONS TO REFLECT CHANGES IN STATE LAW.

CASE NAME:                DENSITY BONUS AMENDMENTS 2020  
CASE NO:                    ZCA 2020-0001/LCPA 2020-0005

WHEREAS, the City Planner, has prepared a proposed amendment to the Zone Code and Local Coastal Program pursuant to Chapter 21.52 of the Carlsbad Municipal Code to ensure consistency with state density bonus law; and

WHEREAS, the City Planner has prepared a Local Coastal Program Amendment, as provided in Public Resources Code Section 30514 and Section 13551 of California Code of Regulations Title 14, Division 5.5; and

WHEREAS, the proposed Zone Code Amendment and Local Coastal Program Amendment are consistent with state density bonus law and are set forth in the draft City Council Ordinance, Exhibit A dated, **June 17, 2020**, and attached hereto **DENSITY BONUS AMENDMENTS 2020 – ZCA 2020-0001/LCPA 2020-0005**; and

WHEREAS, California Coastal Commission Regulations require a six-week public review period for any amendment to the Local Coastal Program; and

WHEREAS, on May 20, 2020, the Airport Land Use Commission reviewed and found that the proposed Zone Code Amendment is consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, the Planning Commission did on **June 17, 2020**, hold a duly noticed public hearing as prescribed by law to consider said request for a proposed Zone Code Amendment and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to the Zone Code Amendment and Local Coastal Program Amendment.

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

- A) That the foregoing recitations are true and correct.
- B) At the end of the state-mandated six-week review period for the Local Coastal Program Amendment, starting on **May 15, 2020** and ending on **June 26, 2020**, staff shall present to the City Council a summary of the comments received.
- C) That based on the evidence presented at the public hearing, the Planning Commission **RECOMMENDS APPROVAL** of **DENSITY BONUS AMENDMENTS 2020 – ZCA 2020-0001/LCPA 2020-0005**, based on the following findings:

**Findings**

1. ZCA 2020-0001 reflects sound principles of good planning in that **it amends the Carlsbad Municipal Code to ensure consistency with state law; and,**
2. ZCA 2020-0001 is consistent with the General Plan in that **the proposed amendments implement the General Plan Housing Element Program 3.3, which requires the city to ensure consistency with state density bonus law; and,**
3. LCPA2020-0005 is required to ensure consistency with the Zone Code; and,
4. LCPA 2020-0005 meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act and all applicable policies of the Carlsbad Local Coastal Program not being amended by this amendment, in that **the amendment ensures consistency with the Zone Code and state density bonus law and does not conflict with any Coastal Zone regulations, land use designations or policies, with which development must comply.**

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Carlsbad, held on June 17, 2020, by the following vote, to wit:

AYES: Chair Anderson, Commissioners Geldner, Lafferty, Luna, Meenes, Merz, and Stine

NOES:

ABSENT:

ABSTAIN:



VELYN ANDERSON, Chairperson  
CARLSBAD PLANNING COMMISSION

ATTEST:



DON NEU  
City Planner

Commissioner Lafferty stated it is concerning that there are no additional fire safety measures being considered when increasing density. She stated concern that a 60 day permit process will be difficult other agencies to meet, such as SDG&E.

City Planner Neu stated the 60 day permit process set out by the state is intended to limit the time frame that local jurisdictions have to act on the permit.

Chair Anderson stated that in her experience as a real estate agent, that the larger the unit the more expensive it will be to rent. She stated larger units will not be affordable. She stated in her recent search on rentals, a 700 square foot two-bedroom condo was renting for \$1,700. She stated a larger detached unit in a private area will exceed an amount that would qualify under the cities allocated RHNA numbers. She stated she is strongly opposed to increasing the staff recommendation of 1,000 square feet.

Assistant City Attorney Kemp stated that part of the intent of ADU's is to increase housing stock, not solely for affordability.

Associate Planner Funk confirmed that the only time an accessory dwelling unit would be required to be an affordable unit is when a developer is using the unit as part of their inclusionary requirement.

Commissioner Merz stated he supports staff's recommendation for a maximum size of 1,000 square feet. He stated the reduction in parking could adversely impact neighborhoods and he agrees that a smaller unit respects the character and compatibility of neighborhoods.

Commissioners Luna, Geldner, Meenes and Stine, stated support for the larger maximum size of 1,200 square feet. The supporting factors include additional housing stock, housing for elderly and extended family, simplifying the permit process by allowing a maximum size across the board, and allowing free market to dictate the size.

**ACTION:**

Motion by Commissioner Meenes, seconded by Commissioner Stine, to adopt Resolution No. 7374 as amended. Motion carried, 5/2 (Commissioner Anderson and Merz no).

4. **ZCA 2020-0001/LCPA 2020-0005 – DENSITY BONUS AMENDMENTS 2020** – Request for a recommendation to approve a Zone Code Amendment and Local Coastal Program Amendment to update the city's density bonus regulations to reflect changes in state law. The city planner has determined that the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because the amendments do not have the potential to cause a significant effect on the environment.

City Planner Neu introduced Agenda Item 4 and stated Associate Planner Funk would make the staff presentation (on file in the Planning Division).

Associate Planner Funk gave the staff presentation.

**ACTION:**

Motion by Commissioner Luna, seconded by Commissioner Meenes, to adopt Resolution No. 7373. Motion carried, 7/0.

May 20, 2020

Mr. Corey Funk  
City of Carlsbad  
1635 Faraday Avenue  
Carlsbad, California 92008

Re: Airport Land Use Commission Consistency Determination – Amendments to Zoning Code for Affordable Housing Density Bonus Regulations, City of Carlsbad

Dear Mr. Funk:

As the Airport Land Use Commission (ALUC) for San Diego County, the San Diego County Regional Airport Authority (SDCRAA) acknowledges receipt of an application for a determination of consistency for the project described above. Areas covered by this project lie within the Airport Influence Area (AIA) for the McClellan-Palomar Airport - Airport Land Use Compatibility Plan (ALUCP).

ALUC staff has reviewed your application and accompanying materials and has determined that it meets our requirements for completeness. In accordance with SDCRAA Policy 8.30 and applicable provisions of the State Aeronautics Act (Cal. Pub. Util. Code §21670-21679.5), ALUC staff has determined that the proposed project is **consistent** with the ALUCP based upon the facts and findings summarized below:

- (1) The project proposes amendments to the City of Carlsbad Zoning Code in order to align density bonus regulations with State law and offer additional local incentives to expand the production of affordable housing units. None of the amendments include any physical improvements.
- (2) The proposed project does not involve any actual development and thus does not impact any noise exposure contours of any ALUCP, but any development permitted under this project would be subject to respective sound attenuation or avigation easement requirements as per the ALUCP.
- (3) The proposed project does not involve any actual development and thus does not impact any airspace protection surfaces of any ALUCP, but any development permitted under this project would be subject to notify the Federal Aviation Administration (FAA) if required and comply with any conditions of FAA determinations of no hazard to air navigation.
- (4) The proposed project does not involve any actual development and thus does not impact any safety zones of any ALUCP, but any development permitted under this project would be subject to the applicable safety zone density limits of the ALUCP, including

counting any residential units permitted as density bonuses as dwelling units for purposes of ALUCP safety compatibility.

- (5) The proposed project does not involve any actual development and thus does not impact any overflight notification requirements of any ALUCP, but any development permitted under this project would be subject to applicable ALUCP overflight notification requirements.
- (6) Therefore, the proposed project is compatible with the adopted McClellan-Palomar Airport ALUCP.
- (7) This determination of consistency is not a “project” as defined by the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code §21065, and is not a “development” as defined by the California Coastal Act, Cal. Pub. Res. Code §30106.

This determination will be reported to the ALUC at its public meeting on June 4, 2020. Please contact Garret Hollarn at (619) 400-2788 if you have any questions regarding this letter.

Yours truly,



Ralph Redman  
Manager, Airport Planning

cc: Brendan Reed, SDCRAA Planning & Environmental Affairs  
Amy Gonzalez, SDCRAA General Counsel

**Comment letter**

Attached to this cover sheet is a letter to Airport Land Use Commission of San Diego County dated June 1, 2020 from Citizens for a Friendly Airport requesting a continuance of the determination of consistency for the proposed amendments, and the city staff response to the letter dated June 4, 2020.

**From:** Corey Funk <Corey.Funk@carlsbadca.gov>

**Sent:** Thursday, June 4, 2020 8:37 AM

**To:** Redman Ralph <rredman@san.org>

**Cc:** Don Neu <Don.Neu@carlsbadca.gov>; Jennifer Jesser <Jennifer.Jesser@carlsbadca.gov>; Ronald Kemp <Ronald.Kemp@carlsbadca.gov>

**Subject:** Re: Application for ALUC consistency determination - ADU Amendments 2020

To: ALUC for San Diego County

Regarding the letter dated June 1, 2020 from Citizens for a Friendly Airport, which requested a continuance of the ALUC Determination of Consistency for Carlsbad's proposed Density Bonus Amendments, the city would like to submit the following comments for the ALUC's consideration:

California Government Code Section 65915(a) requires city's and counties to adopt density bonus regulations in compliance with state law:

*§65915(a)*

*"All cities...shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city...from complying with this section."*

Assembly Bill 1763 amending Government Code 65915 was signed into law in 2019 and became effective on Jan. 1, 2020. Carlsbad's density bonus regulations need to be amended to be consistent with the changes made by Assembly Bill 1763. Carlsbad's proposed Density Bonus Amendments would bring the city's density bonus regulations into compliance with state law.

No physical development is proposed by Carlsbad's proposed Density Bonus Amendment, which is solely comprised of amendments to Chapter 21.86 of Carlsbad's Zoning Ordinance.

Future development proposals that include a density bonus would be evaluated on a case by case basis and subject to review and compliance with the McClellan-Palomar Airport ALUCP, as required by Carlsbad General Plan Policy 2-P.37.

The city concurs with the determination of consistency made by Ralph Redman, Manager of Airport Planning on May 20, 2020 for Carlsbad's proposed Density Bonus Amendments.

Sincerely,

**Corey Funk, AICP**

Associate Planner

Planning Division

Community Development Department

City of Carlsbad

1635 Faraday Avenue  
Carlsbad, CA 92008  
[www.carlsbadca.gov](http://www.carlsbadca.gov)

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**June 4, 2020**  
**ALUC Meeting**

**ITEM 2 -**  
**COMMUNICATION**  
**RECEIVED FROM**  
**THE PUBLIC**



June 1, 2020

Citizens for a Friendly Airport  
7040 Avenida Encinitas, Suite 104-467  
Carlsbad, CA 92011

San Diego Regional Airport Authority  
Airport Land Use Commission  
SDCRAA Administration Building  
3225 No. Harbor Drive  
San Diego, California 92101

Mailing Address  
SDCRAA  
P.O. Box 82776  
San Diego, CA 92138-2776

**c/o and Requested Distribution to Addressees Prior to Thursday June 4, 2020 meeting by Tony R. Russell, CRM, MMC. [clerk@san.org and SDCRAA General Phone: 619 400-2400] Director | Board Services/Authority Clerk**

Members: C. April Boiling (Chairperson), Catherine Blakespear, Greg Cox, Mark Kersey, Robert T. Lloyd, Paul McNamara, Paul Robinson, Johanna S. Schiavoni, Mark B. West and Ex-Officio Board Members: Gustavo Dallarda, Col. Charles B. Dockery, Gayle Miller AND President/CEO Kimberly J. Becker

SDRAA Legal Counsel: Amy Gonzalez. [Amy.Gonzalez@san.org]  
VIA: Attn: Ms. Diane Casey (Assistant to CEO Kimberly J. Becker [DCasey@san.org])

State of California  
Department of Transportation  
Division of Aeronautics  
P.O. Box 942873  
Sacramento, CA 94273-0001  
[General Info Phone: 916 654-2852]  
Attn: Amy Choi [CT Org Chart hard to read]  
c/o Cal Trans Director [See May 2020 CT org chart]

City of Carlsbad  
1200 Carlsbad Village Dr.  
Carlsbad, CA 92008  
FOR: City Council, City Manager, City Attorney  
c/o Carlsbad City Clerk  
Clerk@carlsbadca.gov

**Re: (1) Request for Continuance of ALUC Proposed Consistency Determination Scheduled for June 4, 2020 as ALUC Agenda Item 2 Re: Consistency of Carlsbad Zoning Density with 2010/2011 Palomar Airport Land Use Compatibility Plan; and  
(2) Request for ALUC Expedited Processing of an Update to 2010/2011 McClellan-Palomar Airport Land Use Compatibility Plan as a Result of County 2018 – 2038 Palomar Airport Master Plan and PUC and State Aeronautics Manual Requirements**

Ladies and Gentlemen:

On Friday May 29, 2020, Citizens for a Friendly Airport (C4FA) received SDCRAA ALUC notice of the ALUC's intent to act on ALUC Agenda Item 2 on June 4, 2020.

By ALUC Agenda Item 2, Carlsbad requests that the ALUC find that the Carlsbad zoning changes related to Carlsbad high density development are consistent with the development and operation of McClellan-Airport, a County of San Diego owned and operated airport. C4FA clearly disagrees with Carlsbad.

The Airport, though within Carlsbad, is surrounded by developable land in the cities of Carlsbad, Vista, and unincorporated areas of the County of San Diego.

C4FA requests a continuance until ALUC staff has prepared a report to the ALUC members analyzing the points below and until ALUC has given the public more time to review this matter.

Alternatively, if the ALUC proceeds with this item, we request that the ALUC deny a finding of consistency. The ALUC would not have enough data to determine whether the ALUC is complying with (1) the California Public Utilities Code (PUC) and (2) the State of California Aeronautics Manual, which State law requires ALUCs to follow, and (3) an UPDATED Palomar Airport LUCP.

Because Covid ALUC hearing restrictions make communicating orally with the ALUC and Carlsbad difficult, we request that this letter be read into the record at the ALUC June 4, 2020 meeting and all related meetings of the Carlsbad City Council. Only in this way, can we be assured that (1) our concerns have been recognized by ALUC members and (2) that members of the public who are able to watch a broadcast of the ALUC meeting are apprised of the specific C4FA concerns. Because this C4FA letter is from a group of citizens, we request the ALUC allow more than the ALUC-allotted 3 minutes to read the letter into the record.

The 2010/2011 McClellan-Palomar Airport LUCP is out of date for four reasons.

1. *The ALUC Failed to Update the Palomar Airport LUCP by 2016 and Failed to Conform to the State Aeronautics Manual.* As C4FA pointed out in great detail in its September 2018 twenty-nine page letter to the ALUC, the Palomar Airport 2010/2011 LUCP was out of date long before County adopted its October, 2018 new Palomar Airport Master Plan (PMP) to convert Palomar Airport from an FAA rated B-II airport to an FAA D-III airport. For purposes of the Administrative Record, we incorporate the C4FA September 2018 letter by reference.

According to the California Department of Aeronautics Manual, LUCPs should be updated every 5 years. Palomar Airport was due for an update in 2016 – especially since it appears that the SDCRAA ALUC 2011 update was made shortly after the ALUC assumed responsibility under State law from SANDAG. In other words, the newly created Authority and ALUC had little experience in preparing LUCPs at that time. Consequently, it overlooked various issues as C4FA pointed out in its 2018 letter.

2. *The ALUC Failed to Review the County 2018 Palomar Airport Master Plan (PMP) Prior to the Time the County Board of Supervisors Acted on its 2020 PMP and Related PMP EIR.*

The county and the SDRAA ALUC are denying the public a reasonable opportunity to comment on the consistency of proposed zoning changes by cities around Palomar Airport with a CURRENT Palomar Airport LUCP. Just a few facts supporting that conclusion include the following:

- The ALUC is not a Neutral Arbiter of Consistency Issues. In 2010, the ALUC’s “parent,” the full SDCRAA adopted a Regional Strategic Airport Plan (RASP). The RASP lists many ways in which county airports, including specifically Palomar Airport, can expand. While we recognize that the SDCRAA is in the business of promoting airports, the SDCRAA has a PUC statutory duty to act impartially. Having adopted a RASP promoting airport expansions, the SDCRAA should not be undertaking ALUC actions that give the public only the barest notice related to an out-of-date Palomar Airport LUCP.
- The ALUC Failure to Review the County 2018 PMP Prior to Board of Supervisor PMP Action Denied County and the Public 1/8 of the Information that County’s PMP Promised to Provide the Public. When circulated, the County’s PMP and PMP EIR expressly promised the public and reviewing public agencies that County would analyze 8 distinct issues.

One specifically listed issue was the impact of the Palomar Airport D-III conversion and construction of \$100,000,000 plus of Palomar Airport runway extensions and runway relocation improvements on the noise and safety of surrounding communities.

The PUC expressly delegates to ALUCs the duty to prepare Land Use Compatibility Plans so that private and public owners near an airport know if development of their lands will be restricted by noise and safety zones.

Because the ALUC failed to timely act, the County PMP and PMP EIR provide no specific information as to how County Palomar Airport expansion affects development of land parcels outside the airport that will be restricted.<sup>1</sup>

- We understand that the PUC and/or State Aeronautics Manual require an airport owner and operator to submit proposed airport changes to the ALUC prior to the time the owner/operator adopts its plan. That requirement suggests that the Cal Trans Division of Aeronautics expected airport owners and operators to receive

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<sup>1</sup> County and Carlsbad often say Palomar Airport improvements will again be reviewed in the future and hence the 2018 County PMP does not by itself impact safety and the environment. That argument fails for two reasons. First, no one will ever know whether the Supervisors would have adopted the 2018 PMP in the format proposed – which governs Palomar Airport development for 20 years – if the noise and safety impacts on surrounding property owners were known. Those impacts could only be known if the ALUC had timely acted to update the Palomar Airport LUCP. Secondly, the County and Carlsbad argument that the 2028 PMP does not trigger impacts until Palomar Airport physically expands conflicts with an ongoing County and Carlsbad argument. They say that the county cannot limit the size and speed of aircraft using Palomar Airport. Since at least 1990 County has been attracting FAA-rated C and D larger, faster, more fuel-laden airport to Palomar. The Palomar Airport runway does not meet FAA Design Manual requirements for such aircraft. Hence, the existing ALUC LUCP is out of date.

ALUC input before adopting proposed plans. However, county submitted its 2018 PMP to the ALUC only about two weeks before county's Board of Supervisor PMP adoption. We are not aware of any substantive comments that the ALUC has provided to county regarding an updated LUCP as of May 2020.

3. *The ALUC has Failed to Timely Update the ALUC 2010/2011 Palomar Airport LUCP.* Almost two years have passed since C4FA's September 2018 letter to the ALUC noting Palomar Airport LUCP deficiencies and since the Board of Supervisor's October 2018 adoption of its 20-year Palomar Airport Master Plan. And, we understand that the county's proposed 2018 PMP was available to ALUC staff in draft in 2017. Having ignored 3 years of lead time, the ALUC cannot claim in good faith that it is maintaining a CURRENT LUCP that fairly appraises property owners near Palomar Airport of the noise and safety ALUC zone restrictions on their property. In the meantime, many property sales could be occurring substantially affecting buyers and sellers.

The City of Carlsbad, the County of San Diego, and the ALUC are well aware of the problems that lack of ALUC transparency has caused to private property owners surrounding Palomar Airport. We understand that several land parcels just west of Palomar Airport resulted in several proceedings and lawsuits against Carlsbad, the County, and the ALUC from 2014 to 2020.

In a lawsuit concerning 5817 Dryden Place, Carlsbad, CA, the plaintiffs alleged that as a result of the ALUC restrictions, which essentially converted the property from first class office space to a warehouse with very limited occupancy, their property had been unfairly taken and/or restricted. We understand that County bought the Dryden Place property for approximately \$6,000,000 to resolve this most recent lawsuit.

*IF the ALUC had given proper notices to property owners around Palomar Airport when the property was first restricted, the City of Carlsbad, the County, and the ALUC would have avoided hundreds of hours of effort, hundreds of thousands of dollars in attorney fees, and likely a County purchase price substantially below the \$6,000,000.*

4. *Lastly, the ALUC Fails to Provide Adequate Notice to Property Owners Surrounding Airports Who May be Impacted by ALUC Property Noise, Safety, and Occupancy Restrictions. Federal and State Constitutional Due Process Requires More than a Brown Act Blanket Notice of ALUC Agenda Items given to the community generally. The ongoing ALUC inadequate processes have caused prejudice to private property owners surrounding Palomar Airport as noted in the Dryden Place example above.*

For the above reasons, C4FA requests the ALUC continue its consistency review until ALUC staff may prepare a staff report for ALUC members as outlined in this letter or deny the finding of consistency as noted initially in this letter. Please especially note that a June 4, 2020 ALUC consistency determination would automatically fail to comply with county's current Palomar Airport Master Plan, which the county adopted in 2018 and for which the ALUC has failed to designate noise and safety zones.

Thank you for your review and consideration of this letter.

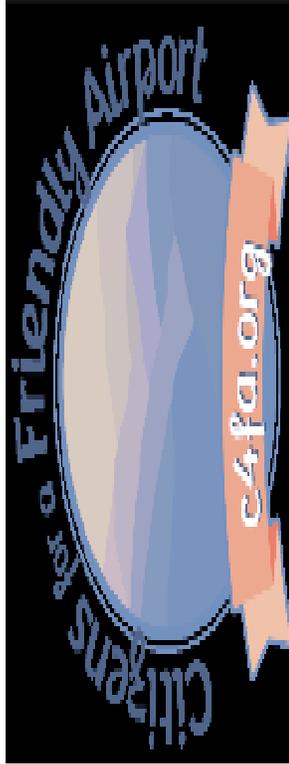
*Hope Nelson*

C4FA by Hope Nelson. [Signing authority for HN given to Ray Bender]

ATTACHMENT: C4FA September 19, 2018 letter noted in text above.

Cc: Cory Briggs, Attorney for C4FA in pending actions with Carlsbad and County.

2020 5 SDCRAA ALUC Palomar Consistency Letter Final Final Final



September 19, 2018

Citizens for a Friendly Airport  
 7040 Avenida Encinitas, Suite 104-467  
 Carlsbad, CA 90211

San Diego Regional Airport Authority  
 Airport Land Use Commission  
 SDCRAA Administration Building  
 3225 No. Harbor Drive  
 San Diego, California 92101

Members: C. April Boiling, Greg Cox, Jim Desmond, Mark Kersey, Robert T. Lloyd, Paul Robinson, Johanna S. Schiavoni,  
 Michael Schumacher, Mark B. West and Ex-Officio Board Members: Tim Gubbins, Jacqueline Wong-Hernandez, Col. Jason Woodworth  
 President/CEO Kimberly J. Becker

SDRAA Legal Counsel: Amy Gonzalez  
 VIA: Attn: Ms. Diane Casey (Assistant to CEO Kimberly J. Becker [DCasey@san.org]) [Note: Email name and address we were given when  
 calling SDRAA today Wednesday, September 19.]

**Re: ALUC Processing of Update to 2010/2011 McClellan-Palomar Airport Land Use  
 Compatibility Plan As a Result of County 2018 – 2038 Palomar Master Plan**

Ladies & Gentlemen:

We understand that the County of San Diego Board of Supervisors will likely approve its twenty-year McClellan-Palomar Airport Master Plan and certify its Programmatic EIR on October 10, 2018. We also understand that the SD ALUC will be updating the 2010/2011 MP Land Use Compatibility Plan to comply with state requirements.<sup>1</sup>

The C4fa-detailed-comments follow in the table below. Please assure that these comments are considered by ALUC staff and the ALUC members when preparing the update.

But a few new comments are appropriate in light of county comments in the last week.

When preparing its MP LUCP update, the ALUC needs to look at the actual Palomar Master Plan (PMP) projects county proposes – as opposed to the labels that county is trying to give its PMP in its last minute effort to overcome public comments on its PMP and Draft PEIR. Here is why.

- *Palomar Critical Design Aircraft.* County’s PMP concedes that more than 500 annual C and D operations have occurred at Palomar annually over the last 15 years. In fact, the number exceeds 10,000 annually in most years. The FAA requires the Airport Reference Code (ARC) to conform to the actual critical design aircraft. Yet county’s recent papers suggests it may “maintain” Palomar as a B-II airport.
- *Runway Safety Area.* County has said in its PMP that it will ultimately place an EMAS [350-foot Engineered Materials Arresting System] at each runway end. However, county’s PMP says it won’t install the east end EMAS for at least 13 years. These facts make it apparent why county may want to continue to say Palomar is a B-II airport when the proper FAA critical aircraft design ARC designation is C. An FAA C designation requires 1000-foot runway safety areas (RSAs) at each end of the Palomar paved runway. Or an FAA-approved EMAS. County’s clear desire – even with an initial 200-foot runway extension – is to operate without an east end EMAS. As a result an aircraft taking off toward the east and overshooting the runway travels into the Palomar Unit 3 19 acre runway east end landfill, which has a methane gas collection system beginning about 4 feet below the sandy surface.
- *PMP Wingspan Separation.* Quite clearly what county is trying to claim is that it is maintaining a B-II airport to sooth public objections but build projects to meet FAA ARC D requirements. The best example of this is county’s plan to increase the

<sup>1</sup> The CalTrans State Aeronautics Handbook, which State law requires the ALUC to follow, recommends an update at least every 5 years. So the MP LUCP update was due several years ago, especially in light of the very substantial development of the vacant land around Palomar Airport and within 2 miles of it.

distance between the Palomar taxiway centerline and runway centerline so that larger C and D aircraft with wider wingspans can concurrently operate.

- *Runway Width.* The FAA requirement for runway width of a B airport is 75 feet to 100 feet. Yet county now has a 150-foot runway and will relocate the runway with a similar width.

Thank you for considering the C4fa comments. **Please confirm your receipt of this email and the distribution of the comments to Raymond Bender at [benderbocan@aol.com](mailto:benderbocan@aol.com) and 760 752-1716. We also request (1) actual notice of all meetings at which the ALUC will consider the MP LUCP Update and (ii) copies of all materials that ALUC provides ALUC members at least two weeks before the meeting at which the ALUC considers an MP LUCP update so that C4fa members have a fair opportunity to review the issues. That process will allow better C4fa input at the upcoming ALUC meeting considering the MP LUCP Update. We also request that the ALUC determine and provide actual notice to the property owners surrounding Palomar Airport that may be impacted by Updated ALUC MP LUCP noise and safety maps. As mentioned in the table below, we understand that some owners whose property was impacted by the 2010/2011 ALUC MP LUCP Update did not timely receive actual noise and were substantially adversely affected.**

**PLEASE ESPECIALLY NOTE THAT THE BELOW TABLE CONTAINS SEVERAL SCREEN SHOTS WHICH MAY TAKE A MINUTE TO APPEAR ON THE COMPUTER SCREEN. PLEASE ASSURE THE SCREEN SHOTS ARE PRESENT BEFORE REPRODUCING COPIES FOR THE INTENDED RECIPIENTS.**

**Comments of Citizens for a Friendly Airport (C4FA.org) on ALUC Update of 2010/2011 McClellan-Palomar Land Use Compatibility Plan as a Result of County's New Twenty Year Palomar Master Plan**

Preliminary Comments:

- **C4fa.** Citizens for a Friendly Airport is a citizens group, whose members have provided comments to County and Carlsbad on (i) the March 2018 County PMP Programmatic EIR (PEIR); and (ii) the June 2018 County re-circulated portions of the PEIR.<sup>2</sup> C4fa maintains a website at C4fa to inform the public about the impacts of county's proposed Palomar Master Plan projects.

<sup>2</sup> After receiving comments from the city of Carlsbad's nationally recognized aviation law firm (Kaplan, Kirsch, and Rockwell) and the public, county in June 2018 requested further PEIR comments on biological, greenhouse gas (GHG), energy consumption, and Runway Protection Zone (RPZ) issues. By August 6, 2018 Carlsbad and the public again commented noting major deficiencies in the county PEIR assumptions, facts, methodologies, and analyses.

- **C4fa McClellan- Palomar Land Use Compatibility Plan [LUCP] Concerns.**

- Based on reviewing the process previously followed by the SDRAA ALUC, Carlsbad residents are concerned that the ALUC process does not sufficiently analyze or inform the public of ALUC restrictions on lands near the airport.
- For instance, at a Carlsbad Council meeting earlier this year, two businessmen appeared before the Council and noted (i) ALUC restrictions have caused them to lose more than \$1 million, essentially converting a first class office building, to use for limited storage and (ii) they became aware of ALUC LUCP restrictions incidentally, not by ALUC actual notice.
- The ALUC should assure that new ALUC restrictions resulting from the county 2018 PMP and/or Airport Layout Plan (ALP) are properly adopted with **actual notice** to the property owners who may be impacted so they can timely provide their input to the ALUC.

- **C4fa Public Input.** C4fa members have appeared before the Carlsbad City Council five times since February 2018 to provide the council information related to county's PMP and PEIR and also attended PMP workshops. County operates MP pursuant to Carlsbad CUP 172, which county says in its current PMP and PEIR, that county need not comply with.

- **Savecarlsbad.com** For the last two years, one C4fa member (Graham Thorley) has maintained the website [www.savecarlsbad.com](http://www.savecarlsbad.com) to inform the public of Palomar-related issues.

- **Carlsbadpatch.com & San Diego Free Press Palomar Info.** For the last four years, one C4fa member (Ray Bender) has posted more than 200 articles on Carlsbadpatch.com related to Palomar developments and had seven articles published in the San Diego Free Press related to Palomar issues.

- **The 3 PMP Projects.** The county 2018 PMP proposes three basic Palomar Airport expansion projects:

- **D-III Conversion:** Converting Palomar from an FAA-rated B-II airport to a D-III airport to handle a higher percentage of corporate jets and passengers by regularly scheduled air carriers. County forecasts a future passenger level of 304,000 to 575,000 depending on marketing success. In December 2016, Supervisor Horn stated it was

time for Palomar to replace the GA aircraft with the larger, faster commercial aircraft. **Attachment A** to these comments provides a transcript of Mr. Horn's comments, which advise small aircraft to move to other airports.<sup>3</sup>

- **200-foot Runway Extension & West End EMAS & East End RSA (Near Term).**
- **Runway Relocation north about 100 feet, and a total either 800-foot extension or 900-foot extension from 4900 feet to 5700 or 5800 feet, and EMAS at both west and east ends (Longer Term).** County's PMP and PEIR conceal the 900-foot extension (rather than 800-foot extension) in the following way.

- **At the December 15, 2016 BOS meeting, four of the five BOS members accepted the SD consultant Kimley-Horn recommendation for an up to 800-foot extension.** Supervisor Horn did not he pressed the consultant to come up with an extra 100-feet.
- **On the surface, the 2018 PMP projects refer to an up to 800-foot extension.** However, Kimley-Horn as directed by Supervisor Horn suggested a massive west runway end retaining wall costing about \$12 million in order to create additional land.
- **County in the past, without any fanfare or notice to the SDCRAA ALUC increased the Palomar runway from 4700-feet to the current 4900-feet.**
- **In other words, quite clearly what the BOS intends to do is approve an unneeded west end \$12 million retaining wall so that county at some time in the future with a CEQA negative declaration can add 100 feet to its then 800 cumulative extension.**
- **CONCLUSION: The ALUC needs to pin the county down or simply analyze a 900-foot runway extension rather than an 800-foot runway extension.**

- **D-III Conclusion:**
- **Although county in the last week has suggested it might label Palomar as a B-II airport, its PMP makes clear that it is undertaking improvements for a D-III airport. The PMP improvements documenting that include D-III sized runway lengths and widths; installing 350-foot EMASs [eventually] in lieu of 1,000 foot RSAs to meet D-III FAA RSA requirements; building a \$12 million runway west end massive retaining wall, which is not needed for an 800-foot runway extension but is needed for a 900-foot runway extension; and installing \$8.6 million of navigational aids. As noted initially above, judge county not by its labels but by the actual improvements it intends and passenger levels it forecasts, which determine the size of the ALUC-designated noise and safety areas.**

<sup>3</sup> As the SDCRAA recognized when it prepared its 2010 Regional Airport Strategic Plan (RASP), the SDCRAA can divert aircraft from Lindbergh Field by changing rate structures that discourage Lindbergh Field use and encourage aircraft to Palomar. This is just one example of how increased FAA-rated C and D aircraft using Palomar will displace the smaller general aviation aircraft.

- **Specific McClellan-Palomar Land Use Compatibility Plan Issues.** C4fa members have reviewed the 2010/2011 McClellan-Palomar LUCP. Based on that review, we request that ALUC staff discuss the below issues in its report and recommendation to the ALUC members when considering how to update the 2010/2011 MP LUCP.
- **Table Part A below discusses specific ALUC compatibility issues that the county PMP project elements raise. Table Part B below indicates why various sections in the ALUC 2010/2011 MP LUCP require updating.**

**PART**

**LUCP Issues raised by the County 2018 PMP Project Elements**

**Preliminary Note:**

The SDCRAA ALUC airport Land Use Compatibility Plan (LUCP) process follows the guidance set forth in the CalTrans Division of Aeronautics “California Land Use Planning Handbook.” In § 2.4.2 entitled *ALUCP Amendments* at page 2-9, the Handbook states: “*A comprehensive review and update is recommended at least every five years. The ALUC last updated the McClellan-Palomar LUCP in 2010/2011, about 7 years ago.*”

As noted below, in the last 12 months alone, Carlsbad has authorized construction projects within 3 miles of the airport totaling more than 1,000,000 square feet. Accordingly the ALUC should be starting a “comprehensive” MP LUCP review even before county submits its proposed \$110,000,000 Twenty-Year Palomar Master Plan project expansion.

Also, note that when the ALUC last updated the MP LUCP, the ALUC used the Cal Trans 2002 Handbook edition. [See § 1.2 at page 1-4 of 2010/2011 MP LUCP.]

In short, a new ALUC analysis redefining airport-related noise and safety zones needs to take into account (i) considerable Carlsbad development near the airport, (ii) the latest requirements of the 2011 Cal Trans Handbook, and (iii) county’s desire to both extend its runway 800-feet over a methane emitting landfill and to relocate the runway and convert Palomar from an FAA-rated B-II airport to an FAA-rated D-III airport.

#	Issue	Old v. New and/or	Requested ALUC Analysis & Points to be Considered
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1	Runway Size	Clarifications
Phase 1: 4900-foot to 5100 [EXISTING Runway location]		<ul style="list-style-type: none"> <li>• Advise how the 5 existing noise areas and 5 existing safety areas will change</li> <li>• Points to consider include: <ul style="list-style-type: none"> <li>○ <b>Post 2010 Carlsbad Development.</b> Carlsbad has permitted many hotels and developments just south of Palomar Airport Road (PAR) within 2 miles of MP since the 2011 LUCP;</li> <li>○ <b>D.R. Horton Runway Approach Development.</b> As these comments are written, D.R. Horton is building many new townhouses directly within the Palomar east approach path;</li> <li>○ <b>20-Fold Forecasted Increase in Passenger Traffic.</b> County forecasts air carrier annual passenger increases from less than 15,000 today to between 304,000 and 575,000 in its twenty-year plan<sup>4</sup>.</li> <li>○ <b>Displacement of GA Aircraft and Upward Swing in FAA-Rated C and D Aircraft.</b> Supervisor Horn at a Board of Supervisor meeting set a goal of displacing general aviation aircraft in favor of commercial aircraft. [See our Table Attachment A, Horn 12/15/16 Transcript.]</li> </ul> </li> </ul> <p>When FAA-rated A and B aircraft crash, they carry comparatively few people and comparatively little fuel. When FAA-rated C and D aircraft crash, they typically carry far more people and fuel and crash at faster speeds. The table below provides a rough listing of fuel and passenger loads. In the last four years, Palomar has handled few air carriers and very light passenger loads. Most B and C aircraft operations were corporate with the aircraft carrying 2 to 8 people. As the table shows, as aircraft size, speed, and fuel carriage increases, the aircraft in a crash is a bigger bomb capable of causing great damage. The many manufactured housing units about 2 miles east of the Palomar Airport runway would easily be destroyed by a large</p>

<sup>4</sup> As the current MP LUCP notes (See C-5 of Appendix C) ALUC-designated safety zones take into account harm to aircraft occupants as well as safety on the ground.

aircraft crashing into the mobile home park.

**REQUEST: When calculating its new MP LUCP safety areas, the ALUC should include its own Risk Safety Table showing how converting Palomar from a B-II airport to a D-III airport or D-III airport and changing the aircraft mix will increase safety concerns. How will the size of the impact areas and dispersion areas change with D-III aircraft v. A or B aircraft?**

Comparative Risks: A v. B v. C v. D Aircraft

Size	Max Take Off Weight	Max Approach Speed (knots)	Max People at Risk on Aircraft	Max Fuel Load (lbs.) and (gal)
A	2,750 pounds	91	2	432 (72 gal)
B	?	121	30	
C	?	141	60	?
D	91,000 pounds	166	110	41,300 (6,883 gal)

- Advise how the 5 noise and 5 safety areas will change again when county both shifts its runway north and extends the runway 800 feet in total.

- Points to Consider – in addition to those in Item 1 above – discuss the issues below.
  - **Added Threats to ECR Traffic.** With the existing 4900-foot runway, landing aircraft touch down about 1200 feet from ECR. With a 5700-foot runway, landing aircraft will touch town about 400 feet from ECT. At an approach speed of 166

Phase 2: 100-foot North Relocation and Rebuild: 4900-foot to 5700 feet<sup>5</sup>

Runway Size

2

<sup>5</sup> We are aware that the 2010/2011 MP LUCP refers to the ALUC analyzing runways in the range of 4,000 to 6,000 feet in length. However that analysis involved a B-II airport serving 90% small GA aircraft with comparatively few passengers. As noted in the table above, a Palomar Airport handling predominantly B, C, and D aircraft and hundreds of thousands more passengers raises entirely different safety considerations.

			<p>knots, the aircraft travels about 280 feet per second. So an 800-foot extended runway will place 100,000 pound landing aircraft about 1.5 seconds from ECR traffic. It appears that landing aircraft would be about 100 feet above ECR car and truck rooftops. When updating the MP LUCP, please provide the accurate data to replace our estimated data and assess the increased risk.</p> <ul style="list-style-type: none"> <li>○ <b>Added Threats to Areas North of Relocated Runway &amp; Taxiway.</b> Relocating the runway north removes north Palomar Airport aircraft parking. That movement combined with faster, larger aircraft increases the chance of an errant aircraft sliding into private property north of the runway. Assess this risk.</li> <li>○ <b>Changes in Risks Resulting from EMAS Installs.</b> Palomar now has no Engineered Material Arresting Systems (EMASs). County plans to install two EMASs, one at each relocated runway end (with the east end EMAS delayed about 15 years.) EMASs are meant to control rolling aircraft (at the end of takeoff or end of landing) traveling no more than about 70 knots). However, an EMAS install requires the county to designate a “buffer” area between the interior EMAS and runway-landing threshold. In short, the landing runway threshold will be displaced to assure landing aircraft touching down at 121 to 166 knots do not enter the EMAS closest to landing. Accordingly, the threshold displacement alters the approach RPZ area. In the updated MP LUCP, distinguish the approach and departure RPZs and explain how county PMP project changes affect their designation.</li> <li>● <b>REQUEST: In the updated MP LUCP, address the issues discussed above.</b></li> </ul>
3	County-Designated RPZ Areas	County's June 21, 2018 Re-circulated PEIR RPZ Areas	<ul style="list-style-type: none"> <li>● County's June 21, 2018 Re-circulated PEIR parts includes redrawn RPZs for various Palomar Airport alternatives. For the many reasons set forth in our August 2018 comments, to the county PEIR re-circulation, the county-depicted RPZs are incomplete and often misdrawn. See the Bender comment Items 31 – 43 at pages 51 – 75 of the Comments on the County Re-circulated PEIR portions. We mailed hard copies of our comments to the ALUC during the week of August 6. The ALUC also has our binder comments from March 2018, which describe in detail why county's PMP and PEIR fail to comply with Government Code Planning and Zoning requirements, which we understand the ALUC needs to review to find that the County General Plan is consistent with the ALUC Updated 2018 MP LUCP.</li> </ul>

			<ul style="list-style-type: none"> <li>• Rather than repeat all of our PMP PEIR RPZ comments, we incorporate them by reference. In sum: <ul style="list-style-type: none"> <li>○ County is incorrect when it suggests that future RPZ areas will be smaller than current RPZ areas. The increased airport mix of faster, larger aircraft will enlarge the areas. If the ALUC disagrees, please explain in your updated MP LUCP.</li> <li>○ In preparing the RPZ areas, county has failed to properly account for EMAS installations and EMAS/runway buffer areas.</li> <li>○ County has failed to provide drawings actually showing the property owners impacted by new RPZs.</li> </ul> </li> <li>• <b>REQUEST: In the updated MP LUCP, address the issues above.</b></li> </ul>
4	Passenger Load and Larger Aircraft	Increase from 15,000 to as much as 575,000	<ul style="list-style-type: none"> <li>• The ALUC 2010/2011 MP LUCP refers to a then existing 15,000 annual Palomar passengers with projected passengers of 35,000.<sup>6</sup></li> <li>• County's 2018 PMP forecasts a low passenger range by 2036 of 304,000<sup>7</sup> (county's PAL 1) annual passengers and a high of 575,000 (county's PAL 2).<sup>8</sup></li> <li>• <b>REQUEST: The ALUC Updated 2018 MP LUCP needs to assess the increased passenger risk resulting from:</b> <ul style="list-style-type: none"> <li>○ Up to 15 to 20 times as many passengers being handled; and</li> <li>○ Passengers using 100 seat aircraft rather than 30 to 50 seat aircraft, which means crashes will occur with substantially more fuel aboard and likely at faster speeds.</li> </ul> </li> </ul>
<b>PART B</b> <b>Comments on Sections in the ALUC 2010/2011 MP LUCP Requiring Updating</b>			

<sup>6</sup> See MP LUCP, Table IV-2 at page 4-13.

<sup>7</sup> See 2018 PMP, Table 3.17 at page 3-33.

<sup>8</sup> See 2018 PMP, page 4-2 and county based this number on an earlier ALUC RASP.

**Comments on ALUC 2010/2011 MP LUCP Chapter 1 entitled *Introduction***

1	§ 1.1, Overview p. 1-1	<ul style="list-style-type: none"> <li>• Compatibility v. Consistency</li> </ul>	<ul style="list-style-type: none"> <li>• <b>ALUC Terminology: Compatibility v. Consistency.</b> Throughout the LUCP, the ALUC uses the terms “compatibility” and “consistency.” ALUC does not well define the difference between the terms. Clarification would be helpful.             <ul style="list-style-type: none"> <li>○ We understand “compatibility” to focus on whether local community land use policies around Palomar are compatible with the standards established in the Cal Trans, Division of Aeronautics, Land Use Planning Handbook and the standards that ALUC establishes.</li> <li>○ In contrast, we understand the term “consistency” to focus on whether (i) local community-adopted General Plans are “consistent” with the ALUC-established airport compatibility standards or (ii) inconsistent because a local entity has qualified its acceptance. . .</li> <li>○ We especially focus on this issue as a result of a C4fa member conversation with ALUC staff last year. In that conversation, the staff member was especially sensitive to the use of these two different terms. We wish to be accurate. Precise guidance would be helpful.</li> </ul> </li> <li>• <b>REQUEST: If our understanding of the meaning of the two terms is incorrect, please clarify the correct use of these terms in the ALUC updated MP LUCP. If our understanding is correct, revise the MP LUCP to more clearly make the distinction. Consider supplementing the ALUC MP LUCP definitions, which occur later in § 2.2.</b></li> <li>• <b>MP LUCP Statutory References.</b> The MP LUCP Appendix A reproduces various laws. It would be helpful if the MP LUCP crossed referenced Appendix A when citing the law.</li> <li>• At p. 1-3, the MP LUCP notes that the “<i>ALUC has no jurisdiction over federal lands.</i>” Due to the 2018 county PMP projects proposed, interesting issues arise as to how the foregoing limitation impacts ALUC noise and safety areas for the following reasons:             <ul style="list-style-type: none"> <li>○ <b>FAA Leased Lands.</b> The ALUC needs to clarify what “<i>federal lands</i>” means. The</li> </ul> </li> </ul>
	§ 1.1.2 Statutory Requirements p. 1-2 et	<ul style="list-style-type: none"> <li>• PUC References</li> <li>• ALUC – FAA Jurisdictional Issue</li> </ul>	

seq	<p>FAA does not own the MP northeast parcel at El Camino Real (ECR) and Palomar Airport Road (PAR). However, the 2018 county PMP lists among the projects that will be carried out the installation of \$8.6 million dollars of navigational improvements that will be necessary on the northeast parcel as a result of county extending its runway 800 feet eastward. County leases various land areas on the northeast parcel to the FAA. <b>Question: Are lands leased to the FAA within ALUC jurisdiction? Are lands leased to the FAA within the city of Carlsbad land use jurisdiction?</b></p> <ul style="list-style-type: none"> <li>○ <b>RPZs.</b> If lands leased to the FAA are not within ALUC jurisdiction, how does that conclusion impact, if at all, the designation of RPZ zones and other safety zones that the ALUC designates in its updated MP LUCP? We understand that in the past, the ALUC – when determining the five safety zones around Palomar – has included the northeast parcel as the Runway Protection Zone (RPZ)</li> <li>● <b>REQUEST: In the updated MP LUCP, explain:</b> <ul style="list-style-type: none"> <li>○ <b>Whether the ALUC does or does not have jurisdiction over lands that the county leases to the FAA for navigational aids and provide the FAA correspondence confirming the ALUC’s conclusion.</b></li> <li>○ <b>Whether and how such leased land impacts the ALUC designation of MP LUCP noise and safety zones.</b></li> </ul> </li> <li>● <b>ALUC NOTICES TO PROPERTY OWNERS.</b><sup>9</sup> MP LUCP § 1.1.2 discusses laws applicable to the ALUC creating an MP LUCP but says nothing about what notices the land owners affected by ALUC designation of noise and safety zones are entitled to. The importance of this issue is shown by recalling recent history. <ul style="list-style-type: none"> <li>○ <b>Adversely Affected Landowners.</b> We understand that several months ago several businessmen owning land within MP LUCP land-restricted areas appeared before the Carlsbad city council. They noted that ALUC restrictions had greatly restricted the</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● Public Notice Issues Related to ALUC Adoption of MP LUCP</li> </ul>
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<sup>9</sup> The C4fa comments are general in nature. No attempt is made to analyze legal issues. We note though that the ALUC restricting land uses around Palomar without first giving actual notice to known property owners in a relatively restricted area seems to raise federal and state due process issues similar to those arising in condemnation and inverse condemnation actions.

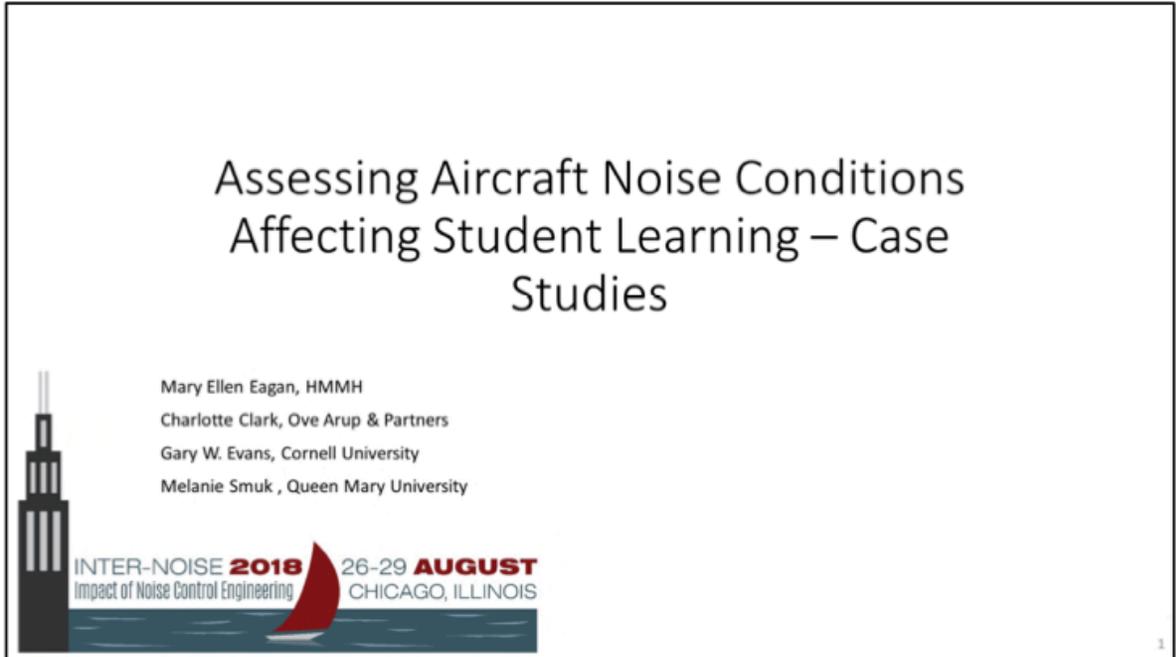
			<p>value of their office facility, perhaps by as much as \$ 1 million. They indicated they had never been given actual notice of the restrictions. The Carlsbad Council refused to grant a variance for use of the property.</p> <ul style="list-style-type: none"> <li>○ <b>Due Process Standard.</b> We have no idea what the ALUC position is on this issue. Perhaps it is (i) the ALUC has no obligation to give actual notice to affected property owners or (ii) constructive notice by publication in newspapers is adequate. C4fa has no notice of what the legal standard is. And that is precisely the point. The ALUC is undertaking regulation without fully informing those regulated what their rights are. If the ALUC is constructively taking property by regulation, property owners should be given actual notice so they can appear at the ALUC meeting at which their property interests may be adversely affected.</li> <li>● <b>REQUEST: In §1.1.2 of the updated MP LUCP, explain what notices the ALUC will give to property owners affected by its proposed noise and safety zone designations. If the ALUC position is that no actual notices are required, explain why not. Also state the newspapers that the ALUC does use when it publishes notices of its actions.</b></li> </ul>
<b>Comments on ALUC 2010/2011 MP LUCP Chapter 2 entitled <i>Airport Land Use Commission Policies</i></b>			
2	<ul style="list-style-type: none"> <li>● § 2.2.14 CNEL p. 2-3</li> </ul>	<ul style="list-style-type: none"> <li>● Berkeley Keep Jets Over the Bay, 111 Cal.Rptr.2d 598 SNEL</li> </ul>	<ul style="list-style-type: none"> <li>● The MP LUCP states in § 2.2.14 that CNEL is the land use metric adopted by the State of California for land use planning. State law includes both legislative and court made law. In <i>Berkeley Keep Jets Over the Bay</i>, the court concluded that airport planning also required analysis of Single Noise Events (SNELs). The MP LUCP definitions in § 2.2 do not address this issue.</li> <li>● <b>REQUEST: In its updated MP LUCP, explain how the ALUC will consider the SNEL analysis issue in its analysis now that the court has required it. In that discussion, explain how SNELs affect student learning. See for instance the August 2018 report entitled “Assessing Aircraft Noise Conditions Affecting Student Learning – Case Studies” by Arup and Partners and Cornell University and Queen Mary University. We reproduce the cover page from the report below to aid you in finding it.</b></li> </ul>

§ 2.4  
Airport  
Impact  
Types,  
p. 2-10  
and §3.6  
Over-  
flights at  
pp. 3-55  
et seq

- Overflights

**Recall also that the ALUC has identified its responsibility to assess the impacts of aircraft Over flights. [ See MP LUCP p. 2-11; MP LUCP §2.4.2(d)]. In MP LUCP § 3.6, the ALUC does discuss overflight policies. However, the ALUC in essence simply says that if you are a property buyer and get notice that an airport is nearby, the ALUC has satisfied its obligation because the State dictates such notice.**

**But telling property owners that the airport may affect their homes is entirely different from forewarning them that their children’s education may be impacted – as the noted report documents.**



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- **Overflights.** Various MP LUCP sections, including § 2.4.1 and § 3.6, refer to aircraft overflights as one of the four ALUC concerns. In a nutshell, the ALUC says it can do little if anything about such flights. Perhaps the ALUC could improve its analysis. For instance general aviation over flights dump lead from leaded aviation fuel on houses below.<sup>10</sup>

- **Overflights trigger both noise and safety concerns.** Neither the FAA, nor county, nor ALUC describe what over flights are proper and which are not.
- We suspect that few if any ALUC Board members could explain when overflights violate the law by being too low as related to the distance of aircraft taking off and arriving at Palomar. We did not see anything in the MP LUCP, which explains this.

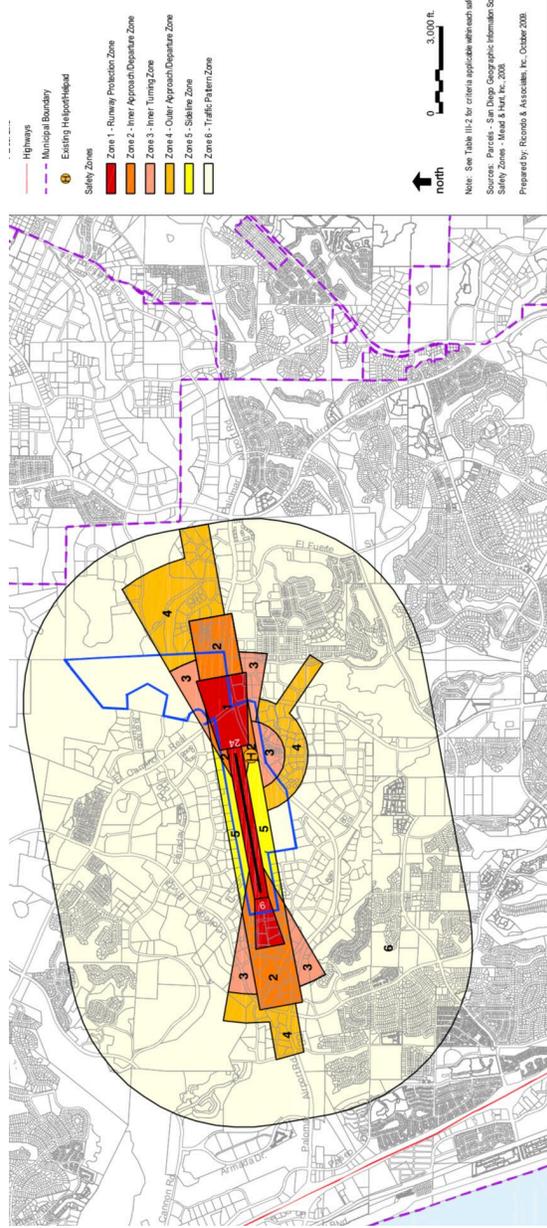
- **REQUEST: In the ALUC MP LUCP, state (i) when aircraft arriving at and leaving Palomar Airport are deemed to be too low and hence raise safety concerns, (ii) the written source of the info that the ALUC is using, and (iii) the official complaint procedure with contact info that concerned members of the community may use when such situations occur.**

**From the perspective of C4fa, the ALUC shirks its duty if its response is: Talk to the FAA or Talk to the County. We understand that the answer to the foregoing question needs to relate the aircraft altitude to its distance from Palomar and perhaps to the type of aircraft (FAA-rated A, B, C, or D).**

<sup>10</sup> Because the use of leaded aviation fuel is so bad, we understand that the present FAA target to eliminate the sale of leaded aviation fuel is December 2018. However, private GA pilots tell us that leaded additives are readily available and when the sale of leaded aviation fuel is eliminated, they will simply use the additives – rather than buying a new engine or retrofitting their old engines at substantial cost.

Also, provide an answer in terms of meaningful street locations. An answer along the lines of: *Aircraft departing Palomar must be at least x feet above mean sea level when more than y miles from the airport does not tell the reader where the x mile limit is. The ALUC can accomplish that by including in its updated MP ALUC Thomas Guide Atlas maps with appropriate radii from the airport shown.*

- The ALUC 2010/2011 MP LUCP Exhibit III-2 [“Compatibility Policy Map Safety] shows the ALUC Safety Zone 4 stopping just shy of the Vista Municipal boundary. If the Palomar runway is extended 800-feet to the east, it appears based on the Exhibit III-2 scale that property owners within the city of Vista will be impacted. The colored LUCP Exhibit III-2 provides better information but a reproduced black and white Exhibit III-2 is reproduced below.



Consistency of  
Vista General  
Plan with ALUC  
Compatibility  
Plan

§2.4 and  
§ 2.6.1  
and § 2.8  
and § 2.9  
and §  
2.12

	<p>2.4 and § 2.6.1 and § 2.8 and § 2.9 and § 2.12</p>	<p>Consistency of County General Plan with ALUC Plan Compatibility Plan</p>	<ul style="list-style-type: none"> <li>• Based on the county 2018 Palomar Master Plan, it appears the ALUC needs to resolve an issue it has not previously recognized. <ul style="list-style-type: none"> <li>○ Note from the MP LUCP Exhibit III-2 above that the county airport has an irregular parcel outlined in blue (in the original drawing) in a north-south orientation.</li> <li>○ This irregular parcel crosses the Runway Protection zone and safety zones 2, 3 and 4.</li> <li>○ That parcel is on the Northeast corner of El Camino Real (ECR) and Palomar Airport Road (PAR).</li> <li>○ In theory, county operates Palomar Airport pursuant to Carlsbad Conditional Use Permit (CUP) 172. However – <ul style="list-style-type: none"> <li>▪ The Carlsbad CUP 172 boundaries [as shown in a CUP attachment] do not extend across El Camino Real to the Northeast airport parcel.</li> <li>▪ Moreover, County in its 2018 PMP and in related statements has said that it is not bound to comply with Carlsbad planning or zoning because county is a superior governmental entity.</li> </ul> </li> <li>○ Although county has adopted a General Plan as required by the Government Code, the GP on its face states that it applies to the unincorporated areas of the county.</li> <li>○ Accordingly, if county wants to build any structures within the irregular parcel outlined in blue noted above – which county owns – there is neither a Carlsbad General Plan nor a County General Plan.</li> <li>○ Conclusion: Until either (i) county says any structures it wishes to place within the irregular blue shaped area are subject to Carlsbad Planning and Zoning or (ii) county amends its General Plan in accordance with Government Code requirements to apply county planning and zoning to the affected area, it would be impossible for the ALUC to make the statutorily required finding of consistency with the ALUC’s updated MP LUCP.</li> <li>○ Note: The same issue applies at Gillespie Field and should be addressed in the Gillespie LUCP.</li> </ul> </li> <li>• <b>REQUEST: In the Updated MP LUCP, advise (i) how the county PMP projects will impact Vista residents and (ii) what actual notices the ALUC will give to Vista property owners impacted by the county Palomar Runway extension.</b></li> </ul>
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		<ul style="list-style-type: none"> <li>• <b>REQUEST: In the Updated MP LUCP, advise how the ALUC will address the issue of county placing structures in the irregularly shaped blue area noted above when structures in this area exist in a “No Man’s Land” currently not regulated by Carlsbad (because the county denies the Carlsbad jurisdiction) and not regulated by the county because the county plan applies to unincorporated areas of the county and the relevant area is with the boundaries of the city of Carlsbad.</b></li> </ul>
<p><b>Comments on ALUC 2010/2011 MP LUCP Chapter 3 entitled <i>McClellan-Palomar Airport Policies and Maps</i></b></p>		
3	<p>§ 3.2 § 3.2.1 § 3.2.2</p> <p>Compatibility Zone Designation</p>	<ul style="list-style-type: none"> <li>• These sections seem inconsistent for these reasons: <ul style="list-style-type: none"> <li>○ § 3.2.1 suggests that the 2010/2011 MP LUCP is based on the FAA approved 2008 ALP, which refers to an ultimate ARC of C-II.</li> <li>○ § 3.2.2 in contrast refers to ALUC-designated safety zones based on “general aviation” aircraft [as opposed to commercial sized aircraft].</li> <li>○ The risk to people on the ground in safety zones and the size of the crash debris field increase dramatically as aircraft increase in weight, fuel carried, and speed.</li> <li>○ Similarly, the risk to people in a crashing aircraft increase dramatically depending on whether an FAA-rated 90,000 pound aircraft carrying 6,000 pounds of fuel, and traveling faster carries 5 corporate passengers or 100 commercial air carrier passengers.</li> <li>○ In short, did the ALUC 2010/2011 safety zones analysis base its zone designations on the 10,000+ larger aircraft then using Palomar [despite the inaccurate designation of the critical design aircraft as the Falcon] or only on the “general aviation” aircraft that the 2010/2011 MP LUCP refers to? Where is the supporting proof and calculations of the crash debris fields to support the ALUC conclusion?</li> </ul> </li> <li>• <b>REQUEST: In the Updated MP LUCP (i) address the issues noted above and (ii) rather than referring to “general aviation” aircraft, provide a table showing the heaviest, most fuel laden, and fastest aircraft used to determine the crash safety areas and debris fields. Also in a technical Appendix provide the assumptions, methodology, and</b></li> </ul>

			computer model used to determine the noise and safety zones so that a consultant retained by the public may review them.
§ 3.2.2	Runway Length and Orientation		<ul style="list-style-type: none"> <li>• <b>REQUEST:</b> Because county plans to relocate its runway northward, and hence change the orientation of the runway, which the ALUC analyze in 2010/2011, in the Updated MP LUCP, show how the safety areas change. Presumably, that analysis means increasing the restrictions on some property owners and reducing the restrictions on others. Likely, such changes will have a material financial impact on such owners. Accordingly, in the Updated MP LUCP, provide maps and lists of property owners impacted to assure that such property owners received proper procedural due process of the intended changes.</li> </ul>
§ 3.3	Noise Compatibility Policies for McClellan-Palomar Airport		<ul style="list-style-type: none"> <li>• The ALUC noise analysis applies CNEL principles only. In <i>Berkeley Keep Jets Over the Bay</i>, 111 Cal.Rptr.2d 598, the California courts imposed an additional noise analysis requirement to account for numbers of Single Noise Event Levels (SNEL).</li> <li>• <b>REQUEST:</b> In the Updated MP LUCP also provide a SNEL analysis especially as it relates to Carlsbad schools near the airport. As noted in Item 2 at page 14 above a 2018 study of the impact of noise on schools shows that student learning can be substantially disrupted by aircraft noise. If the ALUC does not provide an SNEL analysis, explain why so that the issues are properly framed for court review.</li> </ul>
<b>Comments on ALUC 2010/2011 MP LUCP Chapter 4 entitled <i>Background Data: McClellan-Palomar Airport and Environs</i></b>			
4	Table IV-2 at p. 4-13 and 4-14	Enplanements	<ul style="list-style-type: none"> <li>• Note that the 2010/2011 MP LUCP assumed 15,000 to 35,000 annual enplanements whereas the 2018 PMP forecasts 304,000 to 575,000 annual enplanements.</li> <li>• In other words prior Palomar operations endangered about 30 persons per aircraft and forecasts about 100 persons per aircraft being endangered.</li> </ul>

			<ul style="list-style-type: none"> <li>• In addition the increased passenger load means higher numbers of larger, faster, more fuel-laden aircraft flying, which changes the size and shape of the crash debris zone.</li> <li>• Note also that the FAA’s implementation of NextGen [which fans out flight paths over a broader area as reflected by noise suits against the FAA from communities now suffering noises in neighborhoods not formerly in issue] changes the Flight Track usage at Table IV-2 on page 4-14, which the ALUC relied on to prepare its 2010/2011.</li> <li>• Also, Table IV-2 at page 4-15 relied for its analysis on the location of certain hospital and schools. We understand that in the last 8 years, more schools and hospitals have been built and presumably will be addressed in the Updated MP LUCP since crash locations for helicopters ferrying patients will change.</li> </ul>
	<p>Metroplex Flight Path Changes</p> <p>Helicopter flight path changes resulting from new hospitals and schools.</p>		<ul style="list-style-type: none"> <li>• Table IV-3 is seriously out of date. In the last 4 years alone, Carlsbad has approved major commercial (many hotels) and residential units within 2 miles of an extended Palomar runway. The new ViaSat HQ campus alone is nearly 1,000,000 square feet.</li> <li>• The ALUC information in Table IV-3 at p. 4.24 related to the County General Plan confuses us. <ul style="list-style-type: none"> <li>○ Palomar Airport as well as much of the impact noise and safety areas are within the city of Carlsbad.</li> <li>○ In its 2018 PMP, the county says that – as a superior governmental entity – county is not bound by Carlsbad Planning and Zoning.</li> <li>○ We also understand that the County General Plan expressly says that it applies only to unincorporated areas. Any county Palomar Airport owned areas within Carlsbad [such as the entire airport Palomar parcel on the northeast corner of Palomar Airport Road and El Camino Real] is within the city of Carlsbad.</li> <li>○ It appears therefore that county uses county land in a “NO MAN’s” land not covered by the Carlsbad General Plan and not covered by the County General Plan or the GP policies..</li> <li>○ Accordingly, it appears that the last half of Table IV-3 on p. 4.24 is incorrect. Please update and explain what changes will be made and why. Please assure that the</li> </ul> </li> </ul>
<p>Table IV-3 at p. 4-23 and 4-24</p>	<p>Improvements near runway</p> <p>County General Plan Consistency</p>		

	<p>ALUC is basing its revision on what the San Diego Board of Supervisors has actually adopted in writing, as opposed to merely San Diego staff opinions.</p>	<p>Compatibility Data: Safety</p>
<p>§4.3.2 at p. 4-33</p>	<ul style="list-style-type: none"> <li>• This section reliefs on various flight paths for its designation of safety zones. As noted above, the FAA introduction of Metroplex changes the prior data – as will relocation and extension of the runway from 4900 feet to 5700 feet.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>REQUEST: Address the issues noted above in the ALUC Updated MP LUCP.</b></li> </ul>
<p><b>Comments on ALUC 2010/2011 MP LUCP Appendix C entitled <i>Airport Land Use Compatibility Concepts</i></b></p>		
<p>1. ALUC 2010/2011 Safety Analysis</p>	<p>See Appendix C [Airport Land Use Compatibility Concepts]</p>	<ul style="list-style-type: none"> <li>• At page C-6, the ALUC notes that the State Aeronautics Division Handbook requires analysis of commercial and general aviation airport safety contours. <ul style="list-style-type: none"> <li>○ The ALUC then presents Exhibits C-1 and C-2, which respectively depict accident safety distribution contours for arriving and departing general aviation aircraft.<sup>11</sup></li> <li>○ The ALUC did not provide similar exhibits depicting accident safety distribution contours for commercial arriving and departing aircraft.</li> <li>○ As suggested above, we would expect commercial aircraft crash debris fields to be significantly different in shape and size due to their size, much greater fuel capacity, and speed.</li> </ul> </li> <li>• <b>REQUEST: In the updated MP LUCP, add the commercial debris fields so safety impacts can be assessed of Palomar transitioning from a B-II airport to a D-III airport. When showing the fields superimpose them over actual properties owned so that such owners have proper notice as to how their properties may be restricted.</b></li> </ul>

<sup>11</sup> We assume the Exhibit term “accident distribution contour” is a euphemism for the distribution of aircraft debris during a midair safety event [loss of aircraft parts] or crash into the ground.

	<ul style="list-style-type: none"> <li>• At page C-6, the ALUC also notes that ALUC-designated safety zones have a “spatial” and “time” element. When the ALUC prepared its 2010/2011 MP LUCP, the FAA had not yet implemented its Next Generation [NextGen] Satellite Aircraft guidance system.<sup>12</sup> In 2010 (see p. C-7), the ALUC assumed aircraft approaches extended 2000 feet on either side of the runway centerline. NexGen changes this assumption. <ul style="list-style-type: none"> <li>○ Under the FAA pre-NextGen FAA Control Tower procedures, aircraft tended to have more uniform, repetitive flight paths.</li> <li>○ In contrast, under NextGen, which Palomar is in the process of implementing, flight paths will “fan out” into broader departure and arrival patterns. Accordingly, it is foreseeable that the ALUC safety zones will broaden. How this occurs is no doubt a difficult analytic problem, possibly requiring ALUC to retain aviation experts.</li> <li>○ We simply note that a properly updated ALUC MP LUCP will address this issue.</li> </ul> </li> <li>• <b>REQUEST: In the updated ALUC MP LUCP explain what criteria the ALUC uses to assess the number of feet that aircraft will approach and depart from the Palomar runway under NextGen instead of the currently used 2000-foot ALUC assumption.</b></li> <li>• At page C-14, in Table C-1 entitled “<i>Safety Zone Aircraft Accident Risk Characteristics</i>,” the ALUC evaluates various aircraft maneuver risks. It did not evaluate risks associated with Engineered Material Arresting Systems (EMAS) because Palomar in 2010/2011 did not have any EMASs. <ul style="list-style-type: none"> <li>○ The county 2018 PMP proposes installation of EMAS systems in phases. As noted above, an EMAS is designed to handle aircraft</li> </ul> </li> </ul>
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<sup>12</sup> In the San Diego region, the FAA has referred to NexGen as its Metroplex Plan, possibly due to the substantial community opposition and lawsuits that NexGen has generated.

overshooting a runway at about 70 miles per hour.

- An EMAS at the approach end of a landing aircraft is NOT designed for the approaching aircraft use. FAA-rated C and D aircraft can approach at up to 141 knots. Hence, approaching aircraft must avoid the approach end EMAS at all costs.
- In addition, an aircraft taking off easterly from Palomar [the Santa Anna Wind scenario] today has 1000 feet of actual sandy area outside the runway in which to stop. If the runway is extended 800 feet and an east end EMAS installed, any aircraft overshooting the runway and EMAS will endanger heavy traffic on El Camino Real, which adjoins the airport.
- An EMAS designed for 70 knot aircraft will not stop an aircraft on takeoff traveling 100 knots. This scenario can occur whenever an aircraft has a mechanical defect or physically incapacitated pilot.

- **REQUEST: Accordingly, in the ALUC updated MP LUCP explain how a Palomar installation of EMAS systems both improves and reduces safety and changes the ALUC-safety-designated zones under various assumptions. If the runway is extended 800-feet and an East end EMAS is added, the threat to traffic on El Camino Real (perhaps 100 feet from the EMAS end) seems significantly higher for aircraft entering the EMAS at above the 70 knot design speed – as where the aircraft encounters a mechanical failure.**

- At page C- 15, the 2010/2011 MP LUCP discusses the “consequences variable.” Specifically, how large is the “swath size,” area over which accident debris is spread and hence the property and people on the ground at risk in a crash. The existing LUCP refers to a swath size of about a football field for general aviation aircraft. However, the existing LUCP provides no data for commercial aircraft.

- Since county plans to convert Palomar from an FAA-rated B-II

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<sup>13</sup> Many private and governmental Risk Management Plans [such as those involving property with large tank farms storing hydrocarbon and/or chemical products] provide such analysis.

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<sup>14</sup> The FAA so-called “Advisory Circulars” (ACs) establish the protocol that airports receiving FAA grant funds must follow. The county has previously received in excess of \$30 million in FAA grant funds.

that can protect vehicles on roads adjacent to airports.

- **REQUEST: In the Updated MP LUCP (i) identify the increased risks to traffic on ECR from a county 800-foot runway extension and (ii) identify measures by which this risk could be reduced.**
- At page C-20, the 2010/2011 MP LUCP notes: “Among other hazards to flight, bird strikes represent the most widespread concern.” The ALUC then references FAA open landfill requirements. However, it appears that the ALUC 2010-2011 LUCP made no effort to evaluate (i) the number of bird strikes affecting aircraft using Palomar or (ii) the amount of birds in the area. In the past, bird strikes presented mainly risks to a few corporate flyers and air carrier passengers. However, county’s new 20-year plan proposes to serve 304,000 to 575,000 air carrier passengers.
- **In the Updated MP LUCP (i) identify the level of concern that bird strikes may cause at Palomar [Note: The MP website available to pilots notes substantial birds in the spring.]; (ii) identify the extent to which birds displaced by construction of more than 1,000,000 feet of empty land within 3 miles of the airport may be diverted to the MP northeast corner of ECR and PAR; and (iii) restrictions that might reduce the bird population in conformance with applicable laws.**

**Comments on ALUC 2010/2011 MP LUCP App D, Methods for Determining Concentrations of People**

- By imposing its restrictions, the ALUC has the power to reduce the value of property by more than 50%. Accordingly, the manner of calculating restrictions should be clear. Appendix D does not do that.
- Appendix D has several tables providing information but gives no examples of real life situations to explain how the ALUC applies the data. Laypersons owning property in a possibly impacted safety area are left to guess how the ALUC makes its calculations.

			<ul style="list-style-type: none"> <li>• <b>REQUEST: In the Updated MP LUCP, provide at least 10 examples of how the restrictions on commercial and industrial property and on governmental property such as schools is calculated. When providing the calculations, state the assumptions the ALUC is making, the specific data source relied on, and show the calculations.</b></li> <li>• <b>REQUEST: It appears that relocation of the runway may reduce restrictions on a few properties. Identify these properties [recognizing that reduced restrictions are contingent on the runway actually being relocated] so that the ALUC has inversely condemned property by restrictions no longer applicable. Show the revised safety area borders precisely so that properties benefiting from a runway relocation may be properly identified.</b></li> </ul>
<b>Comments on ALUC 2010/2011 MP LUCP Appendix D entitled <i>General Plan Consistency Checklist</i></b>			
1	Consistency		<ul style="list-style-type: none"> <li>• <b>Request: As noted above, verify the impacted property that is and is not within the County General Plan, which appears to apply only to unincorporated areas of the county.</b></li> <li>• <b>Request: If impacted properties are owned by the county but within the city of Carlsbad, verify that the county will comply with the ALUC restrictions since county has said it need not abide by Carlsbad planning and zoning.</b></li> </ul>

Attachment A  
 Transcript of Supervisor Bill Horn December 15, 2016 Board of Supervisor  
 Statement Documenting Conversion of Palomar to Airport for Larger Commercial Aircraft in Place of  
 General Aviation Recreational Aircraft

Board of Supervisors Meeting Dec 16, 2015, 9am

Agenda item #3 - Options for New Master Plan for McClellan-Palomar Airport

[http://sdcountry.granicus.com/MediaPlayer.php?view\\_id=9&clip\\_id=1709](http://sdcountry.granicus.com/MediaPlayer.php?view_id=9&clip_id=1709)

Spoken by Bill Horn

"I think this is a big huge commercial driver here. And I think we're planning an airport for, if not 50 years maybe 100. Um, so I'm a private pilot, I'm sympathetic to airplane owners but I think the folks that are tied down on the North side of the runway need to move to Fallbrook or someplace else. You have a huge commercial operations going here with a lot of corporate jets coming in and out of there. This is the driver, this is the impetus for us lengthening the runway and doing all these safety issues there. It's no longer a little small airport um, that you can fly in and out of with your Cessna 210 um, so I think that those folks need to be put on notice that they're going to have to move 'cause you're going to have to have that space and you're not going to be able to move them to the fixed space operator space. I mean you're cutting back on their businesses so um, the purpose of this whole thing was to examine the economic feasibility of expanding and increasing activity.

I think the concerns of the public as you have these meetings of course, are going to be noise, but if we expand the runway um, that noise will be a lot less because that footprint will go way down um, and so, and I know your alternatives here, you're basically looking at the 800 ft. I would like you to also, because I'm concerned about if we, I want you to also leave the 900 ft in your study because I don't want to have to come back and sit down and decide if we got the money from the Feds to build 900 ft and then all the sudden, we don't, we haven't studied it so I don't want to have to go through that again. So I realize your preferred and we're going to probably approve going ahead with your preferred and but I just want to make sure we haven't eliminated the 900 ft, and a couple of other issues. I know you guys are nice to the pilots and I appreciate that. I don't want them down here picketing us but at the same time, as a private pilot, I think that maybe you ought to move, we ought to move, some of these planes or make

an opportunity for them to move to either Fallbrook or Borrego or I don't know. I know French Valley is in Riverside County and they would probably like the aircraft also. I just think the days of a the majority of this activity being recreational are over um, and so this is a very, very viable commercial operation so we are planning for the next 50 years, if not 100. So I want us to keep all the options available.

With that being said, we can go to speakers or staff or whatever. I just don't want to narrow this down to a focus groups input 'cause I don't know what their concern is. My concern is the economic viability of this airport and the Northern Region and very obviously, if you look at Lindberg, you know they're pretty much at capacity. I know Greg can talk to us about that but uh, I think we have a great option here and I think we ought to use it. So with that said, having ruined the whole soup mix you go ahead."

County Consultant SCS Engineers Report Entitled  
Evaluation of Possible Environmental Impacts of An Aircraft Crash  
Into the Landfill Cover at Palomar Airport Landfill

Bender Comment: We provide the title page and relevant SCS report excerpts. The title page follows the excerpts for technical computer insert reasons. We are of course aware that the ALUC focuses on land outside Palomar Airport. We provide the report because it well describes the environmental risks of a large fuel laden aircraft crashing anywhere. Hence, it is relevant to the ALUC's designation of Safety Zones outside the Airport.

**Identification of Palomar Aircraft Crash Hazards**

- **Spillage of flammable liquids such as Jet fuel:** *“These fuels are highly combustible, burn at extremely high temperatures, can be corrosive to aircraft equipment and are highly toxic to human beings ... Ignition of the jet fuel or other flammable material, upon impact, could also be highly probable.” [p. 3]*
- **Burning of solids.** *“Post-crash fires can result in burning of ... aircraft batteries and electrical equipment, engines, tires, wheels, pathogenic substances, radioactive materials, and metals such as aluminum and fiber-reinforced polymer composites of the aircraft fuselage and wings. ... If the crash occurs during the dry season, grass fire could ignite and spread to other areas of the site and create secondary environmental issues such as smoke (air quality issues), as well as possible offsite wildfires and or burn, smoke and or structural damage to other onsite or offsite property.” P. 3]*
- **Spillage of cryogenic liquid.** *“Cryogenic liquids ... are used as cooling agents to reduce engine temperatures ... These liquids are ... on the Hazardous Materials Information System. Hence, even low quantities of cryogenic liquids can expand into large volumes of gases ... If not stored in containers with adequate pressure-relief devices, enormous pressures can build up within the containers. The impact from an aircraft rash can cause a sudden rapid increase in the internal pressure of the container. Results can range from damage to surrounding equipment, structures, explosions, called ‘boiling liquid expanding vapor explosion,’ to asphyxiation hazards.” [p. 4]*
- **Pressurized liquid and/or vapor release.** *“Aircraft utilize a variety [of] hydraulic and pneumatic accumulators, which contain pressurized air or fluids that assist in the operation of equipment ... [R]upture can] lead to sudden discharge of large amounts of pressurized fluids, resulting in destruction of property, and possibly injury to persons in proximity to the rupture.” [p. 4]*

➤ *Pipe rupture. “Impact from an aircraft crash may result in extensive damage to nearby above/below-grade utility lines. Damage or rupture of a buried water, gas or storm drain line, could contaminate nearby soils and water bodies. Emission release from pipes could severely compromise the air quality and even cause explosions, depending on the contents of the carrier pipes. Impact to piping associated with the GCCS [methane gas collection and control system] may damage the system and cause a release of LFG to the atmosphere. If the LFG concentration is within flammable ranges and an ignition source is present, explosions or fires may occur. ...” [p. 4]*

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**SCS ENGINEERS**

October 15, 2013  
File No. 01213281.00

DRAFT

Mr. Jason Forga, P.E.  
County of San Diego  
Department of Public Works  
5510 Overland Avenue, Suite 210  
San Diego, CA 92123

**Subject: Evaluation of Possible Environmental Impacts of a Potential Aircraft Crash into the Landfill Cover at Palomar Airport Landfill, Carlsbad, California**

Dear Mr. Forga:

The County of San Diego (County) is currently evaluating the possibility of extending the east end of the existing runway at the McClellan-Palomar Airport (Airport). Since the Airport is constructed on a closed landfill site equipped with a below-grade landfill gas (LFG) collection and control system (GCCS), SCS Engineers (SCS) was retained to evaluate the possible environmental impacts of a potential aircraft crash into the landfill cover at the site. Please note that this report attempts to evaluate the worst case "what-if" scenario, and assumes that the impact from an aircraft crash into the landfill cover would result in uncovering buried solid waste materials and damage to the GCCS. Whether or not this scenario is possible, is beyond the scope of this report. Further analysis on whether or not the landfill cover could be penetrated by an aircraft impact, and to what degree, may be the subject of a future study. These services were approved by the County, and Task Order #250 was issued authorizing work on August 30, 2013.

**1 BACKGROUND**

Palomar Airport, located in Carlsbad, California, is owned and operated by the County (Figure 1: Location Map). The airport is partially located over a closed landfill site, which operated as a Class III municipal solid waste (MSW) disposal facility between 1962 and 1975. Over time, the anaerobic decomposition of the organic waste components buried in the landfill produces a by-product gas known as "LFG". LFG primarily consists of about 50 percent methane and 50 percent carbon dioxide. It also includes trace amounts of nitrogen and oxygen, and minute amounts of non-methane organic compounds (NMOCs) and inorganic compounds. Methane, is a principle component of natural gas, and is explosive at concentrations of 5 percent and 15 percent by volume, in air. Hence, to prevent possible hazards associated with the migration of methane beyond the limits of the buried waste footprint, a below-grade GCCS has been installed on the site that collects and disposes the collected LFG in an enclosed flare.