



PLANNING COMMISSION MEETING

Agenda

Regular Meeting

May 15, 2024, 5 PM

Council Chamber
1200 Carlsbad Village Dr.
Carlsbad, CA 92008
carlsbadca.gov

Welcome to the Planning Commission Meeting

We welcome your interest and involvement in the city's legislative process. This agenda includes information about topics coming before the Planning Commission and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website.

How to watch

In Person



City Council Chamber
1200 Carlsbad Village Drive

Online



Watch the livestream at
carlsbadca.gov/watch

How to participate

If you would like to provide comments to the Commission, please:

- Fill out a speaker request form, located in the foyer.
 - Submit the form to the Clerk before the item begins.
 - When it's your turn, the Clerk will call your name and invite you to the podium.
 - Speakers have three minutes, unless the presiding officer (usually the chair) changes that time.
 - You may not give your time to another person, but can create a group. A group must select a single speaker as long as three other members of your group are present. All forms must be submitted to the City Clerk before the item begins and will only be accepted for items listed on the agenda (not for general public comment at the beginning of the meeting). Group representatives have 10 minutes unless that time is changed by the presiding officer or the Commission.
- **In writing:** Email comments to planning@carlsbadca.gov. Comments received by 2 p.m. Wednesday, will be shared with the Commission 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.

Reasonable accommodations

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 442-339-2821 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or manager@carlsbadca.gov by noon on the Tuesday before the meeting to make arrangements. City staff will respond to requests by noon on Wednesday, the day of the meeting and will seek to resolve requests before the start of the meeting in order to maximize accessibility.

CALL TO ORDER:

ROLL CALL:

APPROVAL OF MINUTES:

Minutes of the Regular Meeting held on May 1, 2024

PRESENTATIONS: None.

PUBLIC COMMENT: *The Brown Act allows any member of the public to comment on items not on the agenda. Please treat others with courtesy, civility, and respect. Members of the public may participate in the meeting by submitting comments as provided on the front page of this agenda. The Commission will receive comments in the beginning of the meeting. In conformance with the Brown Act, no 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 Commission, votes on the motion unless members of the Commission, staff, or the public request specific items be discussed and/or removed from the Consent Calendar for separate action.*
None.

PUBLIC HEARINGS:

1. **ZCA 2024-0001, LCPA 2024-0020 (PUB 2024-0005) 2024 ZONE CLEAN UP** Adoption of a resolution recommending approval of a Zone Code amendment and a Local Coastal Program amendment to the Zoning Ordinance (Title 21) of the Carlsbad Municipal Code to complete various miscellaneous clean up changes.

ACTION TYPE: Legislative

STAFF RECOMMENDATION: Take public input, close the public hearing, and adopt the resolution.

PLANNER: Nicole Morrow **ENGINEER:** N/A

DEPARTMENTAL REPORTS:

2. **ELECTION OF VICE CHAIR** The Planning Commission will elect a Vice-Chair for the remainder of the 2024 calendar year.

ACTION TYPE: Administrative

STAFF RECOMMENDATION: Appoint a Vice-Chair

PLANNER: Eric Lardy **ENGINEER:** N/A

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.*

CITY PLANNER REPORT:

CITY ATTORNEY REPORT:

ADJOURNMENT:



May 1, 2024, 5 PM.

CALL TO ORDER: 5:01 p.m.

ROLL CALL: Kamenjarin, Sabellico, Hubinger, Merz, Lafferty, Meenes (Stine – Absent)

PLEDGE OF ALLEGIANCE: Commissioner Meenes led the Pledge of Allegiance.

APPROVAL OF MINUTES: Minutes of the Regular Meeting held on April. 17, 2024, were approved as presented. – 6/0/1(Stine – Absent).

PRESENTATIONS: None.

PUBLIC COMMENT: None.

PUBLIC HEARING:

1. CDP 2023-0052/V 2023-0009 (DEV2023-0135) NORMANDY BEACH HOME (LOT 38):
Adoption of a resolution approving a Coastal Development Permit and minor variance to allow for the demolition of a portion of an existing single-family residence and construction of a new 2,968-square-foot, three- story single-family residence with an attached two-car garage and a front yard setback reduction of ten feet and a rear yard setback reduction of five feet, within the Mello II Segment of the city's Local Coastal Program located at 260 Normandy Ln. within Local Facilities Management Zone 1.

ACTION TYPE: Quasi-Judicial

STAFF RECOMMENDATION: Take public input, close the public hearing, and adopt the resolution.

PLANNER: Kyle VanLeeuwen **ENGINEER:** Linda Ontiveros

Chair Kamenjarin opened the duly noticed public hearing at 5:06 p.m.

At Chair Kamenjarin's request, Commissioners Meenes and Merz disclosed that they had visited the site for this project and Commissioner Lafferty added that she had received the historic report and reviewed the site on Google Maps as well.

City Planner, Eric Lardy introduced Associate Planner, Kyle Van Leeuwen, who reviewed a PowerPoint presentation on the item. (on file in the Office of the City Clerk).

Chair Kamenjarin called for a recess at 5:19 p.m. so that staff could determine if the properties in Items 1 and 2 are Alternative Design streets.

Chair Kamenjarin reconvened the meeting at 5:21pm.

In response to Commissioner Lafferty's inquiry, City Planner, Eric Lardy determined during the break that Normandy Ave. is an Alternative Design street; he added that the project is conditioned to enter an agreement with the city for future improvements.

Applicant Kevin Dunn, 1245 Goldflower Rd. Carlsbad, reviewed his findings after the neighborhood outreach public meeting. He noted there was no serious opposition from the neighborhood.

Chair Kamenjarin opened the public testimony at 5:29 p.m. and asked if there were any members of the public who wished to speak on the project.

Hearing no one else wishing to speak, Chair Kamenjarin closed the public testimony at 5:29 p.m.

Motion by Commissioner Sabellico, seconded by Commissioner Meenes, to adopt Resolution 7510 – 5/1/0/1 (Lafferty – No; Stine - Absent).

Chair Kamenjarin closed the duly noticed public hearing at 5:32 p.m.

2. CDP 2023-0054/V 2023-0010 (DEV2023-0135) - NORMANDY BEACH HOME (LOT 39): Adoption of a resolution approving a Coastal Development Permit and minor variance to allow for the demolition of a portion of an existing single-family residence and construction of a new 2,968-square-foot, three-story single-family residence with an attached two-car garage and a front yard setback reduction of ten feet and a rear yard setback reduction of five feet, within the Mello II Segment of the city's Local Coastal Program located at 260 Normandy Ln. within Local Facilities Management Zone 1.

ACTION TYPE: Quasi-Judicial

STAFF RECOMMENDATION: Take public input, close the public hearing, and adopt the resolution.

PLANNER: Kyle VanLeeuwen **ENGINEER:** Linda Ontiveros

Chair Kamenjarin opened the duly noticed public hearing at 5:34 p.m.

At Chair Kamenjarin's request, Commissioners Meenes and Merz disclosed that they had visited the site for this project and Commissioner Lafferty added that she had received the historic report and reviewed the site on Google Maps

City Planner, Eric Lardy introduced Associate Planner, Kyle Van Leeuwen, who reviewed a PowerPoint presentation on the item. (on file in the Office of the City Clerk).

Chair Kamenjarin opened the public testimony at 5:42 p.m. and asked if there were any members of the public who wished to speak on the project.

Hearing no one else wishing to speak, Chair Kamenjarin closed the public testimony at 5:42 p.m.

Commissioner Meenes noted for the record that Exhibit 3 (page 21) of the project, discerns how the city views this project and variances like it. He added that two properties on Normandy Lane were recently granted approval of a minor variance for a reduced front lot and ten foot minimum and rear lot setbacks concluding that a strict application of the R-3 Zone Development Standards for project sites like this one would deprive properties of site development privileges enjoyed by other properties in the vicinity and under the identical R3 Zone Classification.

Motion by Commissioner Meenes, seconded by Commissioner Merz, to adopt Resolution 7511 – 5/1/0/1 (Lafferty – No; Stine - Absent).

Chair Kamenjarin closed the duly noticed public hearing at 5:43 p.m.

3. SDP 2023-0009/CDP 2023-0017 – MAPLE DUPLEX: Adoption of a resolution approving a Site Development Plan and Coastal Development Permit to demolish a duplex and construct a duplex with subterranean parking and attached storage on a 0.13-acre site located at 147 and 149 Maple Ave., within the Mello II Segment of the Local Coastal Program and Local Facilities Management Zone.

ACTION TYPE: Quasi-Judicial

STAFF RECOMMENDATION: Take public input, close the public hearing, and adopt the resolution.

PLANNER: Lauren Yzaguirre **ENGINEER:** Jason Geldert

Chair Kamenjarin opened the duly noticed public hearing at 5:45 p.m.

City Planner, Eric Lardy introduced Associate Planner, Lauren Yzaguirre, who reviewed a PowerPoint presentation on the item. (on file in the Office of the City Clerk).

In response to Commissioner Lafferty's inquiry, Associate Planner, Lauren Yzaguirre explained that the applicant will be required to contract the services for archaeological excavations and the applicant is also required to be present during those excavations. City Planner, Eric Lardy added that there are certain procedures are followed depending on what, if anything, is found.

Applicant, Tyler Van Stright from JLC Architecture made himself available for questions.

Chair Kamenjarin opened the public testimony at 5:58 p.m. and asked if there were any members of the public who wished to speak on the project.

Hearing no one else wishing to speak, Chair Kamenjarin closed the public testimony at 5:58 p.m.

Motion by Commissioner Sabellico, seconded by Commissioner Merz, to adopt Resolution 7512 – 6/0/1 (Stine - Absent).

Chair Kamenjarin closed the duly noticed public hearing at 5:59 p.m..

DEPARTMENTAL REPORTS:

4. **PLANNING COMMISSION WORK PLAN:** Adoption of a resolution recommending acceptance of the fiscal year 2023-24 Work Plan Annual Report and approval of the fiscal year 2024-25 Planning Commission Work Plan.

ACTION TYPE: Administrative

STAFF RECOMMENDATION: Adopt the resolution.

PLANNER: Eric Lardy **ENGINEER:** N/A

Motion by Commissioner Merz, seconded by Commissioner Hubinger, to adopt Resolution 7513; with the condition that the sub-bullet in the Training and Operations section of the Planning Commission Work Plan Document indicating a Planning Commission member serve on the Community Development Block Grant Advisory Committee (CDBG) be deleted. - 5/0/1/1 (Sabellico - Abstain; Stine - Absent).

COMMISSIONER REPORTS:

Commissioner Lafferty requested the Historic Preservation Report for the Three on Garfield project tentatively scheduled for July 17, 2024 be provided to the Planning Commission as soon as possible.

In response to Commissioner Lafferty's request, City Planner, Eric Lardy explained that the links to the draft of the Environmental Impact Report (EIR) contain the Historic Preservation Report and a link can be sent to Commissioners as soon as possible with this information. Mr. Lardy added that Commissioners will receive the final EIR in advance of the July 17, 2024 meeting and it will contain even more information including comments from the public.

Commissioner Sabellico stated he has been nominated to the County Environmental Health and Quality Advisory Board.

CITY PLANNER REPORT: City Planner, Eric Lardy reviewed the upcoming tentative schedule of projects.

CITY ATTORNEY REPORT: None.

ADJOURNMENT: 6:14 p.m.

Cynthia Vigeland
Administrative Secretary



Staff Report

Meeting Date: May 15, 2024

Item **1**

To: Planning Commission

Staff Contact: Nicole Morrow, Assistant Planner
442-339-5438, nicole.morrow@carlsbadca.gov

Subject: 2024 Zone Code Clean Up

Location: Citywide

Case Numbers: ZCA 2024-0001, LCPA 2024-0020 (PUB 2024-0005)

Applicant/Representative: City of Carlsbad Community Development Department

CEQA Determination: Not a Project Exempt IS/ND or IS/MND EIR
 Other:

Permit Type(s): SDP CUP CDP TM/TPM GPA REZ LCPA
 Other: ZCA

CEQA Status: The environmental assessment IS on the Agenda for discussion
 A CEQA determination was already issued. That decision is final and IS NOT on the Agenda

Commission Action: Decision Recommendation to City Council Informational (No Action)

Recommended Action

That the Planning Commission **ADOPT** a Planning Commission resolution (Exhibit 1) **RECOMMENDING APPROVAL** of a Zone Code Amendment and a Local Coastal Program Amendment to Title 21 (the Zoning Ordinance) of the Carlsbad Municipal Code to complete various miscellaneous cleanup changes.

Project Description

The 2024 Zone Code Clean Up (Clean Up) is part of the Planning Division’s work program to maintain the Carlsbad Municipal Code (CMC) for ease of use and accuracy. The Clean Up consists of miscellaneous amendments to Title 21, the city’s Zoning Ordinance, including corrections and updates for the purpose of addressing inconsistencies, updated terminology, and new state regulations. Additionally, the Clean Up is proposed for the purpose of adding or deleting minor requirements and improving the overall clarity and usability of the code. Changes to the CMC other than to the Zoning Ordinance also are proposed; however, these are outside of the Planning Commission’s purview.

The proposed amendments apply citywide, do not change allowable uses or intensities and have been

Site Map



determined to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

Background

The CMC provides for all the regulatory and administrative ordinances of the City of Carlsbad, California. In the CMC, Titles 15 through 21 provide for the consolidated regulations pertaining to the use, development and/or modification of land within the city. In 2022, the Planning Division initiated a recurring “clean up” work program to review the city’s codes and regulations approximately every two years to minimize errors and ambiguities and to ensure the CMC remains consistent with state law. The first set of clean up amendments was adopted by City Council on Sept.13, 2022. Other project specific changes will continue to be made to the CMC outside of this Clean Up, such as to implement Housing Element programs.

Amendments to Title 21, the city’s Zoning Ordinance, require Planning Commission recommendation and City Council adoption. Amendments to ordinances that are part of the Local Coastal Program Implementation Plan (including sections of Title 15, Grading and Drainage, and Title 21), require approval of a Local Coastal Program Amendment by the California Coastal Commission. Exhibit 1 includes draft ordinance language for all Title 21 changes, which are under the Planning Commission’s purview. A strikeout/underline version of the proposed changes to Title 21 is provided as Exhibit 2. Proposed revisions to existing text are shown in order by section number, with strikeout typeface (i.e. ~~strikeout~~) illustrating deletions and underline typeface (i.e. underline) illustrating new text.

The amendments included in the 2024 Zone Code Clean Up related to Title 8 (Public Peace, Morals and Safety); Title 11 (Public Property); and Title 15 (Grading and Drainage) are included in Exhibit 3, Draft Municipal Code Amendment, for reference purposes only since they are not within the Planning Commission’s purview. The proposed CMC Amendments to Titles 8, 11, and 15 are not included in the draft resolution (Exhibit 1) but will be added to the draft ordinance presented to City Council.

Purpose

The purpose of the 2024 Zone Code Clean Up is to increase the clarity, usability, and consistency of the CMC. Through regular implementation of the zone code, staff have identified certain sections which are unclear or contain errors, inconsistencies, or omissions. At the same time, staff have also proposed to add or delete requirements that improve the clarity and usability of city standards. Additionally, with the annual adoption of new legislation, the CMC must be maintained in order to align the city’s code language with new state requirements.

The scope of the Clean Up is designed to be narrow — limited to the revisions described. All of the proposed amendments uphold the goals, policies, and vision of the General Plan and are consistent with the requirements of state and federal law. The proposed amendments generally exclude complex or controversial amendments that are better suited for independent review and/or that require additional environmental analysis. In addition to those general guidelines, amendments proposed as a part of the Clean Up must also align with one of the following criteria categories:

Corrections and Updates

- Address errors and inconsistencies
- Update code references and terminology
- Improve regulatory consistency with other city documents and state laws

Clarifications

- Add and delete ambiguous phrases
- Improve code clarity and usability

By maintaining a narrow scope and adhering to a limited criteria, the proposed amendments are consistent with maintenance rather than the initiation of policy changes.

Amendments

Following review of the CMC, staff prepared a total of 16 amendments to be included in the Clean Up. A description of each of the amendments is listed below. A complete list of the section changes and analysis of each change is included in Exhibit 4, Project Analysis.

<i>Amendment</i>	<i>Description</i>
Amendment 1 Removed Footnote	The proposed amendment removes a footnote from Table F of the “Planned Developments” chapter that refers to a section previously deleted by Ordinances CS-432 and CS-449.
Amendment 2 Removed “Item B”	The proposed amendment removes a reference to “Item B,” a subsection which was omitted from Ordinance CS-178.
Amendment 3 Notice of Restriction	The proposed amendment removes language regarding Notices of Restriction which are now unenforceable after the adoption of Senate Bill 976.
Amendment 4 M and C-M Zone Permitted Uses	The proposed amendments make the level of permitting required for educational facilities in the M and C-M zones consistent with other permitted uses in commercial zones.
Amendment 5 Permit Expiration	The proposed amendment updates the code’s language regarding the expiration of permits and describes the conditions under which a permit is considered exercised.
Amendment 6 Home Occupations	The proposed amendment updates the code’s language regarding home occupation uses in the R-1 zone to better define permitted activities and applicable standards. The language is referenced by other residential zones.
Amendment 7 Mixed Use Development	The proposed amendment adds “Mixed Use Development” to the “Permitted Uses” tables of commercial zones already allowing residential uses, consistent with Housing Element Program 1.8(a).
Amendment 8 Animal Keeping	The proposed amendment updates Table A, “Permitted Uses,” of the R-1 zone to expand the permissions for the keeping of poultry for consistency with other single-family zones.
Amendment 9 “OS” Open Space	The proposed amendment updates the nomenclature denoting Open Space consistently as “OS” across all of Title 21.
Amendment 10 Habitat Removal	The proposed amendments update the code’s language to better define conditions which must be met prior to habitat removal and establish the parties responsible for remediating unpermitted clearing.
Amendment 11 Housing Standards	The proposed amendments update the Inclusionary Housing and Density Bonus ordinances’ language to better define the terms related to unit mix, size, and finish quality and to be consistent with state law.
Amendment 12 Agriculture Uses	The proposed amendments update “Permitted Uses” tables to include a consolidated “agriculture” use in the E-A,R-A, R-E, and P-U zones, add a definition for “agriculture/aquaculture/flower stands” and update inconsistent terminology related to “agriculture/aquaculture/flower stands” uses in the E-A, R-A, R-E, L-C, P-U and C-T zones.
Amendment 13 Substantial Conformance Review	The proposed amendment codifies an existing department policy related to consistency determinations, creating Chapter 21.89 titled “Substantial Conformance Review.”

The proposed amendments listed below are amendments to sections outside of Title 21, the city’s Zoning Ordinance, and are therefore not under the purview of the Planning Commission. These items have been included as an informational item as they will be presented directly to City Council for review and consideration.

<i>Amendment</i>	<i>Description</i>
Amendment 14 Mobile Vending	The proposed amendment updates the code’s language to better define vending services.
Amendment 15 Vending Permits	The proposed amendment updates the code’s language to better define when a vending permit is required at park facilities.
Amendment 16 Grading Permits	The proposed amendment reintroduces language that was removed as part of the 2022 Zone Code Clean Up and better defines grading permit exemptions.

Public Outreach & Comment

The proposed amendments are intended to be minor in nature and therefore extensive public outreach was not completed. The proposed amendments come from a variety of sources, namely staff identifying errors, constituent inquires, City Planner Determinations, and stakeholder input. The concept for Amendment 13 “21.89 – Substantial Conformance Review” was presented to a group of the city’s industry stakeholders at a meeting held on Feb.22, 2024. Those comments were considered in the final draft ordinance language to provide for clarity of what projects are eligible for consistency determinations.

Project Analysis

State Law Consistency

The Clean Up includes amendments which are established under the city’s regulatory police powers and are therefore required to remain consistency with the statutes of state law. Specific amendments have been included to respond to recently passed legislation, such as Assembly Bill 976, which includes updated requirements for local jurisdictions related to Accessory Dwelling Units (ADUs). A discussion of how the Clean Up is consistent with the applicable state legislation is summarized in Exhibit 4, Project Analysis.

General Plan Consistency

The City of Carlsbad General Plan includes several goals and policies that guide development and land use within the city. A discussion of how the Clean Up is consistent with the applicable General Plan goals and policies is summarized in Exhibit 4, Project Analysis.

Municipal Code Consistency

The CMC, most notably Tile 21, includes requirements and provisions that guide development and land use within the city, consistent with the General Plan. Specific compliance with these relevant requirements is described in Exhibit 4, Project Analysis.

As noted above, the 2024 Clean Up batch of amendments also proposes CMC Amendments (Titles 8, 11, and 15). Typically, the Planning Commission will not review proposed amendments to Municipal Code because the amendments are not within their purview. However, they have been included herein this staff report for informational purposes because of their relationship and co-dependence to development regulations (grading) or the authorization of temporary land use activities (street vending). Furthermore, the May 15, 2024 Planning Commission meeting will provide additional public input opportunities that can support the development of the final ordinance(s). Compliance with the CMC is also described in Exhibit 4.

Local Coastal Program Consistency

The Clean Up applies citywide and is applicable to all sections of the city's Coastal Zone. The Clean Up complies with the Local Coastal Program as further discussed in Exhibit 4, Project Analysis.

State Density Bonus

The Clean Up is consistent with state Density Bonus laws in that some of the proposed amendments have been drafted to update the city's Density Bonus program to be consistent with the language and provisions outlined in the California Health and Safety Code. A discussion of how the Clean Up is consistent with the applicable state regulations is summarized in Exhibit 4, Project Analysis.

Inclusionary Housing Ordinance

The Clean Up is consistent with state Inclusionary Housing laws in that some of the proposed amendments have been drafted to update the city's Inclusionary Housing Ordinance to be consistent with the language and provisions outlined in the California Civil Code and the Health and Safety Code. A discussion of how the Clean Up is consistent with the applicable city planning documents and state regulations is summarized in Exhibit 4, Project Analysis.

Airport Land Use Compatibility Plan

The proposed amendments included in the Clean Up are consistent with the McClellan-Palomar Airport Land Use Compatibility Plan (ALUCP) on the basis that amendments do not materially affect allowable land uses, development standards and do not have implications for ALUCP noise, airspace or safety compatibility. A discussion of how the Clean Up is consistent with the ALUCP is summarized in Exhibit 4, Project Analysis.

Discretionary Actions & Findings

The amendments included in the Clean Up require approval of certain legislative changes (Zoning Ordinance Amendment and Local Coastal Program Amendment), which are discussed below.

Zoning Ordinance Amendment (ZCA 2024-0001)

The Clean Up proposes various amendments to as well as the adoption of a new chapter in the Zoning Ordinance. As described in Section 21.52.020 of the CMC, the City Planner has the authority to initiate amendments to the city's code. The purpose of amendments 1-12 are to increase the code's clarity, usability, and consistency with new state laws. The new chapter proposed as part of Amendment 13 will convert the existing Community Development Department Policy 35 for consistency determinations from policy to code as well as adopt updated standards consistent with new state laws. Further analysis of the content and purpose of each proposed amendment is detailed in Exhibit 4, Project Analysis.

Local Coastal Program Amendment (LCPA 2024-0020)

The Clean Up applies citywide, including to portions of the city within the Coastal Zone, and therefore requires a Local Coastal Program Amendment. The six-week Local Coastal Program Amendment notice was publicly posted on May 10, 2024. The notice's appeal period will end on June 21, 2024, prior to which the public will have the opportunity to provide comments on the proposed amendments to the Local Coastal Program. Any comments received will be provided to the City Council as part of its consideration of the Clean Up.

Environmental Review

In accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, the proposed amendments to the Zoning Ordinance and Local Coastal Program were reviewed and determined exempt from CEQA per the common sense exemption, Guidelines Section 15061(b)(3). This exemption applies to projects which clearly do not have the potential for causing a significant effect on the environment. As the Clean Up does not change allowable uses or intensities and does not approve any development, it can be seen with certainty that

there is no possibility that the Clean Up may have a significant effect on the environment, and thus is not subject to CEQA review.

A Determination of Exemption regarding the Clean Up's exemption status was advertised on April 25, 2024 and posted to the city's website. The notice included a general description of the Clean Up, the proposed environmental findings, and a general explanation of the matter to be considered. The findings and determination contained in that notice were declared as final on the date of the noticed decision, unless appealed as provided by the procedures commencing in Chapter 21.54 (Procedures, Hearings, Notices, and Fees) of the Zoning Ordinance.

During the public review period, the city received no comment letters from the public regarding the prospective environmental determination, and no appeal was filed within the 10-day appeal period. Accordingly, the City Planner's written decision is final and the CEQA determination is not within the Planning Commission's purview. With the appropriate environmental clearances in place, all the city's procedural requirements and relevant aspects of CEQA have been satisfied. In making this determination, the City Planner has found that the exceptions listed in Section 15300.2 of the state CEQA Guidelines and Chapter 19.04 of the Municipal Code do not apply to the Clean Up.

Conclusion

Considering the information above and in the referenced exhibits, staff have found that the proposed amendments are consistent with all applicable policies of the General Plan, CMC, Local Coastal Program, and all other applicable regulations. In addition, there are no environmental issues associated with the amendments. Staff recommends the Planning Commission adopt the resolution, recommending approval of the proposed project described in this staff report.

Exhibits

1. Planning Commission Resolution
2. Draft Zoning Ordinance Amendment (Title 21) (Strikeout/Underline)
3. Draft Municipal Code Amendment (Titles 8, 11, 15) (Strikeout/Underline)
4. Project Analysis
5. Community Development Policy 35

PLANNING COMMISSION RESOLUTION NO.

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 THE ZONING ORDINANCE (TITLE 21) OF THE CARLSBAD MUNICIPAL CODE TO COMPLETE VARIOUS MISCELLANEOUS CLEAN UP CHANGES.

CASE NAME: 2024 ZONE CODE CLEANUP

CASE NO: ZCA 2024-0001/LCPA 2024-0020 (PUB 2024-0005)

WHEREAS, the City Planner has prepared a proposed Zone Code Amendment and Local Coastal Program Amendment pursuant to Section 21.52.020 of the Carlsbad Municipal Code (CMC) to ensure consistency with state law, make miscellaneous and minor edits to clarify, correct, and update standards, and improve the readability of the Zoning Ordinance; and

WHEREAS, the City Planner has prepared the 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 Planning Commission, pursuant to CMC Section 21.52.050, is required to review and make recommendations to the City Council for amendments to the Zoning Ordinance; and

WHEREAS, the City Planner has determined that the amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the common sense exemption, Section 15061(b)(3) of the CEQA Guidelines, since there would be no possibility of a significant effect on the environment; the City Planner issued a CEQA Determination of Exemption notice. The notice was issued for public review on April 25, 2024, with the appeal period ending on May 4, 2024. No appeals of the determination were filed; and

WHEREAS, the proposed Zoning Ordinance Amendment and Local Coastal Program Amendment are set forth in the draft City Council Ordinance attached hereto as Attachment A, dated May 15, 2024; and

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

WHEREAS, the project, because it amends standards applicable in the Airport Influence Area, is subject to the Airport Land Use Compatibility Plan for the McClellan-Palomar Airport (ALUCP), dated Jan. 25, 2010, and last amended Dec. 1, 2011; and

WHEREAS, the Planning Commission did on the **15th** day of **May, 2024**, hold a duly noticed public hearing as prescribed by law to consider said request; 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.

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) The state-mandated six-week review period for LCPA 2024-0020 began May 10, 2024, and will end June 21, 2024; any comments received in response to the LCPA notice will be reported to the City Council; and,
- C) That based on the evidence presented at the public hearing, the Planning Commission **RECOMMENDS APPROVAL** of **2024 ZONE CODE CLEANUP – ZCA 2024-0001/LCPA 2024-0020**, based on the following findings:

Findings:

1. ZCA 2024-0001/LCPA 2024-0020 is consistent with the General Plan in that **it implements policies of various elements, including promoting infill development (Land Use and Community Design Element) by highlighting mixed use development as a permitted use; protecting sensitive habitat (Open Space, Conservation & Recreation Element) through reinforcing requirements that must be met before habitat removal; and protecting public health and welfare (Noise Element) through clarified language regarding the keeping of chickens in residential areas.**
2. ZCA 2024-0001/LCPA 2024-0020 reflects sound principles of good planning in that **it amends the Carlsbad Municipal Code to ensure consistency with state law, and that the proposed amendments do not conflict with the General Plan and will further the goals and objectives of the General Plan by improving the clarity and consistency of zoning regulations.**
3. LCPA 2024-0020 is required to ensure consistency with the Zoning Ordinance.
4. LCPA 2024-0020 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 amendments ensure consistency with the Zoning Ordinance and do not conflict with any Coastal Zone regulations, land use designations or policies, with which development must comply.**

5. ZCA 2024-0001/LCPA 2024-0020 is consistent with the McClellan-Palomar Airport Land Use Compatibility Plan (ALUCP) in that **the amendments do not materially affect allowable land uses and the density or intensity of development regulations and do not have implications for ALUCP noise, airspace, or safety compatibility within the Airport Influence Area of McClellan-Palomar Airport. Further, such projects do not require a consistency determination filing with the San Diego Regional Airport Authority, acting as the Airport Land Use Commission.**

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Carlsbad on the 15th day of May 2024, by the following vote, to wit:

AYES:

NAYS:

ABSTAIN:

ABSENT:

WILLIAM KAMENJARIN, Chair

ERIC LARDY, City Planner

ZCA 2024-0001/LCPA 2024-0020 (PUB 2024-0005)
2024 ZONE CODE CLEAN UP
Draft revisions to the Carlsbad Municipal Code Title 21 (Zoning Ordinance)

NOTE:

Proposed changes are shown in ~~strikeout~~/underline format. **Highlights** indicate changes approved by the City Council as part of Ordinance CS-432 on Sept. 27, 2022, and Ordinance CS-449 on June 6, 2023, and pending Coastal Commission review. Additionally, bracketed, italicized text (e.g., “[text]”) provides clarification where needed.

Amendment 1

1. That Table F of Section 21.45.090 (Planned Developments Zone) of the Carlsbad Municipal Code and the table’s footnotes are amended by deleting footnote 2 and renumbering the remaining footnotes to read as follows:

21.45.090 Residential additions and accessory uses.

Table F
Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers ⁽²⁾	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Pool, spa	20 feet	5 feet pool <u>2 feet spa</u>
Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height) ^{(1),(2),(32)}	20 feet	5 feet
Habitable detached accessory buildings (i.e. guest houses and accessory dwelling units) ^{(1), (2), (32) (3), (4)}	Same setbacks as required for the primary dwelling	
Additions to dwelling (attached)	Same setbacks as required for the dwelling	

Notes:

(1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.

~~(2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.~~

~~(32)~~ Must be architecturally compatible with the existing structure.

~~(43)~~ Except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.

(54) Refer to California Government Code Section 65852.2 (effective Jan. 1, 2023) for front yard setback requirements for 800 sq. ft. maximum ADUs with four-foot side and rear yard setbacks and

constructed in compliance with all other development standards. *[Note: This was added as footnote 5 by Ordinance CS-449; the footnote number is proposed to change from 5 to 4 as shown.]*

Amendment 2

2. That Section 21.201.130 A. 3. of the Carlsbad Municipal Code is amended to read as follows:

21.201.130 Developments appealable to the coastal commission.

A. The following developments, due to their type or location, are within the appeal jurisdiction of the coastal commission. Only decisions approving a coastal development permit for these developments are appealable to the coastal commission, unless otherwise noted. Areas subject to appeal jurisdiction are shown on the post LCP certification map which is on file in the planning division.

3. Developments approved by the city not included within subsections A ~~and B~~ of this section which are located in a sensitive coastal resource area.

Amendment 3

3. That Section 21.10.030 E.12 of the Carlsbad Municipal Code is deleted and Section 21.10.030 E.13 is renumbered to E.12 to read as follows:

21.10.030 Accessory dwelling units and junior accessory dwelling units.

E. Other Requirements and Standards. ADUs and JADUs shall comply with all the following requirements and standards:

~~12. For ADUs permitted prior to January 1, 2020, the city may continue to enforce a requirement for owner occupancy of the ADU or primary residence.~~

13.12. An ADU may be sold separately from the primary dwelling only in limited situations pursuant to California Government Code Section 65852.26 (effective Jan. 1, 2022).

Amendment 4

- 4. That Table A, Permitted Uses, of Section 21.30.010 (C-M Heavy Commercial Zone) of the Carlsbad Municipal Code regarding the permitting of educational facilities is amended to read as follows:

21.30.010 Permitted uses.

Table A
Permitted Uses

Use	P	CUP	Acc
Educational facilities, other (defined: Section 21.04.137)	<u>X</u>	±	

- 5. That Table A, Permitted Uses, of Section 21.32.010 (M Industrial Zone) of the Carlsbad Municipal Code regarding the permitting of educational facilities is amended to read as follows:

21.32.010 Permitted uses.

Table A
Permitted Uses

Use	P	CUP	Acc
Educational facilities, other (defined: Section 21.04.137)	<u>X</u>	±	

Amendment 5

6. That Section 21.58.030 of the Carlsbad Municipal Code is amended to read as follows:

21.58.030 Expiration of permits

A. Any permit or approval granted pursuant to this title becomes null and void if not exercised within ~~three~~ ~~two~~ years of the date of approval; however, permits or approvals which are issued in conjunction with a tentative map or tentative parcel map, shall not expire sooner than the approved tentative map or tentative parcel map. The permit or approval may be extended pursuant to Section 21.58.040.

B. A project shall be considered “exercised” when:

(1) A vesting tentative map has been approved pursuant to California Government Code section 66498.1 and has not expired; or

(2) A valid building or grading permit has been issued and substantial work has been performed with at least one inspection conducted by the city to ensure compliance with codes and approved construction documents; or

C. If no building or grading permits are required, the action granting an approval pursuant to this title shall specify the terms and limitations of a use or activity.

Amendment 6

7. That Section 21.10.040 of the Carlsbad Municipal Code is amended to read as follows:

21.10.040 Home occupations.

A. Home occupations which are not disruptive to the residential character of the neighborhood shall be permitted as an accessory use, subject to the following conditions:

- ~~1. Home occupations shall be conducted as a secondary use by a resident or residents of the premises;~~
- ~~2. No employees shall be employed on the premises;~~
- ~~3. All home occupation activities shall be conducted entirely within the residential structure, except for permitted agricultural or horticultural uses;~~
- ~~4. There shall be no external alteration to the appearance of the residential structure that would reflect the existence of the home occupation;~~
- ~~5. No storage of materials, goods, equipment or stock in trade shall be permitted where visible from the exterior of the property;~~
- ~~6. No deliveries or pickups by heavy duty commercial vehicles shall be permitted;~~
- ~~7. Sale of goods or services shall not be conducted on the property, except for agricultural goods grown on the premises. This provision shall not be construed to prohibit taking orders for sale where delivery of goods or performance of services does not occur on the property;~~
- ~~8. The home occupation shall not cause any external effect that is inconsistent with the residential zone or disrupts the neighborhood, including, but not limited to, noise from equipment, traffic, lighting, offensive odor or electrical interference;~~
- ~~9. No advertising, signs or displays of any kind indicating the existence of the home occupation shall be permitted on the premises;~~
- ~~10. The home occupation shall not cause the elimination of required off street parking;~~
- ~~11. The home occupation may not utilize an area greater than twenty percent of the combined total floor area of all on-site structures; and~~
- ~~12. A city business license is required for the conduct of a home occupation. (Ord. NS-718 § 7, 2004)~~

1. The use of the dwelling for a home occupation shall be clearly incidental and subordinate to its use for residential purposes by its inhabitants. The establishment and conduct of a home occupation shall not change the principal character or use of the dwelling unit or property involved.
2. The home occupation may not utilize an area greater than twenty percent of the combined total floor area of all on-site structures.
3. There shall be no exterior evidence of the conduct of a home occupation, including outdoor display of equipment, materials, or supplies related directly or indirectly to the home occupation activity. A home occupation shall be conducted entirely within a dwelling, or an attached garage with the exception of tutoring in sports.
4. No employees shall be employed on the premises unless required by local or state law.
5. There shall be no signs, banners or flags identifying or advertising the home occupation.

6. The home occupation shall not create vehicular or pedestrian traffic in excess of that which is normal for the zone in which it is located.
 7. The required residential off-street parking shall be maintained.
 8. Limited indoor storage of goods or supplies (125 cubic feet maximum) may take place within no more than one room of the dwelling and/or in the attached garage (provided required parking on-site is maintained and properly located).
 9. There shall be no separate entrance or exit way specifically provided in the dwelling or on the premises for the conduct of the home occupation, unless required by local or state law.
 10. There shall be no process, procedure, substance, or chemical used which is hazardous to public convenience, health, safety, or general welfare or that changes the fire safety or occupancy classifications of the residence.
 11. Electrical or mechanical equipment which creates visible or audible interference in radio or television receivers or causes fluctuations in line voltage outside the dwelling unit shall be prohibited. Home occupation activities shall not produce dust, glare, noxious matter, excessive noise, or vibrations beyond the subject property lines.
- B. Maximum number of customers and vendors.
1. Home occupations may have a maximum of one customer or vendor on the premises at any one time, between 7:00 a.m. and 7:00 p.m., Monday through Saturday. Home occupations shall not host customers or vendors on the premises more frequently than one customer or vendor within a 2-hour time period.
 2. Home occupations involving tutoring students in music, academics, dance swimming or tennis at a residence may have a maximum of six non-resident students at any one time, and no more than 18 non-resident students during any one day. Sports related tutoring may be conducted between 7:00 a.m. and 7:00 p.m., Monday through Saturday.
- C. Notwithstanding the provisions above, the following uses are prohibited:
1. Automotive repair or other vehicle repair, body or mechanical;
 2. Welding or machining;
 3. Medical clinics or labs;
 4. Animal hospitals, kennels and grooming facilities (see exception in Section 21.10.040 D);
and
 5. Uses that require explosives or highly combustible or toxic materials.
- D. Notwithstanding 21.10.040 C.4., animal sitting or grooming facilities may be permitted when conducted entirely indoors. Grooming services shall be limited to one customer on the premises at any one time, between 7:00 a.m. and 7:00 p.m., Monday through Saturday with no more than one customer within a 2-hour time period.
- E. The home occupation use shall not have utility services modifications, other than those required for normal residential use, that would be classified as commercial or industrial in load or design.
- F. Cottage Foods Operation.
1. Cottage Foods Operations shall be permitted as defined by Health and Safety Code Section 113758, conducted only within a dwelling that contains the dwelling's kitchen and shall not be allowed in a garage or other accessory building.
 2. There shall be no on-premise sale of goods except as allowed for a Cottage Food Operation by Health and Safety Code Section 114365 and with a valid County of San Diego Cottage Food permit from Department of Environmental Health. Occasional transport of goods

from the premises for off-site sale may occur. Internet sales are not considered on-premise sale of goods.

G. No person shall commence or carry on a home occupation/cottage food operation without first having received approval of a city business license.

H. Home occupations shall comply with all noise, lighting, nuisance, health/safety, and other applicable city and state regulations.

Amendment 7

8. That Table A, Permitted Uses, of Section 21.26.010 (C-1 Neighborhood Commercial Zone) of the Carlsbad Municipal Code is amended by the addition of the following use listing to read as follows:

21.26.010 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
Mixed use developments (defined: Section 21.26.015)	X		

9. That Table A, Permitted Uses, of Section 21.28.010 (C-2 General Commercial Zone) of the Carlsbad Municipal Code is amended by the addition of the following use listing to read as follows:

21.28.010 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
Mixed use developments (defined: Section 21.28.015)	X		

10. That Table A, Permitted Uses in the C-L Zone, of Section 21.31.030 (C-L Local Shopping Center Zone) of the Carlsbad Municipal Code is amended by the addition of the following use listing to read as follows:

21.31.030 Permitted uses.

**Table A
Uses Permitted in the C-L Zone**

Use	P	CUP	Acc
Mixed Use Development (defined: Section 21.31.065)	X		

Amendment 8

- 11. That Table A, Permitted Uses, in Section 21.10.020 (R-1 One-Family Residential Zone) of the Carlsbad Municipal Code is amended by the addition of the following use listings and related footnotes 5 and 6 to read as follows:

21.10.020 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
<u>Poultry, roosters prohibited (5 or less) (see note 5)</u>			<u>X</u>
<u>Poultry, roosters prohibited (6-15) (see note 6)</u>			<u>X</u>

Notes:

5. Poultry, roosters prohibited (5 or less); The animals must have a designated enclosure, provided that the animals’ enclosure shall not be located within the required front yard. The enclosure shall also not be located within fifteen feet of a habitable structure on an adjoining parcel zoned for residential uses, nor shall the enclosure be located within fifteen feet of a parcel zoned for residential uses when a habitable structure is not involved. In any event, the distance from the parcel zoned for residential uses shall be the greater of the distances so indicated. Animal enclosures must be regularly maintained and kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease, or offensive odor.

6. Poultry, roosters prohibited (6-15); The animals must have a designated enclosure provided that the animals’ enclosure shall not be located within the required front yard. The enclosure shall also not be located within forty feet of a habitable structure on an adjoining parcel zoned for residential uses, nor shall the enclosure be located within forty feet of a parcel zoned for residential uses when a habitable structure is not involved. In any event, the distance from the parcel zoned for residential uses shall be the greater of the distances so indicated. Animal enclosures must be regularly maintained and kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease, or offensive odor.

Amendment 9

12. That all instances of the abbreviation "O-S" in the Carlsbad Municipal Code be replaced with "OS."

Amendment 10

- 13. That Section 21.210.030 of the Carlsbad Municipal Code is amended to include new subsection C. to read as follows:

21.210.030 Applicability.

C. No removal of habitat, including mowing, shall occur until all the processing and permitting requirements of this chapter are satisfied.

- 14. That Section 21.210.100 of the Carlsbad Municipal Code is amended to update A.2 to read as follows:

21.210.100 Enforcement measures – Violations and remedies.

- A. Whenever the City Planner determines that a violation of this chapter has occurred or an individual has impacted habitat without the benefit of an HMP permit, the following enforcement measures and remedies may be undertaken by the City Planner, in lieu of or in addition to any remedial actions undertaken in accordance with Section 15.16.140 of the municipal code.
 - 1. Stop Work Notice. The City Planner shall issue a stop work order demanding that all activities in violation of this chapter be stopped until a valid HMP permit is obtained and corrective action is authorized by the City Planner.
 - 2. Corrective Action. The City Planner, in consultation with the wildlife agencies, shall determine the extent of corrective action necessary to cure the violation. Corrective action may include a higher mitigation ratio than specified in Table 11 of Section D.6 of the HMP. The owner of the property shall be responsible for correcting any grading, clearing, or removal of habitat on the property, which occurred in violation of this chapter, including a violation which occurred prior to the owner’s acquisition of the property, and which continues after the acquisition of the property.

Amendment 11

15. That Section 21.85.020 A. of the Carlsbad Municipal Code is amended to read as follows:

21.85.020 Definitions.

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

A. "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:

1. Extremely low-income, rental ~~or ownership~~ units: the product of thirty percent times thirty percent of the county median income, adjusted for household size, in accordance with California Health and Safety Code Section 50053;
2. Extremely low-income, ownership units: the product of thirty percent times thirty percent of the county median income, adjusted for household size, in accordance with California Health and Safety Code Section 50052.5;
- ~~3.~~ Very low-income, rental ~~and ownership~~ units: the product of thirty percent times fifty percent of the county median income, adjusted for household size, in accordance with California Health and Safety Code Section 50053;
4. Very low-income, ownership units: the product of thirty percent times fifty percent of the county median income, adjusted for household size, in accordance with California Health and Safety Code Section 50052.5;
- ~~3~~5. Low-income, ownership units: the product of thirty percent times eighty percent of the county median income, adjusted for household size, in accordance with California Health and Safety Code Section 50052.5; and
- ~~4~~6. Low-income, rental units: the product of thirty percent times seventy percent of the county median income, adjusted for household size, in accordance with California Health and Safety Code Section 50053.

16. That Section 21.85.040 of the Carlsbad Municipal Code is amended to read as follows:

21.85.040 Affordable housing standards.

The affordable housing standards are as follows:

A. All qualifying residential developments pursuant to Section 21.85.030(A) are subject to and must satisfy the inclusionary housing requirements of this chapter, notwithstanding a developer's request to process a residential development under other program requirements, laws or regulations, including, but not limited to, Chapter 21.86 (Residential Density Bonus) of this code. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of Chapter 21.86 (Residential Density Bonus), those affordable dwelling units that qualify a residential development for a density bonus shall also be counted toward satisfying the inclusionary housing requirements of this chapter.

- B. Whenever reasonably possible, inclusionary units should be built on the residential development project site.
- C. The required inclusionary units shall be constructed concurrently with market-rate units unless both the final decision-making authority of the city and developer agree within the affordable housing agreement to an alternative schedule for development.
- D. Inclusionary rental units shall remain restricted and affordable to the designated income group for fifty-five years. In addition to the income of a targeted group, limitations on assets may also be used as a factor in determining eligibility for rental or ownership units. Notwithstanding anything to the contrary in this chapter, no inclusionary unit shall be rented for an amount which exceeds ninety percent of the actual rent charged for a comparable market unit in the same development, if any. For projects with both inclusionary units and market-rate units, the inclusionary units shall be provided in the same tenure as the market-rate units, consistent with California Civil Code 714.7.
- E. After the initial sale of the inclusionary ownership units at a price affordable to the target income level group, inclusionary ownership units shall remain affordable to subsequent income eligible buyers pursuant to a resale restriction with a term of thirty years or ownership units may be sold at a market price to other than targeted households provided that the sale shall result in the recapture by the city or its designee of a financial interest in the units equal to the amount of subsidy necessary to make the unit affordable to the designated income group and a proportionate share of any appreciation. Funds recaptured by the city shall be used in assisting other eligible households with home purchases at affordable prices. To the extent possible, projects using ownership units to satisfy inclusionary requirements shall be designed to be compatible with conventional mortgage financing programs including secondary market requirements.
- F. Inclusionary 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 and that are compatible with adjacent land uses.
- G. ~~Both~~ the internal and external design of the inclusionary units shall be reasonably consistent or compatible with the design of the total project development in terms of appearance, materials and finished quality.
- H. Inclusionary projects shall provide a mix of number of bedrooms in the affordable dwelling units in response to affordable housing demand priorities of the city. Bedroom count and unit sizes of inclusionary units shall be commensurate with market rate units.
- I. No building permit shall be issued, nor any development approval granted for a development which does not meet the requirements of this chapter. No inclusionary unit shall be rented or sold except in accordance with this chapter.
- J. For Mixed-Income projects, where both inclusionary units and market rate units exist, the inclusionary units shall be dispersed throughout the project, and not congregated to specific areas or floors, consistent with California Health and Safety Code Section 17929.

17. That Section 21.85.140 D. of the Carlsbad Municipal Code is amended to read as follows:

21.85.140 Affordable housing agreement as a condition of development.

D. An affordable housing agreement will not be required for projects which will be satisfying their inclusionary housing requirement through payment to the city of an in-lieu fee or credit purchase.

18. That Section 21.86.100 of the Carlsbad Municipal Code is amended to read as follows:

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 and interior appearance and overall quality of construction to market rate units in the same housing development.

C. The number of bedrooms of the affordable units shall at least equal the minimum number of bedrooms of the market rate units. Bedroom count and unit size of inclusionary units shall also be commensurate with market rate units.

D. For Mixed-Income projects, where both inclusionary units and market rate units exist, the inclusionary units shall be dispersed throughout the project, and not congregated to specific areas or floors, consistent with California Health and Safety Code Section 17929.

Amendment 12

19. That Chapter 21.04.024 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.04.024 Agriculture/aquaculture/flower stands.

Agriculture/aquaculture/flower stands mean a structure no larger than 200 square feet ancillary to active agriculture/aquacultural uses on the property and for the display and sale of products produced on or off-site. There shall be no space for customers within the structure itself.

20. That Table A, Permitted Uses, of Section 21.07.020 (E-A Exclusive Agricultural Zone) of the Carlsbad Municipal Code is amended by the addition and deletion of the following use listings, modification of related footnote 3 and the addition of footnote 7 to read as follows:

21.07.020 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
<u>Agriculture (see note 7 below)</u>	<u>X</u>		
<u>Agriculture/aquaculture/flower stands (see note 3 below) (defined: Section 21.04.024)</u>			<u>X</u>
Produce/flower stands for display and sale of products produced on the same premises (see note 3 below)	X		
Tree farms	X		
Truck farms	X		

Notes:

3. ~~Produce/flower stands.~~ Agriculture/aquaculture/flower stands. Provided that the floor area of the stand shall not exceed two hundred square feet, that the stand is located not nearer than twenty feet to any street or highway, and that the stand is only allowed accessory to an active agricultural or aquacultural use.
7. Only the following agricultural uses, and buildings accessory to such agricultural uses, under this use type are permitted in the E-A zone: (A) Field and seed crops, (B) Truck crops, (C) Horticultural crops, (D) Orchards and vineyards, (E) Tree farms, (F) Fallow lands.

21. That Table A, Permitted Uses, of Section 21.08.020 (R-A Residential Agricultural Zone) of the Carlsbad Municipal Code is amended by the modification of the following use listings and the addition of related footnotes 8 and 9 to read as follows:

21.08.020 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
Agricultural crops Agriculture (see note 8 below)	<u>X</u>		
Agricultural stand (for display of products raised on premises) ("stand" defined: Section 21.04.320) Agriculture/aquaculture/flower stands (see note 9 below) (defined: Section 21.04.024)	X		<u>X</u>

Notes:

8. Only the following agricultural uses, and buildings accessory to such agricultural uses, under this use type are permitted in the R-A zone: (A) Field and seed crops, (B) Truck crops, (C) Horticultural crops, (D) Orchards and vineyards, (E) Tree farms, (F) Fallow lands.

9. Agriculture/aquaculture/flower stands. Provided that the floor area of the stand shall not exceed two hundred square feet, that the stand is located not nearer than twenty feet to any street or highway, and that the stand is only allowed accessory to an active agricultural or aquacultural use.

22. That Table A, Permitted Uses, of Section 21.09.020 (R-E Rural Residential Estate Zone) of the Carlsbad Municipal Code is amended by the deletion and addition of the following use listings and the addition of related footnotes 7 and 8 to read as follows:

21.09.020 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
Agriculture (see note 7 below)	<u>X</u>		
Agriculture/aquaculture/flower stands (see note 8 below) (defined: Section 21.04.024)			<u>X</u>
Produce stand		<u>1</u>	

Notes:

7. Only the following agricultural uses, and buildings accessory to such agricultural uses, under this use type are permitted in the R-A zone: (A) Field and seed crops, (B) Truck crops, (C) Horticultural crops, (D) Orchards and vineyards, (E) Tree farms, (F) Fallow lands.

8. Agriculture/aquaculture/flower stands. Provided that the floor area of the stand shall not exceed two hundred square feet, that the stand is located not nearer than twenty feet to any street or highway, and that the stand is only allowed accessory to an active agricultural or aquacultural use.

23. That Table A, Permitted Uses, of Section 21.29.030 (C-T Commercial Tourist Zone) of the Carlsbad Municipal Code is amended by the deletion and addition of the following use listings and the addition of related footnote 3 to read as follows:

21.29.030 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
Agriculture/aquaculture/flower stands (see note 3 below) (defined: Section 21.04.024)			<u>X</u>
Produce stands		±	

3. Agriculture/aquaculture/flower stands. Provided that the floor area of the stand shall not exceed two hundred square feet, that the stand is located not nearer than twenty feet to any street or highway, and that the stand is only allowed accessory to an active agricultural or aquacultural use.

24. That Table A, Permitted Uses, of Section 21.36.020 (P-U Public Utility Zone) of the Carlsbad Municipal Code is amended by the addition and deletion of the following use listings and the addition of related footnotes 2 and 3 to read as follows:

21.36.020 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
Agriculture (see note 2 below)	<u>X</u>		
Aquaculture stands (display/sale) (subject to Section 21.42.140(B)(10))		±	<u>X</u>
Agriculture/aquaculture/flower stands (see note 3 below) (defined: Section 21.04.024)			
Tree farms	X		
Truck farms	X		

Notes:

2. Only the following agricultural uses, and buildings accessory to such agricultural uses, under this use type are permitted in the P-U zone: (A) Field and seed crops, (B) Truck crops, (C) Horticultural crops, (D) Orchards and vineyards, (E) Tree farms, (F) Fallow lands.

3. Agriculture/aquaculture/flower stands. Provided that the floor area of the stand shall not exceed two hundred square feet, that the stand is located not nearer than twenty feet to any street or highway, and that the stand is only allowed accessory to an active agricultural or aquacultural use.

25. That Table A, Permitted Uses, of Section 21.39.020 (L-C Limited Control Zone) of the Carlsbad Municipal Code is amended by the deletion and addition of the following use listings and the addition of related footnote 3 to read as follows:

21.39.020 Permitted uses.

**Table A
Permitted Uses**

Use	P	CUP	Acc
<u>Agriculture/aquaculture/flower stands (see note 3 below) (defined: Section 21.04.024)</u>			X
Produce/flower stands for display and sale of products produced on the same premises (see note 3 below)	X		

3. ~~Produce/flower stands:~~ Agriculture/aquaculture/flower stands. Provided that the floor area of the stand shall not exceed two hundred square feet, that the stand is located not nearer than twenty feet to any street or highway, and that the stand is only allowed accessory to an active agricultural or aquacultural use.

Amendment 13

26. That the Carlsbad Municipal Code is amended by the addition of new Chapter 21. 89 Substantial Conformance Review to read as follows:

21.89 SUBSTANTIAL CONFORMANCE REVIEW

21.89.010 Purpose and Intent.

After a discretionary project is approved, the applicant may need to request minor revisions, usually as the result of a plan check or new requirement. Minor changes may be approved by the city planner if found to be in “substantial conformance” with the original project description, findings, and conditions.

The purpose of this section is to provide a process that determines if a post-entitlement permit or ministerial permit application is substantially consistent and in conformance with a previously approved discretionary action when changes to the previous approval are proposed. This includes a review of the post-entitlement permit or ministerial permit application against approved exhibits, permit conditions, and environmental documentation associated with the authorizing discretionary permit, and applicable land-use policies and standards.

21.89.020 Applicability.

Unless otherwise stated as a permit condition or as required by the municipal code, substantial conformance review is an optional service available to applicants who are proposing to modify their project after an authorizing discretionary permit has been approved by the city.

21.89.030 Immaterial Changes.

The city planner may determine changes are immaterial, do not require substantial conformance review, and may be approved as part of the ministerial application. Immaterial changes are very minor changes to the project and incidental in nature, are consistent with all development standards, and are of no substantial consequence to the project approval, including its exhibits, conditions, and environmental documentation. The city documents the approval of immaterial changes in the post-entitlement permit or ministerial permit application. Examples of immaterial changes may include but are not limited to:

- A. Floor plan revisions that do not increase parking demand or modify the building footprint.
- B. Modification of the length, height and location of garden, perimeter, retaining walls.
- C. Reconfiguration or addition of parking lot planters.
- D. Resizing of a minor feature, such as a window, that does not exceed a 10 percent change from the original dimensions.
- E. Repainting a structure or appurtenance in a hue that is substantially similar to the approved project.

21.89.040 Substantial Conformance Request.

An application for a substantial conformance review shall be on a form provided by the city planner, which shall require that information necessary to make the findings specified within this chapter.

21.89.050 Fees.

The City Council may impose by resolution a nonrefundable fee to reimburse the city for its reasonable and necessary costs in receiving, processing, and reviewing applications for a substantial conformance review.

21.89.060 Review Authority and Procedure.

A. A request for substantial conformance review may be approved by the city planner and shall be processed independently of any other required development permits.

B. The filing of an application for request for substantial conformance review shall not require public notice.

C. If necessary to reach a determination on the request for substantial conformance review, the city planner may request:

1. Further information from the applicant, specifying in detail the information that is required.

2. Information from other city departments and divisions or other agencies.

D. Conditions of approval cannot be removed or revised as a substantial conformance request.

E. Within 30 days after receipt of a complete substantial conformance review application, the city planner shall notify the applicant of the decision to approve or deny the request, with the reasons for denial stated according to the findings contained in Section 21.89.070.

F. If the city planner denies the request, the applicant may pursue the request to change the project by filing an amendment to the authorizing discretionary permit(s) pursuant to Section 21.54.125 of this title.

21.89.080 Required Findings.

A. A project revision may be determined to be consistent with the approved discretionary action if the following findings can be made:

1. That the proposed revision provides an architectural style of development that is substantially consistent with the building forms, building colors, and building materials that were approved as part of the authorizing discretionary action.

2. That the proposed revision complies with all relevant development standards and design criteria and will not result in any health, safety, or welfare impacts.

3. That the proposed revision is consistent with the density, intensity, or use from what was approved as part of the authorizing discretionary action.

4. That the proposed revision is minor and authorizes a deviation or deviations of no more than 10 percent, provided that it is consistent with the authorizing discretionary action and maintains compliance with all relevant development standards. Examples of deviations that may be granted include but are not limited to:

a. On an individual lot or structure basis: yards, setbacks, lot coverage and building height (height reductions of greater than 10 percent are permitted).

b. On an aggregate project basis: parking, open space, common area, or landscaping, including planting area, quantity and size.

c. A deviation permitted under this section do not increase the intensity of the project or have a potentially detrimental effect.

5. That the proposed revision maintains, in their entirety, all of the project conditions required as part of the authorizing discretionary action.
6. That the proposed revision is consistent with the previously evaluated environmental findings and will not result in any significant environmental impact, and/or require further environmental review.
7. That the proposed revision is consistent with the standards set forth in the Village and Barrio Objective Design Standards or the Citywide Objective Design Standards, as applicable.

21.89.090 Public Parks.

Modifications to approved discretionary permits for public parks also may be permitted subject to Section 21.42.140 B. 100 of this title.

21.89.100 Appeal.

The effective date of the city planner's decision and method for appeal of such decision shall be governed by Chapter 21.54.140 of this title.

21.89.110. Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this chapter. The city council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, or phrase contained in it irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared invalid or unconstitutional.

ZCA 2024-0001/LCPA 2024-0020/MCA 2024-0001 (PUB 2024-0005)
2024 ZONE CODE CLEAN UP
Draft revisions to the Carlsbad Municipal Code Titles 8, 11, & 15

NOTE:

Proposed changes are shown in ~~strikeout~~/underline format. **Highlights** indicate changes approved as part of Ordinance CS-432 by the City Council on Sept. 27, 2022, and pending Coastal Commission review. Additionally, bracketed, italicized text (e.g., “[text]”) provides clarification where needed.

Amendment 14

27. That Section 8.32.020 of the Carlsbad Municipal Code is amended by revising the definition of “vend” or “vending” to read as follows:

8.32.020 Definitions.

“Vend” or “vending” means an offer to sell or the sale of goods, merchandise, services, food or beverages on a public street, alley, highway, parking lot, sidewalk, pedestrian path or right-of-way.

28. That Section 8.32.080 of the Carlsbad Municipal Code is amended to read as follows:

8.32.080 Sidewalk and pathway vending generally.

- A. Vending activities may occur between the hours of 8:00 a.m. and sunset in all residential zoned areas and between the hours of 8:00 a.m. and 10:00 p.m. in industrial and commercial zoned areas.
- B. No sidewalk vending of any type, including mobile services, shall take place to any individuals traveling within motor vehicles along a public roadway.
- C. A sidewalk vendor shall not vend on any exclusively residential street for longer than 60 minutes at any given time.
- D. No sidewalk or pathway vending of any kind, including mobile services, shall take place in the following locations:
1. In the public right-of-way or any area that blocks pedestrian or vehicle access;
 2. Any public property that does not meet the definition of a sidewalk, including, but not limited to, any alley, beach, pier, square, street, street end or parking lot;
 3. Within 50 feet of another sidewalk vendor;
 4. Within 18 inches from the edge of a curb;
 5. Any location that obstructs traffic signals or regulatory signs;
 6. Within 15 feet of any intersection, driveway or building entrance, or within any space designed for vehicular parking;
 7. Within 15 feet of any fire hydrant or fire escape;
 8. Within 100 feet of any vehicle entrance of any fire station, police department, hospital or any other structure involved in health and safety emergency matters;

9. Within 15 feet of any loading zone, bus stop, parking space or access ramp designed for persons with disabilities;
10. Within 10 feet of an outdoor dining or patio area;
11. Within 500 feet of a permitted special event or street fair;
12. Within one-half mile of a public school building or school grounds while children are going to or from the school, during a recess period or within 30 minutes before or after the school's opening or closing hours;
13. Within 500 feet of high-traffic landmarks and venues, as determined by the city manager or designee and published in an administrative order, which shall include justification that such restrictions are directly related to objective health, safety or welfare concerns;
14. On any portion of the Carlsbad Village Sea Wall trail, which extends alongside Carlsbad Boulevard and adjacent to the beach, between the cross streets of Pine Avenue and Tamarack Avenue. This restriction on vending shall include both the upper and lower portions of the Sea Wall trail.

E. Vending activities, including mobile services, in public parks and recreational facilities must also comply with the following:

1. Vending within public parks or recreational facilities is allowed only upon or alongside sidewalks or other paved or marked pedestrian pathways. Outside of these aforementioned areas, vending shall not take place on sand, dirt, grass or on any space which would obstruct, damage or otherwise adversely affect the public's use and enjoyment of natural resources and recreational opportunities, or contribute to an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.
2. Vending activities, including mobile services, that adversely affect the health, safety and welfare of persons engaged in active sports activities and spectators of active sports activities are prohibited.
3. Sidewalk vending activities, including mobile services, lasting 10 minutes or longer in duration shall not be permitted within any area of a public park if the park operator has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a specified concessionaire.
4. A valid park and facility use permit or special event permit obtained pursuant to Carlsbad Municipal Code Section 11.32.030 may waive these requirements for limited engagements or events. (Ord. CS-346 § 2, 2019)

29. That Section 11.32.015 of the Carlsbad Municipal Code is amended by adding the definition of "vend" or "vending" to read as follows:

11.32.015 Definitions.

"Vend" or "vending" means an offer to sell or the sale of goods, merchandise, services, food or beverages on a public street, alley, highway, parking lot, sidewalk, pedestrian path or right-of-way.

Whenever the words "park" and "vehicle" are used in this chapter, they shall have the meaning ascribed to them in Chapter 10.04 of this code.

Amendment 15

30. That Sections 11.32.030.19), .20), .21), and .28 of the Carlsbad Municipal Code are amended to read as follows:

11.32.030 Unlawful acts.

It is unlawful for any person to do any of the following mentioned acts in or upon any park or beach within the city:

19. To distribute any handbills or circulars, or to post, place or erect any bills, notice, paper, or advertising device or matter of any kind, unless issued a valid vending equipment permit as defined in Chapter 8.32 of this code and the activity under this subsection is limited to advertisements permanently affixed to vending equipment;

20. To sell or offer for sale or to rent or lease any merchandise, article or thing, whatsoever, unless issued a valid vending equipment permit as defined in Chapter 8.32 of this code, or unless granted a special event or park and facility use permit issued by the city council or designee;

21. To practice, carry on, conduct or solicit for any trade, occupation, business or profession of whatsoever kind or character without permission of the city council or city manager, unless issued a valid vending equipment permit as defined in Chapter 8.32 of this code;

28. To sell or offer to sell food, or barter for or solicit a donation for food, without a valid park and facility use permit, special event permit, or vending equipment permit as defined in Chapter 8.32 of this code; all applicable health permit(s) issued by County of San Diego department of health; and if required, a City of Carlsbad business license. This subsection shall not apply to any state, county or local government entity or other political subdivision;

Amendment 16

31. That Section 15.16.060 of the Carlsbad Municipal Code is amended to read as follows:

15.16.060 Work exempt from grading permit.

A. A grading permit shall not be required for the following:

1. Cemetery graves.
2. Refuse disposal sites controlled by other regulations.
3. Excavations for wells, ~~or tunnels, or~~ utilities, ~~or swimming pools/spas.~~
4. Exploratory excavations under the direction of soil engineers or engineering geologists.
5. Clearing and grubbing of vegetation done for the purpose of routine landscape maintenance, the removal of dead or diseased trees or shrubs or the removal of vegetation done upon order of the fire marshal to eliminate a potential fire hazard or for the abatement of weeds.
6. Clearing and grubbing of vegetation done preparatory to agricultural operations on land which has been used for agricultural purposes within the previous five years.

~~B. Unless the city engineer determines that the work may adversely affect existing drainage patterns, result in a condition which may cause damage to adjacent property now or in the future, or may have a detrimental effect on the public health, safety or welfare, a grading permit shall not be required for the following:~~

~~1-7.~~ Grading on a site where the city engineer finds that the following conditions exist:

- a. The amount of soil material moved does not exceed 200 cubic yards ~~(excluding excavation for basements, foundations and footings);~~
- b. No fill material is placed on an existing slope steeper than five units horizontal to one vertical;
- c. No cut or fill material exceeds four feet in vertical depth at its deepest point, measured from the existing ground surface.

~~2-8.~~ Grading in an isolated, self-contained area.

9. Grading associated with stem wall construction.

10. Retaining walls with a maximum height of 6 feet and the soil material moved does not to exceed 200 cubic yards. [Note: The word "to" was inadvertently approved as part of Ordinance CS-432 and is proposed for deletion.]

11. City capital improvement program (CIP) projects and city-initiated improvement and maintenance projects.

12. Notwithstanding the above, a grading permit shall be required if the city engineer determines that the work may adversely affect existing drainage patterns, result in a condition which may cause damage to adjacent property now or in the future, or may have a detrimental effect on the public health, safety or welfare.

32. That Section 15.16.065 E. of the Carlsbad Municipal Code is amended to read as follows:

15.16.065 Application for grading plan.

E. Grading plan applications for which ~~city approval~~ a permit is not granted within three years following the date of application shall be deemed withdrawn, provided the improvement plans are not associated with a tentative map, tentative parcel map, vesting tentative map, or vesting tentative parcel map, in which case the grading plan application shall be deemed withdrawn on the date of the expiration of the associated tentative map. The grading plans and other documents submitted for review may thereafter be returned to the applicant or destroyed by the City Engineer. In order to renew action on an application after withdrawal, the applicant shall resubmit a new application and pay a new grading plan review application fee.

PROJECT ANALYSIS

The 2024 Zone Code Clean Up is subject to the following regulations:

- A. State Regulations
- B. General Plan
- C. Municipal Code
- D. Local Coastal Program
- E. Growth Management Plan
- F. McClellan-Palomar Airport Land Use Compatibility Plan

The recommendation for approval of the Clean Up was developed by analyzing the Clean Up’s consistency with the applicable regulations and policies. The Clean Up’s compliance with each of the above regulations is discussed in detail within the sections below.

A. State Regulations

California State Assembly Bill 976, 2023

Assembly Bill 976 (AB 976), a continuation of the 2020 bill Assembly Bill 881 (AB 881), was adopted by the state legislature in order to create stability for the state’s accessory dwelling unit (ADU) financing market. This bill notably removes the owner occupancy requirement for ADUs, further promoting the growth of infill development.

Amendment 3 of Table B describes the proposed changes to implement AB 976.

Other state regulations

Minor changes to the city’s inclusionary housing and density bonus provisions are proposed to provide consistency with state Civil Code and Health and Safety Code provisions related to the location (in mixed income projects) and tenure of affordable units and the definition of “affordable housing” for lower-income households.

Consistent with the state Government Code Section 65853, the Planning Commission may recommend, and the City Council may adopt, Zoning Ordinance amendments. Such actions must occur at noticed public hearings before both review bodies.

B. General Plan Consistency

The proposed amendments are consistent with the General Plan as described in the table below:

TABLE A – GENERAL PLAN COMPLIANCE

ELEMENT	USE, CLASSIFICATION, GOAL, OBJECTIVE, OR PROGRAM	PROPOSED USES & IMPROVEMENTS	COMPLY
Land Use & Community Design	<u>Goal 2-G.3</u> – Promote infill development that makes efficient use of limited land supply, while ensuring compatibility and	With the inclusion of Amendment 7, the Clean Up will promote infill development by including in the permitted uses tables of the "C-1"	Yes

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

ELEMENT	USE, CLASSIFICATION, GOAL, OBJECTIVE, OR PROGRAM	PROPOSED USES & IMPROVEMENTS	COMPLY
	integration with existing uses. Ensure that infill properties develop with uses and development intensities supporting a cohesive development pattern.	Neighborhood Commercial, “C-2” General Commercial and “C-L” Local Shopping Center zones that mixed use development is expressly permitted. By calling attention to the permissibility of mixed use development in the tables, developers will be better informed of potential opportunities for this type of development.	
Housing	Policy 10-G.2 – New housing developed with diversity of types, prices, tenures, densities, and locations, and in sufficient quantity to meet the demand of anticipated city and regional growth.	With the inclusion of Amendment 11, the project will assist with increasing the with diversity of types, prices, tenures, densities, and locations of affordable housing by including the requirement that unit size, bedroom count, tenure, and dispersal match market-rate units in projects that have an inclusionary housing requirement, consistent with state law.	Yes
Housing	<u>Program 1.8(a)</u> – Periodically review, as part of a Semi-Annual Zoning Code Update Review, development standards and incentives that would encourage mixed-use developments and make city-sponsored changes to development standards as needed.	With the inclusion of Amendment 7, the Clean Up also encourages the development of mixed use projects by clearly identifying the zoning designations under which mixed use is already permitted. By calling out mixed use under the “Permitted Uses” tables within the Zoning Ordinance, it helps inform prospective developers of the potential opportunities available on their parcel.	Yes
Open Space, Conservation & Recreation	<u>Goal 4-G.3</u> – Protect environmentally sensitive lands, wildlife habitats, and rare, threatened, or endangered plant and animal communities.	With the inclusion of Amendment 10, the project will assist with the protection of natural resources by reinforcing the requirements that must be met prior to the removal of habitat. This amendment to code which outlines the city’s Habitat Management Program (HMP) will	Yes

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

ELEMENT	USE, CLASSIFICATION, GOAL, OBJECTIVE, OR PROGRAM	PROPOSED USES & IMPROVEMENTS	COMPLY
		help the enforcement of violations to the HMP.	
Noise	<u>Goal 5-G.1</u> – Protect public health and welfare by eliminating existing noise problems where feasible, maintaining an acceptable indoor and outdoor acoustic environment, and preventing significant degradation of the acoustic environment.	With the inclusion of the additional provisions within Amendment 8, this project will maintain consistency with the goal of maintaining acceptable noise levels by limiting the number of animals (poultry) permitted and prohibiting the keeping of roosters in the R-1 Zone.	Yes

C. Municipal Code

As noted in the May 15, 2024 Planning Commission staff report, the 2024 Clean Up batch of amendments proposes both amendments to the city’s Zoning Ordinance (Title 21) and CMC Titles 8, 11, and 15. For the portion of the Clean Up that proposes 13 sets of amendments to the city’s Zoning Ordinance contained within Title 21, the proposed amendments are consistent with the CMC as discussed in the table below. All sections cited are found in the CMC.

TABLE B – AMENDMENT DISCUSSION

Proposed Amendment	Discussion/Analysis
Amendment 1 – Removed Footnote	
Changes to Section 21.45.090 “Residential additions and accessory uses.”	The proposed amendment includes removing Note 2 regarding building separation under Table F, which is a deletion made necessary by Ordinances CS-432 (an ordinance adopting the amendments of the first Zoning Ordinance Clean Up in 2022) and CS-449 (an ordinance on ADU amendments, adopted 2023) but which was not deleted by these ordinances in error. Correcting this error provides consistency among standards.
Amendment 2 – Removed “Item B”	
Changes to Section 21.201.130 “Developments appealable to the coastal commission.”	The proposed amendment includes removing the reference to subsection B in Section 21.201.130 A.3 “Developments appealable to the coastal commission,” the subsection was introduced by Ordinance CS-178 (an ordinance regarding land use decision making, adopted in 2012) but did

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

Proposed Amendment	Discussion/Analysis
	not ever include Item B in the final adopted language. Correcting this error provides clarity and consistency by removing the reference to a subsection that did not ever exist.
Amendment 3 – Notice of Restriction	
Changes to Section 21.10.30 “Accessory dwelling units and junior accessory dwelling units.”	The proposed amendment includes the removal of E.12 from Section 21.10.030 “Accessory dwelling units and junior accessory dwelling units” which was made necessary for consistency with state law by the recent adoption of state Assembly Bill 976 (AB 976) which prohibits a jurisdiction from enforcing owner occupancy requirements for accessory dwelling units. State law still maintains an owner occupancy requirement for junior accessory dwelling units. The proposed changes have no impact on the implementation of Assembly Bill 1033 (AB 1033) which would allow the individual sale of ADUs. The ordinances required to implement AB 1033 will be developed at the direction of City Council as permitted by the provisions of the bill.
Amendment 4 – M and C-M Zones Permitted Uses	
Changes to Sections 21.30.010 “Permitted uses” and 21.32.010 “Permitted uses.”	The proposed amendment includes modifications to the level of permitting required for “Educational facilities, other” in the “M,” Industrial and “C-M,” Heavy Commercial zones. “Education facilities, other” is defined as training or tutoring not subject to the education code (CMC 21.04.137 “Educational facilities, other”). The change would modify the existing permitting requirements from a minor conditional use permit to a permitted use, consistent with what is permitted in other commercial zones. Note 1 in the “Permitted Uses” table of the C-M zone states that any permitted use allowed in other commercial zones is allowed in the C-M zone, barring a list of specified exceptions. In this case, other commercial zones such as the C-1 “Neighborhood Commercial” zone allow “Educational facilities, other” as a permitted use, thereby setting a precedent that this use would also be permitted in the C-M zone. Similar to the

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

Proposed Amendment	Discussion/Analysis
	C-M zone, the M zone includes an item in the “Permitted Uses” table listed as “Any use permitted in the C-M zone is permitted in the M zone, except child day care centers” which thereby permits consistent uses across the two zones. The City Planner has previously directed approval of businesses licenses in this zone on this basis, establishing precedent for this change.
Amendment 5 – Permit Expiration	
Changes to 21.58.030 “Expiration of permits”	The proposed amendment revises code language by extending permit approval from two to three years to allow for additional time to exercise a permit. The addition of items B and C provides additional clarification on what activities constitute as “exercised” as conditionally required in the existing code language and consistent with existing process and clarification on the terms and limits for projects that do not require a building or grading permit.
Amendment 6 – Home Occupations	
Changes to Section 21.10.040, “Home occupations.”	The proposed amendment includes updated language describing the permitted activities and requirements for dwellings used to host home occupations in the R-1 zone. Other residential zones also allow home occupations, and the R-1 zone language is referenced by them. The amendment, drafted with the intention of mirroring the original language, provides additional clarifications to the language which had limited interpretability due to a lack of specificity. The proposed language also incorporates standards maintained by the state’s Health and Safety Code.
Amendment 7 – Mixed Use Development	
Changes to “Permitted uses.” tables of Sections 21.26.015, 21.28.015 and 21.31.030.	The proposed amendment includes the addition of “Mixed Use Development” uses to the “Permitted Uses” tables in the “C-1,” Neighborhood Commercial, “C-2,” General Commercial, and “C-L,” Local Shopping Center zones. This amendment was included for the purpose of assisting in the implementation of

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

Proposed Amendment	Discussion/Analysis
	<p>Housing Element Program 1.8, which calls for the city to encourage mixed use development. This amendment does not permit mixed use development; rather, it calls attention to the zones where mixed use development is already allowed but is not expressly identified as a permitted use.</p>
<p>Amendment 8 – Animal Keeping</p>	
<p>Changes to Section 21.10.020 “Permitted uses.”</p>	<p>The proposed amendment lists “Poultry, roosters prohibited (5 or less)” and “Poultry, roosters prohibited (6-15)” in Table A “Permitted Uses” in zone “R-1,” One Family Residential. This amendment was included for the purpose of maintaining consistency with similar zones such as the “E-A” Exclusive Agriculture zone, “R-A” Residential Agricultural zone, and the “R-E” Rural Residential Estate zone. Other zones that include residential property were evaluated; however, staff is recommending only including this standard into the R-1 zone which consists of single family residential developments. This change would apply to nearly 9,900 parcels currently zoned as R-1 throughout the city.</p> <p>The existing language outlines requirements for the keeping of animals of various sizes, but does not have language specific to poultry. The permissions provided under this amendment are specific and typical for poultry which includes, as identified above, an explicit ban on the keeping of roosters, specifications about the number of poultry, requirement to have a well-maintained enclosure for the animals, and the distances the animals’ enclosure must be located away from the property line, consistent with the CMC as a whole and the California Health and Safety Code. The permissions revised by this amendment are based on the precedent and requirements previously established for properties in the “R-A” Residential Agriculture zone due to the high level of specificity regarding appropriate setbacks, required containment, and number of animals permitted.</p>

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

Proposed Amendment	Discussion/Analysis
Amendment 9 – “OS” Open Space	
<p>Changes to the nomenclature denoting “Open Space” zones from “O-S” to “OS.”</p>	<p>The proposed amendment includes the all-inclusive shift in nomenclature which denotes “Open Space.” Within Chapter 21.33 of the CMC “O-Open Space Zone,” Open Space is denoted as “O-S,” however, on the city’s Zoning Map, a variety of other city documents and within other code sections, Open Space is denoted as “OS.” This minor shift in nomenclature is intended to reduce confusion and create consistency within city publications.</p>
Amendment 10 – Habitat Removal	
<p>Changes to Section 21.210.030 “Applicability” and 21.210.100 “Enforcement measures – Violations and remedies.”</p>	<p>This amendment reinforces existing policies which apply under the detailed provisions of Chapter 21.210 “Habitat Preservation and Management Requirements.” The proposed amendment includes a clarifying statement in section 21.210.030 that discusses the requirements that must be met prior to the removal of habitat permitted under the city’s Habitat Management Program (HMP). The amendment states that habitat removal shall not be permitted until the conditions of the existing CMC Chapter 21.210, the city’s HMP, are satisfied. The amendment to section 21.210.100 provides additional specification of the party responsible for restoring habitat that was removed in violation of Chapter 21.210.</p>
Amendment 11 – Housing Standards	
<p>Changes to Section 21.85.020 “Definitions,” Section 21.85.040 “Affordable Housing Standards,” Section 21.85.140 “Affordable housing agreement as a condition of development,” and Section 21.86.100 “Design and quality.”</p>	<p>The proposed amendment includes a number of minor additions to the city’s code regarding the Density Bonus and the Inclusionary Housing ordinances. These additions bring the code into closer alignment with the regulations implemented through state and federal standards. The amendments include updates to ensure consistency between the tenure rate, unit size, bedroom count, and dispersal of affordable units in comparison to market-rate units as well as the addition of credit purchases as a way to satisfy inclusionary housing requirements. The proposed amendment does not constitute any</p>

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

Proposed Amendment	Discussion/Analysis
	change in policy as the amendments to the code will put into the CMC the requirements and practices implemented by the city’s Housing department.
Amendment 12 – Agriculture Uses	
Changes to Section 21.07.020 “Permitted uses” and Section 21.08.020 “Permitted uses.”	<p>The proposed amendments streamline permitted agriculture uses, define “agriculture/aquaculture/flower stands,” and update existing stand uses with consistent terminology. The amendment specifically includes the addition of “Agriculture” and a related footnote in the “Permitted Uses” tables in the “E-A,” Exclusive Agriculture, “R-A,” Residential Agriculture, “R-E” Rural Residential Estate, and “P-U” Public Utility zones. The purpose of this amendment is to bring the two zones into consistency with similar zones. Presently, agriculture is not explicitly listed as a permitted use, however, this does not constitute a change in land use as the proposed addition of agriculture does not permit a use that was not already present in the two zones (e.g. “plant nurseries,” “processing plant for crops,” “tree farm,” “produce/flower stand”). As the city’s designated zones for agriculture and planting, it is consistent to allow for agriculture in these two zones, subject to the city’s standards and limitations present in other sections of the code. Additionally, the proposed amendments also include the addition of a definition to define “Agriculture/aquaculture/flower stands” and updates to the “Permitted Uses” tables for the “E-A” Exclusive Agriculture, “R-A” Residential Agricultural, “R-E” Rural Residential Estate, “C-T” Commercial Tourist, “P-U” Public Utility, and “L-C” Limited Control Zones. The purpose of standardizing the language across the various zones’ permitted uses table was to ensure nomenclatural consistency and equal permitting.</p>
Amendment 13 – Substantial Conformance Review	
Introduction of Chapter 21.89 – Substantial Conformance Review	The proposed introduction of Chapter 21.89 “Substantial Conformance Review” is intended to

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

Proposed Amendment	Discussion/Analysis
	<p>standardize and update existing Community Development Department protocol for the review of applications seeking a consistency determination. Based on the department’s existing Policy 35 (Exhibit 5), the language and standards included in this chapter outline the process and standards which a proposed project will be reviewed against. By formalizing this process and codifying it into the city’s municipal code, this increases transparency in review and aligns the city’s discretionary review process with similar processes such as those recently adopted with the city’s Objective Design Standards and established by state law.</p>

The proposed amendments listed below are amendments to sections of the CMC outside of Title 21, the city’s Zoning Ordinance, and are therefore not under the purview of the Planning Commission. Specifically, these amendments affect Title 8, Public Peace, Morals and Safety; Title 11, Public Property; and Title 15, Grading and Drainage. These items have been included for informational purposes.

Proposed Amendment	Discussion/Analysis
Amendment 14 – Mobile Vending	
<p>Changes to Section 8.32.020 “Definitions,” Section 8.32.080 “Sidewalk vending generally,” and Section 11.32.015 “Definitions.”</p>	<p>The proposed amendment incorporates mobile services into the existing standards for vending. This amendment updates terminology to reflect current vending practices to improve enforcement, but remains applicable to the same uses/activities and is consistent with current code.</p>
Amendment 15 – Vending Permits	
<p>Changes to Section 11.32.030 “Unlawful acts.”</p>	<p>The proposed amendment incorporates the exclusionary clause “unless issued a valid vending equipment permit” into existing sections of the code which regulate the permitted activities at parks and beaches. This change reinforces existing vending permitting processes.</p>
Amendment 16 – Grading Permits	
<p>Changes to Section 15.16.060 “Work exempt from a grading permit.” and 15.16.065 “Application for grading plan.”</p>	<p>The proposed amendments reintroduce a section previously removed during the 2022 Zone Code Clean Up. Additionally, the proposed amendments also incorporate capital improvement projects initiated by the city or the Carlsbad Municipal</p>

PROJECT ANALYSIS

(GENERAL PLAN, MUNICIPAL CODE, AND OTHER REGULATIONS)

	Water District into the list of projects that are exempt from certain requirements related to grading permit applications. The inclusion of these amendments represents minor maintenance to the city's code.
--	---

D. Conformance with Local Coastal Program

The 2024 Zone Code Clean Up proposes amendments to sections of Titles 15 and 21, which constitute portions of the city's Local Coastal Program Implementation Plan, and therefore require that a Local Coastal Program Amendment be submitted to the California Coastal Commission for review and approval in accordance with the California Coastal Act. The Clean Up does not conflict with Coastal Act provisions regarding public access, scenic views, or preservation of steep slopes and habitat; Amendment 10, for example, would assist in the preservation of habitat in the Coastal Zone. Further, amendments would aid the usability and clarity of the Local Coastal Program.

E. Growth Management (CMC Chapter 21.90)

The 2024 Zone Code Clean Up poses no impact to public facilities because the Clean Up is not proposing any construction, change in land use or use intensity, amendments to Chapter 21.90, "Growth Management" or any changes to the provisions of the Growth Management Program, such as the performance standards.

F. McClellan-Palomar Airport Land Use Compatibility Plan

The 2024 Zone Code Clean Up affects land within the boundaries of the McClellan-Palomar Airport Land Use Compatibility Plan (ALUCP). The ALUCP was amended on December 1, 2011, and all projects within its boundary are required to be reviewed for consistency with its requirements. However, as per San Diego County Regional Airport Authority (SDCRAA) Policy 8.30(3)(b)(i)(b), "Airport Land Use Commission review of Local Agency proposals to adopt or amend zoning ordinances, building regulations, and other land use ordinances and regulations shall be required in instances where those ordinances and regulations have implications for ALUCP noise, airspace, or safety compatibility within the AIA of an Airport pursuant to the requirements of Public Utilities Code §21676(b)." Given that the amendments do not materially affect allowable land uses and the density or intensity of development regulations and do not have implications for ALUCP noise, airspace, or safety compatibility within the Airport Influence Area of McClellan-Palomar Airport, the Clean Up is consistent with the ALUCP. Staff's determination is supported by consultation provided by SDCRAA staff.

CITY OF CARLSBAD

Page 1 of 3

PLANNING DEPARTMENT
Administrative Policy

Policy No.	<u>35</u>
Date Issued	<u>August 18, 1998</u>
Effective Date	<u>February 26, 2001</u>
Revised Date	<u>February 23, 2001</u>
Supersedes No.	

General Subject: Discretionary Permit Consistency Determinations

Specific Subject: Guidelines

Copies to: Department Staff, File

POLICY:**I. Intent and Purpose**

An expectation and goal of the Carlsbad City Council, Planning Commission, City staff and general public is that all aspects of an approved development project (i.e. site design, landscaping, architecture, grading and conditions of approval) are completely implemented through project build-out. The overriding objective is to attain the highest quality project consistent with the design, conditions, and commitments associated with the original project approval. To this end, project applicants are required to provide detailed planning, engineering and building design information during the project review process. It is, however, recognized that there will be situations where aspects of an approved project will be proposed for revision.

When the project involves a Tentative Tract Map or Tentative Parcel Map, and the proposed revisions would change that map, then the applicant must follow the Substantial Conformance policy of the Engineering Department (Policy 30, dated September 5, 1990). In these cases, according to State Law, the City Engineer must determine if "the subdivision as shown is substantially the same as it appeared on the Tentative Map and approved alterations thereof."

Virtually all projects, however, involve a discretionary permit(s) issued by the authority of Title 21 - the Zoning Ordinance. In these cases, the Planning Director has the responsibility of determining if the revised project is substantially the same as approved. Therefore this policy was derived to outline the criteria and procedures for obtaining a Consistency Determination from the Planning Director.

More specifically, these Guidelines provide: (1) criteria for determining whether a requested project revision can be found to be consistent with the original project approval; and, (2) procedures for processing a Consistency Determination request. Since this process is different and separate from the Engineering Department's Substantial Conformance review, it is possible for a project to be conforming to the approved Tentative Map but not consistent to the other discretionary permits.

II. Consistency Determination Criteria

A project revision may be determined to be consistent with the approved project if all of the following findings can be made:

- (1) No project condition, feature, facility or amenity is changed or deleted that had been considered essential to the project's design, quality, safety or function;

**PLANNING DEPARTMENT
Administrative Policy**

Policy No.	<u>35</u>
Date Issued	<u>August 18, 1998</u>
Effective Date	<u>February 26, 2001</u>
Revised Date	<u>February 23, 2001</u>
Supersedes No.	

General Subject: Discretionary Permit Consistency Determinations

Specific Subject: Guidelines

Copies to: Department Staff, File

- (2) The request represents an upgrade in overall design features and or materials and improves upon the project's compatibility with the surrounding neighborhood;
- (3) The proposed revision does not change the density (i.e. the addition of units) or boundary of the subject property;
- (4) The proposed revision does not involve the addition of a new land use not shown on the original permit (e.g. adding a commercial use to a residential project, replacing single family units with attached residential units, vice versa for each example, etc.);
- (5) The proposed revision does not rearrange the major land uses within the development (e.g. it does not exchange the locations of single family units with attached units);
- (6) The proposed revision does not create changes of greater than ten percent (10%), provided that compliance will be maintained with the applicable development standards of the Carlsbad Municipal Code as follows:
 - Per individual lot or structure** - yards, setbacks, coverage or height (height reductions of >10% are permitted);
 - On an aggregate project basis** - parking, open space, common area or landscaping;
- (7) The proposed change will not result in any significant environmental impact, and/or require additional mitigation;
- (8) The proposed change would not result in any health, safety or welfare impacts;
- (9) There were not any major issues or controversies associated with the original project which would be exacerbated with the proposed change; and
- (10) The proposed change would not be readily discernible to the decision makers as being substantially different from the project as originally approved.

If the proposed revision does not comply with all of the above listed Consistency Determination findings, then a determination of consistency cannot be made. The proposed project revision should be processed as a formal project amendment.

**PLANNING DEPARTMENT
Administrative Policy**

Policy No.	<u>35</u>
Date Issued	<u>August 18, 1998</u>
Effective Date	<u>February 26, 2001</u>
Revised Date	<u>February 23, 2001</u>
Supersedes No.	

General Subject: Discretionary Permit Consistency Determinations

Specific Subject: Guidelines

Copies to: Department Staff, File


III. Consistency Determination Procedures

A request for a Consistency Determination shall be submitted to the Planning Department as a "major" Preliminary Review (CD) application **and the appropriate fees collected**. The application shall include 2 sets of amended exhibits, graphics, statements or other information as may be required to explain and justify the request.

Consistency Determination Preliminary Reviews will, where feasible, be assigned to the original project planner and engineer for review. The Consistency Determination request should also be reviewed by the project planner's "team". Within approximately 30 days of the Consistency Determination request submittal date, a letter will be sent to the applicant which will either: 1) include the Planning Director's decision on the Consistency Determination request; or 2) identify any additional information deemed necessary to make a Consistency Determination. Within approximately 30 days of the date of submittal of all requested additional information, notice of the Planning Director's decision on the Consistency Determination request shall be mailed to the applicant. The letter shall include a decision regarding whether the Consistency Determination request is granted or denied.

Upon approval of a Consistency Determination request by the Planning Director, the project applicant shall submit two (2) blue-line copies (24" x 36") of all Consistency Determination exhibits to be stamped "Consistency Determination Exhibit" and filed in the appropriate project files. The applicant shall also provide the City with a reproducible 24" x 36" mylar copy of the amended Site Plan, which shall be stamped "Consistency Determination Exhibit" and signed by the Planning Director.

APPROVED BY:


 Michael J. Holzmillier
 Planning Director



Staff Report

Meeting Date: May 15, 2024 Item No. **2**

To: Planning Commission

Staff Contact: Eric Lardy, City Planner, 442-224-9595

Subject: Election of Vice-Chair

Location: Citywide

Commission Action: Decision Recommendation to City Council Informational (No Action)

Recommended Actions

1. That the Planning Commission **APPOINT** one commissioner as Vice-Chair.

Project Description

On Jan. 17, 2024, the Planning Commission took actions to elect a Chair and a Vice-Chair, each for one-year terms. For the 2024 calendar year, Commissioner Kamenjarin was appointed to serve as Chair and Commissioner Sabellico to serve as Vice-Chair. On Monday, May 6, 2024, Vice-Chair Sabellico resigned from the Planning Commission. Now the vacancy for Vice-Chair will need to be appointed through nomination and selected by a vote of a majority of the commission. City staff recommends that the term of the new vice-chair begin on June 5, 2024, to coincide with the next Regular Meeting. The City Clerk will lead the process for noticing and appointment of a new Planning Commissioner, expected to take one to two months.

Fiscal Analysis

There is no direct fiscal impact.

Environmental Evaluation (CEQA)

The California Environmental Quality Act (CEQA) requires analysis of agency approvals of discretionary "projects." A "project" under CEQA, is defined as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (Public Resource Code section 21065). The proposed action does not constitute a "project" within the meaning of CEQA in accordance with Public Resources Code section 21065 or CEQA Guidelines section 15378.

Exhibits

None.