

CALIFORNIA COASTAL COMMISSION

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November 19, 2002

Howard Zelefsky
Planning Director
City of Huntington Beach
City Hall
2000 Main Street
Huntington Beach, CA 92648-2702

RE: City Council Notice of Action on CDP Application No. 96-18 (Parkside Estates)

Dear Mr. Zelefsky:

On October 31, 2002 the Long Beach office received the City's "Notice of . . . City Council Action on Appeal of Planning Commission's Approval of Coastal Development Permit No. 96-18 (Parkside Estates)" (NOA), which provides for a subdivision, the development of a 171 single family residential planned unit development, and associated infrastructure improvements, which include the dedication and improvement of 8.2 acres for park improvements. The City's action on CDP Application No. 96-18 was done in conjunction with a local coastal program amendment (LCPA) that will be submitted by the City to the Commission for certification.

The City's NOA acknowledges that part of the project site is in an "Area of Deferred Certification" and that the City's CDP, pursuant to Condition #9, would not become effective until the LCPA receives certification from the Coastal Commission. Nevertheless, Commission staff is concerned that the City's action on CDP Application No. 96-18 is premature for two fundamental reasons.

- First, the majority of the project site is outside of the City's certified LCP area in either the "Area of Deferred Certification" or within the currently uncertified Bolsa Chica LCP area. The City does not have authority to issue a coastal development permit for the uncertified areas. Until the Commission certifies the LCPA, the Commission retains permit jurisdiction for the uncertified areas.
- Second, Commission staff notes that the grounds for filing an appeal of a coastal development permit issued by a local government are contained in Section 30603(b) of the Coastal Act. This section of the Coastal Act establishes that the grounds for an appeal are limited to an allegation that the development approved by the local government does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. As the Commission has deferred certification for the majority of the Parkside Estates project area, no LCP exists for an appellant to cite as the bases for filing an appeal on CDP 96-18. As noted above, no appeal would be appropriate for the uncertified area anyway, since the City has not

taken, and cannot take, final action on a CDP application for that area. Nevertheless, to the extent the City's action appears to issue a CDP, the inability of an appellant to legally file a valid appeal mandates that the City not approve a CDP until the, as yet to be submitted, LCPA is certified by the Commission.

Therefore, pursuant to our discussions with City staff, the City's action on CDP Application #96-18 in the area of deferred certification and the area proposed for annexation from the County is not a final CDP action. Rather, the City's action constitutes its "approval in concept" and its required local discretionary review of the proposed development in those two areas. In the northwestern portion of the site, there is an area which is fully certified within the City's LCP and portions of that acreage are shown as "appeals area" on the City's adopted post-certification map. CDP #96-18 is deemed a final local action for that portion of the site and only the development authorized in that area is subject to appeal.

In summary, based on our discussions, it is our understanding that the City will complete its submittal of the LCPA to the Coastal Commission as soon as possible and the property owner/applicant (Shea Homes) will submit a coastal development permit application directly to the Commission, consistent with what the City has approved locally, for Commission review. In order to assess possible impacts of the proposed park/recreational use on sensitive resources and public access opportunities, the Commission has filed an appeal of the local decision in the fully certified portion of the site. Once again, we appreciate the City's cooperation in resolving this matter and we apologize for not raising the procedural issue earlier. If you have any questions, please don't hesitate to call me or Steve Rynas at the above office.

Sincerely,



DL
Deborah Lee
South Coast Deputy Director

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