

RESOLUTION NO. 09-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA TO APPROVE CASE NO. 07-102-GP AMENDING GENERAL PLAN/COASTAL LAND USE PLAN POLICY CE 2.2 AND HE 11.5

WHEREAS, an application was submitted by Lucon, Ltd., agent, for the property owner, Oly Chadmar Partnership, LLC, on May 8, 2007 requesting approval of General Plan Amendments to provide the flexibility to preserve and enhance Devereux Creek Environmentally Sensitive Habitat Area (ESHA), preserve all onsite wetland habitats and primary native grassland habitats as open space, restore Devereux Creek flows through the site, implement Best Management Practices ensuring enhancement of runoff water quality, and to provide for 10 onsite affordable housing units; the project application was deemed complete on February 19, 2008; and

WHEREAS, the application is an element of a proposal to construct a 101-unit residential condominium project; and

WHEREAS, it was determined that the proposed project, inclusive of all of its various components including the requested General Plan/Coastal Land Use Plan amendments, is subject to the California Environmental Quality Act, that one or more significant effects on the environment may occur, and that preparation of an Addendum to the Aradon Project EIR (94-EIR-9), Residences at Sandpiper Supplemental EIR, and the City of Goleta General Plan/Coastal Land Use Plan EIR is required; and

WHEREAS, a Draft Addendum to the Aradon Project EIR (94-EIR-9), Residences at Sandpiper Supplemental EIR, and the City of Goleta General Plan/Coastal Land Use Plan EIR was prepared by Dudek under contract to the City and circulated to the public with the Planning Commission Staff Report of November 17, 2008 between November 11, 2008 and the Planning Commission hearing of February 9, 2009; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on November 17, 2008, and February 9, 2009, at which time all interested persons were given an opportunity to be heard; and on February 9, 2009 a motion to approve the project did not pass (2 ayes; 2 noes), no substitute motion was made and as a matter of procedure, the lack of a majority vote on a motion and the lack of a substitute motion results in the project being "deemed denied" by the Planning Commission; and

WHEREAS, in response to written public comments received, a proposed Addendum Revisions was released on March 27, 2009, pursuant to the requirements of the State and City CEQA Guidelines; and

WHEREAS, the City Council conducted duly noticed public hearings on April 7, 2009 and May 5, 2009, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, on May 5, 2009, the City Council adopted Resolution 09-26, adopting findings pursuant to the California Environmental Quality Act (CEQA) and accepting the Addendum dated November 10, 2008 and Addendum Revisions dated March 27, 2009 to the Aradon Project EIR (94-EIR-9), Residences at Sandpiper Supplemental EIR, and the City of Goleta General Plan/Coastal Land Use Plan EIR; and

WHEREAS, the City Council has considered the entire administrative record, including the staff reports, the Draft and Final EIRs, comments and responses to comments, the application materials, the recommendation of the Planning Commission, and oral and written testimony from interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA AS FOLLOWS:

SECTION 1. Recitals

The City Council hereby finds and determines that the foregoing recitals, which are incorporated herein by reference, are true and correct.

SECTION 2. Amendment to the General Plan/Coastal Land Use Plan

This resolution amends the General Plan/Coastal Land Use Plan Conservation Element Policy CE 2.2 and Housing Element Policy HE 11.5 as shown in Exhibit 1, subject to adoption of Resolution 09-33 "A Resolution of the City Council of the City of Goleta, California to Amend the City of Goleta General Plan/Coastal Land Use Plan Related to Case No. 07-102-GPA, Conservation Element Policy CE 2.2 and Housing Element Policy HE 11.5, and Case No. 09-020-GPA, City-Initiated Track 2.5 Amendments".

SECTION 3. Findings

The findings set forth in Exhibit 1 to this resolution are hereby adopted and incorporated herein by reference.

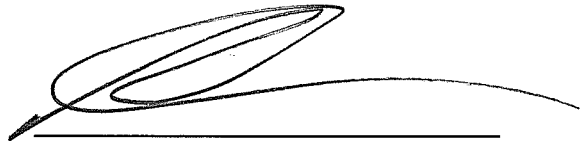
SECTION 4. Documents

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the City Clerk, City of Goleta, 130 Cremona Drive, Suite B, Goleta, California, 93117.

SECTION 5. Certification

The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 19th day of May, 2009.



ROGER S. ACEVES, MAYOR

ATTEST:

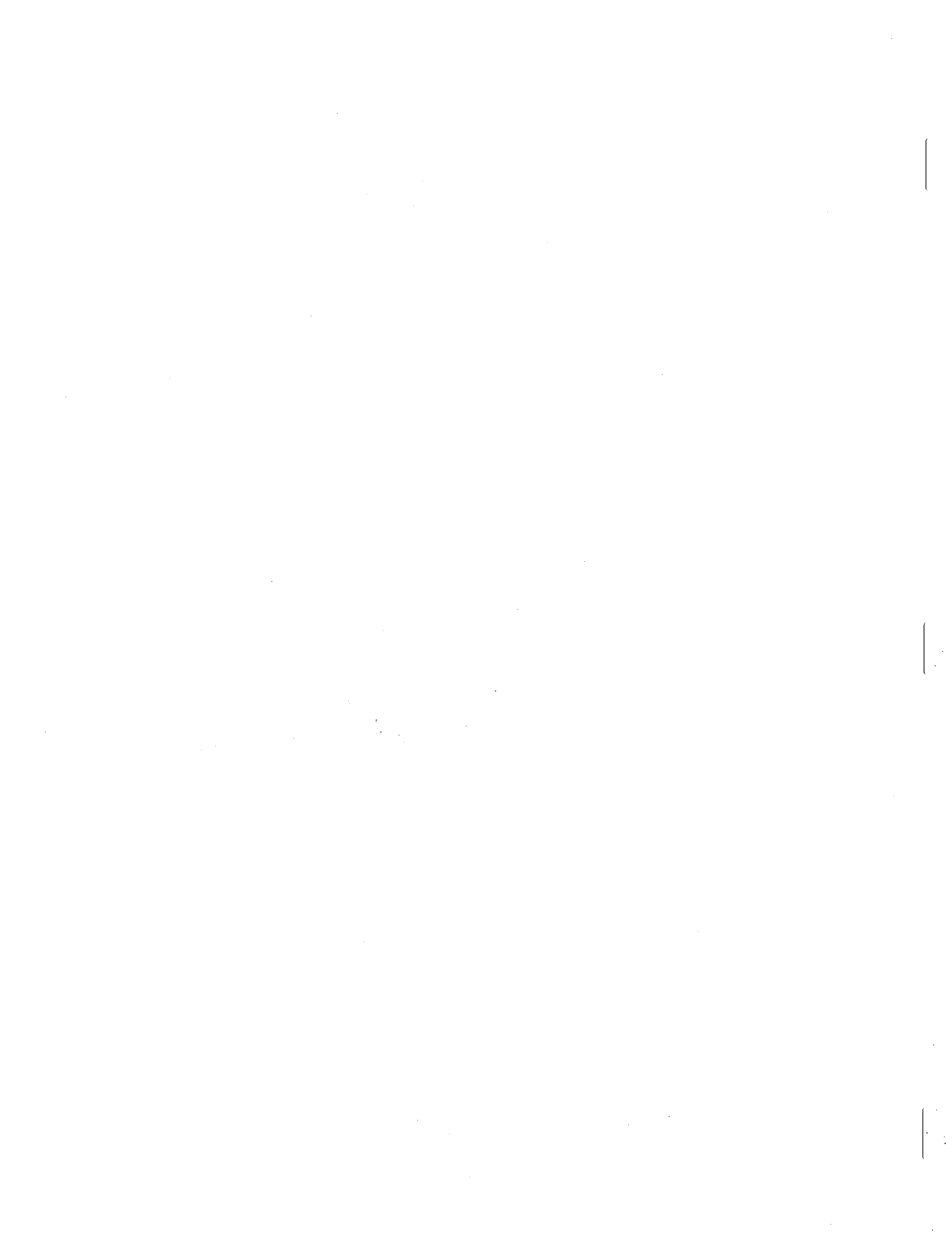


DEBORAH CONSTANTINO
CITY CLERK

APPROVED AS TO FORM:



TIM W. GILES
CITY ATTORNEY



STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) SS.
CITY OF GOLETA)

I, DEBORAH CONSTANTINO, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing City Council Resolution No. 09-30 was duly adopted by the City Council of the City of Goleta at a regular meeting held on the 19th day of May, 2009, by the following vote of the Council members:

AYES: MAYOR ACEVES, MAYOR PRO TEMPORE ONNEN
COUNCILMEMBERS BENNETT, CONNELL, AND EASTON.

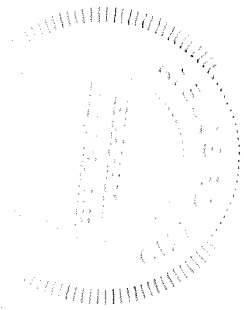
NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

(SEAL)


DEBORAH CONSTANTINO
CITY CLERK



**EXHIBIT 1
FINDINGS**

**AMENDMENT TO GENERAL PLAN/COASTAL LAND USE PLAN
POLICY CE 2.2 and POLICY HE 11.5; CASE NO. 07-102-GP**

1.0 GENERAL PLAN/COASTAL LAND USE PLAN AMENDMENT LANGUAGE

Conservation Element, Policy CE 2.2

CE 2.2 Streamside Protection Areas. [GP/CP]

A streamside protection area (SPA) is hereby established along both sides of the creeks identified in Figure 4-1. The purpose of the designation shall be to preserve the SPA in a natural state in order to protect the associated riparian habitats and ecosystems. The SPA shall include the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area. The width of the SPA upland buffer shall be as follows:

- a. In areas where land has already been fully subdivided and developed, the SPA upland buffer shall not be less than 50 feet outward on both sides of the creek, measured from the top of the bank or the outer limit of associated wetlands and/or riparian vegetation, whichever is greater. Exceptions may be allowed in instances where existing permitted development on a subject parcel encroaches within the 50-foot buffer, only if:
 - (1) there is no feasible alternative siting for the development that will avoid the SPA;
 - (2) the new development will not extend into an ESHA, and the resulting buffer will not be less than 25 feet; and
 - (3) the new development will not encroach further into the SPA than the existing development on the parcel.
- b. In all other instances, the SPA upland buffer shall not be less than 100 feet outward on both sides of the creek, measured from the top of the bank or the outer limit of associated wetlands and/or riparian vegetation, whichever is greater. If there is no feasible alternative siting for the development that will avoid the SPA, the City may consider changing the width of the SPA upland buffer on a case-by-case basis at the time of environmental review. Based on a site-specific assessment, the City may designate portions of an SPA upland buffer to be less than or greater than 100 feet wide, but not less than 50 feet, only if:
 - (1) substantial beneficial environmental improvements to the creek, its SPA, and/or related ESHAs are to be made as part of the project;
 - (2) the new development will not extend into an ESHA, and the resulting buffer will not be less than 50 feet; and
 - (3) the project's impacts will not have significant adverse effects on streamside vegetation or the biotic quality of the stream.

- c. If the provisions above would result in any legal parcel created prior to the date of this plan being made unusable in its entirety for any purpose allowed by the land-use plan, exceptions to the foregoing may be made to allow a reasonable economic use of the parcel, subject to approval of a conditional use permit.

Housing Element, Policy HE 11.5

HE 11.5 Establishment of Unit Percentages and Income Levels. [GP]

Except for designated affordable housing sites as set forth in HE 11.6, the inclusionary housing requirement shall be as follows:

- a. Proposed rental projects shall be required to provide 5 percent of the total number of units within the project at rent levels affordable to very low- and low-income households.
- b. Proposed for-sale projects, including subdivisions for purposes of condominium conversions, will be required to provide 5 percent of the units at prices affordable to very low-income households, 5 percent affordable to low-income households, 5 percent affordable to moderate-income households, and 5 percent affordable to households earning 120 to 200 percent of the median income.

Requirements for provision of inclusionary units in for-sale projects for very low- and low-income households may be satisfied by providing the same number of rental units at rent levels affordable to these households.

2.0 ADMINISTRATIVE FINDINGS

Government Code Section 65358 requires that any adopted general plan amendment must be in the public interest.

Conservation Element, Policy CE 2.2

CE 2.2 Streamside Protection Areas. [GP/CP]

The amendment to CE 2.2 would maintain the standard of a 100-foot buffer for streamside protection areas. In instances where there is no feasible alternative siting for the development that would avoid the SPA, the width of the buffer could be changed, subject to certain criteria. These include provision of substantial environmental benefits to the creek, its SPA, and/or related ESHAs; and, that the project would not have a detrimental impact on streamside vegetation or the biotic quality of the stream. In no case can the buffer be reduced to less than 50 feet.

This amendment is consistent with the intent of the original policy language and would ensure consistency with the following other existing General Plan/Coastal Land Use Plan policies:

CE 1.6	Protection of ESHAs
CE 1.7	Mitigation of Impacts to ESHAs
CE 1.8	ESHA Buffers
CE 1.9	Standards Applicable to Development Projects

CE 1.10	Management of ESHAs
CE 2.3	Compatible Land Uses and Activities in Streamside Protection Areas (SPAs)
CE 2.5	Maintenance of Creeks as Natural Drainage Systems
CE 2.6	Restoration of Degraded Creeks

The amendments to CE 2.2, together with the above existing policies, would provide for appropriate protection of biological resources. Specifically, protection of special status habitats, listed species, native species, wildlife linkages, and flood management would still be provided for. The amendment would allow consideration of a buffer of less than 100 feet on undeveloped properties under certain circumstances and would result in the public benefit of greater flexibility in promoting other goals and objectives of the General Plan/Coastal Land Use Plan.

Housing Element, Policy HE 11.5

HE 11.5 Establishment of Unit Percentages and Income Levels. [GP]

This amendment reduces the inclusionary requirement on for-sale housing projects from 30% to 20%. Additionally, the inclusionary requirement on for-sale projects would be distributed at 5% over the very low, low, moderate, and above moderate income categories.

The reduction in the inclusionary requirement on for-sale housing projects from 30% to 20%, distributed equally among the four targeted income groups, is in the public interest in that it increases the opportunity for development of new for-sale housing stock. The 20% requirement is more consistent with inclusionary requirements in other jurisdictions, particularly those with similar higher land costs. The intent of the original policy language to provide for-sale opportunities for the four targeted income groups is preserved and the actual provision of such units on the ground is more likely since the percentage requirement is more achievable. Additionally, the option for providing very low and low units as rental housing is retained.

The amendment to HE 11.5 result in the public benefit of the increased likelihood of the provision of new for-sale housing stock through the removal and/or reduction of the stricter inclusionary requirements. This would also result in promoting the intention of underlying land use designations and would allow sustained economic growth. The finding under Government Code Section 65358 can therefore be made.

