

(R-95-1214)

RESOLUTION NUMBER R- 285452

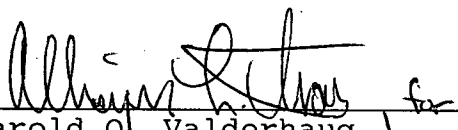
ADOPTED ON MAR 07 1995

RESOLUTION AMENDING COUNCIL POLICY NO. 600-36
REGARDING REQUIREMENT FOR ANNUAL ADJUSTMENT
OF FACILITIES BENEFIT ASSESSMENTS AND
PREPAYMENT OF ASSESSMENTS.

BE IT RESOLVED, by the Council of The City of San Diego,
that Council Policy No. 600-36 entitled, "REQUIREMENT FOR ANNUAL
ADJUSTMENT OF FACILITIES BENEFIT ASSESSMENTS AND PREPAYMENT OF
ASSESSMENTS," be and it is hereby amended as set forth in the
attachment hereto and filed in the office of the City Clerk as
Document No. RR- 285452.

BE IT FURTHER RESOLVED, that the City Clerk is hereby
instructed to add the aforesaid to the Council Policy Manual.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug
Chief Deputy City Attorney

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02/15/95
Or.Dept:Plan.
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PROPOSED CARMEL VALLEY NORTH CITY WEST
BUILDING PERMIT ALLOCATION METHOD

A. Applicability

The following sections are applicable to the Carmel Valley North City West Community only. This policy will become effective upon the exceeding of the 8,275 Dwelling Unit Threshold of the Carmel Valley North City West Transportation Phasing Plan superseding and replacing the current Carmel Valley North City West Building Permit Allocation Program adopted April 8, 1991 ~~March 7, 1989~~.

B. Administration

The following sections are to be administered by the City Planning Director Engineer.

C. Prepayment of Assessments Without Release of Liens

1. Prepayment of assessments only (no release of liens) prior to issuance of building permits will be permitted in Carmel Valley North City West, subject to limitations.
2. In the Carmel Valley North City West Community, where public facility thresholds have been reached and the issuance of building permits is therefore prohibited due to the lack of required public facilities, on the first working day thirty (30) days from the adoption date of the Policy and thereafter until there is a release of building permits:

- 2.1 Those projects which have a Council approved final map including proceedings pursuant to Section 66462.5 of the Subdivision Map Act, or its equivalent as determined by the City Planning Director Engineer and have met all the project requirements including but not limited to dedication of public rights of way, guarantee of public improvements and obtaining of all development permits may prepay assessments up to nine (9) months in advance of the project having a valid building permit application, excluding an application for a foundation only permit.

For purposes of this policy "proceedings pursuant to Section 66462.5 of the Subdivision Map Act" shall mean that all conditions of a tentative map have been satisfied except a condition that requires a subdivider to construct or install public improvements on land which neither the City nor the subdivider controls. For purposes of this policy, "dedication of public rights of way and guarantee of public improvements" shall mean an irrevocable offer to dedicate all rights of way to the City has been made and all public improvements associated with the project have been at a minimum bonded for or otherwise financially assured to the satisfaction of the City Planning Director Engineer.

At the time of payment of the assessment and agreement to pay a supplemental assessment at the time of subsequent issuance of building permits in an amount equal to the then current assessment, less any credits for the amount of prepayment with respect to such property, the project shall be granted a reservation of a future allocation of the requested number of future building permits.

In the event that request for reservations of allocation ("Requests") under C2.1 have been received and the total of such Requests exceeds the amount of allocations subsequently made

DOCUMENT NO. RL-285452
FILED MAR 07 1995
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available by City, allocations shall be made on the basis of first requested. Determination of basis of first requested shall be the date of obtaining a Council approved Final Map as defined in Section C2.1 or its equivalent as determined by the City Planning Director Engineer, and having met all project requirements including, but not limited to, dedication of public rights of way, guarantee of public improvements and obtaining of all development permits. The date of obtaining a Final Map shall have no effect, except to distinguish between multiple requests received on the same day.

It is the policy of the City Council that a portion of the dwelling units in the 8,275-9,000 dwelling unit threshold will not be available for prepayment of assessments. These units (as identified in Section C2.3) will be considered a Special category and will be available to any owner/applicant ready to pay for and complete a building permit application. Within this Special category, a sub-category of dwelling units will be reserved for small and medium sized property owners ready to complete permit applications. Those owners are defined as those owner/applicants whose development potential does not exceed the following:

100 - single family dwelling units, or
150 - multi-family dwelling units, or
100,000 square feet of non-residential building area.

2.2 It is recognized that the accelerated processing of a final map may place an additional burden on those small to medium sized property owners. It is the policy of the City Council that these owner/applicants that own or control property in the North City West Community Planning Area with a total planned development potential that does not exceed the following:

100 - single family dwelling unit or,
150 - multi-family dwelling units, or,
100,000 square feet of non-residential building area

may request a reservation of an allocation from the Reserved Category of building permits in the 9,000 to 10,500 dwelling unit threshold (as defined in Section C2.3), for those projects which have a finally approved tentative map and may prepay assessments up to nine months in advance of the project having a valid building permit application, excluding an application for a foundation only permit. At the time of payment of the assessment and agreement to pay a supplemental assessment at the time of subsequent issuance of building permits in an amount equal to the then current assessment, less any credits for the amount of prepayment with respect to such property, the project shall be granted a reservation of a future allocation of the requested number of future building permits.

In the event the applicant, under this Section C2.2 above, fails to obtain a valid building permit application, excluding an application for a foundation only permit, within nine months of prepayment of the assessment, the reservation shall be canceled. In the event the applicant under C2.2 fails to obtain a Council approved final map including proceedings pursuant of Section 66462.5 of the Subdivision Map Act as defined in Section C2.1, within twelve months of prepayment of the assessment, then the reservation of an allocation shall be canceled. A new reservation, if still available, will be made at such time as the applicant does obtain a valid building permit application, excluding an application for a foundation only permit and/or obtains a Council approved final map, and meets all project requirements as described in C2.1, providing the then applicable assessment has been paid.

Within the 8,275-9,000 dwelling unit thresholds, those owners defined as small and medium property owners may not reserve building permits through prepayment, but may secure permits in manner prescribed in Section C2.3.

- 2.3 The following numbers of building permits in the specific threshold indicated below and contained in the Carmel Valley North City-West Transportation Phasing Plan (Revised June 15, 1993 February 27, 1989) shall be considered in a Special Reserved Category not available for prepayment and are to be applied for only by those applicants as defined in Section C2.2 unless otherwise indicated in this policy meeting the following requirements:

8,275 DU - 9,000 ~~8,500~~ DU

Any remaining units from the "Other category" of the 5,225 DU - 8,275 DU thresholds plus 145 45 DUs.

~~8,500 - 9,000 DU~~
100 DUs

Permits in the Special category (and its sub-category of reserved permits) are available to applicants who meet the following conditions

- If the applicant is a named party to the adopted permit allocation method for the 5,225 - 8,275 DU threshold, all such allocations must be paid before securing permits in the 8,275 - 9,000 DU threshold. If the applicant is not one of the named parties, its must secure any allocations obtained through assignment or transfer before acquiring any additional permits.
- Prepaid Building permits that remain available in the 8,275 - 9,000 DU threshold must be obtained prior to any permits being pulled from the Pooled category.
- The applicant must pull any permits reserved in the 8,275 - 9,000 DU threshold prior to pulling permits from the Pooled category.

The total number permits in the Special category available only to small and medium sized owners as defined in Section 2.2 will be limited to 36 (10%). These permits may be secured in the same manner as all others in the Special category and will be considered a separate Reserved category.

In the event that applications for building permits from the Special category exceed the amount of allocations available, they shall be issued made on the basis of first paid.

The following numbers of building permits in the threshold indicated below and contained in the Carmel Valley Transportation Phasing Plan (Revised June 15, 1993) shall be considered in a Reserved Category and are to be applied for only by those applicants as defined in Section C2.2 unless otherwise indicated in this policy:

9,000 - 10,500 DU
300 DUs

A number of building permits corresponding to 10% of each non residential threshold shall

~~be reserved for those small to medium sized non residential property owners as defined in Section C2.2~~

In the event that requests for reservations of allocation in the 9,000 to 10,500 dwelling unit threshold ("Requests") exceed the amount of allocations subsequently made available by City in this Reserved Category, allocations shall be made on the basis of first requested. Determination of the basis of first requested shall mean the date of obtaining a finally approved tentative map. The date of obtaining a finally approved tentative map shall have no effect, except to distinguish between multiple requests received on the same day.

2.4 Nothing in Section C2.3 shall preclude a small to medium sized property owner as defined in Section C2.2 from applying for building permits in the Unreserved or Special Categories under the provision of Section 2.1, in the event that permits are unavailable in these categories Reserved Category.

~~2.5 In the event that permits remain available in the Reserved Category upon release of the next threshold in the transportation phasing plan, those permits shall revert to the Unreserved Category and may be applied for by any owner qualifying under Section C2.1.~~

2.5 ~~2.6~~ In lieu of cash payment at the time of reservation of a future allocation, the reservation may be secured through use of a letter of credit in a form satisfactory to the City Planning Director Engineer. The assessment must be paid in cash by the first working day 14 days following the date of permit allocations becoming available. In the event the applicant under Section C2.1 above fails to obtain a valid permit application excluding an application for a foundation only permit within nine (9) months of prepayment, or its equivalent, the reservation of allocation of future building permits shall be canceled. A new reservation, if still available, will be made at such time as the applicant does obtain a valid building permit application excluding an application for a foundation only permit, providing the then applicable assessment has been paid.

3. In the Carmel Valley North City West Community, where public facility thresholds have not been reached and there is thus no restriction to issuing building permits caused by the lack of public facilities, (1) those projects which have a Council approved final map as defined in Section C2.1, or its equivalent as determined by the City Planning Director Engineer, and have met all project requirements including, but not limited to, dedication of public rights of way, guarantee of public improvements as defined in Section C2.1, and obtaining of all development permits, may prepay assessments, in cash only, up to nine (9) months in advance of the project having a valid building permit application, excluding an application for a foundation only permit. At the time of payment of the assessment and agreement to pay a supplemental assessment at the time of subsequent issuance of building permits in an amount equal to the then current assessment, less any credits for the amount of prepayment with respect to such property, the project shall be allocated the appropriate number of future building permits from the then existing un-met threshold. In the event that simultaneous requests (requests made on same day) for allocations ("Requests") are received whereby the total of such Requests then exceeds the amount of allocations available at the start of that day for those Requests, allocations to those total Requests shall be made as follows:

First, the total number of such Requests meeting the conditions of C3 shall be determined. Any remaining permits shall be allocated on the basis of first

requested as defined in C2.1.

In the event an applicant under C3 above fails to obtain a valid permit application, as described above, within nine (9) months of prepayment, the allocation of future building permits shall be canceled. A new allocation, if still available, will be made at such time as the applicant does obtain a valid building permit application providing the then applicable assessment has been paid. The applicant may thereafter request an allocation only after satisfying the requirements of C3 above.

3.1 In the Carmel Valley North-City West Community, where public facility thresholds have not been reached and there is thus no restriction to issuing building permits caused by the lack of public facilities; those owner/applicants that own or control property in the Carmel Valley North-City West Community Planning Area, with a total planned development potential on the effective date that does not exceed the following:

- 100 - single family dwelling units or,
- 150 - multi-family dwelling units or,
- 100,000 square feet of non-residential building area

may request an allocation building permits from the Reserved Category, as defined in section C2.3, for those projects which have a finally approved tentative map and may prepay assessments up to nine months in advance of the project having a valid building permit application, excluding an application for a foundation only permit. At the time of payment of assessment and agreement to pay a supplemental assessment at the time of subsequent issuance of building permits in an amount equal to the then current assessment, less any credits for the amount of prepayment with respect to such property, the project shall be allocated the appropriate number of future building permits from the then existing un-met threshold.

In the event the applicant, under this Section C3.1 above, fails to obtain a valid building permit application, excluding an application for a foundation only permit, within nine months of prepayment of the assessment, the reservation shall be canceled. In the event the applicant under C3.1 fails to obtain a Council approved final map and meet all project requirements as described in C2.1 within twelve months of prepayment of the assessment, then the allocation of future building permits shall be canceled. A new allocation, if still available, will be made at such time as the applicant does obtain a valid building permit application, excluding an application for a foundation only permit and/or obtains a Council approved final map and meet all project requirements as described in C2.1, providing the then applicable assessment has been paid.

It is the policy of the City Council that a portion of dwelling units in the 5,225 to 8,275 and 8,275 to 9,000 dwelling unit thresholds will not be available for prepayment of assessments. These units (as defined in Section C2.3) will be considered a Special Category and will be available to any owner/applicant ready to pay for and complete a building permit application. Within this Special Category, a sub-category of dwelling units will be reserved for small and medium sized property owners ready to complete permit applications. Those owners are defined as those owner/applicants whose development potential does not exceed the following:

- 100 - single family dwelling units. or

150 - multi-family dwelling units, or
100,000 square feet of non-residential building area.

- 3.2 A number of building permits in the 9,000 to 10,500 dwelling unit threshold as defined in Section C2.3 shall be reserved for those small to medium sized property owners, as defined in Section C3.1, and which can only be applied for by those owners under the provisions of Section C3.1 above.

In the event that requests for allocations ("Requests") under C3.1 exceed the amount of allocations subsequently made available by City in this Reserved Category, allocations shall be made on the basis of first requested. Determination of the basis of first requested shall mean the date of obtaining a finally approved tentative map. The date of obtaining a finally approved tentative map shall have no effect, except to distinguish between multiple requests received on the same day.

For building permits in the 5,225 to 8,275 and 8,275 to 9,000 dwelling unit thresholds, shall permits may be issued to small and medium property owners in the manner prescribed in Section C2.3. These permits may not be prepaid.

- 3.3 Nothing in Section C3.2 shall preclude a small to medium sized property owner as defined in Section C3.1 from applying for building permits Special or Unreserved Categories under the provisions of Section C3 in the event that permits are unavailable in the Reserved Category.
- 3.4 In the event that permits remain available in the Reserved Category or the Special Category upon release of the next threshold in the transportation phasing plan, those permits shall revert to the Unreserved Category and may be applied for by any owner qualifying under either Sections C2.1 or C3.
4. Once an assessment has been prepaid, no refund or return will be made unless specifically authorized by the Planning Director Engineer and will be subject to the availability of funds.
5. If an applicant allows a building permit application to lapse, for reasons other than an inability to obtain a building permit because of an action of a government agency or a public facilities phasing plan threshold, the allocation of future building permits, or the reservation of allocation, whichever is applicable, shall be canceled.

If the lapse is caused by either an action of a government agency or a public facilities phasing plan threshold, the applicant may retain the previously obtained reservation of allocation, by obtaining a subsequent valid building permit application for the same project as determined by the Planned Director Engineer, excluding an application for a foundation only permit, with 14 calendar days of the lapse. A new allocation or reservation, as appropriate, if still available, will be made at such time as the applicant once again obtains a valid building permit application, as determined above, providing the then applicable assessment has been paid. No transfer of an allocation, or reservation if allocation, to a different lot or parcel will be permitted, whether under the same or different ownership.

- 5.1 If an applicant's building permit expires, the applicant shall lose their allocation and a new allocation of reservation, if available, will be made according to the procedures described in Sections C2 and C3.

6 Regardless of the prepayment of a lien and payment of any supplemental assessments, at the time of issuance of building permits, the then current assessment shall be due.

D. Exceptions

It is recognized that there may be occasions where special circumstances may indicate to staff that an alternative method of allocating building permits may be appropriate. Prior to bringing such an alternative method of allocating building permits to Council for consideration, staff shall advise all involved property owners of record, as well as other interested parties as known to staff, of the proposed alternative method. Staff shall offer to meet with those interested and shall advise Council of the results of any such meeting or meetings at the time Council considers the proposed alternative method. Staff shall also provide both mailed notice and advertise in a public newspaper regarding any such proposed Council consideration of an alternative method of building permit allocation.

E. Exemptions

It is the policy of the City Council that such an allocation process could impose an unreasonable burden upon very modest sized projects/developers. Accordingly, an applicant shall be entitled to a one-time exemption from this policy, as it relates to issuance of building permits in communities with Public Facility Phasing Plans, but solely with respect to building permit issuance as it pertains to Public Facility Phasing Plan requirements, under the following conditions:

- Only one such exemption shall be granted to property owned or controlled by the same owner or ownership, as determined by the City Planning Director Engineer.
- The single exemption shall apply to all property owned/controlled by the owner at the time of request, or subsequently acquired by the owner/applicant, irrespective of ownership status subsequently.
- Building permits so exempted shall not be counted against applicable thresholds.
- Projects entitled to exemption shall not exceed the following
 - 9 Single Family Dwelling Units, or
 - 12 Multiple Family Dwelling Units, or
 - Non-residential property with a total average daily trip ADT of 100 trips
- Owner/applicants who own or control, as determined by the City Planning Director Engineer, property within Carmel Valley North-City West with a planned development potential exceeding either 25 dwelling units or 5 acres of non-residential property shall not be entitled to this exemption.

F. Development Permits

For purposes of this policy, obtaining of all development permits shall mean the application has obtained all permits required by the City which are subject to an appeal including, but not limited to, a Carmel Valley North-City West Planned District development Permit, a Conditional Use

Permit, or a Coastal Permit.

G. Phasing Plan

This Allocation Method applies only to the Carmel Valley North City West Transportation Phasing Plan (Revised June 15, 1993 ~~February 27, 1989~~). If the current version of the Phasing Plan is revised through Council action, then this allocation method may no longer be valid and may be revised.