

MEMORANDUM OF LAW

DATE: July 17, 1987

TO: Councilmember Abbe Wolfsheimer
FROM: City Attorney
SUBJECT: Lopez Ridge Planned Residential Development -
Land Development Permit No. 32723

In a memorandum which addressed the Lopez Ridge Planned Residential Development - Land Development Permit No. 32723, you requested this office to review a letter submitted to you by the Friends of Los Penasquitos Canyon Preserve, Inc. ("Friends"), and to provide a legal opinion respecting the City Council's authority to approve a final subdivision map "if it violates the Local Coastal Program adopted by the City Council."

We have reviewed the letter written by the Friends and we believe the question they have posed, as related to this project, can be more properly characterized as follows:

Does the City Council have the authority to disapprove a final map because it is inconsistent with the provisions of the Local Coastal Program adopted by the City Council after the tentative map was approved?

In our opinion, the City Council does not have the authority to deny approval of the final map under the foregoing circumstance.

We so conclude because Section 66474.2 of the Government Code mandates that only those ordinances, policies, and standards in effect on the date of application may be applied to a tentative map. This section also allows the application of other ordinances, resolutions, or policies if actions to adopt them were initiated prior to the date of application and if they are enacted and in effect on the date the tentative map is considered for approval or disapproval.

After the tentative map has been approved and prior to its expiration, the subdivider may prepare a final map in accordance

with the conditions of the approved tentative map (Section 66456 of the Government Code).

The City Council thereafter at the meeting at which it receives the final map is required to approve the final map if it conforms to all of the requirements of Chapter 3 of the Subdivision Map Act and The City of San Diego's Subdivision Ordinance applicable at the time of the approval of the tentative map and any conditions imposed at such time (Section 66458(a) of the Government Code).

A significant factor which is relevant to this matter is the fact that The City of San Diego does not have an adopted Local Coastal Program. A Local Coastal Program is intended to transfer certain coastal development permit issuing responsibilities to local governments and concomitantly ensure compliance by project applicants with the requirements of the Coastal Act of 1976. A Local Coastal Program consists of (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) implementation actions within sensitive coastal resource areas, which when taken together satisfy the requirements of the Coastal Act of 1976. Several of The City of San Diego's land use plans as well as its zoning ordinances, zoning district maps, and its implementation measures for sensitive coastal resource areas have not been unconditionally approved by the Coastal Commission.

Until such time as the Coastal Commission has unconditionally certified The City of San Diego's Local Coastal Program and authorized The City of San Diego to issue coastal development permits, the Coastal Commission by law, retains such permit issuing authority and through this process is responsible for insuring that development is consistent with the requirements of the Coastal Act of 1976.

It is our understanding that the Lopez Canyon Ridge Project has obtained a coastal development permit from the Coastal Commission. This action by the Coastal Commission in granting a permit should assure the City Council that this project is in accordance with the requirements of the Coastal Act of 1976.

JOHN W. WITT, City Attorney

By

Thomas F. Steinke

Deputy City Attorney

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