



FAQ SHEET

Proposition A – Encinitas Right to Vote Amendment

September 20, 2013

WHAT IS PROPOSITION A?

On June 18, 2013, Encinitas voters approved the "Right to Vote Amendment" Initiative, which appeared on the ballot as "Proposition A". The ballot measure affects how amendments to planning policy documents are made and modifies building height standards in the City of Encinitas.

Prop A requires a public vote when publically or privately initiated changes are proposed to planning policy documents (General Plan, Specific Plans or Zoning Ordinance) that increase the currently allowed intensity or density of development (i.e. increases allowed residential units, commercial square footage, etc.).

WHAT IS THE EFFECTIVE DATE OF THE INITIATIVE?

On July 21, 2013, the initiative is effective and enforceable city-wide (properties inside and outside of the Coastal Zone).

WHAT IS THE MAXIMUM HEIGHT OF NEW STRUCTURES?

Proposition A restricts the height of any structure to the lower of two stories or 30 feet. In cases where existing codes specify a different maximum height standard, the more restrictive standard applies. For example, certain structures are limited to a maximum height of 22 and 26 feet in our Zoning Code and certain Specific Plans. These more restrictive standards shall apply.

Further, the height is to be measured from the lower of the natural or finished grade to the highest portion of the structure's roof.

IF I HAVE AN EXISTING 3-STORY HOME THAT IS DESTROYED BY A FIRE, CAN I REBUILD IT AT 3-STORIES?

Yes. With the passage of Proposition A, any legally constructed structure that was built at a height over 2-stories/30 feet became "legal, nonconforming". Under the City's code, a legal, nonconforming residential project of 4 or fewer units damaged up to 100% (by accident or voluntary) of its valuation can be reconstructed with the continuation of the nonconformities, provided such nonconformities are not increased in density or intensity.

The code does not require that the structure be constructed exactly as before, but the City will have to find that the rebuild does not increase the intensity of the nonconformity. That finding will be made on a case-by-case basis.

DO ALL BUILDING OR DISCRETIONARY PERMITS REQUIRE A VOTE?

No, so long as the discretionary permits (i.e. use permit, subdivision map, design review permit) or building permits do not include an application that will amend a planning policy document that increases intensity or density.

DOES PROP A REQUIRE VOTER APPROVAL OF PROPOSED DENSITY BONUS DEVELOPMENT PROJECTS?

No. Density bonus provisions are outlined under State Government Code §65915. A local initiative cannot supersede state law.

IS THE CITY STILL REQUIRED TO UPDATE ITS HOUSING ELEMENT?

Yes. The passage of the initiative does not relieve the City of its obligations to comply with State General Plan Housing Element Law mandates. The City must still identify adequate sites on the General Plan land use map with appropriate zoning and with services and facilities to accommodate the projected housing needs and to satisfy the requirements of State law.

Because the Housing Element Update is considering land use changes, it will require voter approval under the initiative.

WHEN DOES A PROJECT HAVE VESTED PROTECTION?

Pursuant to the ruling under Avco Community Developers, Inc. v. South Coast Regional Commission, an applicant must demonstrate substantial construction pursuant to an approved building permit in order to be considered vested and proceed under regulations in place prior to Prop A.

WHERE CAN I GET ADDITIONAL INFORMATION?

For more information or additional clarification, please contact the Planning and Building Department at 760/633-2710.

