

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4402
(619) 767-2370



W 11a

Addendum

April 1, 2009

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **W 11a**, City of San Diego Major Amendment 3-07B
(Affordable/In-Fill Housing and Sustainable Projects)

Staff recommends the following changes be made to the above-referenced staff report. The new additions are shown in double-underline and deletions are shown in strike-out:

1. On Page 6, revisions to Suggested Modification #1 shall be made as follows:

1). Add the following to Section 143.0920 Deviation Requirements for Affordable In-Fill Housing and Sustainable Buildings

An applicant may request a deviation from the applicable development regulations in the Land Development Code for affordable in-fill housing and Sustainable Buildings in accordance with Section 143.0915 pursuant to a Site Development Permit decided in accordance with Process Four provided that the findings in Section 126.0504(a) and the supplemental findings in Section 126.0504 (m) are made.

(a) Items not considered a deviation by the City of San Diego include, but are not limited to, the following:

(1). Within the Coastal Overlay Zone, a ~~A~~ deviation from the requirements of the Environmentally Sensitive Lands Regulations (Chapter 14, Article 3, Division 1).

(2). A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5).

(3). Within the Coastal Overlay Zone, a ~~A~~ deviation from the requirements of the Parking Impact Overlay Zone (Chapter 13, Article 2, Division 8).

2. On Page 16 of the staff report, the first full paragraph shall be revised as follows:

In order to assure it is clear that, through implementation of the proposed LCP amendment, projects for affordable/in-fill housing and sustainable development do not conflict with critical resource protection measures, the Commission finds that additional language should be added that specifically states that items not considered for a deviation by the City of San Diego within the Coastal Overlay Zone include, but are not limited to, a deviation from the requirements of the Environmentally Sensitive Land Regulations. The additional language makes it clear that deviations to ESL are not permitted for such proposals.

3. On Page 16 of the staff report, the third full paragraph shall be revised as follows:

In addition, in order to make it clear that through implementation of the proposed LCP amendment, projects for affordable/in-fill housing and sustainable development within the Coastal Overlay Zone do not impact parking in the Parking Overlay Impact Zone, additional language makes it clear that deviations to these requirements are not permitted for such proposals.

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March 25, 2009

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
LAURINDA OWENS, COASTAL PROGRAM ANALYST, SAN DIEGO
COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT 3-07B (Affordable/In-Fill Housing and Sustainable Projects) for
Commission Meeting of April 8-10, 2009**

SYNOPSIS

The proposed LCP Amendment (Components A and B) were submitted on December 21, 2007 and subsequently filed on February 13, 2008. Commission regulations establish a 60-day review period for such amendments. However, a one-year time extension was granted on April 10, 2008. As such, the last date for Commission action on this item is April 12, 2009.

The IP amendment addressed herein is comprised of one out of four components of the amendment submittal. Two other components, (C) Mini-dorm Regulations and (D) Regulation of Large Retail Establishments, were approved, as submitted by the Commission on 10/16/08. The other component (A) Affordable Housing/Density Bonus was withdrawn on 1/15/09 and will be re-submitted at a later date.

SUMMARY OF AMENDMENT REQUEST

The City is proposing to amend its certified implementation plan, the Land Development Code, relative to the Affordable/In-Fill Housing and Sustainable Development Regulations. In the subject amendment request, the City of San Diego is proposing to allow deviations from applicable development regulations as an additional incentive for affordable/in-fill housing and sustainable projects. This is a citywide code amendment that adds a new division to the LDC which will be part of the certified LCP.

The new regulations require approval of a Site Development Permit decided in accordance with Process Four (Planning Commission approval) for any project involving a deviation from applicable development regulations. In addition, the City is proposing to modify the existing Site Development Permit Regulations by adding a finding that must be made in order to approve such deviations for affordable/in-fill and sustainable housing projects, along with any other applicable findings depending on the nature of the proposed development. Through the subject LCP Amendment, the City is only proposing to create the means to deviate from the regulations of the certified LDC and the City will not be considering any deviations from the adopted policies of the certified land use

plans. To further clarify, the City's LCP is comprised of both the certified LUPs and the certified LDC; therefore, consistency with the findings of the LCP means that whatever development proposal is being reviewed must meet the LUP policies because the only deviations afforded to development projects pertain to the implementation plan (LDC) component only.

In 2003, the City Council adopted amendments to the Municipal Code to allow deviations from development regulations as an additional incentive for affordable/in-fill housing and sustainable building projects. These changes were submitted to the Commission as LCPA Amendment No. 1-03 in 2003. During the review process, it became apparent that the City and Coastal Commission were operating under different versions of the previously adopted Municipal Code sections related to affordable housing and density bonus provisions. As a result, the City withdrew its LCP amendment application. During that time, the City was also in the process of drafting amendments to the Density Bonus regulations and it was anticipated that the amendments would help to clarify the affordable housing provisions that were codified. On 11/6/07, the City Council adopted new Density Bonus regulations, which were submitted concurrently as an LCP amendment. As such, the former LCP amendment application pertaining to allowing deviations from development regulations as an additional incentive for affordable/in-fill housing and sustainable building projects is being resubmitted at this time. However, as noted above, component (A) has since been withdrawn and does not preclude the City from going forward with component B only at this time.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the subject amendment request and then approval with suggested modifications. The suggested modification for in-fill housing and sustainable projects establishes a list that includes items that cannot be considered as a deviation by the City of San Diego including any deviations from the requirements of the Environmentally Sensitive Lands ("ESL") regulations. Although such projects must obtain a Site Development Permit and Coastal Development Permit for any proposal in the coastal zone and make all the necessary findings for each regulatory process, the added language will be more specific to clearly identify that no deviations to the ESL regulations, Parking Impact Overlay Zone regulations or the coastal overlay height limitations are allowed as an incentive for in-fill housing and sustainable development. These modifications will specifically address the protection of coastal resources and minimization of impacts to such resources through various development regulations and will ensure that no project may be approved that is inconsistent with the policies in the City's certified Land Use Plans. All of the applicable findings in either the Site Development Permit or Coastal Development Permit processes must still be made in order to approve such projects; thus ensuring that if a proposed deviation is inconsistent with any of the policies of the certified LUP, it will not be approved. The modifications specifically call out the areas of the land development code where deviations are inappropriate; namely, the ESL regulations which contain the areas of coastal resource protection that are most critical. The most significant changes are to allow additional deviations from regulations that would otherwise be applicable for purposes of

encouraging affordable/in-fill housing and sustainable building projects. The types of deviations that could be allowed by the City include: reduced building setbacks (front, rear, side yards); reduced parking requirements; and changes to land use and/or permitted uses such as encouraging mixed-use projects in residential or commercial zones. While any deviation represents relief from otherwise uniform development standards, as long as there are no permissible deviations from the ESL regulations, beach impact area parking regulations or the coastal height limit, the flexibility of allowing specific deviations is an appropriate tradeoff to encourage in-fill housing/sustainable development.

The appropriate resolutions and motions begin on Page 4. The suggested modification may be found on Page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 6. The findings for approval of the Implementation Plan Amendment if modified begin on Page 15.

BACKGROUND

The City's first Implementation Plan (IP) was certified in 1988, and the City assumed permit authority shortly thereafter. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code (LDC) that includes Chapters 11 through 14 of the municipal code. It replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000. The Commission has certified many IP amendments since 2000.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment 3-07B (Affordable/In-Fill Housing and Sustainable Buildings) may be obtained from Laurinda Owens, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. Several isolated areas of deferred

certification remained at that time; some of these have been certified since through the LCP amendment process. Other areas of deferred certification remain today and are completing planning at a local level; they will be acted on by the Coastal Commission in the future.

Since effective certification of the City's LCP, there have been numerous major and minor amendments processed. These have included everything from land use revisions in several segments, to the rezoning of single properties, and to modifications of citywide ordinances. In November 1999, the Commission certified the City's Land Development Code (LDC), and associated documents, as the City's IP, replacing the original IP adopted in 1988. The LDC became effective in January, 2000.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission reject the Implementation Plan Amendment regarding affordable/ in-fill housing and sustainable building for the City of San Diego certified LCP as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Plan and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PLAN AS SUBMITTED:

The Commission hereby denies certification of the Implementation Plan Amendment, to the City of San Diego certified LCP, as submitted and adopts the findings set forth below on grounds that the Implementation Plan as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plans. Certification of the Implementation Plan would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan as submitted.

II. MOTION II: *I move that the Commission certify the Implementation Plan Amendment regarding in-fill housing and sustainable building for the City of San Diego certified LCP if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Plan Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Plan Amendment for the City of San Diego certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan Amendment, with the suggested modifications, conforms with and is adequate to carryout the certified Land Use Plans. Certification of the Implementation Plan Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed LCP be adopted. The underlined sections represent language that the Commission suggests is added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

Affordable In-Fill Housing/Sustainable Buildings

- 1). Add the following to Section 143.0920 Deviation Requirements for Affordable In-Fill Housing and Sustainable Buildings

An applicant may request a deviation from the applicable development regulations in the Land Development Code for affordable in-fill housing and Sustainable Buildings in accordance with Section 143.0915 pursuant to a Site Development Permit decided in accordance with Process Four provided that the findings in Section 126.0504(a) and the supplemental findings in Section 126.0504 (m) are made.

(a) Items not considered a deviation by the City of San Diego include, but are not limited to, the following:

(1). A deviation from the requirements of the Environmentally Sensitive Lands Regulations (Chapter 14, Article 3, Division 1).

(2). A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5).

(3). A deviation from the requirements of the Parking Impact Overlay Zone (Chapter 13, Article 2, Division 8).

PART III. FINDINGS FOR DENIAL OF CITY OF SAN DIEGO LCP AMENDMENT, AS SUBMITTED

Amendment Description

In the subject amendment request, the City of San Diego is proposing to amend its Land Development Code (LDC) to allow deviations from applicable development regulations as an additional incentive for affordable/in-fill housing and sustainable projects. This is a citywide code amendment that adds a new division (Division 9) to the LDC which is one type of affordable housing or sustainable development which may seek deviations from applicable development regulations. The new regulations (Section 143.0920 of the proposed ordinance) require approval of a Site Development Permit decided in accordance with Process Four (Planning Commission approval) for any project involving a deviation from applicable development regulations. In addition, the City is proposing

to modify the existing Site Development Permit Regulations by adding a reference and requiring specific findings for affordable/in-fill housing and sustainable building projects.

On August 6, 2002, the City of San Diego City Council took several actions relative to housing issues in the City including declaring a housing state-of-emergency. It was found that there was an extreme shortage of affordable housing within the City. A number of actions were proposed to address this crisis including approval of the Affordable/In-fill Housing Expedite Program. The City's Affordable/In-Fill Housing and Sustainable Buildings Expedite Program has been in operation since July of 2003. The associated Municipal Code amendments to allow deviations from development regulations as an additional incentive for affordable and sustainable projects has also been in operation, outside the Coastal Zone, since 2003. The City of San Diego is submitting the current LCP amendment to implement these incentives inside the Coastal Zone. The new program defines procedures for processing affordable housing projects and contains several components. The most applicable project component is the establishment of permitting deviations for affordable/in-fill housing and sustainable building projects. As noted by the City in its Manager's Report dated 4/17/03, the Land Development Code will be amended to allow deviations from the applicable development regulations, including those development regulations contained in the Planned District Ordinances. The City suggests that many times affordable/in-fill housing projects are delayed or become infeasible due to the inability to meet the strict and detailed development regulations of the LDC. Detailed Planned District Ordinance, engineering, and zoning regulations also limit design solutions that would make affordable housing projects practicable and desirable.

The subject LCP amendment adds a new separate section to the Land Development Code (Article 3, Division 9 of the Land Development Code) which establishes Supplemental Development Regulations for Affordable/In-Fill Housing and Sustainable Regulations. The purpose of these regulations is to provide flexibility in the application of development regulations for projects providing affordable shelter and a balance of housing opportunities for all economic segments of the community. The intent is to provide an additional incentive to facilitate the development of affordable/in-fill housing and sustainable buildings while assuring that the development achieves the purpose and intent of the applicable land use plan.

a) Purpose and Intent of the Ordinance. The subject LCP amendment includes a new separate section to the Land Development Code (Article 3, Division 9 of the Land Development Code) which establishes Supplemental Development Regulations for Affordable/In-Fill Housing and Sustainable Regulations. The purpose of these regulations is to provide flexibility in the application of development regulations for projects providing affordable shelter and a balance of housing opportunities for all economic segments of the community. The intent is to provide an additional incentive to facilitate the development of affordable/in-fill housing and sustainable buildings while assuring that the development achieves the purpose and intent of the applicable land use plan.

b) Major Provisions of the Ordinance. The major provisions of the division explain when these regulations apply and to what kinds of development they are applicable. Specifically, these regulations apply to the following types of residential development:

- (a) Residential development in accordance with Section 142.1304(a) (Variance Rules for Inclusionary Affordable Housing Regulations).
- (b) Residential development sponsored by or receiving funding from the Comprehensive Affordable Housing Collaborative (The Redevelopment Division of the Community and Economic Development Department, Centre City Development Corporation, Southeastern Economic Development Corporation, and the San Diego Housing Commission) of which at least 15% of the total units are affordable to households with an income at or below 120 percent average median income, as determined by the San Diego Housing Commission.
- (c) Residential development subject to a federal, state or local governmental agreement that restricts tenancy and rents at or below 60 percent average median income.
- (d) Residential development of 10 or more dwelling units within the urbanized area of the City as shown in the Progress Guide and General Plan provided that all of the dwelling units are affordable to households earning no more than 150% average median income and where applicable, the development does not reduce the number of affordable units previously existing.
- (e) Residential development for use by active military personnel and their families which is to be constructed by the federal government or through a contract with the federal government.
- (f) New residential, commercial, or industrial development that meets the “sustainable buildings” definition under City Council Policy 900-14 (ref. Exhibit #3).
- (g) Mixed-use development or development that otherwise combines residential with other land uses where at least 50 percent of the gross floor area of the total development is the type of project described in Section 143.0915A(a) through (d) (When Affordable/In-Fill Housing Regulations Apply).

Furthermore, the proposed regulations establish a process to request deviations from the applicable development regulations for affordable/in-fill housing and sustainable building projects provided the findings in Section 126.0504(a) (Findings for Site Development Permit Approval) and the supplemental findings in Section 126.0504 (m) (Deviations for Affordable/In-Fill Housing Projects and Sustainable Buildings) are made. The City has indicated that examples of the types of deviations that could be granted include building setbacks, lot coverage, height (outside the coastal zone), floor area ratio, architectural projects and encroachments, parking, lot area, lot dimensions, building spacing, landscaping, etc.

The LCP, as currently certified, does not include a process which would allow deviations from any applicable development regulations for affordable/in-fill housing and sustainable development projects as is proposed in the subject LCP amendment. The proposed changes add references in the Site Development Permit regulations for Sustainable Buildings and includes language that describes what is meant by a sustainable building such that it is clear that deviations for Affordable/In-Fill Housing Projects also apply to Sustainable Buildings. Any deviation for affordable in-fill housing and sustainable development must meet the following findings:

- (1) The proposed *development* will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g., photovoltaic, wind, and/or fuel cells) to generate electricity needed by the building and its occupants;

The City indicates that, although the Land Development Code currently permits applicants to request deviations and/or variances from certain specified development regulations City-wide (inclusive of the Coastal Zone), the required permit type, approval process, etc. varies widely depending on the project and geographic location. Furthermore, the request, depending on the regulations and physical condition of the site would be processed through either a Variance Permit, a Site Development Permit, or a Planned Development Permit. The approval level increases with the complexity of the development. A Variance Permit contains findings which specifically require that the granting of the variance will not adversely affect the applicable *land use plan*. If the variance is being sought in conjunction with any proposed coastal development, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.

The proposed changes will provide for one consolidated, simplified process for all eligible affordable/in-fill housing and sustainable building projects regardless of geographic location and would provide an additional development incentive for affordable/in-fill housing and sustainable development. It is expected that the time savings produced through the affordable/in-fill housing program will result in financial savings for developers through reduced holding costs and interest payments.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan(s) (LUP) (i.e., La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay-Mesa Nestor).

A Site Development Permit is required for affordable/in-fill housing and sustainable projects (See Section 143.0920 and 143.0750). In particular, all Site Development Permits must have certain findings made pursuant to Section 126.0504(a).

Existing Section 126.0504 – Findings for all Site Development Permits

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in Section 126.0504(a) and the supplemental findings in Section 126.0504(b) through (n) that are applicable to the proposed development as specified in this section. [emphasis added]

(a) Findings for all Site Development Permits

- (1) The proposed development will not adversely affect the applicable land use plan;
- (2) The proposed development will not be detrimental to the public health, safety, and welfare;
- (3) The proposed development will comply with the applicable regulations of the Land Development Code.

For any new development which proposes affordable/infill housing and sustainable projects, the process is the same process as that which would have been required if the affordable in-fill housing and sustainable element were not proposed—more specifically, a Site Development Permit and/or Coastal Development Permit would also be required. The proposed development must meet the findings of each of these permit processes as outlined above, or the development cannot be approved. All applicable findings have to be made, not just the one for affordable housing or in-fill and sustainable development. For example, if an in-fill housing or sustainable project was proposed on a site with historical resources or environmentally sensitive lands or that involves an encroachment into the public right-of-way, all of the applicable findings specified in the Site Development Permit would be required to be made.

In addition, subsection (b) for Supplemental Findings--Environmentally Sensitive Lands states that if a Site Development Permit is required in accordance with Section 143.0110 because of potential impacts to environmentally sensitive lands, it may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings required in Section 126.0504(a). Some of these include that development is only permitted in (ESL) if it results in the minimum disturbance of such lands, if it minimizes alteration of natural land forms, if it does not contribute to the erosion of public beaches or adversely impact local shoreline sand supply, etc.

There is also a process for deviations from the ESL regulations established in the SDP regulations. Findings in Section 126.0504 (c) must be made to assure there are no feasible measures that can further minimize the potential adverse effect on environmentally sensitive lands, and that the proposed deviation is the minimum necessary to afford relief from the special circumstances or conditions of the land, not of

the applicant's making. However, for development in the coastal zone requiring a coastal development permit, in addition to the findings in Section 126.0504(c), a deviation from the ESL regulations can only be approved if the decision maker makes the findings in Section 126.0708. These findings require an economically viable use determination and allow deviations from the ESL only when all economically viable use of the applicant's property would be denied through application of the ESL regulations.

In addition, a Coastal Development Permit would still be required for all development in the coastal zone, even if it were an affordable/in-fill or sustainable building project. The Coastal Development Permit process includes a separate set of findings that must be made in order to assure conformance with the certified land use plan policies, the certified LCP implementation plan and the public access and recreation policies of the Coastal Act. Specifically, Section 126.0708 includes the findings that are necessary for Coastal Development Permit Approval and states the following:

An application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in Section 126.0708(a) and the supplemental findings in Section 126.0708(b) that are applicable to the proposed development.

Specifically, Section 126.0708 (a) states:

Findings for all Coastal Development Permits:

- (1) The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan;
- (2) The proposed coastal development will not adversely affect environmentally sensitive lands; and
- (3) The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program;
- (4) For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone, the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

As stated in sub-section (2) above, any new development must not adversely affect environmentally sensitive lands. In addition to these findings, the IP also includes additional regulations for environmentally sensitive lands (Section 143.0101). These regulations are supplemental development regulations that are required to protect, preserve and, where damaged, to restore the environmentally sensitive lands of San Diego. The purpose of the regulations is to assure that development in the Coastal

Overlay Zone occurs in a manner that protects the overall quality of resources and which includes maximizing physical and visual public access to and along the shoreline and reducing hazards due to flooding. The ESL regulations apply to:

- 1) Sensitive biological resources;
- 2) Steep hillsides;
- 3) Coastal beaches;
- 4) Sensitive coastal bluffs; and
- 5) Special flood hazard areas.

The ESL regulations also contains a table (Table 143-01A) which lists the type of development proposal (ranging from single-family residences to multi-family development, including subdivisions) and then a heading for the different kinds of ESL that may be potentially impacted by the development. The table includes wetlands, other biological resources, steep hillsides, sensitive coastal bluffs or coastal beaches and floodplains. The table includes the discretionary review processes that the City is required to perform depending on the type of development proposed and the type of resource that may be potentially impacted. These regulations are very rigorous and define specifically what the requirements are for development on a site that contains any of these environmentally sensitive resources. Any proposed development must adhere to the requirements of the regulations or it cannot be approved because it would not be consistent with the ESL regulations.

As an example, for development on coastal bluffs, no development is permitted on the face of a sensitive coastal bluff, all drainage must be directed away from the bluff, all development must generally observe a minimum of a 40 ft. setback from the bluff edge. The regulations allow for a reduction in this setback, however, if a geology report indicates that the site is stable enough to support the development at the proposed distance from the coastal bluff edge, although no development is allowed within 25 feet from the bluff edge. The regulations that allow for a reduced setback also require that applicants accept a deed restriction to waive all rights to protective devices associated with the subject property. As can be seen, these regulations are intended to protect the geologic integrity of the coastal bluffs based on LUP policies adopted in conformance with Section 30253 of the Coastal Act. Likewise, whenever development is proposed in such areas, the standard of review is the certified LCP Land Use Plan and the City's LCP which includes the Land Development Code (i.e., of which the CDP, SDP and ESL regulations are all a part).

In addition to the protection that is afforded coastal resources in the ESL regulations, the implementation plan also includes strict parking standards for the nearshore area; specifically, the Beach Impact Area (BIA) which generally includes that area within 3-4 blocks of the beach or bay as these are the areas that are most impacted by parking for both beach visitors and surrounding residents. The Land Development Code for parking in the beach impact area specifically requires higher parking requirements for development projects in these areas in order to protect public access so that street parking is not usurped for beach visitors. It includes a table (142-05C) which clearly specifies the

higher parking standards for development in the Beach Impact Area. Any proposed development project would have to meet the findings of the CDP regulations that state the development protects public access (including providing adequate parking) between the ocean and the first public road and if through a reduction in parking (as a deviation) such a finding could not be made, the development would not be approved (ref. Section 126.0708(a)(4) (Findings for Coastal Development Permit Approval).

Project sites that are located between the first public road and the sea are those areas which are most severely impacted in terms of the provision of adequate parking due to their proximity to the beach and the competitive demand for parking between beach users, residents and patrons of local retail/commercial establishments, as well. Therefore, a deviation to the parking requirements may be granted to other projects in the coastal zone as a means to foster sustainable or in-fill development but if through such a reduction, the CDP findings could not be made, the development would not be approved. While the Land Development Code focuses mostly on protection of public access for projects between the first coastal road and sea, it is the policies of the respective land use plans that contain general policies and plan recommendations for protection of public access and provision of adequate parking for all areas in the coastal zone---not just those between the first public road and sea. Some examples of such policies are included below:

Pacific Beach

Improve existing public access to the beach, bay and park areas along the shoreline in order to be of greatest benefit to community residents and visitors.

Mission Beach

The provision of increased parking [should be provided] in order to reduce the serious deficit that presently exists.

That existing residential structures be encouraged to increase off-street parking where feasible, including the use of existing spaces presently in some other use.

Many provisions of the respective LUPs for the City of San Diego contain policies that address protection of public views, preservation of community character, coastal bluffs, public access and the provision of adequate parking. The proposed amendment adds a section to the Land Development Code that specifically addresses affordable/in-fill housing and sustainable development regulations and allows for a deviation from development regulations for this type of housing, provided that a Site Development Permit is obtained and that the necessary findings are made (Section 126.0504 (a) and (b) through(n) (Findings for Site Development Permit Approval). The regulations provide for the granting of a deviation for projects that are considered “more desirable” and this may include several types of development such as military housing, projects that incorporate sustainable building materials into the development, etc. However, it is not clear to what extent or scope such deviations may be made from these applicable

development regulations. Without additional language that specifically states that such deviations/incentives cannot include a deviation to the requirements of the environmentally sensitive lands regulations, it can't be assured that any potential impacts to coastal resources including public access, public views, environmentally-sensitive habitat area, shoreline access/beaches, steep slope encroachment and bluff edge setbacks, etc. are considered when such deviations are granted, and the regulations cannot be found adequate to carry out the land use plans.

The Land Development Code contains specific regulations for deviations from the ESL regulations in the coastal zone that limits the process to only those cases where application of the regulations would deny all economic viable use of a property. Specifically, under the Coastal Development Permit regulations, a specific finding must be made when a deviation from the ESL regulations is requested for development in the coastal zone. Such deviations are *only* considered when the applicant contends that application of the ESL regulations would result in denial of all economically viable use of the property. In all likelihood, a project providing affordable housing, especially multi-units, would not be able to meet such a test. The Commission finds a specific statement clearly indicating that a deviation from the requirements of the ESL regulations shall not be permitted as a development incentive is warranted to ensure that deviations are not allowed that could potentially threaten coastal resources or public access.

As proposed, the LCP amendment does not adequately identify that the established process for deviations from the ESL regulations is not being modified, or conversely, that it must be adhered to—if deviations are to be granted for density bonus projects or to development incentives to be granted for affordable/in-fill housing and sustainable development projects. In other words, if the City were to give a reduced setback as a deviation, it would be less of a concern if that setback were not from a bluff edge. Deviations from ESL regulations should be excluded because such deviations that could result in critical resource impacts to accommodate affordable housing or sustainable development should not be permitted. Although the City is diligent in requiring all the relevant findings be made through the permit processes for both a SDP and CDP, the Commission must ensure that a deviation to ESL will not be permitted. Environmentally sensitive lands are afforded the highest protection in the certified LUPs and deviations from their resource protection measures should not be considered to encourage affordable housing or sustainable development. Therefore, the Commission finds that the proposed amendments to the Land Development Code, as submitted, are not fully consistent with, or adequate to carry out, the certified City of San Diego LCP land use plans. In addition, for affordable/in-fill housing and sustainable development, the proposed ordinance fails to exclude any deviations to the coastal height limit. As such, although the coastal height limit is established by an initiative, height increases could be arguably sought to accommodate affordable housing and thus create potential adverse public view impacts and bulkier development. In addition, while the respective certified Land Use Plans protect public access to the coast, they do not contain specific language regarding prohibition of curb cuts or any specific references that mirror the requirements of the Beach Impact Parking Overlay Zone in the City's Land Development Code. The proposed ordinance does not exclude deviations to the Beach Impact Parking Overlay

Zone. As such, permitting curb cuts in the nearshore area could be granted to accommodate infill-housing or sustainable development which could create adverse impacts on public access, in violation of relevant LUP policies. Thus, for all of the reasons cited above, the Commission cannot find that the amendment, as proposed, is adequate to carry out the certified City of San Diego land use plans.

PART IV. FINDINGS FOR APPROVAL IF MODIFIED

The proposed amendments will allow for incentives for affordable/in-fill housing and sustainable projects pursuant to a Site Development Permit. In accordance with the process, several findings must be made. In the Coastal Overlay Zone, development projects which propose affordable/infill housing and sustainable development, must also obtain a Coastal Development Permit. The Coastal Development Permit process includes a separate set of findings that must be made in order to assure conformance with the certified land use plan policies, the certified LCP implementation plan and the public access and recreation policies of the Coastal Act for projects along the immediate shoreline. The findings that must be made are numerous and include a wide range of requirements to assure that coastal resources are protected. For example, the findings address protection of public views to the ocean, parking used for beach parking, public access to the sea, etc. The Coastal Development Permit process at the City requires separate findings; these include:

1. The proposed coastal development permit will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan;
2. The proposed coastal development will not adversely affect environmentally sensitive lands;
3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Plan.
4. For every coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Under each of the above findings, the City then explains in detail how the particular project is consistent with public access, environmentally sensitive land regulations, the certified LUPs and public access and recreation policies of the Coastal Act.

Compliance with these protections for coastal resources are satisfied through compliance with the various Land Use Plans. It must be made clear that these regulations (proposed

affordable/in-fill housing and sustainability) do not relieve the City from making all of the findings that are necessary for issuance of a Coastal Development Permit (or Site Development Permit). Any development in the coastal zone will still need to comply with all aspects of the certified Local Coastal Program LUPs and all regulations of the certified Implementation Plan and no exceptions are permitted through approval of this LCP amendment. The Commission is therefore adding a suggested modification to clarify that the only deviations that may be granted are to development standards located within the City's zoning code. Thus, no deviation may be granted that is inconsistent with the provisions of the City's LUPs.

In order to assure it is clear that, through implementation of the proposed LCP amendment, projects for affordable/in-fill housing and sustainable development do not conflict with critical resource protection measures, the Commission finds that additional language should be added that specifically states that items not considered for a deviation by the City of San Diego include, but are not limited to, a deviation from the requirements of the Environmentally Sensitive Land Regulations. The additional language makes it clear that deviations to ESL are not permitted for such proposals.

Further, any development proposal for affordable/in-fill housing or sustainable building projects must be considered with regard to its consistency with the certified land use plan for the area (Sections 126.0504(a)(1) (Findings for Site Development Permit Approval) and 126.0708(a)(3) (Findings for Coastal Development Permit Approval). Each land use plan contains specific policies addressing protection of coastal resources that are unique to the geographical plan area. For example, in the Point Loma, Pacific Beach and La Jolla communities in the City of San Diego, each Land Use Plan contains policies addressing protection of public views toward the ocean and identifies numerous view corridors. Several LUPs also contain policies regarding limiting heights of buildings to protect views toward the ocean, as well. The LCP Land Use Plans also contain policies addressing protection of public views through maintenance of the side yard setback areas and protection of public access through provision of adequate parking, etc. When considering deviations from the development regulations for the purpose of encouraging affordable/in-fill housing and sustainable building projects, the City must make specific CDP findings on its own and consider applicable land use plan policies and assure that the deviation will not result in development that is inconsistent with the applicable policies in the certified Land Use Plan.

In addition, in order to make it clear that through implementation of the proposed LCP amendment, projects for affordable/in-fill housing and sustainable development do not impact parking in the Parking Overlay Impact Zone, additional language makes it clear that deviations to these requirements are not permitted for such proposals.

Assurance that coastal resources will be protected through implementation of the proposed division is achieved through the suggested modification which requires that in addition to subsection (a) and (n) of the Site Development Permit, that a statement is included that a deviation to the Environmentally Sensitive Land Regulations cannot be considered a development incentive for the purposes of granting a project for

affordable/in-fill and sustainable projects. With this change, the Commission finds that impacts to coastal resources will be minimized and land use plan policies specifically addressed in consideration of the types of deviations which may be acceptable in the coastal zone.

In addition, assurance that public views to the ocean will be protected through implementation of the proposed division is achieved through the suggested modification which requires that a deviation to the Coastal Height Limit Overlay Zone cannot be considered a development incentive for the proposes of granting a project for affordable/in-fill and sustainable projects. With this modification, the Commission finds that impacts to public views will be minimized. Likewise, it can be further assured that affordable/in-fill housing development will not impact parking in the nearshore areas through a suggested medication that requires that a deviation to the BIA will not be permitted. While the Commission believes that the City's discretionary review processes are rigorous, there are simply some tradeoffs that the Commission believes are unsupportable even to encourage affordable housing or sustainable development. Such tradeoffs would be impacts to environmentally sensitive lands, the coastal height limit or BIA parking regulations, or any approval that was inconsistent with the City's LUP policies.

Although no specific requirements were included to site affordable housing projects near transit centers, the City has indicated that, as a separate program, the City will be considering using density bonuses to encourage appropriate smart growth in transit corridors. Given the large amount of resistance that the City has received in proposing density bonus regulations as required by state law, it was decided that an expansion to provide density bonuses along transit routes would be taken forward as a separate project when the City is able to fully evaluate the potential impacts of expanding beyond the state mandate. City Planning staff is coordinating a parking study with SANDAG and another study with affordable housing groups. Depending on the results of the studies, a number of amendments could result including incentives for transit and affordable housing. The studies are ongoing and a completion date is not yet known.

In summary, the Commission supports the idea of increased development in existing developed areas able to accommodate it and does not intend to discourage affordable housing but, instead, is intending to allow it with the proposed suggested modifications, in a manner where critical and sensitive coastal resources are protected to the same degree that they are protected under the currently certified LCP. As noted above, deviations will not be permitted where coastal resource concerns are paramount; however, deviations which result in reduced parking, other than in the Beach Impact Area, and reduced buildings setbacks in areas other than environmentally sensitive lands can be found acceptable because they will result in encouraging affordable housing or sustainable development which are important land use and environmentally-worthy planning goals. Specifically, protection of environmentally resources are already included in the ESL regulations and the above suggested modifications state that a deviation from ESL is not permitted in order to assure that coastal resources will remain protected and it is made clear that no deviations to those standards are permitted through

the subject amendment request. Therefore, the Commission finds that the proposed amendment to the Land Development Code, as proposed to be modified and described above, is fully consistent with, and adequate to carry out, the certified City of San Diego LCP land use plans.

PART V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. An environmental impact report was completed for each of the subject LCP amendment components. Although it was identified that the amendment may have the potential to have an impact on resources (i.e., visual quality, parking, etc.) the respective development incentives and/or deviations to development regulations can be denied through the respective discretionary reviews if they are found to have an adverse impact on the environment. In addition, as modified, no deviations from, the ESL regulations (which incorporate the City's resource protection measures in the LDC) the Coastal Height Overlay or BIA parking standards will be permitted. For specific development projects that ultimately receive some relief, any environmental impacts will be required to be mitigated. In summary, no adverse impacts to any coastal resources are anticipated.

Mike Westlake
801

(O-2003-153)

ORDINANCE NUMBER O- 19188 (NEW SERIES)

ADOPTED ON JUN 03 2003

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE, BY AMENDING SECTION 126.0504, PERTAINING TO SITE DEVELOPMENT PERMITS.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 12, Article 6, Division 5, of the San Diego Municipal Code is amended by amending Section 126.0504, to read as follows:


§126.0504 Findings for Site Development Permit Approval

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in Section 126.0504(a) and the supplemental findings in Section 126.0504(b) through (m) that are applicable to the proposed development as specified in this section.

(a) through (l) [No changes.]

(m) Supplemental Findings - Deviations for Affordable/In-Fill Housing Projects

A development that requires a Site Development Permit in accordance with Section 143.0920 because the applicant has requested a deviation from the

EXHIBIT #1
Approved Ordinances
LCPA #3-07B/Affordable In-Fill Housing & Sustainable Projects
 California Coastal Commission

applicable development regulations for affordable/in-fill housing projects may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0504(a):

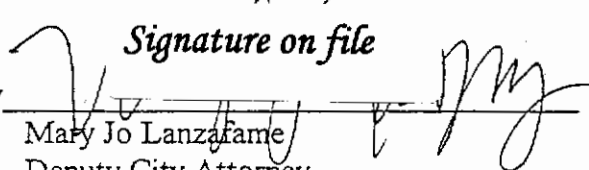
- (1) The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City;
- (2) The development will not be inconsistent with the purpose of the underlying zone;
- (3) Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage. However, this ordinance will not apply within the Coastal Zone until the thirtieth day following the date the California Coastal Commission unconditionally certifies this

ordinance as a local coastal program amendment. If this ordinance is certified with suggested modifications, this ordinance shall be void within the Coastal Zone.

APPROVED: CASEY GWINN, City Attorney

Signature on file
By 
Mary Jo Lanzafame
Deputy City Attorney

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Dev. Services -
Mike Westlake

(O-2003-142)

501

ORDINANCE NUMBER O-19186 (NEW SERIES)

ADOPTED ON JUN 03 2003

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3, BY AMENDING TABLE 143-03A UNDER SECTION 143.0302 RELATING TO SUPPLEMENTAL NEIGHBORHOOD DEVELOPMENT PERMIT OR SITE DEVELOPMENT PERMIT REGULATIONS APPLICABILITY; AND BY ADDING A NEW DIVISION 9, SECTIONS 143.0910, 143.0915 AND 143.0920 RELATING TO THE SAN DIEGO AFFORDABLE HOUSING/IN-FILL HOUSING PROJECTS.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 14, Article 3, Division 3, of the San Diego Municipal Code is hereby amended by amending Table 143-03A under Section 143.-3-2, by adding to the end of the table to read as follows:


Type of <i>Development</i> Proposal	Applicable Sections	Required <i>Development</i> Permit/Decision Process
Affordable/In-Fill Housing Projects with Deviations	143.0910, 143.0915, 143.0920	SDP/Process Four

Section 2. That Chapter 14, Article 3, of the San Diego Municipal Code is hereby amended by adding a new Division 9, Sections 143.0910, 143.0915 and 143.0920, to read as follows:

Article 3: Supplemental Development Regulations

Division 9: Affordable/In-Fill Housing

Development Regulations

EXHIBIT #2
Approved Ordinances
LCPA #3-07BAffordable In-Fill Housing & Sustainable Projects
 California Coastal Commission

§143.0910 Purpose of Affordable/In-Fill Housing Development Regulations

The purpose of these regulations is to provide flexibility in the application of development regulations for projects providing affordable shelter and a balance of housing opportunities for all economic segments of the community. The intent is to provide an additional incentive to facilitate the development of affordable/in-fill housing while assuring that the *development* achieves the purpose and intent of the applicable land use plan.

§143.0915 When Affordable/In-Fill Housing Regulations Apply

These regulations apply to the following types of residential *development*:

- (a) Residential *development* in accordance with Section 142.1304(a).
- (b) Residential *development* sponsored by or receiving funding from the Comprehensive Affordable Housing Collaborative (The Redevelopment Division of the Community and Economic Development Department, Centre City Development Corporation, Southeastern Economic Development Corporation, and the San Diego Housing Commission) of which at least 15 percent of the total units are affordable to households with an income at or below 120 percent average median income, as determined by the San Diego Housing Commission.
- (c) Residential *development* subject to a federal, state or local governmental agreement that restricts tenancy and rents at or below 60 percent average median income.
- (d) Residential *development* of 10 or more *dwelling units* within the urbanized areas of the City as shown in the Progress Guide and General Plan provided that all of the *dwelling units* are affordable to households earning no more than 150% average

median income and where applicable, the *development* does not reduce the number of affordable units previously existing.

- (e) Residential *development* for use by active military personnel and their families which is to be constructed by the federal government or through a contract with the federal government.
- (f) New residential, commercial, or industrial *development* that meet the “sustainable buildings” definition under City Council Policy 900-14.
- (g) Mixed-use *development* or *development* that otherwise combines residential with other land uses where at least 50 percent of the gross floor area of the total *development* is the type of project described in Section 143.0915(a) through (d).

§143.0920 Deviation Requirements for Affordable/In-Fill Housing

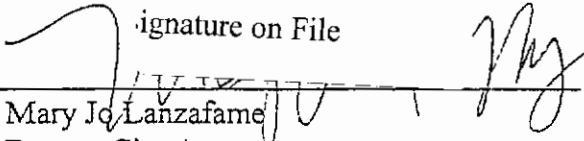
An applicant may request a deviation from the applicable development regulations for affordable/in-fill housing in accordance with Section 143.0915 pursuant to a Site Development Permit decided in accordance with Process Four provided that the findings in Section 126.0504(a) and the supplemental findings in Section 126.0504 (m) are made.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage. However, this ordinance will not apply within the Coastal Zone until the thirtieth day following the date the California Coastal Commission unconditionally certifies this ordinance

as a local coastal program amendment. If this ordinance is certified with suggested modifications,
this ordinance shall be void within the Coastal Zone.

APPROVED: CASEY GWINN, City Attorney

signature on File
By 
Mary Jo Lanzafame
Deputy City Attorney

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CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

SUBJECT: SUSTAINABLE BUILDING POLICY
POLICY NO.: 900-14
EFFECTIVE DATE: May 20, 2003

BACKGROUND:

Existing buildings and the building development industry consume nearly half of the total energy used in the United States. The City of San Diego's commitment to become increasingly efficient with resources, including energy, water, and materials associated with construction projects, is demonstrated in Council Policy 900-14 "Green Building Policy" adopted in 1997, Council Policy 900-16 "Community Energy Partnership," adopted in 2000, and the updated Council Policy 900-14 "Sustainable Buildings Expedite Program" adopted in 2001.

On April 16, 2002, the Mayor and City Council adopted CMR 02-060 which requires City projects to achieve the U.S. Green Building Council's LEED silver standard for all new buildings and major renovations over 5,000 square feet. This places San Diego among the most progressive cities in the nation in terms of sustainable building policies.

As a participant in the International Council for Local Environmental Initiatives (ICLEI) Cities for Climate Protection Program, as a Charter member in the California Climate Action Registry and as an active member of the U.S. Green Building Council, the City of San Diego is committed to reducing greenhouse gas emissions by implementing more sustainable practices, including green building technologies.

PURPOSE:

The purpose of this policy is to reassert the City's commitment to green building practices in City facilities, and to provide leadership and guidance in promoting, facilitating, and instituting such practices in the community.

POLICY:

The following principles will be required for all newly constructed facilities and major building renovation projects for City facilities:

LEED (Leadership in Energy and Environmental Design):

The LEED (Leadership in Energy and Environmental Design) Green Building Rating System is a voluntary, consensus-based national standard for developing high-performance, sustainable buildings. Members of the U.S. Green Building Council representing all segments of the building industry developed LEED and continue to contribute to its evolution.

The City of San Diego is committed to achieving LEED "Silver" Level Certification for all new City facilities and major building renovation projects over 5,000 square feet.

SUSTAINABLE BUILDING MEASURES:

CP-900-14

EXHIBIT #3
City Council Policy 900-14
LCPA #3-07B/Affordable In-Fill Housing & Sustainable Development
California Coastal Commission

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

In addition to achieving LEED “Silver” Level Certification, Council Policy 900-14 encourages the following sustainable building measures for all newly constructed facilities and major renovation projects regardless of square footage:

1. Design and construct mechanical and electrical systems to achieve the maximum energy efficiency achievable with current technology. Consultants shall use computer modeling programs, (Energy Pro) to analyze the effects of various design options and select the set of options producing the most efficient integrated design. Energy efficiency measures shall be selected to achieve energy efficiencies at least 22.51% better than California’s Title 24.2001 standards for both new construction and major renovation projects.
2. Incorporate self-generation using renewable technologies to reduce environmental impacts associated with fossil fuel energy use. Newly constructed City facilities shall generate a minimum of 10%, with a goal of 20% from renewable technologies (e.g., photovoltaic, wind and fuel cells).
3. Eliminate the use of CFC based refrigerants in newly constructed facilities and major building renovations and retrofits for all heating, ventilation, air conditioning and refrigerant-based building systems.
4. Incorporate additional commissioning and measurement and verification procedures as outlined by LEED 2.0 Rating System, Energy and Atmospheres, credit 3 and credit 5 for all projects over 20,000 sq. ft.
5. Reduce the quantity of indoor air contaminants that are odorous or potentially irritating to provide installer(s) and occupant(s) health and comfort. Low-emitting materials will include adhesives, paints, coatings carpet systems, composite wood and agri-fiber products.
6. In order to maximize energy efficiency measures within these requirements, projects will combine energy efficiency measures requiring longer payback periods, with measures requiring shorter payback periods to determine the overall project period.
7. Comply with the storm water development requirements in the Storm Water Management and Discharge Control Ordinance (Municipal Code § 43.03), and the City’s grading and drainage regulations and implementing documents (MC § 142.01 and 142.02, respectively).

In addition to achieving the minimum sustainable building measure this Council Policy encourages the following measures be incorporated into newly constructed facilities and major renovation projects whenever possible:

1. Use high efficiency irrigation technology, drought tolerant native plants and recycled site water to reduce potable water for irrigation by 50%. Additionally, building water consumption should be reduced by 30%.
2. Limit disruption of natural water flows and minimize storm water runoff by minimizing building footprints and other impervious areas, increasing on-site infiltration, preserving

and/or restoring natural drainage systems, and reducing contaminants introduced into San Diego's bays, beaches and the ocean.

3. Facilitate the reduction of waste generated by building occupants that is hauled to and disposed of in landfills. Provide an easily accessible area that serves the entire building and is dedicated to the separation, collection and storage of materials for recycling. Recycling should include paper, glass, plastic and metals at a minimum.
4. Incorporate building products that have recycled content reducing the impacts resulting from the extraction of new materials. Newly constructed City facilities shall have a minimum of 25% of building materials that contain in aggregate, a minimum weighted average of 20% post consumer recycled content materials.
5. Reduce the use and depletion of finite raw and long-cycle renewable materials by replacing them with rapidly renewable materials. Newly constructed City facilities should consider incorporating rapidly renewable building materials for 5% of the total building materials.
6. Establish minimum indoor air quality (IAQ) performance to prevent the development of indoor air quality problems in buildings, maintaining the health and well being of the occupants. Newly constructed City facilities will comply with IAQ by conforming to ASHRAE 62-1999.
7. City buildings will be designed to take the maximum advantage of passive and natural sources of heat, cooling, ventilation and light.

The Environmental Services Department, Energy Conservation and Management Division has been designated by this Council Policy as the clearing authority for issues relating to energy for the City of San Diego. The Energy Conservation and Management Division will enter into a Memorandum of Understanding with those City Departments who design, renovate and build new city owned facilities to insure all new City facilities reflect the intent of Council Policy 900-14.

PRIVATE-SECTOR/INCENTIVES:

It shall be the policy of the City Council to expedite the ministerial process for projects which meet the following criteria:

1. Residential projects that provide 50% of their projected total energy use utilizing renewable energy resources, (e.g., photovoltaic, wind and fuel cells).
2. Commercial and industrial projects that provide 30% of their projected total energy use utilizing renewable energy resources, (e.g., photovoltaic, wind and fuel cells).
3. Residential and commercial and industrial projects that exceed the State of California Title 24 energy requirements by:
 - a. 15% better than California's Title 24.2001 for Residential Buildings.
 - b. 10% better than California's Title 24.2001 for Commercial and Industrial Buildings.

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

It shall be the policy of the City Council to expedite the discretionary process for projects which meet the following criteria:

1. Incorporate the U.S. Green Building Council, Leadership in Energy and Environmental Design (LEED) 2.0 Rating System "Silver" Level Certification for commercial development projects.
2. Incorporate self-generation through renewable technologies (e.g., photovoltaic, wind and fuel cells) to reduce environmental impacts associated with fossil fuel energy use for commercial and industrial projects generating a minimum of 30% or more of the designed energy consumption from renewable technologies such as photovoltaic, wind and fuel cells.
3. Residential discretionary projects of 4 units or more within urbanized communities as defined in the Progress Guide and General Plan that provide 50% of their projected total energy use utilizing renewable energy resources.

HEALTH AND RESOURCE CONSERVATION:

1. Projects will be designed to avoid inflicting permanent adverse impact on the natural state of the air, land and water, by using resources and methods that minimize pollution and waste, and do not cause permanent damage to the earth, including erosion.
2. Projects will include innovative strategies and technologies such as porous paving to conserve water, reduce effluent and run-off, thus recharging the water table.
3. When feasible, native plants will be used in landscaping to reduce pesticide, fertilizer, and water usage.
4. Buildings will be constructed and operated using materials, methods, mechanical and electrical systems that ensure a healthful indoor air quality, while avoiding contamination by carcinogens, volatile organic compounds, fungi, molds, bacteria, and other known toxins.
5. Projects will be planned to minimize waste through the use of a variety of strategies such as: a) reuse of materials or the highest practical recycled content; b) raw materials derived from sustainable or renewable sources; c) materials and products ensuring long life/durability and recyclability; d) materials requiring the minimum of energy and rare resources to produce and use; and e) materials requiring the least amount of energy to transport to the job site.

OUTREACH / EDUCATION:

1. An education and outreach effort will be implemented to make the community aware of the benefits of "Green Building" practices.

2. The City will sponsor a recognition program for innovative Green Building projects implemented in the public as well as private sector in an effort to encourage and recognize outstanding environmental protection and energy conservation projects.

IMPLEMENTATION:

The City will seek cooperation with other governmental agencies, public interest organizations, and the private sector to promote, facilitate, and implement Green Building and energy efficiency in the community.

LEGISLATION:

The City will support State and Federal legislation that promotes or allows sustainable development, conservation of natural resources, and energy efficiency technology.

REFERENCES:

Related existing Council Policies:
400-11, Water Conservation Techniques
400-12, Water Reclamation/Reuse
900-02, Energy Conservation and Management
900-06, Solid Waste Recycling

HISTORY:

Adopted by Resolution R-289457 11/18/1997
Amended by Resolution R-295074 06/19/2001
Amended by Resolution R-298000 05/20/2003