

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



September 26, 2013

Th21a

TO: COMMISSIONERS AND INTERESTED PARTIES

FROM: CHARLES LESTER, EXECUTIVE DIRECTOR

SUBJECT: EXECUTIVE DIRECTOR'S DETERMINATION that the action by the City of San Diego, certifying the City's Local Coastal Program Amendment No. 5-11B (7th Update LDC), is adequate to effectively certify its local coastal program (for Commission review at its meeting of October 10, 2013)

BACKGROUND

At its June 12, 2013 meeting, the Coastal Commission certified, with suggested modifications, the City of San Diego Local Coastal Program Amendment #5-11B, regarding the 7th Update to the City's Land Development Code (LDC). The LDC serves, in large part, as the City's certified implementation plan. This update included a number of disparate items relating to measurement of building height, permit process, landscaping, parking and other elements. By its action adopting Ordinance No. O-20293 on August 28, 2013, the City Council has acknowledged and accepted all of the Commission's suggested modifications. The modifications addressed the application of the City's Environmentally Sensitive Lands (ESL) Regulations within the coastal zone and the potential tolling of development permits; the adopted modifications clarified exemptions to the ESL regulations to assure, within the coastal zone, that all protective measures, such as buffers and open space restrictions, are required and ensured that any proposed tolling of a coastal development permit would also have to make the findings otherwise required for an extension of a coastal development permit. The City already has coastal development permit authority over this geographic area and will continue issuing permits consistent with the local coastal program as amended.

As provided for in Section 13544 of the Commission's Code of Regulations, the Executive Director must determine if the action of the City of San Diego is legally sufficient to finalize Commission review of the LCP amendment. The City's actions have been reviewed and determined to be adequate by the Executive Director. Section 13554 of the Commission's Code of Regulations then requires this determination be reported to the Commission for its concurrence.

RECOMMENDATION

Staff recommends that the Commission **CONCUR** with the Executive Director's determination as set forth in the attached letter (to be sent after Commission endorsement).

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



October 14, 2013

Todd Gloria
Mayor
City of San Diego
202 "C" Street, 11th Floor
San Diego, CA 92101

RE: Certification of the City of San Diego Local Coastal Program Amendment
No. 5-11B (7th Update LDC)

Dear Mayor Gloria,

The California Coastal Commission has reviewed the City's Ordinance No. O-20293 together with the Commission's action of June 12, 2013 certifying City of San Diego Local Coastal Program Amendment #5-11B pertaining to the 7th Update to the Land Development Code. In accordance with Section 13544 of the Commission's Code of Regulations, I have made the determination that the City's actions are legally adequate, and the Commission has concurred at its meeting of October 10, 2013.

By its action on August 28, 2013, the City has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The modifications addressed proposed exemptions to the Environmentally Sensitive Land (ESL) Regulations and tolling of coastal development permits. Specifically, the adopted modifications restricted exemptions to the ESL regulations in the coastal zone and required that the findings otherwise required for extensions of coastal development permits also be made in conjunction with the proposed tolling of any coastal development permit. The City is already issuing coastal development permits in conformance with the certified local coastal program for this area.

In conclusion, I would like to congratulate you and all other elected or appointed officials, staff and concerned citizens for continuing to work towards full implementation of the Coastal Act. We remain available to assist you and your staff in any way possible as you continue to develop and implement the City's local coastal program.

Sincerely,

Charles Lester
Executive Director

Thalia
(O-2013-107)

ORDINANCE NUMBER O- 20293 (NEW SERIES)

ITEM # 603

DATE OF FINAL PASSAGE AUG 30 2013

8/28/13

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 126.0115; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 1 BY AMENDING SECTION 143.0110, ALL RELATING TO ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO THE 7th UPDATE TO THE LAND DEVELOPMENT CODE.

WHEREAS, the City periodically reviews the Land Development Code (LDC) and proposes corrections, modifications, and clarifications to make the document easier to understand and enforce; and

WHEREAS, on August 2, 2011, the 7th Update to the LDC was adopted by the City Council and later approved by the Mayor; and

WHEREAS, this update is similar to past updates that cover a number of different issue categories of the LDC, including how to calculate certain measurements (such as building heights), permit process, landscaping, parking, compliance with State law, and minor corrections; and

WHEREAS, the submission of the 7th Update to the California Coastal Commission was deemed complete by the California Coastal Commission in March, 2012, as part of the City of San Diego's Local Coastal Program (LCP) Amendment No. 5-11 A and B; and

WHEREAS, the Commission staff is recommending a modification that will require findings to be made to grant tolling provisions for coastal development permits, so as to ensure

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Certification Review
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that prior to extending development permits within the Coastal Overlay Zone, a formal analysis of changed conditions will be conducted; and

WHEREAS, the Commission staff is also recommending a modification that, within the Coastal Overlay Zone, development on a premises that contains environmentally sensitive lands but complies with listed criteria, including no encroachment into environmentally sensitive lands, will not be eligible for the exemption from the requirements to obtain a Neighborhood Development Permit or Site Development Permit, that otherwise applies to development outside of the Coastal Overlay Zone; NOW, THEREFORE,

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

Section 1. That Chapter 12, Article 6, Division 1 of the San Diego Municipal Code is amended by amending section 126.0115 to read as follows:

§126.0115 Tolling of a Development Permit

(a) through (b) [No change in text.]

(c) A decision regarding a request to toll the expiration date for a *development permit* shall be made in accordance with Process One and, additionally, for *development* within the Coastal Overlay Zone, in accordance with the procedures in Section 126.0111(g).

(d) [No change in text.]

(e) Upon resolution of the lawsuit, the *applicant* shall contact the City Manager to request the adjusted expiration date for the approved or conditionally approved *development permit*. The adjusted expiration date shall allow tolling as follows:

(1) through (2) [No change in text.]

- (3) Within the Coastal Overlay Zone, the adjusted expiration date for a Coastal Development Permit may be granted only if the decision maker makes all of the findings required by Section 126.0111(g), Findings for Approval for Extension of Time for a Coastal Development Permit.

Section 2. That Chapter 14, Article 3, Division 1 of the San Diego Municipal Code is amended by amending section 143.0110 to read as follows:

§143.0110 When Environmentally Sensitive Lands Regulations Apply

This Division applies to all proposed *development* when *environmentally sensitive lands* are present on the *premises*.

(a) through (b) [No change in text.]

(c) A Neighborhood Development Permit or Site Development Permit is not required for the following *development* activity:

(1) [No change in text.]

(2) Outside of the Coastal Overlay Zone, *development* on a *premises* containing *environmentally sensitive lands* where the *development*:

(A) Would not encroach into *environmentally sensitive lands* during or after construction;

(B) Would not expand brush management Zone One into *environmentally sensitive lands*;

(C) Would comply with the *MHPA* adjacency guidelines as applicable;

- (D) Would maintain a minimum 40 foot *setback* from the *coastal bluff edge* of a *sensitive coastal bluff*; and
- (E) Would either:
 - (i) Maintain at least a 100 feet separation distance from *sensitive biological resources* and at least a 40 feet separation distance from the top of slope of *steep hillsides*; or
 - (ii) Locate *development* in a legally graded or developed portion of the *premises* separated from *environmentally sensitive lands* by an existing *fence* or other physical barrier.

(3) through (9) [No change in text.]

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

Section 4. That this ordinance shall not take effect until the date the California Coastal Commission unconditionally certifies these provisions as a Local Coastal Program amendment, or until the thirtieth day from and after its final passage, whichever occurs later.

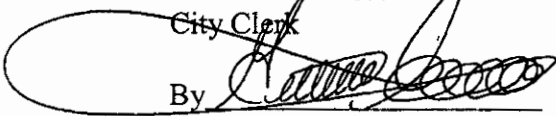
APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als
06/25/13
Or.Dept:DSD
Doc. No. 574993_3

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 8/28/13.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 8/29/13
(date)


BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor

This ordinance is effective August 30, 2013, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.

Passed by the Council of The City of San Diego on AUG 28 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage AUG 30 2013.

AUTHENTICATED BY: BOB FILNER
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUL 23 2013, and on AUG 30 2013.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 20293