

CALIFORNIA COASTAL COMMISSION

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Th15b

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
LISA SCHLEMBACH, COASTAL ANALYST, SD COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO LOCAL
COASTAL PROGRAM AMENDMENT NO. LCP-6-SAN-16-0026-3
(Rooming House Ordinance) for Commission Meeting of August 10-12, 2016**

SYNOPSIS

The City of San Diego submitted Local Coastal Program (LCP) Amendment No. LCP-6-SAN-16-0026-3 (Rooming House Ordinance) to the Commission on May 25, 2016 as part of its first major LCP amendment package for the 2016 calendar year. The submittal included five unrelated items; for purposes of Coastal Commission processing, the five items have been assigned the following titles: LCP-6-CCP-16-0025-2 (Downtown Employment Overlay Zone Amendments); LCP-6-SAN-16-0026-3 (Rooming House Ordinance); LCP-6-SAN-16-0027-4 (10th Update Land Development Code); LCP-6-NOC-16-0028 (Tierra Alta) and LCP-6-MBE-16-0029-6 (Mission Beach Residences). The package included changes to certified land use plans, rezonings and revisions to the Land Development Code; therefore, the City's submittal will amend one or more of the City's certified LCP land use plans and its implementation plan.

The submittal was deemed incomplete and non-filed on June 9, 2016. Thus, the Commission is not obligated to take action on any items until all of the items are deemed complete and filed. However, as this particular item is complete, staff recommends that the Commission consider LCP-6-SAN-16-0026-3 today. The remaining items will be scheduled for hearing once they are filed as complete.

SUMMARY OF AMENDMENT REQUEST

The City of San Diego is proposing an amendment to the certified Implementation Program (IP), to reconcile the different definitions of "Rooming House" contained in the Municipal Code and to allow rooming houses as a permitted use in RM-1 and RM-2 zones. The proposed new definition of rooming house is:

Rooming house means a dwelling unit where three or more rooms, excluding kitchens and bathrooms, are rented to three or more individuals under three or more separate rental agreements or leases. Housing

protected by federal or state law, including housing for persons protected under the Fair Housing Act (42 U.S.C. Section 3604(f) and the California Fair Employment and Housing Act (California Government Code section 12900 *et seq.*), or housing otherwise subject to the City's Separately Regulated Use regulations in Chapter 14, Article 1, shall not constitute a *rooming house*. (Emphasis in original.)

This LCP Amendment only affects the City's IP, and it revises Table 131-04B (Use Regulations Table for Residential Zones) to make "rooming houses" a permitted use, by right, in all RM-1 and RM-2 zones.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval, as submitted, of the City of San Diego's proposed amendment to its certified LCP. The modifications to the Municipal Code will create a single definition for "Rooming House" and allow rooming houses as a permitted use in all RM-1 and RM-2 zones. It should be noted that no rezonings are proposed with this amendment request.

The proposed amendment raises no Coastal Act issues because the Land Development Code (LDC), as amended, would remain consistent with the City's certified LUPs. It will not adversely impact coastal resources such as public access and recreation, visual resources, or biological resources. In particular, the proposed amendment does not reduce parking standards, does not allow for higher density development, nor does it allow for any deviations from height standards or lessen any other resource protection standards.

Though the change would apply city-wide, it would mainly affect communities near college and university campuses and the beach communities where mini-dorms have proliferated. It is anticipated to be the most impactful for neighborhoods near the San Diego State University Campus (SDSU), which are located out of the Coastal Zone. The amendment enables Code Enforcement to regulate the commercial overuse of dwelling units in residential neighborhoods by clarifying the definition of rooming houses. Staff is recommending the Commission approve the amendment as submitted. The appropriate resolution and motion may be found on Page 4. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 4.

BACKGROUND

The City's first IP was certified in 1988, and the City then assumed permit authority. The IP consisted of portions of the City's Municipal Code, along with some Planned District Ordinances (PDOs) and Council Policies. In 1999, the Commission certified the City's LDC that primarily includes Chapters 11 through 14 of the municipal code. It replaced the first IP and took 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 No. LCP-6-SAN-16-0026-3 may be obtained from Lisa Schlembach, 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, and in 1977, requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to 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, and many have since been certified as LCP amendments. Other areas of deferred certification still remain today and will be acted on by the Coastal Commission in the future.

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

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. 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 - RESOLUTION

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

- I. **MOTION I:** *I move that the Commission reject the City of San Diego LCP Amendment No. LCP-6-SAN-0026-3, as submitted*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted 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 APPROVE CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego LCP, as submitted, and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified City of San Diego Land Use Plan(s), and certification of the Implementation Program Amendment will meet the requirements of 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 Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program, as amended.

PART III. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED

A. AMENDMENT DESCRIPTION

The Rooming House Ordinance (RHO) O-19739 was passed by the City Council and signed into law in 2008. It grew out of widespread community protests over the negative impact of rapidly increasing, high occupancy rental housing, especially in the College Area and Pacific Beach. The purpose of the ordinance is to provide Code Enforcement with the tools necessary to regulate the commercial overuse of dwelling units in residential neighborhoods.

The definition of rooming house in O-19739 is not specific enough to enable Code Enforcement to accomplish this task. San Diego’s existing Municipal Code currently contains two different definitions of Rooming House. In Chapter 11, Article 3, Division 1 Section 113.0103 defines a rooming house as “a dwelling unit where three or more rooms are rented individually or separately, to tenants under separate rental agreements.” However Chapter 13, Article 1, Division 4, Section 131.0422 defines a rooming house as a dwelling, “where rooms are rented, resulting in multiple, independent living units

where tenants do not share common access or financial responsibility for use of the dwelling unit as a whole.”

The proposed amendment would define a rooming house in Section 113.0103 as follows:

Rooming house means a dwelling unit where three or more rooms, excluding kitchens and bathrooms, are rented to three or more individuals under three or more separate rental agreements or leases. Housing protected by federal or state law, including housing for persons protected under the Fair Housing Act (42 U.S.C. Section 3604(f) and the California Fair Employment and Housing Act (California Government Code section 12900 *et seq.*), or housing otherwise subject to the City’s Separately Regulated Use regulations in Chapter 14, Article 1, shall not constitute a *rooming house*.

The proposed amendment would also modify Section 131.0112(a) (3) (A) to state: “*Rooming house* has the same meaning as in San Diego Municipal Code Section 113.0103.” Thus, this amendment would clarify the definition of a rooming house.

Further, this amendment would allow for rooming houses, as a permitted use by right, in all Residential – Multiple Unit (RM) zones by revising the Use Regulations Table for Residential Zones (Table 131-04B) to incorporate “rooming houses” in all RM-1 and RM-2 zones. The purpose of the RM zones is to provide multiple dwelling unit development in varying densities. Formerly, rooming houses were only allowed in RM-3, RM-4, and RM-5 zones. However, this amendment would also allow for rooming houses in RM-1 and RM-2 zones, without specific rezoning of any property at this time. Any future rezoning in the coastal zone will require separate LCP amendments.

B. SPECIFIC FINDINGS FOR APPROVAL

The proposed amendment is to create a single definition of rooming house in the certified LDC and to allow for rooming houses in all RM Zones. Whereas rooming houses are currently permitted in RM-3, RM-4, and RM-5 zones, this amendment would also allow rooming houses in all RM-1 and RM-2 zones. The RM zones are differentiated based on the allowed uses and permitted densities and are intended to establish development criteria that consolidates common development regulations, accommodates specific dwelling types, and responds to locational issues regarding adjacent land uses. RM-1 zones are designated for lower density, multiple dwelling units with some characteristics of single dwelling units, and RM-2 zones are designated for medium density, multiple dwelling units.

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP(s). In the case of the City of San Diego, it has developed community planning areas based on its established neighborhoods and future urbanizing area. Predicated on those community

planning areas, the City utilized the geographic segmentation provisions of the LCP regulations and developed its land use plan component covering twelve different communities (e.g., North City, La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay-Mesa Nestor). Eleven areas have certified Land Use Plans. Each community plan or Land Use Plan contains policies that protect public access and views, scenic resources, public access, recreational opportunities and sensitive coastal resources including, but not limited to, beaches, bluffs, slopes, hillsides and environmentally sensitive lands in that community. The Commission's review of the proposed changes to the Land Development Code must assure that development is approved only when consistent with the certified LUP(s).

The most significant Coastal Act issues raised by the proposed amendment involve possible impacts to public access due to parking, circulation, and traffic congestion. As communities strive to create balanced neighborhoods, an important factor is regulating the potential overuse of dwelling units as this can have a major impact on traffic congestion and public parking availability. The beach communities of Pacific Beach and Ocean Beach, for example, identify in their LUPs that creating balanced neighborhoods requires, among other measures, providing housing for all economic levels that includes off-street parking, and encouraging the use of alternative transit by clustering development around transit centers.

The Ocean Beach Community Plan contains applicable policies, such as:

- Policy 2.1.3: Ensure that new residential development is constructed with the density ranges identified in this Plan and meets adopted parking standards.
- Policy 2.1.5: Retain and expand the number of affordable housing units in Ocean Beach.
- Policy 3.5.12: Provide adequate off-street parking for new development.

Similarly, the Pacific Beach Community Plan also contains relevant policies including:

- Circulation Element Policy 5: New Development shall be designed to promote transit, bicycle and pedestrian use.
- Residential Element Policy 1: Maintain the residential scale of Pacific Beach and encourage development of residential units within transit corridors, especially along Garnet Avenue.
- Residential Element Policy 2: Analyze existing multifamily development standards focusing on building size and parking requirements, particularly in transit corridors, to provide incentives, for encouraging affordable housing in the form of smaller (1-2 bedroom) units. Further consider options for allowing higher

densities in transit corridors while maintaining the intensity of the underlying zone (e.g., by regulating the number of bedrooms).

This proposed amendment neither increases the maximum allowable density of dwelling units for a given lot size, nor does it lessen any off-street parking requirements. Rooming houses are currently required to provide one off-street parking space for each tenant in areas outside of the Transit Area Overlay and Urban Village Overlay Zones. In areas within these two overlays, which encourage transit accessibility, rooming houses are only required to provide .75 off-street spaces for each tenant. To reiterate, this amendment does not increase density or decrease parking standards. Therefore, the amendment, as submitted, is consistent with and appropriate to implement the City of San Diego's many certified LUPs. No rezonings are proposed with this amendment request, and since no parking standards are being reduced and maximum allowable density is not increasing, the proposed amendment is not expected to impact coastal resources. The proposed LCP amendment will serve to concentrate development and support expanded housing opportunities while protecting community character. As such, the Commission finds the amendment is consistent with certified LUP(s) and can be approved as submitted.

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

Section 21080.9 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.

For the City of San Diego the adoption of an ordinance amending the Municipal Code is a Project as defined in CEQA Section 15378(a) (1) which states: "Project" means the whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is an activity directly undertaken by any public agency including but not limited to... enactment and amendment of zoning ordinances...". The City found that the activity is exempt from CEQA pursuant to CEQA Guidelines section 15061(b) (3) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

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. In this particular case, the LCP amendment will not have any significant adverse effects on the environment and there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan, as amended, conforms with CEQA provisions.

LCP-6-SAN-16-0026-3 (Rooming House Ordinance)

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STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 113.0103; BY AMENDING CHAPTER 13, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 131.0112; AND BY AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 131.0422, RELATING TO THE DEFINITION AND REGULATION OF ROOMING HOUSES.

§113.0103 **Definitions**

Abutting property through Roof sign [No change in text.]

Rooming house means a *dwelling unit* where three or more rooms, excluding kitchens and bathrooms, are rented to three or more individuals ~~individually or separately,~~ to tenants under three or more separate rental agreements or leases.

Housing protected by federal or state law, including housing for persons protected under the Fair Housing Act (42 USC U.S.C. section 3604 ~~(f)~~ 3604(f)) and the California Fair Employment and Housing Act (California Government Code section ~~12920~~ 12900 ~~et seq.~~ et seq.), or housing otherwise subject to the City's Separately Regulated Use regulations in Chapter 14, Article 1, shall not constitute a *rooming house*.

School through Yard [No change in text.]

EXHIBIT NO. 1
APPLICATION NO.
LCP-6-SAN-16-0026-3
Rooming House
Strikeout Ordinance
 California Coastal Commission

§131.0112 Descriptions of Use Categories and Subcategories

(a) The following are descriptions of each use category and subcategory found in the Use Regulations Tables of each base zone. These descriptions shall be used to classify specific uses into use subcategories for the purpose of determining applicable use regulations, in accordance with Section 131.0110. A description of separately regulated uses is located in Section 131.0112(b).

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

(3) Residential Use Category

This category includes uses that provide living accommodations for one or more persons. The residential subcategories are:

(A) *Rooming houses.* ~~Dwellings where rooms are rented, individually or separately, resulting in multiple, independent living units where tenants do not share common access or financial responsibility for use of the dwelling unit as a whole. Pursuant to Section 127.0102(d), all previously conforming rooming houses shall be unlawful three years from the effective date of Ordinance O-2008-61. Rooming house has the same meaning as in San Diego Municipal Code Section 113.0103.~~

(B) through (D) [No change in text.]

(4) through (11) [No change in text.]

(b) [No change in text.]

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Legend for Table 131-04B

[No change in text.]

Table 131-04B Use Regulations Table for Residential Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																						
	1st & 2nd >>	RE-	RS-										RX-		RT-									
	3rd >>	1-	1-										1-		1-									
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
Open Space through <i>Signs</i> , Separately Regulated <i>Signs</i> Uses, Theater <i>Marquees</i> [No change in text.]		[No change in text.]																						

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
	1st & 2nd >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
Open Space through Residential, <i>Multiple Dwelling Units</i> [No change in text.]		[No change in text.]												
<i>Rooming House</i> [See Section 131.0112(a)(3)(A)]		-P			-P			P			P		P	
Residential, <i>Single Dwelling Units</i> through <i>Signs</i> , Separately Regulated <i>Signs</i> Uses, Theater <i>Marquees</i> [No change in text.]		[No change in text.]												

Footnotes for Table 131-04B [No change in text.]

SMT:als
06/23/2015
Or.Dept: Council District 9
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