

**CALIFORNIA COASTAL COMMISSION**

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# Th20a

**Prepared July 25, 2013 for August 15, 2013 Hearing**

**To:** Commissioners and Interested Persons

**From:** Madeline Cavalieri, District Manager  
Mike Watson, Coastal Planner

**Subject: Certification Review for City of Seaside Local Coastal Program Number 1-11 (LUP Update and IP Certification)**

At the December 13, 2012 Coastal Commission meeting in San Francisco, the Commission approved, with suggested modifications, City of Seaside Local Coastal Program (LCP) Amendment Number 1-11 (LUP Update and IP Certification). An extension of the six-month time limit for accepting the modifications was approved by the Commission at the May 9, 2013 Commission meeting. The LCP amendment is intended to update the City's Local Coastal Program Land Use Plan (LUP) and certify the City's Implementation Plan (IP). The updated LUP and new IP contain numerous policies and standards addressing a variety of coastal resource issues, such as current understanding regarding sea level rise, flood and hazard abatement, environmentally sensitive habitat and wetland protection, water quality enhancement, transportation planning, water and utility requirements, and a host of other relevant coastal planning issues.

By action taken on June 6, 2013, the Seaside City Council adopted the amending LCP text and corresponding map changes as directed by the Commission's suggested modifications. These actions were taken within the extended six-month timeframe (i.e., prior to December 13, 2013). The Executive Director has determined that the actions taken by the City are legally adequate and that the amended LCP should be certified. The Executive Director recommends that the Commission concur with this determination and that the LCP, as amended, be certified. If the Commission concurs, the amended LCP will be certified as of today's date (i.e., August 15, 2013), and notification of this certification and Commission concurrence will be forwarded to the City.

**Motion.** I move that the Commission concur with the Executive Director's determination that the actions taken by the City of Seaside to accept the Commission's suggested modifications for LCP Amendment 1-11 are legally adequate. I recommend a yes vote.

**Executive Director's Recommendation.** The Executive Director recommends a **YES** vote on the motion. Passage of this motion will result in certification of the City of Seaside's LCP as directed by the Commission's approval with suggested modifications of LCP Amendment 1-11; the LCP will be certified as of today's date (i.e., August 15, 2013). The motion passes only by affirmative vote of a majority of the Commissioners present.

## **Exhibits**

Exhibit 1: City's Acceptance Resolution

Exhibit 2: City's Resolution incorporating the LCP into the General Plan

**RESOLUTION NO. 2013-40**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE  
ADOPTING THE SEASIDE LOCAL COASTAL PROGRAM (LCP)  
AS MODIFIED AND APPROVED BY THE CALIFORNIA COASTAL COMMISSION  
ON DECEMBER 13, 2012 AND REPEALING RESOLUTION NO 2013-14**

**WHEREAS**, the City Council established a goal of completing the Seaside Local Coastal Program (LCP) to fulfill its requirements under the California Coastal Act and to restore permitting authority to the City within the Seaside Coastal Zone Boundary; and

**WHEREAS**, the preparation of the LCP is intended to protect and enhance the resources of the coastal zone, consistent with the goals of the California Coastal Act, as well as the expressed goals of the citizenry; and

**WHEREAS**, on August 5, 2010, a notice of availability of the proposed LCP Update was provided pursuant to Section 13515(c) of the California Code of Regulations, mailed to all property owners located within 300 feet from the City of Seaside Coastal Zone Boundary, published in the Monterey Weekly, and posted at locations within the Coastal Zone Area; and

**WHEREAS**, a total of six written comment letters were received in response to the Notice of Intent to Adopt a Negative Declaration and have been entered into the public record; and

**WHEREAS**, the Seaside Planning Commission considered oral comments and written information concerning the proposed Negative Declaration and LCP at a duly noticed public hearing held on October 13, 2010 and adopted a resolution (Resolution No. 10-07) recommending that the City Council adopt a Negative Declaration for the Update to the LCP and adopted a resolution (Resolution No. 10-18) recommending that the City Council adopt the LCP; and

**WHEREAS**, the City Council considered oral comments and written information concerning the proposed Negative Declaration and LCP and adopted the Negative Declaration at a duly noticed public hearing held on November 18, 2010 (Resolution 10-70) and introduced the first reading of an Ordinance for the adoption of a Coastal Implementation Plan (CIP); and

**WHEREAS**, the City Council at a duly noticed public hearing held on February 3, 2011 (Resolution 11-08) adopted the proposed LCP Update and authorized the City Manager to submit certified copies of the LCP and implementing Ordinance (CIP) amending the Seaside Municipal Code to the California Coastal Commission (CCC) for approval and certification; and

**WHEREAS**, the City Council at a duly noticed public hearing held on February 3, 2011 (Ordinance 994) adopted the Coastal Implementation Program (CIP) of the LCP as new Title 18 of the Seaside Municipal Code; and

**WHEREAS**, pursuant to Section 13544 of Title 14 of the California Code of Regulations, the CCC considered the City's draft CIP and amended LUP and on December 13, 2012, voted to approve these documents with the recommended modifications made by the CCC staff; and

**WHEREAS**, on December 19, 2012, the City received the CCC's resolution of certification for the updated LCP including the modifications made to the City's LUP and CIP by the CCC at its December 13, 2012 meeting; and

**WHEREAS**, pursuant to Section 15164(b) of the California Environmental Quality Act (CEQA) Guidelines, the City of Seaside prepared an Addendum to the previously adopted Negative Declaration to address and analyze the modifications that have been made to the LCP, as certified by the CCC; and

**WHEREAS**, at a duly noticed public hearing held on January 9, 2013, the Seaside Planning Commission considered the Addendum that was prepared to the previously adopted Negative Declaration to address the modifications that were made by the CCC to the LCP and adopted two resolutions. The first resolution (Resolution No. 13-01) recommended that the City Council consider the Addendum to the previously adopted Negative Declaration and adopt findings approving the Addendum. The second resolution (Resolution No. 13-02) recommended that the City Council approve the LCP as approved by the CCC; and

**WHEREAS**, on February 7, 2013, the City Council held a duly noticed public hearing at a regular meeting of the City Council and acted to approve Resolution 2013-14 and to introduce for first reading Ordinance 2013-01 to incorporate the changes to the Seaside General Plan Land Use Map and the text and map amendments to the Seaside Municipal Code and to include the Coastal Implementation Program of the LCP, as modified by the Coastal Commission, as Title 18 of the Seaside Municipal Code; and

**WHEREAS**, on February 21, 2013, the City Council held a duly noticed public hearing at a regular meeting of the City Council and approved Resolution 2013-14 approving an update to the Seaside LCP and adopted Ordinance No. 2013-01 at a second reading to incorporate the changes to the Seaside General Plan Land Use Map and the text and map amendments to the Seaside Municipal Code and to include the Coastal Implementation Program of the LCP, as modified by the CCC, as Title 18 of the Seaside Municipal Code; and

**WHEREAS**, California Coastal Commission staff advised the City to include provisions in the Seaside General Plan that specifically reference the LCP on the General Plan Land Use Map and in text of the General Plan; and

**WHEREAS**, in evaluating the Coastal Commission staff's recommendations and reviewing City Council Resolution No. 2013-14 that adopted the LCP, City staff has determined that the City Council needs to adopt a new Resolution to re-approve the LCP and to also take additional actions, determinations and directions as requested by the Coastal Commission staff; and

**WHEREAS**, the previously prepared and adopted Addendum to the Negative Declaration that was prepared in connection with the amendments to the LCP as approved by the Coastal Commission is applicable to the proposed action of re-adopting the LCP because it addresses the same type of decision and environmental impacts of the LCP as were considered with the adoption of the Negative Declaration on November 18, 2010; and.

**WHEREAS**, pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project unless: (i) substantial changes are proposed to the project that indicate new or more severe impacts on the environment; (ii) substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; or (iii) new important information shows the project will have new or more severe impacts than previously considered; or (iv) additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts. Staff has evaluated the updated LCP as approved by the CCC and concluded that substantial changes to the project or the circumstances surrounding the project have not occurred which would create new or more severe impacts than those evaluated in the previous Negative Declaration. Staff further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant; and

**WHEREAS**, on May 8, 2013, the Planning Commission held a duly noticed public hearing at a regular meeting of the Planning Commission to consider and provide the City Council with a recommendation to adopt an Addendum that was prepared to the previously adopted Negative Declaration to address the modifications that were made by the CCC to the LCP and to consider and provide a recommendation to the City Council to adopt an ordinance to make amendments to the Seaside Municipal Code to adopt the CIP as modified and approved by the California Coastal Commission, as new Title 18 of the Seaside Municipal Code, and, as modified and approved by the CCC text and map amendments to Title 17 of the Seaside Municipal Code, and to modify and repeal certain other conflicting sections contained in Title 17 of the Seaside Municipal Code; and

**WHEREAS**, on June 6, 2013, the City Council held a duly noticed public hearing at a regular meeting of the City Council to consider the adoption of the LCP as modified and approved by the CCC and introduced with first reading an Ordinance for proposed amendments to the Seaside Municipal Code to adopt the CIP as modified and approved by the California Coastal Commission, as new Title 18 of the Seaside Municipal Code and certain text and map amendments to Title 17 of the Seaside Municipal Code, and to modify and repeal certain other conflicting sections contained in Title 17 of the Seaside Municipal Code; and

**NOW THEREFORE**, the City Council of the City of Seaside does resolve as follows:

Section 1. The City Council finds the above recitals are true and correct.

Section 2. Pursuant to CEQA Guidelines Section 15162, the City Council finds that no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approval of the LCP as modified by the CCC because: (i) substantial changes are not proposed to the LCP that indicate new or more severe impacts on the environment than previously addressed in the Negative Declaration and subsequent Addendum; (ii) substantial changes have not occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; (iii) new important information does not exist to show the LCP will have new or more severe impacts than previously considered; and (iv) additional mitigation measures are not now feasible to reduce impacts and different mitigation measures should not be imposed to substantially reduce impacts. Specifically, the City Council concurs with staff's determination that the LCP as approved by the CCC does not contain substantial changes to the project or that the circumstances surrounding the project have not changed in a manner which would create new or more severe impacts than those evaluated in the previous Negative Declaration. The City Council further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant. For all these reasons, the City Council re-approves the Addendum prepared in connection with the project. The City Council further finds that its action represents the independent determination of the City Council in this matter.

Section 3. The City Clerk of the City of Seaside shall serve as the custodian of records for the Initial Study, adopted Negative Declaration, the Addendum to the Negative Declaration, and all other material which constitutes the record of proceedings upon which the City Council's decision is based. These documents shall be available for public review in the Resource Management Services Department, Planning Division, of the City located at 440 Harcourt Avenue, Seaside, California.

Section 4. The City Council hereby adopts as its Local Coastal Program, the Local Coastal Program as it was modified and approved by the California Coastal Commission at its meeting on December 13, 2012, a copy of which is attached as Attachment "1"

Section 5. The City Council hereby repeals City Council Resolution No. 2013-14.

Section 6. The City Council agrees with the determination of the CCC that the City shall be the entity to issue Coastal Development Permits for the total area included in the City's certified LCP, as required by Title 14 Section 13544 of the California Code of Regulations.

Section 7. The City Council expresses its intent and direction to staff for the City to carry out the City's certified LCP in a manner fully in conformity with the California Coastal Act, as required by Public Resources Code section 30510.

Section 8. City staff is hereby directed to forward the modified Local Coastal Program (LUP and CIP), as adopted in Section 4 of this Resolution, to the Executive Director of the California Coastal Commission for a determination that the City's action is legally adequate to satisfy the conditions of certification set forth in the Commission's certification order.

**PASSED AND ADOPTED** at a meeting of the City Council of the City of Seaside, State of California, held on the 6th day of June 2013 by the following votes:

AYES: COUNCIL MEMBERS: RUBIO, OGLESBY, ALEXANDER EDWARDS, PACHECO

NOES: COUNCIL MEMBERS: None


ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None



Ralph Rubio, Mayor

ATTEST:



Dimitra M. Hubbard, City Clerk

**RESOLUTION NO. 2013-41**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE APPROVING AMENDMENTS TO THE MAP AND TEXT OF THE SEASIDE GENERAL PLAN TO INCORPORATE THE SEASIDE LOCAL COASTAL PROGRAM (LCP) AS MODIFIED AND APPROVED BY THE CALIFORNIA COASTAL COMMISSION ON DECEMBER 13, 2012 INTO THE LAND USE AND CONSERVATION AND OPEN SPACE ELEMENTS OF THE GENERAL PLAN**

**WHEREAS**, the City Council established a goal of completing the Seaside Local Coastal Program (LCP) to fulfill its requirements under the California Coastal Act and to restore permitting authority to the City within the Seaside Coastal Zone Boundary; and

**WHEREAS**, the preparation of the LCP is intended to protect and enhance the resources of the coastal zone, consistent with the goals of the California Coastal Act, as well as the expressed goals of the citizenry; and

**WHEREAS**, on August 5, 2010, a notice of availability of the proposed LCP Update was provided pursuant to Section 13515(c) of the California Code of Regulations, mailed to all property owners located within 300 feet from the City of Seaside Coastal Zone Boundary, published in the Monterey Weekly, and posted at locations within the Coastal Zone Area; and

**WHEREAS**, a total of six written comment letters were received in response to the Notice of Intent to Adopt a Negative Declaration and have been entered into the public record; and

**WHEREAS**, the Seaside Planning Commission considered oral comments and written information concerning the proposed Negative Declaration and LCP at a duly noticed public hearing held on October 13, 2010 and adopted a resolution (Resolution No. 10-17) recommending that the City Council adopt a Negative Declaration for the Update to the LCP and adopted a resolution (Resolution No. 10-18) recommending that the City Council adopt the LCP; and

**WHEREAS**, the City Council considered oral comments and written information concerning the proposed Negative Declaration and LCP and adopted the Negative Declaration at a duly noticed public hearing held on November 18, 2010 (Resolution 10-70) and introduced the first reading of an Ordinance for the adoption of a Coastal Implementation Plan (CIP); and

**WHEREAS**, the City Council at a duly noticed public hearing held on February 3, 2011 (Resolution 11-08) adopted the proposed LCP Update and authorized the City Manager to submit certified copies of the LCP and implementing Ordinance (CIP) amending the Seaside Municipal codes to the California Coastal Commission (CCC) for approval and certification; and

**WHEREAS**, the City Council at a duly noticed public hearing held on February 3, 2011 (Ordinance 994) adopted the Coastal Implementation Program (CIP) of the Local Coastal Program as new Title 18 of the Seaside Municipal Code; and

**WHEREAS**, pursuant to Section 13544 of Title 14 of the California Code of Regulations, the CCC considered the City's draft CIP and amended LUP and on December 13, 2012, voted to approve these documents with the recommended modifications made by the CCC staff; and

**WHEREAS**, on December 19, 2012, the City received the CCC's resolution of certification including the modifications made to the City's LUP and CIP by the CCC at its December 13, 2012 meeting; and

**WHEREAS**, pursuant to Section 15164(b) of the California Environmental Quality Act (CEQA) Guidelines, the City of Seaside prepared an Addendum to the previously adopted Negative Declaration to address and analyze the modifications that have been made to the LCP, as certified by the CCC; and

**WHEREAS**, at a duly noticed public hearing held on January 9, 2013, the Seaside Planning Commission considered the Addendum that was prepared to the previously adopted Negative Declaration to address the modifications that were made by the CCC to the LCP and adopted two resolutions. The first resolution (Resolution No. 13-01) recommended that the City Council consider the Addendum to the previously adopted Negative Declaration and adopt findings approving the Addendum. The second resolution (Resolution No. 13-02) recommended that the City Council approve the LCP as modified by the CCC; and

**WHEREAS**, on February 7, 2013, the City Council held a duly noticed public hearing at a regular meeting of the City Council to introduce for first reading Ordinance 2013-01 to incorporate the changes to the Seaside General Plan Land Use Map and the text and map amendments to the Seaside Municipal Code and to include the Coastal Implementation Program of the LCP, as modified by the CCC, as new Title 18 of the Seaside Municipal Code and to approve the LCP; and

**WHEREAS**, on February 21, 2013, the City Council held a duly noticed public hearing at a regular meeting of the City Council and approved Resolution 2013-14 and adopted with second reading Ordinance 2013-01 to incorporate the changes to the Seaside General Plan Land Use Map and the text and map amendments to the Seaside Municipal Code and to include the Coastal Implementation Program of the LCP, as modified by the Coastal Commission, as new Title 18 of the Seaside Municipal Code; and

**WHEREAS**, subsequent to the adoption of Ordinance No. 2013-01, the California Coastal Commission staff has advised the City that the City's actions should also include provisions to amend the Seaside General Plan that specifically reference the LCP on the Seaside General Plan Land Use Map and in text of the Seaside General Plan; and



**WHEREAS**, in evaluating the Coastal Commission staff's recommendations and reviewing City Council Resolution No. 2013-14 that adopted the LCP, City staff has determined that the City Council needs to adopt a new Resolution to approve the LCP and to also take additional actions, determinations and directions as requested by the Coastal Commission staff; and

**WHEREAS**, the previously prepared and adopted Addendum to the Negative Declaration that was prepared in connection with the amendments to the LCP as approved by the CCC is applicable to the proposed action of re-adopting the LCP because it addresses the same type of decision and environmental impacts of the LCP.

**WHEREAS**, pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project unless: (i) substantial changes are proposed to the project that indicate new or more severe impacts on the environment; (ii) substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; or (iii) new important information shows the project will have new or more severe impacts than previously considered; or (iv) additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts. Staff has evaluated the LCP as approved by the CCC and concluded that substantial changes to the project or the circumstances surrounding the project have not occurred which would create new or more severe impacts than those evaluated in the previous Negative Declaration. Staff further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant; and

**WHEREAS**, on May 8, 2013, the Planning Commission held a duly noticed public hearing at a regular meeting of the Planning Commission to consider and provide the City Council with the following recommendations on the proposed amendments to the Seaside Municipal Code in accordance with Section 17.50.020, Table 5-1 of the Seaside Municipal Code: 1) adopted a resolution (Resolution 13-05) recommending that the City Council readopt a resolution for the Addendum that was prepared to the previously adopted Negative Declaration to address the modifications that were made by the CCC to the LCP; 2) adopted a resolution (13-06) recommending that the City Council adopt an ordinance making amendments to the Seaside Municipal Code to adopt the CIP as modified and approved by the CCC, as new Title 18 of the Seaside Municipal Code and to modify and repeal certain other conflicting sections contained in Title 17 of the Seaside Municipal Code, as modified and approved by the CCC; 3) adopted a resolution (Resolution 13-07) recommending that the City Council adopt a resolution approving amendments to the map and text of the Seaside General Plan to incorporate the Seaside Local Coastal Program as approved by the CCC into the Land Use and Conservation and Open Space Elements of the General Plan; and 4) adopted a resolution (Resolution 13-08) recommending that the City Council adopt a resolution approving the Seaside Local Coastal Program as modified and approved by the CCC on December 13, 2012; a

**WHEREAS**, on June 6, 2013, the City Council held a duly noticed public hearing at a regular meeting of the City Council to consider the adoption of the LCP as modified and approved by the California Coastal Commission and the recommendations of the Planning Commission on the LCP, Addendum to the previously adopted Negative declaration and proposed amendments to the Seaside General Plan and Seaside Municipal Code; and

**NOW THEREFORE**, the City Council of the City of Seaside does resolve as follows:

Section 1. The City Council finds the above recitals are true and correct.

Section 2. Pursuant to CEQA Guidelines Section 15162, the City Council finds that no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approval of text and map amendments to the Seaside General Plan to incorporate the LCP as modified by the CCC into the Seaside General Plan because: (i) substantial changes are not proposed to the LCP or the General Plan that indicate new or more severe impacts on the environment than previously addressed in the Negative Declaration and subsequent Addendum; (ii) substantial changes have not occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; (iii) new important information does not exist to show the LCP or the General Plan amendments will have new or more severe impacts than previously considered; and (iv) additional mitigation measures are not now feasible to reduce impacts and different mitigation measures should not be imposed to substantially reduce impacts. Specifically, the City Council concurs with the Planning Commission's recommendation that the LCP as approved by the CCC and the incorporation of it through map and text amendments into the General Plan do not constitute substantial changes to the project or the circumstances surrounding the project which would create new or more severe impacts than those evaluated in the previous Negative Declaration. The City Council further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant. For all these reasons, the City Council re-approves the Addendum prepared in connection with the project. The City Council further finds that its action represents the independent determination of the City Council in this matter.

Section 3. The City Clerk of the City of Seaside shall serve as the custodian of records for the Initial Study, adopted Negative Declaration, the Addendum to the Negative Declaration, and all other material which constitutes the record of proceedings upon which the City Council's decision is based. These documents shall be available for public review in the Resource Management Services Department, Planning Division, of the City located at 440 Harcourt Avenue, Seaside, California.

Section 4. The City Council finds that the proposed map and text amendments to the Seaside General Plan, as modified and approved by the CCC, are consistent with the remaining provisions of the Seaside General Plan because the proposed amendments explain and provide that the LCP is a related planning document that assists in the implementation of the Seaside General Plan and that the LCP is an additional planning document that must be complied with for development and activities in the Coastal Zone.


Section 5. Based on all the findings and based on the approval of the Local Coastal Plan, as modified by the CCC, pursuant to separate City Council resolution, the City Council hereby approves the General Plan amendments to the Land Use Map and the text of both the Land Use Element and the Conservation/Open Space Element of the Seaside General Plan, attached hereto as Exhibit "A-1" thru Exhibit "A-7" and incorporated herein by reference.

**PASSED AND ADOPTED** at a meeting of the City Council of the City of Seaside, State of California, held on the 6th day of June 2013 by the following votes:

- AYES: COUNCIL MEMBERS: RUBIO, OGLESBY, ALEXANDER EDWARDS, PACHECO
- NOES: COUNCIL MEMBERS: None
- ABSENT: COUNCIL MEMBERS: None
- ABSTAIN: COUNCIL MEMBERS: None

  
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Ralph Rubio, Mayor

ATTEST:

  
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Dimitra M. Hubbard, City Clerk