

CALIFORNIA COASTAL COMMISSION

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



November 22, 2017

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TO: COMMISSIONERS AND INTERESTED PARTIES

FROM: JOHN AINSWORTH, EXECUTIVE DIRECTOR

SUBJECT: EXECUTIVE DIRECTOR'S DETERMINATION that the action by the City of Del Mar, certifying the City's Local Coastal Program Amendment No. LCP-6-DMR-17-0011-1 (Temporary Use Permits), is adequate to effectively certify its local coastal program (for Commission review at its meeting of December 13-15, 2017)

BACKGROUND

At its September 13, 2017 meeting, the Coastal Commission certified, with suggested modifications, the City of Del Mar Local Coastal Program Amendment No. LCP-6-DMR-17-0011-1 to add a new section to establish a process for approval of temporary uses on private property. By its action adopting Ordinance No. 933 on October 16, 2017, the City Council has acknowledged and accepted all of the Commission's suggested modifications. The modifications addressed the general concern that the proposed amendment would result in unintended consequences to public access or coastal resources. As such, the modifications clarify language regarding Coastal Development Permits and findings the decision maker must make to approve temporary uses. The City already has coastal development permit authority throughout its jurisdiction 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 Del Mar 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



December 18, 2017

Mayor Terry Sinnott
City of Del Mar
1050 Camino del Mar
Del Mar, CA 92014-2698

RE: Certification of the City of Del Mar Local Coastal Program Amendment
No. LCP-6-DMR-17-0011-1 (Temporary Use Permits)

Dear Mayor Sinnott:

The California Coastal Commission has reviewed the City's Ordinance No. 933 together with the Commission's action of September 13, 2017 certifying City of Del Mar Local Coastal Program Amendment # LCP-6-DMR-17-0011-1 pertaining to temporary use permits. 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 December 13-15, 2017.

By its action on October 16, 2017, the City has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The modifications addressed the general concern that the proposed amendment would result in unintended consequences to public access or coastal resources. As such, the modifications clarify language regarding Coastal Development Permits and findings the decision maker must make to approve temporary uses. 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,

Jack Ainsworth
Executive Director

ORDINANCE NO. 933

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING CHAPTER 30.73 RELATED TO TEMPORARY USE PERMITS BY REVISING SECTIONS 30.73.020 AND 30.73.040 AS ADOPTED BY PROSPECTIVE ORDINANCE NO. 926 IN ORDER TO OBTAIN FINAL CERTIFICATION OF THE SUBMITTED LOCAL COASTAL PROGRAM AMENDMENT APPLICATION IN PROCESS PURSUANT TO THE CONDITIONAL CERTIFICATION ACTION TAKEN BY THE CALIFORNIA COASTAL COMMISSION ON SEPTEMBER 13, 2017.

WHEREAS, the Del Mar City Council adopted Ordinance No. 926 (Temporary Use Permit Ordinance) on January 3, 2017; and

WHEREAS, on September 13, 2017, the California Coastal Commission took action to conditionally certify the City's Local Coastal Program Amendment for Ordinance No. 926; and

WHEREAS, if the City Council adopts the amendments to prospective Ordinance No. 926 included herein, the City of Del Mar can resubmit the Ordinance package as a whole to the Coastal Commission to obtain final certification of the associated Local Coastal Program Amendment.

NOW THEREFORE, the City Council of the City of Del Mar hereby ordains as follows:

SECTION ONE

That Section 30.73.020 of the Municipal Code, as amended by prospective Ordinance No. 926, be revised to read as follows:

30.73.020 When a Temporary Use Permit is Required

A. through C. [No change in text]

D. Applications filed pursuant to this Chapter may also be subject to approval of other permit types in addition to the Temporary Use Permit.

1. A Coastal Development Permit shall be obtained for uses that involve coastal development or potential impacts to coastal resources or public access pursuant to Chapter 30.75 (Coastal Development Permits) and that do not qualify for a permit exemption in accordance with section 30.75.200.

(2) through (7) [No change in text.]

SECTION TWO

That new Section 30.73.040 of the Municipal Code, as added by prospective Ordinance No. 926, be revised to read as follows:

30.73.040 Decision Process for Temporary Use Permits and Findings for Approval

A. through B. [No change in text.]

C. A Temporary Use Permit, Minor or Major, may be approved or conditionally approved only if the decision maker makes all of the following Findings for Approval:

- (1) That the proposed site is adequate to accommodate the anticipated number of guests and vendors for the temporary use;
- (2) That operation of the temporary use for a limited period of time consistent with the permit conditions will not be detrimental to the public health, safety, and welfare and will not adversely affect the surrounding neighborhood;
- (3) That in consideration of the past and present use of the site, granting of the Temporary Use Permit would not authorize a permanent use to occur in conflict with the allowed uses of the applicable zone;
- (4) That operation of the temporary use would not adversely affect the community plan; and
- (5) That the temporary use would not adversely affect public access, water quality, or coastal resources.

SECTION THREE

The City Council finds that approval of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (General Rule) because CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed regulations, in and of themselves, will not result in any physical development or significant effect on the environment. TUP applications will require discretionary approval and will be subject to future project level CEQA review.

SECTION FOUR

This Ordinance was introduced by the City Council on October 2, 2017.

SECTION FIVE

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION SIX

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

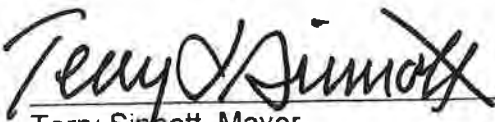
SECTION SEVEN

The Ordinance will be submitted to the Coastal Commission for final certification together with Ordinance No. 926 to complete processing of the Local Coastal Program Amendment application currently in process.

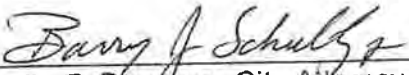
SECTION EIGHT

The Ordinance will take effect and be in force on the date that the California Coastal Commission takes action to unconditionally certify the Local Coastal Program Amendment.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 16th day of October 2017.


Terry Sinnott, Mayor
City of Del Mar

APPROVED AS TO FORM:



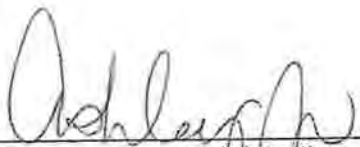
Leslie E. Deveney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 933, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 16th day of October, 2017, by the following vote:

AYES:	Mayor Sinnott, Deputy Mayor Worden, Council Members Druker, Haviland, and Parks
NOES:	None
ABSENT:	None
ABSTAIN:	None



Ashley Jones, Administrative Services
Director/City Clerk
City of Del Mar

Strikeout-Underline Copy of Proposed Code Amendment Language as Required by the Coastal Commission on September 13, 2017

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(1) [No change in text.]

- (2) That operation of the temporary use for a limited period of time consistent with the permit conditions will not be detrimental to the public health, safety, and welfare and will not adversely affect the surrounding neighborhood; and

- (3) That in consideration of the past and present use of the site, granting of the Temporary Use Permit would not authorize a permanent use to occur in conflict with the allowed uses of the applicable zone.;
- (4) That operation of the temporary use would not adversely affect the community plan.; and
- (5) That the temporary use would not adversely affect public access, water quality, or coastal resources.