

CALIFORNIA COASTAL COMMISSION

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TO: COMMISSIONERS AND INTERESTED PERSONS**FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
ALEX LLERANDI, COASTAL ANALYST, SAN DIEGO COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO LOCAL COASTAL
PROGRAM AMENDMENT NO. LCP-6-SAN-17-0078-3 (Accessory Dwelling
Units) for Commission Meeting of February 7-9, 2018**

SYNOPSIS

On December 15, 2017, the City of San Diego (City) Local Coastal Program (LCP) Amendment Nos. LCP-6-SAN-17-0078-3 (Accessory Dwelling Units), LCP-6-SAN-17-0080-4 (Affordable, In-fill, and Sustainable Development), and LCP-6-SAN-17-0081-5 (Marijuana Testing Facilities and Production) were filed in the San Diego District office as a batched submittal. The submittal represents the City's third, final major amendment submittal for the 2017 calendar year. The three amendments modify the certified Implementation Plan to streamline and incentivize processing of accessory dwelling units, streamline the processing of affordable, in-fill, and sustainable development, and create two new uses – marijuana testing facilities and marijuana production facilities – in certain industrial and commercial zones, respectively. At this time, the three amendments are being presented to the Coastal Commission at the February 2018 hearing. The date by which the Commission must take action is the February 2018 hearing.

SUMMARY OF AMENDMENT REQUEST

The City's amendment to the certified IP currently before the Commission would modify regulations governing accessory dwelling units, which can either be companion units – detached from or added onto the primary residence – or junior units – constituting part of the primary residence. The amendment, proposed by the City in response to recent state legislation – SB 1069 (Wieckowski, 2016), AB 2299 (Bloom, 2016), and AB 2406 (Thurmond, 2016) – to increase the supply of lower-cost housing, would streamline and incentivize the construction of accessory dwelling units by delineating the development criteria accessory dwelling units must adhere to (such as maximum floor area and height), lessening the setback and parking standards for accessory dwelling units in certain situations, and streamlining the permit review process.

SUMMARY OF STAFF RECOMMENDATION

While the Commission supports the State mandate and the City's efforts to encourage lower-cost housing opportunities, historically there have been issues in reconciling the

efforts to promote such opportunities and still maintain coastal resource protection measures. Given that housing incentives commonly include provisions that grant concessions or incentives, such as modifications to site development standards as a means to make development more physically or economically feasible, there have been challenges in reconciling the housing and coastal mandates.

Coastal resources such as sensitive habitats, shoreline bluffs, public view corridors, and public access all have the potential to be adversely affected by development programs if incentives or modifications offered to encourage lower-cost housing would conflict or eliminate critical resource protection measures in the certified Land Use Plan(s). Development standards such as habitat buffers, geologic setbacks, building height limits and parking requirements all dictate a development's footprint and bulk/massing. Reducing setbacks that provide buffers from identified resources, such as wetlands or coastal bluffs, could result in both direct and indirect impacts to those resources or the siting of new development in a more hazardous location. Increased development could impact levels of service along major coastal access routes in the absence of interconnected multi-modal transit programs. In this amendment, however, the City of San Diego has worked with multiple stakeholders, including Commission staff, and has proposed regulations that encourage lower cost housing opportunities while ensuring that resource protection standards will be maintained.

As identified and mandated through the certified land use plans, the City's critical coastal resources are protected under the City's land use regulations and development review procedures, particularly through the Environmentally Sensitive Lands (ESL) regulations. ESL includes sensitive biological resources, wetlands, steep hillsides, coastal beaches, sensitive coastal bluffs, and special flood hazard areas. Thus, while the City's proposed amendment permits the conversion of an existing garage or non-habitable structure into an accessory dwelling unit while maintaining existing setbacks as well as allow new companion units to encroach within the side and rear yard setbacks up to the property line, companion units within the coastal zone will still be required to obtain a coastal development permit, unless qualifying under existing exemptions, and the City will make the required findings regarding, including but not limited to, compliance with the relevant LUP policies for coastal resource protection and avoiding adverse impacts to environmentally sensitive lands.

Relatedly, the high visitor demand and low parking supply in many of the City's coastal areas can create impediments to coastal access that dissuade members of the public from visiting the coastal area. A way to lessen the demand on public parking is to ensure that future development provides sufficient parking spaces to meet anticipated needs. Subsequently, due to the high cost that providing parking can add to a development, the City's amendment, incorporating the incentives contained in the recent state legislation, lessens or removes parking requirements for accessory dwelling units in certain situations, such as being less than 500 square feet in size, located within one-half mile of public transit, located in a historically significant district, located in a residential permit parking district, located one block from a car or bike share station, or constituting part of the existing primary residence. However, to mitigate potential parking impacts in the Beach Impact Area, the 2-3 blocks area along the coast where parking demand is greatest, accessory dwelling units on properties with alley access must take their parking access

from the alley rather than the street. Thus, while reducing parking requirements can have an adverse impact on public access by having residents occupy public parking, the fact that the reduced parking requirement is limited in scope to accessory dwelling units in the above conditions limits the potential for adverse impact and encourages transit use. In addition, the most critical area where competition for public parking could adversely impact coastal access would be the nearshore two or three blocks of the coastline. Given the land use demands for those properties and the higher real estate costs, the potential for accessory dwelling units in those areas is limited.

Additionally, in order to promote the likelihood that the new accessory dwelling unit development will meet the intent of increasing the supply of low-cost housing, the City's amendment prohibits renting out an accessory dwelling unit for a term of less than 30 days so as to prevent accessory dwelling units from being utilized as short term rentals. While the Commission views short term rentals as promoting public access through the provision of an additional avenue of lodging by the coast and offering a more affordable option for some, there is a sizeable inventory of overnight accommodations with a range of affordability. Given the need for affordable housing in the city and region, there is rationale to focus on the expansion of housing opportunities.

Thus, when balancing the City's stated goal of promoting increased lower-cost housing development with the existing protections and demands on coastal resources, the current amendment before the Commission can be found in conformance with the certified LCP.

The appropriate resolutions and motions begin on Page 5. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 5.

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 No. LCP-6-SAN-17-0078-3 may be obtained from Alexander Llerandi, 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 the City is completing that planning; the Commission will consider those submittals 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, 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

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its 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 - RESOLUTIONS

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 each resolution.

- I. MOTION:** *I move that the Commission reject the Implementation Program Amendment for the City of San Diego LCP Amendment No. LCP-6-SAN-17-0078-3 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 CERTIFY IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment will meet the requirements of and be in conformity with the policies of the certified Land Use Plans, and certification of the Implementation Program 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 Amendment.

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

A. AMENDMENT DESCRIPTION

This amendment to the City's certified Implementation Plan (IP) involves modifying regulations governing accessory dwelling units, referred to as companion units (detached from or added onto the primary residence) and junior units (constituting part of the primary residence), to incentivize their development through decreasing development and permitting requirements, namely with regards to setback and parking requirements and permit process level.

B. FINDINGS FOR APPROVAL

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.

a) Purpose and Intent of the Ordinance.

The purpose of the City's amendment is to incorporate the provisions of recent state legislation – SB 1069, AB 2299, and AB 2406 – so as to address the shortage of lower cost housing through encouraging the development of accessory dwelling units. Due to their smaller size and lower construction cost, accessory dwelling units are viewed as a relatively simple method to speedily increase a community's housing stock in a manner that is more financially accessible to both current property owners and prospective tenants.

b) Major Provisions of the Ordinance.

The major provision of the amendment encourages the development of accessory dwelling units through modifying the applicable development standards and permit requirements.

- Companion units may be up to 1,200 square feet in size, not to exceed 50% of the gross floor area of the primary residence, while junior units may not exceed 500 square feet.
- A garage or existing accessory structure converted to a companion unit may maintain existing setbacks.
- A companion unit may encroach into the side and rear yard setbacks up to the property line except in limited circumstances.
- Replacement parking must be provided on-site when a garage is converted to an accessory dwelling unit.
- Companion units shall generally require at least one off-street parking space or 0.5 parking spaces per bedroom, whichever is greater.
- A companion unit shall be exempt from the parking requirement if it is 500 square feet or less, located within a transit priority area, located within a designated historical resource area, already part of an existing dwelling unit, located within a residential permit parking district, or within one block from a car or bike share station.
- A junior unit is exempt from parking regulations.
- Companion and junior units are prohibited from being conveyed separately from the primary residence or rented out for periods of less than 30 days.
- Companion units within the coastal zone are subject to the provisions of Chapter 12, Article 6, Division 7 of the LCP governing coastal development permits, but shall be processed as a Process Two (staff level decision appealable to the

Planning Commission) rather than a Process Three (hearing officer decision appealable to the Planning Commission).

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). In general, as noted earlier, development incentives raise potential issues with the protection of critical coastal resources. Allowing greater development than could otherwise be permitted could adversely affect coastal resources through more intensive development, encroach into setbacks that allow public views or contribute to increased traffic that would deter coastal access. In addition, the granting of incentives, concessions or permit process reductions to otherwise required development standards to encourage development could also lead to coastal resource impacts, such as direct impacts to sensitive habitats or reductions in required buffers. Critical coastal resources are mandated for protection first in the Coastal Act's Chapter 3 policies and then applied, as appropriate, to each coastal community through the establishment of resource protection standards in their certified land use plans.

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 coastal communities (e.g., North City, La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay-Mesa Nestor). Each community plan or LCP Land Use Plan contains policies that protect public 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 LUPs.

Listed below are representative policy excerpts contained in the certified Land Use Plan segments in the Coastal Overlay Zone for the City of San Diego.

La Jolla LCP Land Use Plan

- Introduce opportunities for the production of more affordable housing within La Jolla to meet the housing needs of all income levels.

Balanced Communities

- a. The City should pursue replacement of demolished affordable housing units within the community in order to maintain affordable housing units that exist in La Jolla, consistent with the locational priorities stated in the Coastal Overlay Zone Affordable Housing Replacement regulations.

- b. The City should encourage the use of affordable housing programs administered by the Housing Commission to promote the development of affordable housing. These programs include both land use and financial incentives.

[...]

- d. The City should seek to locate higher density housing principally along transit corridors and in proximity to emerging lower income employment opportunities.

Mission Beach Precise Plan and Local Coastal Program Addendum

- The promotion of a wider variety of dwelling unit sizes including studios, one, two or more bedroom houses and apartments.
- The encouragement of all types of individuals and family sizes to live in Mission Beach.
- The promotion of an economically balanced community through the investigation of individual and community rehabilitation efforts, changes in taxing and assessment procedures, and the use of subsidy funds where applicable.

Ocean Beach Community Plan and Local Coastal Program

- Reduce vehicular traffic demand placed on the street network by encouraging the use of alternative modes of transportation, including public transit, bicycles, and walking.
- Enhance transit patron experience by improving transit stops and increasing transit service frequency.
- Support transitional housing uses in Ocean Beach.
- Provide housing for all economic levels.
- Enforce the Coastal Zone Affordable Housing Replacement Program to facilitate replacement of existing affordable housing units and the retention of existing affordable units. Required replacement housing should be constructed in Ocean Beach.
- 2.1.4 Support existing and new transitional housing projects in Ocean Beach.
- 2.1.5 Retain and expand the number of affordable housing units in Ocean Beach.

Unless otherwise exempt, all development within the coastal zone in the City of San Diego requires a coastal development permit. While the review process would be lowered

from a Process Three – a hearing officer review – to a Process Two – a staff level review – in order to reduce processing time, the approval would still be discretionary and predicated upon making all of the findings regarding protecting public access and environmentally sensitive lands required by the certified LCP. 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. Section 126.0708 specifies 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.

Section 126.0708(b) describes the supplemental findings that must be made regarding any requested deviations to Environmentally Sensitive Lands regulations within the coastal zone with relations to economically viable uses. The required supplemental findings must determine that there are no other economically viable uses and the project with the proposed deviation is the least environmentally impact alternative that still conforms to the remaining land use policies not being deviated from.

As noted above, none of the otherwise required resource protection measures are being modified in this amendment. The other incentive being offered is the allowance of

reduced parking ratios of requiring 0.5 parking spaces per bedroom of the ADU, with a minimum requirement of generally one parking space per ADU. This parking requirement would be waived for ADUs in certain situations: no parking requirement at all for junior units or for companion units in proximity to a transit station, located in a historically significant area, location in a residential permit parking area, or proximity to a car or bike share station. The adoption of the fewer parking requirements could adversely affect public access in the near shore areas where demand for public street parking by coastal visitors is highest.

In response to the concerns regarding impacts to public access, the City has indicated that the state legislation driving this current LCP proposal gives little leeway in how the parking requirement reduction is incorporated into qualifying projects and that they are merely applying the state law as written, save for some minor additional reductions tailored to the City. However, the Coastal Act, which governs the City's certified LCP, is also a state law and, in striving to satisfy its responsibilities under state law, the City must devise and propose regulations that satisfy all applicable laws. Fortunately, the goals of state legislation and the certified LUPs (and by extension the Coastal Act), are not mutually exclusive. Upon further analysis, the proposed amendment does satisfy both sets of laws in that qualifying development must be located in close proximity to alternate transit hubs or in other contexts that promote less reliance on personal vehicles, which meets the LCP goals of promoting alternate transit while decreasing the likelihood of tenant parking demand spilling out into public streets. Furthermore, given that the highest public parking demand is located within the Beach Impact Area (BIA) – generally the 2-3 blocks closest to the coast – where the likelihood for substantial numbers of ADUs being developed is relatively low due to the relatively narrow width of the (BIA), the small size of many of the lots located therein, and the alley access provided to many of those residences means that the proposed amendment's parking reductions for ADUs is unlikely to have substantial adverse impacts to public access.

In summary, the Commission supports concentrating development in existing urban areas able to accommodate it and encouraging affordable housing opportunities in a manner where critical and sensitive coastal resources are protected and coastal access is maintained. Therefore, the proposed density bonus revisions can be found consistent with the applicable land use plans and approved as submitted.

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.

For the City's action, an environmental impact report (EIR No. 96-0333) was completed for the original adoption of the Land Development Code and a Program EIR (No. 104495) was prepared and certified for the General Plan Update. The City has previously

utilized these documents for CEQA compliance in association with other code amendments and has similarly found that no further CEQA analysis is needed for this amendment.

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 to 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. The updated ordinance ensures compliance with the ESL regulations and prohibits any deviation to the Coastal Height Limit. For specific development projects that ultimately benefit from any allowable incentive or concession, environmental impacts will be required to be mitigated. In summary, no adverse impacts to any coastal resources are anticipated.

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