

CALIFORNIA COASTAL COMMISSION

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



January 12, 2018

Th17h**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-17-0080-4 (Affordable, In-fill, and
Sustainable Development) 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, Infill, & 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 (IP) 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 processing and standards for affordable, in-fill, and sustainable development. Currently, the City uses what is called "The Expedite Program" to offer flexibility in application of development regulations, as well as make available an expedited permit review process – generally 50% less time – for projects providing affordable or sustainable structures. In an effort to encourage the use of the Expedite Program, the City is proposing to expand the eligibility criteria to include a greater range of affordable, in-fill, and sustainable development types. Eligible developments would then qualify for the following permit expedite benefits: deviations from development standards may be processed with a Neighborhood Development Permit (NDP) Process Two (discretionary staff level review appealable to the Planning Commission), and projects within the Community Plan Implementation Overlay Zone can be processed with NDP Process Two.

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. Standards such as habitat buffers, geologic setbacks, building height limits and parking requirements may limit 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 less stable 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.

The City's proposed amendment is straightforward: qualifying affordable, in-fill, and sustainable development that before would have required a Site Development Permit or Planned Development Permit will instead be processed as a Neighborhood Development Permit (NDP) through a Process Two – staff level discretionary review – in order to reduce permitting timelines. Despite the change in permit level requirement, a NDP is still a discretionary permit that has required findings that must be made for any approval, including but not limited to, findings that the proposed development will be consistent with the land use plan, that it complies with the applicable regulations of the land development code, and alterations of natural landforms, geological risk, erosion, and flood risk will be minimized. Most importantly, within the coastal zone, affordable, in-fill, and sustainable development will not be able to request deviations from Environmentally Sensitive Land (ESL), coastal height limit, or parking impact overlay zone regulations. Finally, development qualifying for the streamlined NDP process will not be exempt from the Coastal Development Permit (CDP) process, and a CDP and its required findings will still be required for non-exempt development under the LCP. 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-17-0080-4 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 the 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-17-0080-4 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 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 Amendment.

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

A. AMENDMENT DESCRIPTION

The City's amendment to the certified IP currently before the Commission would modify regulations governing processing and standards for affordable, in-fill, and sustainable development. Currently, the City uses what is called "The Expedite Program" to offer flexibility in application of development regulations, as well as make available an expedited permit review process – generally 50% less time – for projects providing affordable or sustainable structures. In an effort to encourage the use of the Expedite Program, the City is proposing to expand the eligibility criteria to include a greater range of affordable, in-fill, and sustainable development types. Eligible developments would then qualify for the following permit expedite benefits: deviations from development standards may be processed with a Neighborhood Development Permit (NDP) Process

Two (discretionary staff level review appealable to the Planning Commission), and projects within the Community Plan Implementation Overlay Zone can be processed with NDP Process Two.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation plan 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 foster greater affordable, in-fill, and sustainable development within the City's boundaries to address chronic housing shortages, lessen vehicle miles traveled through alternative transit use, and meet local and state goals regarding reductions in greenhouse gas and other emissions.

b) Major Provisions of the Ordinance.

The major provision of the amendment encourages the development of affordable, in-fill, and sustainable through modifying the applicable development standards and permit requirements.

- A Neighborhood Development Permit is required for development that provides affordable housing, in-fill projects, or sustainable buildings where a Site Development Permit or Planned Development Permit would otherwise be required.

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, encroachment 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

communities (i.e., 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.
- 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.

While the City's amendment would exempt qualifying development from a Site Development Permit or Planned Development Permit and instead require a Neighborhood Development Permit, unless otherwise exempt, all development within the coastal zone in the City of San Diego will still require a coastal development permit. 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.

None of the otherwise required resource protection measures are being modified in this amendment. Furthermore, the City's amendment does not modify Section 143.0920(d), which prohibits affordable, in-fill, and sustainable development from seeking deviations from environmentally sensitive land regulations, the coastal height limit, or the parking impact overlay zone.

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 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 or expedited process, environmental impacts will be limited. In summary, no adverse impacts to any coastal resources are anticipated.

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