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Date: February 20, 2020

To: **COMMISSIONERS AND INTERESTED PERSONS**

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Subject: **STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT NO. LCP-6-SAN-19-0141-2 (Civic San Diego Dissolution) for
Commission Meeting of March 11-13, 2020**

SYNOPSIS

The subject Local Coastal Program (LCP) land use plan (LUP) and implementation plan (IP) amendment was submitted on September 18, 2019 and filed as complete on January 10, 2020. Pursuant to Section 30512 of the Coastal Act and Section 13522 of Commission regulations, the Commission must act on amendments that combine changes to the certified LUP and IP within 90 working days of complete submittal or filing. The date by which the Commission must take action, absent an extension of the time limits by the Commission, is May 20, 2020.

There are five other pending items from the City of San Diego: LCP-6-NOC-19-0061-1 (Terra Alta Re-Zone), which received a one-year time extension on November 14, 2019, and LCP-6-SAN-19-0142-2 (Fiesta Island), LCP-6-SAN-19-0161-3 (Mission Valley Rezone), LCP-6-SAN-19-0163-3 (Mixed-use Zones), and LCP-6-SAN-19-0165-3 (Balboa Avenue Station Specific Plan). One year time extensions are being requested for three of the remaining items at the March Commission hearing and a staff recommendation for possible action on the Mixed-use Zone LCP amendment is also being completed for the March 2020 agenda.

SUMMARY OF AMENDMENT REQUEST

The City of San Diego is requesting an amendment to the certified Downtown Community Plan, which serves as the City's LUP component for the Centre City community planning area, and an amendment to the Land Development Code, which serves as the City's IP for the entire City of San Diego. The modifications to the LUP would be to update several figures, including land uses, floor area ratios, and height limits, to eliminate and then incorporate the Marina community planning sub-area into the Centre City community planning area. The modifications to the IP would be to return all planning and permitting functions from Civic San Diego to the City of San Diego, delete the Marina Planned District

Ordinance (PDO), and incorporate the Marina community planning sub-area into the Centre City PDO. The last would modify land uses, floor area ratios, height limits, and view corridors within the former Marina neighborhood. Only five parcels in the Marina neighborhood are located within the Coastal Zone and would therefore be subject to the amendment.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending the Commission first deny the LUP amendment and reject the IP amendment as submitted and then approve both components if modified.

The proposed amendment would assign a new land use to Site 3 ([Exhibit 1](#)), which currently contains a hotel. The land use for this site is currently “Hotel” and would be modified to “Employment/Residential Mixed Use.” The Centre City planning area does not contain a “Hotel” land use and the City has indicated that the “Employment/ Residential Mixed Use” is most similar to the “Hotel” land use designation. Specifically, “Employment/Residential Mixed Use” allows for the following uses: park, residential, religious institutions, cultural institutions, hospitals, retail, liquor stores, commercial (including hotels), parking, private clubs, offices, homeless facilities, automobile service stations, and light manufacturing. The current land use designation of “Hotel” in the Marina PDO also allows for a variety of uses; residential development is allowed as an alternative use to the hotel use, with up to 20% of the gross floor area devoted to non-residential uses such as restaurants, bars, offices, cultural/institutional, recreation and health facilities, social services, and retail sales. In addition, the current “Hotel” designation allows specialty commercial uses to be permitted on a conditional use permit basis; however, it does not specifically define specialty commercial uses.

The proposed amendment would also revise the allowable height limits. The Marina PDO allows for increases in height subject to the evaluation of four criteria: include a park in the development, enclose 50% of the street level of the building with residential or non-residential uses, accommodate a substantial amount of parking below grade, or design a slender tower. The City has indicated that an applicant did not need to meet all or most of the criteria, and most projects did not provide the park. Developers typically chose to enclose the street level or construct the parking below grade. The proposed amendment would change the height limits of three sites from a maximum of 120 ft. (with the present ability to be increased without a maximum height limit) to 500 ft. Evaluation of the four criteria would no longer be required; however, the Centre City PDO requires all street frontage to contain habitable space ensuring that even without the requirements, one of the criteria will be met in the future. As such, the City’s proposed modifications are consistent with the existing height provisions in the Marina PDO.

Two of the suggested modifications are at the City’s request and would correct figures containing errors. Specifically, **Suggested Modification No. 1** would revise LUP Figure 3-12, Maximum FAR (with bonuses), to identify a maximum floor area ratio (FAR) of 5.5 on Sites 1A, 1B, and 4. **Suggested Modification No. 7** would revise IP Figure F, Building Height and Sun Access, to identify a maximum building height of 90 ft. on Site 5, as shown in [Exhibit 3](#).

The proposed amendment also contains an error on LUP Figure 5-2 that would reduce the allowable building heights from 500 ft. to 90 ft. on Sites 1A, 1B, 3, and 4. The City proposes to remove the 90 ft. height limit from the subject parcels but does not propose to identify the 500 ft. height limit. While the IP, as proposed, would identify the 500 ft. height limit, the City has indicated that it is considering removal of the height limits for these parcels in the future and that this change would allow the City to amend the IP only to implement the modifications. Given that both the IP and the LUP identify height limits, and the LUP is the standard of review for any IP amendments, the two documents should be consistent. Furthermore, it is critical that the land use plan contain essential development standards, such as height limits, in order to protect public views and building mass consistent with Chapter 3 policies. City staff have also indicated that they intend to update the LUP in the near future. As such, the removal of the height limit from the LUP should be proposed at that time in a comprehensive amendment to the LCP. **Suggested Modification No. 2** would revise LUP Figure 5-2, Building Height and Sun Access, to identify a maximum building height of 500 ft. on Sites 1A, 1B, 3, and 4.

In addition, several references to the Marina PDO remain in the LUP; **Suggested Modification Nos. 3-6** would remove these references.

Finally, the LUP identifies several view corridors that are not identified in the IP. The standard of review for the IP is that it is consistent with and adequate to carry out the LUP. Therefore, **Suggested Modification No. 8** would revise three view corridors in the IP to ensure they are consistent with those identified in the LUP. In addition, IP Table 156-0310-B, View Corridor Stepbacks, does not include required stepbacks for the Kettner Boulevard view corridor. **Suggested Modification No. 9** would add Kettner Boulevard into IP Table 156-0310-B with a required setback of 25 feet at 50 feet elevation, consistent with the setbacks on G Street. The City of San Diego has submitted updated figures in response to Suggested Modification Nos. 1, 7, 8, and 9 that are included as [Exhibits 2 and 3](#).

The appropriate resolutions and motions begin on Page 7. The suggested modifications begin on Page 9. The findings for denial of the Land Use Plan Amendment as submitted begin on Page 10. The findings for approval of the plan, if modified, begin on Page 13. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 13. The findings for approval of the plan, if modified, begin on Page 16.

BACKGROUND

The Centre City (or Downtown) community is one of the City of San Diego's twelve LCP segments. The Downtown Community Plan serves as the Land Use Plan (LUP) for the downtown area. The Centre City Planned District Ordinance (PDO) and Marina PDO serve as the City's Implementation Plan (IP) for the downtown area. Together, these documents serve as the LCP for the portion of the City of San Diego's downtown area that is located within the Coastal Zone.

In 2012, the City formed Civic San Diego, a nonprofit development agency, and granted it the authority to plan and permit development in the Centre City community. In 2019, the City reached a settlement agreement that included the dissolution of Civic San Diego and

the return of all permitting and planning functions to the City. The subject amendment request would implement the terms of the settlement agreement.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment No. LCP-6-SAN-19-0141-2 may be obtained from Melody Lasiter, Coastal Planner, at (619) 767-2370.

EXHIBITS

[Exhibit 1 – Vicinity and Jurisdictional Boundary](#)

[Exhibit 2 – Corrected LUP Figure](#)

[Exhibit 3 – Corrected IP Table and Figures](#)

SUBSTANTIVE FILE DOCUMENTS

City of San Diego Ordinance No. O-21082, City of San Diego Ordinance No. O-21083, City of San Diego Ordinance No. O-21084, City of San Diego Ordinance No. O-21085, City of San Diego Ordinance No. O-21086, City of San Diego Ordinance No. O-21087, City of San Diego Resolution No. R-312503

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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 are completing planning at a local level; they will be acted on by the Coastal Commission in the future.

B. STANDARD OF REVIEW

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a) [substantial issue determination], a decision to certify shall require a majority vote of the appointed membership of the Commission.

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.

In those cases when a local government approves implementing ordinances in association with a land use plan amendment and both are submitted to the Commission for certification as part of one LCP amendment, pursuant to Section 13542(c) of the Commission's regulations, the standard of review of the implementing actions shall be the land use plan most recently certified by the Commission. Thus, if the land use plan is

conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan.

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 two City Council meetings with regard to the subject amendment request. Both local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

II. MOTION AND RESOLUTIONS

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

1. MOTION:

I move that the Commission certify the City of San Diego Land Use Plan Amendment No. LCP-6-SAN-19-0141-2 as submitted.

STAFF RECOMMENDATION OF DENIAL OF CERTIFICATION:

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the City of San Diego Land Use Plan Amendment No. LCP-6-SAN-19-0141-2 as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

2. MOTION:

I move that the Commission certify the City of San Diego Land Use Plan Amendment No. LCP-6-SAN-19-0141-2 if modified in accordance with the suggested changes set forth in the staff report.

STAFF RECOMMENDATION: CERTIFICATION IF MODIFIED AS SUGGESTED:

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification with suggested modifications of the submitted land use plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

3. MOTION:

I move that the Commission reject the City of San Diego Implementation Program Amendment No. LCP-6-SAN-19-0141-2 as submitted.

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program 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 DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the City of San Diego Implementation Program Amendment No. LCP-6-SAN-19-0141-2 and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

4. MOTION:

I move that the Commission certify the City of San Diego Implementation Program Amendment No. LCP-6-SAN-19-0141-2 if modified in accordance with the suggested changes set forth in the staff report.

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications 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 THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the City of San Diego Implementation Program Amendment No. LCP-6-SAN-19-0141-2 if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plan as amended. Certification of the Implementation Program Amendment if modified as suggested complies with 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 and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Land Use Plan and Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the struck-out sections represent language which the Commission suggests be deleted from the language as originally submitted.

Land Use Plan:

1. Revise Figure 3-12, Maximum FAR (with bonuses), to identify a maximum FAR of 5.5 on Sites 1A, 1B, and 4, as shown in [Exhibit 2](#).
2. Revise Figure 5-2, Building Height and Sun Access, to identify a maximum building height of 500 ft. on Sites 1A, 1B, 3, and 4.
3. Modify the text of the Relationship to Planned District Ordinances section on Page 2-8 as follows:

The Centre City PDO contains regulations and controls pertaining to land use, density and intensity, building massing, sun access, architectural design, landscaping, streetscaping, lighting, and other development characteristics, with the intent of implementing the policies of the Community Plan and applicable redevelopment plans. Gaslamp Quarter and Marina district regulations are administered through the Gaslamp Quarter and Marina PDOs, while the remainder of downtown is subject to the Centre City PDO. With the exception of projects occurring on Port, Navy, and County property, all development in downtown must comply with the regulations set forth in the downtown PDOs (Centre City, Marina, and Gaslamp Quarter). These documents supersede the conventional citywide zoning in the Land Development Code. For those development matters where the PDOs are silent, the regulations of the citywide zoning apply.

4. Remove Marina PDO from the “Community Plan and Related Documents” figure on Page 2-8.
5. Modify the last sentence of the first paragraph on Page 3-7 as follows:

For greater specificity on allowed land uses on specific sites, the pertinent Planned District Ordinances (Centre City, ~~Marina~~, and Gaslamp Quarter) should be consulted.

6. Modify the third sentence on Page 3-17 as follows:

The implementing zoning regulations (Centre City, ~~Marina~~, and Gaslamp Quarter Planned District Ordinances – “PDOs”, as well as the Land Development Code, define in detail how gross floor area is measured; in general, all floor area above grade (including that devoted to parking) is included.

Implementation Plan:

7. Revise Figure F, Building Height and Sun Access, to identify a maximum building height of 90 ft. on Site 5, as shown in [Exhibit 3](#).
8. Revise Figure G, View Corridors, to include view corridors on Kettner Boulevard between Harbor Drive and G Street, G Street between Pacific Highway and Kettner Boulevard, and F Street between Pacific Highway and Kettner Boulevard, as shown in [Exhibit 3](#).
9. Revise Table 156-0310-B, View Corridor Stepbacks, to add Kettner Boulevard, between Harbor Drive and G Street, to the table with a required stepback of 25 feet at 50 feet elevation, as shown in [Exhibit 3](#).

IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF SAN DIEGO LAND USE PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City of San Diego proposes to amend the certified Downtown Community Plan, which serves as the City’s LUP component for the Centre City community planning area, to incorporate the Marina community planning sub-area into the Downtown community planning area. Specifically, Ordinance No. O-21083 revises Figure 3-4 Land Use, Figure 3-9 Base Minimum & Maximum FAR, Figure 3-10 Maximum FAR Through Bonus Payment, Figure 3-11 Total Bonus FAR Available (including through bonus payment), Figure 3-12 Maximum FAR (with Bonuses), and Figure 5-2 Building Height and Sun Access, to incorporate the Marina community plan sub-area.

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that portions of the Land Use Plan as set forth in the preceding resolutions, are not in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.

b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan does not conform with Chapter 3 of the Coastal Act or the goals of the state for the coastal zone with regards to locating new development in developed areas near public transit opportunities or the protection of public views.

C. NONCONFORMITY OF THE DOWNTOWN COMMUNITY PLAN (LUP) AMENDMENT WITH CHAPTER 3

Section 30250(a) of the Coastal Act states, in relevant part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and

designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30252 of the Coastal Act states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by: [...]

(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

Section 30253 of the Coastal Act states, in relevant part:

New development shall do all of the following: [...]

(d) Minimize energy consumption and vehicle miles traveled

The Marina community is located in Downtown San Diego, the densely developed urbanized core of the city. The City is eliminating the Marina PDO and incorporating the former Marina community planning area into the Centre City PDO, which requires updates to the associated land use plan, or Downtown Community Plan, to ensure consistency. These updates include modifications to the land use designations, building heights, and maximum floor area ratios. It should be noted that only five parcels in the Marina neighborhood are located within the Coastal Zone and would therefore be subject to the amendment. A trolley line also runs through the portion of the plan within the Coastal Zone ([Exhibit 1](#)).

The proposed amendment contains an error on Figure 3-12 that would reduce the maximum floor area ratio (FAR) from 5.5 to 4 on Sites 1A, 1B, and 4 ([Exhibit 1](#)). The City has requested that the figure be corrected to reflect the FARs allowed in the existing certified Downtown Community Plan and has submitted a corrected Figure 3-12 ([Exhibit 2](#)).

The proposed amendment also contains an error on Figure 5-2 that would reduce the allowable building heights from 500 ft. to 90 ft. on Sites 1A, 1B, 3, and 4. The City proposes to remove the 90 ft. height limit from the subject parcels but does not propose to identify the 500 ft. height limit. While the IP, as proposed, would identify the 500 ft. height limit, the City has indicated that it is considering removal of the height limits for these parcels in the future and that this change would allow the City to amend the IP only to implement the modifications. Given that both the IP and the LUP identify height limits, and the LUP is the standard of review for any IP amendments, the two documents should be consistent. City staff have also indicated that they intend to update the LUP in the near future. As such, the removal of the height limit from the LUP should be proposed at that time in a comprehensive amendment to the LCP where the appropriate policy debate and

coastal resource issues would be addressed. If the LUP figures were not corrected, the reduced height and FAR would reduce the permitted density of the subject sites and the amendment would not be consistent with the Coastal Act provisions that encourage new development in existing developed areas near public transportation. As proposed, the height limit and FAR increase is acceptable given that the LUP contains policies that protect view corridors and the IP establishes the locations of view corridors and associated setback requirements. In addition, the reduced building heights and FAR would not be consistent with the existing certified Marina PDO or the proposed amendment to the Centre City PDO. Because the standard of review for an IP is consistency with the certified LUP, the LUP must be corrected in order to approve the proposed IP amendment.

Finally, the proposed amendment would leave several references that identify the Marina PDO should be consulted for specificity on development in the Marina neighborhood. These references should be removed so it is clear that the Centre City PDO should be consulted for further specificity in regards to development standards in the Marina community planning area.

V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO LAND USE PLAN AMENDMENT, IF MODIFIED

A. SPECIFIC FINDINGS FOR APPROVAL

As proposed, the LUP amendment fails to maintain the density allowed in the existing Marina PDO by reducing the FAR and height limit of several parcels within the Coastal Zone. **Suggested Modification No. 1** would revise Figure 3-12, Maximum FAR (with bonuses), to identify a maximum FAR of 5.5 on Sites 1A, 1B, and 4 ([Exhibit 2](#)). **Suggested Modification No. 2** would revise Figure 5-2, Building Height and Sun Access, to identify a maximum building height of 500 ft. on Sites 1A, 1B, 3, and 4. Finally, **Suggested Modification Nos. 4-6** would remove references to the Marina PDO and clarify the Centre City PDO should be consulted for further specificity in regards to development standards in the Marina. These modifications would ensure consistency with the requirements in the existing IP and the IP amendment as proposed. As modified, the Commission finds the LUP amendment consistent with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City of San Diego proposes to amend the Land Development Code, which serves as the City's IP for the entire City of San Diego, to restore all planning and permitting functions from Civic San Diego to the City of San Diego. Specifically, the amendment will remove references to Civic San Diego and instead reference the City of San Diego. The City also proposes to eliminate the Marina Planned District Ordinance (PDO) and incorporate the former Marina planning area into the Centre City PDO, which requires

modifications to land uses, floor area ratios and height limits within the former Marina neighborhood.

In 2012, the City formed Civic San Diego, a nonprofit development agency, and granted it the authority to plan and permit development in the Centre City community. In 2015, a lawsuit was filed by the San Diego Building & Construction Trades Council and former Civic San Diego board member Muraza Baxamusa claiming that the City did not properly oversee Civic San Diego's functions with regards to the planning and permitting of private development in downtown San Diego. A second lawsuit was filed in 2018 by San Diegans for Open Government that raised similar concerns. In 2019, the City reached a settlement agreement that included the dissolution of Civic San Diego and the return of all permitting and planning functions to the City. The subject amendment request would implement the terms of the settlement agreement.

Specifically, Ordinance No. O-21082 removes the City as the sole member of Civic San Diego so that Civic San Diego becomes completely independent and separate from the City administrative structure. Ordinance No. O-21084 revises the Centre City PDO to return all planning and permitting authority from Civic San Diego to the City and incorporates the former Marina planning area into the Centre City PDO by revising Figure A Centre City Planning District & Other Boundaries, Figure B Land Use Districts, Figure C Land Use Overlay Districts, Figure D Main Street Overlay and Commercial Street Overlay, Figure E Limited Vehicle Access, Figure F Building Height and Sun Access, Figure G View Corridors, Figure H Base Minimum & Maximum FAR, Figure J Maximum FAR Through Bonus Payment, Figure K Bonus FAR for Specific Amenities and/or Parks TDR, and Figure L Maximum FAR (with all incentives/bonuses, TDR). Ordinance O-21085 amends the Gaslamp PDO to return all planning and permitting authority from Civic San Diego to the City in the Gaslamp neighborhood. Ordinance O-21086 rescinds the Marina PDO. Ordinance O-21087 rezones approximately 40 acres located in the former Marina neighborhood into the Center City PDO consistent with the zones and the designations set forth in amendments to the Downtown Community Plan. Finally, Resolution No. R-312503 repeals the Marina Urban Design Plan and Development Guidelines.

B. SPECIFIC FINDINGS FOR REJECTION

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 proposed Zoning Ordinance amendments is to implement the terms of the "Murtaza Baxamusa and San Diego County Building & Construction Trades Council, AFL-CIO v. Civic San Diego and City of San Diego", San Diego Superior Court Case No. 37-2015-00012092 settlement and "San Diegans for Open Government v. Civic San Diego and City of San Diego", San Diego Superior Court Case No. 37-2018-00008326 settlement by transferring planning and permitting authority from Civic San Diego to the City of San Diego. The amendment would also eliminate the Marina PDO and incorporate the former Marina planning area into the Centre City PDO.

b) **Major Provisions of the Ordinance.**

The primary changes to the City's Zoning Code are changes to the text to remove references to Civic San Diego and instead reference the City of San Diego and to update the Centre City PDO figures to include the former Marina planning area.

c) **Adequacy of the Ordinance to Implement the Certified LUP Segments.**

The Commission can only reject LCP implementation plan amendments where it can be shown that the amendment would be inconsistent with the certified land use plan (LUP) or render the IP inadequate to carry out the provisions of the LUP. In this case, the Centre City PDO cannot be found consistent with the certified LUP or is inadequate to carry it out, and therefore must be rejected as submitted. The City of San Diego's certified LUP includes the following relevant policies:

Policy 5.1-P-3 states:

Protect public views of the water, and re-establish water views, in the corridors shown in Figure 5-1, with the following two-tiered system:

- Within the system established in Chapter 7: Transportation, including existing streets and new street segments to be created when future development proceeds (such as G [Street]); and
- In instances where the view corridors have been designated on Figure 5-1 but a street will not be built, view/public access easements or dedications shall be required where the ground-level right-of-way width will be the same average dimension as the existing street right-of-way for street segments comprising the view corridor, including Date, Beech, A, B, C, and E streets.

Policy 5.1-P-7 states:

Work with the Port to maintain open view corridors to the water – that is, free of structures and landscaping that would restrict the views. Encourage the Port to create view corridors extending southward along Pacific Highway and Kettner Boulevard at such time that redevelopment of the Seaport Village site is undertaken.

The proposed amendment would revise IP Figure G, View Corridors, to remove the following three view corridors within the Marina community: Kettner Boulevard between Harbor Drive and G Street, G Street between Pacific Highway and Kettner Boulevard, and F Street between Pacific Highway and Kettner Boulevard. However, Figure 5-1 of the LUP designates these three segments as view corridors and contains policies to establish, maintain, and protect views to the water from these streets. In addition, Policy 5.1-P-7 requires the City to work with the Port to open view corridors to the water with the redevelopment of Seaport Village. The Port has chosen a developer to redevelop Seaport Village; the developer is actively working on a proposed design. As such, the protection of Kettner Boulevard as a view corridor should be maintained, along with G St. and F St.

In addition, the proposed amendment would modify IP Figure B, Land Use Districts, and assign a new land use to Site 3 ([Exhibit 1](#)), which currently contains a hotel. The land use for this site is currently “Hotel” and would be modified to “Employment/Residential Mixed Use”. The Centre City PDO does not contain a “Hotel” land use category and the City has indicated that the “Employment/ Residential Mixed Use” is most similar to the “Hotel” land use designation of the Marina PDO. Specifically, “Employment/Residential Mixed Use” allows for the following uses: park, residential, religious institutions, cultural institutions, hospitals, retail, liquor stores, commercial (including hotels), parking, private clubs, offices, homeless facilities, automobile service stations, and light manufacturing. The current land use designation of “Hotel” in the Marina PDO also allows for a variety of uses; residential development is allowed as an alternative use to the hotel use, with up to 20% of the gross floor area devoted to non-residential uses such as restaurants, bars, offices, cultural/institutional, recreation and health facilities, social services, and retail sales. In addition, the current “Hotel” designation allows specialty commercial uses to be permitted on a conditional use permit basis; however, it does not specifically define specialty commercial uses.

The proposed amendment would also revise the allowable height limits. The Marina PDO allows for increases in height subject to the evaluation of four criteria: include a park in the development, enclose 50% of the street level of the building with residential or non-residential uses, accommodate a substantial amount of required parking below grade, or design a slender tower. The City has indicated that an applicant did not need to meet all or most of the criteria, and most projects did not provide the park. Developers typically chose to enclose the street level or construct the parking below grade. The proposed amendment would change the height limits of three sites from a maximum of 120 ft. (with the ability to be increased without a maximum height) to 500 ft. Evaluation of the four criteria would no longer be required; however, the Centre City PDO requires all street frontage to contain habitable space ensuring that even without the requirements, one of the criteria will be consistently met in the future. As such, the City’s proposed modifications are consistent with the existing height provisions identified in the Marina PDO.

Finally, IP Figure F, Building Height and Sun Access, contains an error which revises the height on Site 5 from 90 ft. to 500 ft. This change is inconsistent with Figure 5-2 of the LUP, as amended, which limits the height of this site to 90 ft. The City has requested that the figure be corrected and has submitted corrected figures ([Exhibit 2](#)). Therefore, as submitted, the IP amendment does not conform with the certified LUP, as amended herein, and it must be rejected.

VII. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

Suggested Modification No. 7 would revise Figure F, Building Height and Sun Access, to identify a maximum building height of 90 ft. on Site 5, consistent with the LUP. To ensure the view corridors established by the LUP are consistent with those in the IP, **Suggested Modification No. 8** would revise LUP Figure G, View Corridors, to include Kettner Boulevard between Harbor Drive and G Street, G Street between Pacific Highway and

Kettner Boulevard, and F Street between Pacific Highway and Kettner Boulevard. Table 156-0310-B, View Corridor Stepbacks, does identify required step backs for the G and F Street segments but does not include the Kettner Boulevard segment. **Suggested Modification No. 9** would add Kettner Boulevard into Table 156-0310-B with a required stepback of 25 feet at 50 feet elevation, consistent with the stepbacks on G Street. With the suggested modifications described above, the proposed amendment is consistent with and adequate to carry out the certified LUP.

VIII. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City found that their actions related to the subject LCP amendment were exempt per CEQA guidelines Section 15378(b)(5) because the amendment is not a project that will result in direct or indirect physical changes to the environment.

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 submission.

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, with incorporation of the suggested modifications, will not have any significant adverse effects on the environment and no significant coastal resource impacts are anticipated. Therefore, the Commission finds that the subject LCP, as amended, conforms with CEQA.