

CALIFORNIA COASTAL COMMISSION

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Date: October 28, 2021

To: **COMMISSIONERS AND INTERESTED PERSONS**

From: **JOHN AINSWORTH, EXECUTIVE DIRECTOR**

Subject: **CITY OF SAN DIEGO DE MINIMIS LOCAL COASTAL PROGRAM AMENDMENT
LCP-6-SAN-21-0032-1 (Kearny Mesa Community Plan Update Implementation)
FOR COMMISSION REVIEW AT ITS MEETING OF NOVEMBER 19, 2021**

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to local coastal programs. Section 30514(d) allows the Executive Director to make a determination that a proposed LCP amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30514(d) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property. If the Executive Director makes the determination that the proposed amendment qualifies as a “de minimis” amendment and finds the public notice measures have been satisfied, such determination is then reported to the Commission.

If three or more commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP ten days after the date of the Commission meeting (November 19, 2021).

PROPOSED AMENDMENT

The City of San Diego’s LCP amendment request was filed on March 3, 2021. In May of 2021, the Commission approved a time extension to May 26, 2022. As such, the last date for Commission action on this item is the May 2022 hearing.

The City recently adopted a comprehensive update to the Kearny Mesa Community Plan, which identifies new land use designations and mobility infrastructure improvements within the Kearny Mesa community. While the Kearny Mesa community is located entirely outside of the coastal zone, implementation of the community plan update requires changes to the City’s Land Development Code (LDC), which serves as the Implementation Plan

component of the City's Local Coastal Program, and thus requires Commission review. The amendment request involves three changes for Commission review. First, the amendment would add a new Kearny Mesa Community Plan Implementation Overlay Zone (CPIOZ). Second, the amendment would apply existing citywide regulations to commercial and industrial zones in Kearny Mesa to allow properties in those designations to develop at a higher floor area ratio than currently allowed. And third, the proposed amendment would rename the existing Industrial - Small Lot (IS) zone to Industrial - Small Scale and remove the maximum lot size restriction. This final change would apply citywide to all areas with the IS zone, including within the coastal zone.

The proposed amendment is presented in the attached Ordinance Number O-21273. The proposed amendment only affects the certified Implementation Plan and was properly noticed.

If you have any questions or need additional information regarding this proposed amendment, please contact Kaitlin Carney at SanDiegoCoast@coastal.ca.gov. Any objections to the "minor" amendment determination must be received within ten working days of the date of this notice.

DISCUSSION

The approved Ordinance Number O-21273 amends the City's LDC to help implement the recently-adopted Kearny Mesa Community Plan; however, the entirety of the land area subject to the Kearny Mesa Community Plan is located outside of the coastal zone, so the City's community plan updates and subsequent rezoning efforts are not subject to Commission review.

While the community plan update itself is not subject to Commission review, the City is proposing three changes to the LDC to implement it. Since the LDC serves as the City's LCP Implementation Plan, such changes require Commission review. The first change, which will only impact land outside the coastal zone, is to add a new Kearny Mesa CPIOZ to the LDC that includes supplemental development regulations and standards to carry out the community plan. The Kearny Mesa Community Plan would be listed as a community plan with property in a CPIOZ in Table 132-14A Community Plans with Property in the Community Plan Implementation Overlay Zone and would include Diagram 132-14S Kearny Mesa Community Plan Implementation Overlay Zone, a reproduction of Map Number C-750, which shows the boundaries of the CPIOZ. For the second component of the proposed amendment, the City proposes to remove the maximum floor area ratio (FAR) requirement for certain commercial and industrial zones in Kearny Mesa and instead apply citywide development regulations, making the Kearny Mesa community consistent with all other commercial and industrial zones in the city. This requires changes to Tables 131-05C Development Regulations for CN Zones, 131-05D Development Regulations for CR, CO, CV, CP Zones, and 131-05E Development Regulations for CC Zones and would affect the Neighborhood (CN), Regional (CR), Office (CO), Visitor (CV), Parking (CP), and Community (CC) Commercial zones and the International Business and Trade (IBT), Industrial-Park (IP), and Industrial-Light (IL) zones. Again, these changes to the Kearny Mesa community are located outside the coastal zone.

The one component of the City's proposal that does apply to lands within the coastal zone would be to change the name of the Industrial – Small Lot (IS) zone to Industrial – Small Scale and remove the maximum lot size for this zone. The purpose of the IS zone is to provide for small-scale, flexible industrial activities within urbanized areas. It is intended allow for a wide range of small and medium sized industrial and commercial activities with a neighborhood scale in development. This change would apply to all areas within the city with IS zones; however, the revision does not change the types of uses allowed in this zone or any development standards. The only change proposed is the removal of the maximum lot area requirement, making this IS zone consistent with all other industrial zones, none of which have maximum lot area requirements. The proposed removal of the maximum lot area requirement is not expected to have any impact on coastal resources.

Even though the Kearny Mesa community is outside of the coastal zone and its Community Plan is not part of the LCP, the proposed amendment is required to reflect these administrative changes and maintain the accuracy of the certified IP. Adding the CPIOZ to the LDC (certified IP) will not change any coastal zone property/land uses or have any potential to impact coastal resources, either individually or cumulatively, nor will the only change that would affect coastal zone property/land uses (the minor changes related to the Industrial – Small Scale zone).

Therefore, the proposed amendment is consistent with Chapter 3 of the Coastal Act

DETERMINATION

The Executive Director determines that the City of San Diego LCP amendment is de minimis. Based on the information submitted by the City, the proposed LCP amendment will have no impact, either individually or cumulatively, on coastal resources. It is consistent with the policies of Chapter 3 of the Coastal Act. The amendment does not propose any change in land use or any change in the allowable use of property. The City has properly noticed the proposed amendment. As such, the amendment is de minimis pursuant to Section 30514(d).

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. Instead, the CEQA responsibilities are assigned to the Coastal Commission and 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. Nevertheless, the City prepared and completed a Program EIR (No. 607857/SCH No. 2018111024 dated July 8, 2020).

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 the case of the subject LCP amendment request, the Commission finds that approval of the de minimis LCP amendment, as submitted, would not result in any significant adverse environmental impacts under the meaning of the California Environmental Quality Act.