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STAFF REPORT: REGULAR CALENDAR

Map Adoption No.: MA-2021-001

Local Government: County of San Diego

Location: Coastal Zone area within the County of San Diego LCP segment.

Map Description: Draft Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map, prepared by staff to depict the geographic areas where the Commission retains permit authority pursuant to Coastal Act Section 30519(b), and where appeals of local government coastal development permit (CDP) approvals are allowed pursuant to Coastal Act Section 30603(a)(1) and (a)(2), within the County of San Diego LCP segment.

Staff Recommendation: Approval

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the draft map prepared by staff, which shows the geographic areas where the Commission retains permit authority pursuant to California Coastal Act Section 30519(b) and where appeals of the County of San Diego CDP actions are allowed pursuant to Coastal Act Section 30603(a)(1) and (a)(2).¹

¹ The California Coastal Act is found in the Public Resources Code, sections 30000 *et seq.*

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EXHIBITS

[Exhibit 1 – Post LCP Certification Permit and Appeal Jurisdiction Index Map: County of San Diego](#)

[Exhibit 2 – Draft Post LCP Certification Permit and Appeal Jurisdiction Map: County of San Diego LCP segment](#)

I. RECOMMENDED MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the draft County of San Diego Post LCP Certification Permit and Appeal Jurisdiction map prepared by staff for MA-2021-001 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the draft County of San Diego Post LCP Certification Permit and Appeal Jurisdiction (Post Cert.) map and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Map Adoption MA-2021-001 and adopts the findings set forth below on grounds that the draft map depicts the areas where the Commission retains permit authority pursuant to Coastal Act Section 30519(b), and where appeals of County of San Diego coastal development permits are allowed pursuant to Coastal Act Section 30603(a)(1) and (a)(2).

II. STAFF NOTE

Local jurisdictions require Post Cert. map adoption in conjunction with and following Commission actions to certify its Local Coastal Program (LCP).² After the initial adoption, map revisions can be made from time to time to incorporate updates that reflect changing conditions in the Coastal Zone environment upon which the boundaries are based, and to make corrections or refinements including, but not limited to, those made possible by the use of more accurate data and modern mapping technology. The timing of revisions to a city or county's Post Cert. map is usually coordinated with LCP updates.

The use of geographic information system (GIS) software is presently an integral part of Post Cert. map adoptions, revisions, and update processes underway throughout the Coastal Zone, and maps that the Commission adopts through these actions will be distributed primarily in digital form in order to allow the widest possible use of consistent, official information within the Coastal Zone community.

² The County of San Diego LCP was certified by the Commission on February 10, 2021 and will begin administering its LCP on that same date.

III. BACKGROUND

After the Commission certifies a local government's LCP, permit authority within that jurisdiction is delegated to that local government. However, pursuant to Section 30519(b) of the Coastal Act, the Commission retains permit authority after LCP certification over developments occurring on tidelands, submerged lands, and public trust lands, whether filled or unfilled, and which are located within the Coastal Zone. The Commission may transfer permit authority to the local government for public trust lands that are determined by the Commission to be filled and developed and are located within an area that is committed to urban uses pursuant to Section 30613 of the Coastal Act.³

In addition to the Commission's retained permit jurisdiction, subsections (a) and (b) of Section 30603 of the Coastal Act define certain areas and types of development for which actions by the local government may be appealed to the Commission. Geographic appeal jurisdiction is retained, for example, on lands within 100 feet of a stream's top of bank or within 100 feet of the upland limit of a wetland, lands subject to the public trust that are no longer within the Commission's retained jurisdiction, lands within 300 feet of coastal bluffs, beaches, or the Mean High Tide Line (MHTL), and lands between the sea and the First Public Road paralleling the sea (FPR).

The Commission's administrative regulations (Title 14 of California Code of Regulations (14 CCR) Section 13576) provide that a map portraying the areas of continuing Commission permit and appeal jurisdiction be adopted in conjunction with the final LCP certification. An update procedure is also identified and provides the basis for revision and re-adoption of the map by the Commission. Within these regulations is implicit the idea that, while the adopted map should portray the various jurisdiction boundaries as accurately as possible, it remains only a depiction, i.e. a cartographic representation and not a definition of the jurisdiction, and should not be used on its own without field determination procedures to establish an accurate boundary location. Conditions on the ground may change and thus conditions on the ground control permit and appeal jurisdiction boundary locations regardless of how accurate the mapped boundaries may be at any given time. In fact, changes to conditions on the ground may justify revisions to an adopted map.

The Commission continues to develop its GIS capabilities and has created parcel level accuracy GIS data for permit and appeal jurisdiction boundaries covering the County of San Diego LCP segment. The Commission's district staff and County staff have reviewed the current GIS-based version of the draft Post Cert. map and refinements have been made to reflect their comments and concerns. County staff has reviewed and supports the draft Post Cert. map prepared by staff and included herein as Exhibit 2.

³ The County has not requested that the Commission transfer permit authority for any filled, former tidelands.

IV. FINDINGS AND DECLARATIONS

A. DRAFT POST LCP CERTIFICATION PERMIT AND APPEAL JURISDICTION MAPS

During the late 1970's and early 1980's the Commission's Mapping program began a project to complete Post Cert. maps for all local governments within or partly within the Coastal Zone. The first effort consisted of producing a set of 161 maps using the USGS 7.5 minute quadrangle base (scale 1:24,000 or 1 inch equals 2000 feet), which was completed in 1981. The primary purpose of this project was to provide a consistent, statewide view of the permit and appeal boundaries for review by the local government staff, Commission staff, and other interested parties. It was fully anticipated that these maps would be reviewed and revised or refined, as indicated by the map notes and general correspondence sent out with maps for review. The area of the Coastal Zone within the County of San Diego LCP segment is covered by map sheets 155 through 157, the Encinitas, Rancho Santa Fe, and Del Mar Quadrangles (portions). Copies of these regional 7.5-minute quadrangle-scale draft maps were distributed for review to the Commission offices and the County in the spring of 1981.

Map adoption MA-2021-001 represents revised, detailed cadastral (parcel) scale Post Cert. jurisdictional boundaries proposed for adoption by the Commission. If certified, this map and the data depicted herein will supersede any previous versions of the Commission's Post Cert. jurisdiction boundaries for the County LCP segment.

B. STAFF ANALYSIS

The depiction of the Commission's permit and appeal jurisdictions on the County of San Diego LCP segment draft Post Cert. map presents no significant areas of controversy affecting the map adoption. Coastal Commission staff has reviewed the Post Cert. map and associated jurisdictional boundaries with County staff. The Coastal Commission's retained permit jurisdiction consists entirely of public trust lands or historic tidelands, whether filled or unfilled. Its appeal jurisdiction boundary encompasses lands seaward of the FPR. The route of the designated FPR is set forth in the section entitled: **First Public Road Description**. In areas inland of the FPR, the appeals jurisdiction also includes areas 100 feet from the upland boundaries of wetlands. There are no know streams within the County of San Diego LCP segment that serve as a basis for the Commission's geographic appeal jurisdiction.

As mentioned earlier in the **Background** section, while the maps portray the various jurisdiction boundaries as accurately as possible, they remain only a depiction, i.e. a cartographic representation, and are not a static definition of the Commission's jurisdiction, and should not be used on their own without field determination procedures to establish an accurate boundary location. Conditions on the ground may change, and thus conditions on the ground control permit and appeal jurisdiction boundary locations regardless of how accurate the mapped boundaries may be at the time of adoption of this map.

Permit Jurisdiction

Geographically, the Commission's retained permit jurisdiction includes tidelands, submerged lands, and public trust lands including former tidelands.⁴ The primary sources for determining the Commission's continuing permit jurisdiction in the County of San Diego LCP segment are the contemporary U.S. Fish and Wildlife Service's (USFWS's) National Wetland Inventory dataset covering this area, vertical and oblique coastal aerial photography, draft Post Cert. maps 155 through 157 (Encinitas, Rancho Santa Fe, and Del Mar Quadrangles (portions), scale 1:24,000)), the map set showing potential public trust lands prepared for the Coastal Commission by the State Lands Commission staff in the late 1970's using, among other sources, tide and submerged land grant documents, and historical U.S. Coast Survey (now known as the National Geodetic Survey) topographic maps from the late 19th century.

These maps, photos, and other documents and information were analyzed to establish the public trust component, when that is the controlling permit boundary criterion. Given the complexity involved in mapping public trust boundaries, however, it is evident that the permit boundary delineation on this map may not include all areas subject to the public trust. Using the best available data and information sources, Commission staff has made a good faith attempt to map tidelands and potential public trust lands. This is with the understanding that permit jurisdiction boundaries are an extrapolation of the best available data and may be subject to future interpretation and determination if warranted by site specific information. Furthermore, questions regarding the exact location and extent of public trust lands must be referred to the State Lands Commission for determination. Both the Commission staff and County staff recognize that should additional public trust lands be identified, those lands would be part of the Commission's retained permit jurisdiction.

Review of the above-referenced primary source materials indicates that the Commission's continuing permit jurisdiction in the County of San Diego LCP segment exists only on potential or historical public trust lands (Exhibit 2).

Appeal Jurisdiction

The appeal jurisdiction boundary in the County of San Diego LCP segment is mapped according to the geographic criteria specified in Section 30603(a) of the Coastal Act, and further defined in the Commission's regulations at 14 CCR Section 13577. The appeal area is shown in Exhibit 2. The appeal jurisdiction boundary is based primarily on the

⁴ Tidelands, the first component of the Commission's retained permit jurisdiction, are lands lying between the lines of mean high tide and mean low tide. The MHTL is the landward tidelands boundary, an ambulatory boundary that moves with changes in the profile of the shoreline, particularly in sandy beach areas. The MHTL is and has been used by the U.S. Supreme Court, the California Supreme Court, federal and state courts, the state legislature, state regulatory and administrative agencies, and local governments as the boundary between public tidelands and private uplands.

The location of the fluctuating MHTL is determined by establishing the intersection of the shore with the plane (elevation) of Mean High Water as calculated by the National Geodetic Survey for a particular location. Surveys can be performed to establish MHTL or tidelands locations. The State Lands Commission, as administrator of California's tidelands, can and does perform such surveys.

FPR paralleling the sea designation. Wetland based appeal areas are located in two locations within the County LCP segment; in San Diegito County Park, and adjacent to El Camino Real at the corner of El Camino Real and Rancho Del Madison. There are no know streams within the County of San Diego LCP segment that serve as a basis for the Commission's geographic appeal jurisdiction.

As with the permit jurisdiction boundary, the Commission's regulations also provide for appeal boundary revisions from time to time. (See 14 CCR Section 13576.) Appeal boundary revisions are also intended to incorporate updates and changing conditions in the Coastal Zone environment upon which the boundaries are based, to make corrections, and to make refinements reflecting the use of more accurate data and modern mapping technology. The appeal boundary can shift even though the basis of the boundary remains unchanged.

First Public Road Paralleling the Sea

The language of 14 CCR Section 13577(i)(1) is intended to ensure that the designated "First Public Road Paralleling the Sea" extends inland around water bodies that are considered the "sea" as defined by Coastal Act Section 30115. The Coastal Commission's regulations provide that in order for a road to qualify as the FPR, it must be a road that "does in fact connect with other public roads providing a continuous public access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline." See 14 CCR Section 13577(i)(1)(E). The appeal jurisdiction boundary, where based on the FPR under 14 CCR Section 13577(i)(1), is aligned along the inland, or landward right of way of such road.

First Public Road Description

The series of roadways and streets listed below and shown as a component of the Commission's appeal jurisdiction boundary on the attached Exhibit 2 constitute the current route of the FPR for purposes of Coastal Act Sections 30600.5, 30601, 30603, and 30115, and all other applicable Coastal Act provisions. This system of coastal roadways and streets is consistent with, and meets the criteria set forth in 14 CCR Section 13577.

From the County boundary with the City of Encinitas, the route designated as the FPR in the County of San Diego LCP segment is along Rancho Santa Fe Rd. south to the intersection of El Mirlo and La Bajada continuing west and south along La Bajada to La Noria, southwest along La Noria to El Camino Real and continuing along El Camino Real to Highland Dr., southwest along Highland Dr. to San Marino Dr. and northwest along San Marino Dr. to the City of Solana Beach.

C. BISECTED PARCELS

In some areas a parcel is bisected by the appeal jurisdiction boundary. All development proposed within the appeal area defined as appealable is subject to the Commission's appellate jurisdiction. In addition, if a development is proposed partly on the portion of the

parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel, and the Commission finds that the portion of the project within its appeals jurisdiction raises a substantial issue, then it will consider the project de novo. The Commission's de novo review is of the entire project, including the portion of the proposed development that is located outside the appeals jurisdiction.

D. DRAFT MAP LEGEND AND MAP NOTES

One of the elements of the Commission's transition to using GIS technology is the use of standardized base maps, boundary symbols, and map notes. In order to maintain consistency throughout the Coastal Zone, Post LCP Certification Jurisdiction boundaries have been developed using the Coastal Zone portions of the fifteen coastal counties as the basic unit. Accordingly, the Map Legend (Exhibit 1) includes all the possible types of boundary and area symbols that may occur within any given County, while the draft map itself will include only those types of jurisdiction found within that area. In addition, the use of coastal counties as the basic geographic unit means that the maps may depict jurisdiction areas outside of the area for which a particular map adoption is occurring. In the case of the County of San Diego LCP segment, areas located west of the segment within the City of Encinitas and Solana Beach, as well as areas southwest of the County LCP segment within the cities of San Diego and Del Mar are not affected by the Commission's action to adopt the Post Cert. map for the County of San Diego LCP segment.

APPENDIX A- SUBSTANTIVE FILE DOCUMENTS

Post LCP Certification Permit and Appeal Jurisdiction Maps - County of San Diego (Encinitas, Rancho Santa Fe, Del Mar Quadrangles, scale 1:24,000) California Coastal Commission, 03/25/1981.

National Wetland Inventory Digital Data, U.S. Fish & Wildlife Service, October 2017.

Potential Public Trust Land Maps, (Encinitas, Rancho Santa Fe, Del Mar quadrangles), California State Lands Commission, 1977.

ESRI World Imagery basemap service. Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community.

U.S. Geological Survey (USGS) 7.5 Minute Series Topographic Maps, (Encinitas (1968, photo revised 1975), Ranch Santa Fe (1968), Del Mar (1967) quadrangles), USGS.

U.S. Coast Survey Historical Topographic Maps, T-1898 (1887/1888).