

CALIFORNIA COASTAL COMMISSION

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Date: April 29, 2021

To: **COMMISSIONERS AND INTERESTED PERSONS**

From: **KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
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DENNIS DAVIS, COASTAL PLANNER, SAN DIEGO COAST DISTRICT**

Subject: **STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR LCP
AMENDMENT NO. LCP-6-SAN-19-0161-3 (Mission Valley Rezone) for
Commission Meeting of May 12-14, 2021**

SYNOPSIS

On December 24, 2019, the City of San Diego submitted its third major LCP amendment package for the 2019 calendar year to the San Diego District office. The third submittal was a batch submittal consisting of three unrelated items: the subject item (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). LCP-6-SAN-19-0163-3 (Mixed-Use Zones) was acted on by the Commission on March 12, 2020, and LCP-6-SAN-19-0165-3 (Balboa Avenue Station Specific Plan) was acted on by the Commission on April 16, 2021.

The subject LCP implementation plan amendment was submitted and filed as complete on December 24, 2019, again as part of a batched submittal that included both LUP and IP amendments. A one-year time extension was granted on March 12, 2020. As such, the last date for Commission action on this item is May 28, 2021.

SUMMARY OF AMENDMENT REQUEST

The City updated its Mission Valley Community Plan to include the application of citywide zones to implement the community plan land use map, thus requiring the rezoning of the Mission Valley Community planning area. The majority of the community plan area is located outside of the coastal zone and the planning area was not certified by the Commission as part of the original LCP. However, eighteen acres are located in the coastal zone and the existing zoning at the time of certification was adopted. The City is requesting to modify the existing zoning for the parcel encompassing the eighteen acres within the coastal zone from IL-3-1 (Light Industrial) to OF-1-1 (Open Space Floodplain).

The City also seeks to amend its Land Development Code (LDC), the City's certified IP, to repeal the Mission Valley Planned District Ordinance (PDO), which currently establishes development standards in Mission Valley, and replace it with a Community Plan Implementation Overlay Zone (CPIOZ). The CPIOZ includes the San Diego River Subdistrict CPIOZ, which overlays the eighteen acres of the Mission Valley community planning area in the coastal zone. So, the subject LCP amendment also includes the application of the CPIOZ to the coastal zone acreage. The San Diego River Subdistrict CPIOZ ensures that development along the San Diego River corridor will allow for increased recreational opportunities along the corridor while preserving natural resources.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the implementation plan amendment as submitted by the City of San Diego. The proposed rezone of the parcel encompassing the eighteen acres in the coastal zone will correct a discrepancy between the underlying land use designation and the current industrial zone. The proposed rezone to OF-1-1 (Open Space Floodplain) will restrict the allowed uses on the eighteen acres to those that are compatible with the underlying Open Space land use designation, and therefore will be more protective of biological resources and minimize risks to life and property from flood hazards compared to the current zone.

Although the Mission Valley PDO will be replaced by the proposed Mission Valley CPIOZ in the City's certified LCP, there will be no change to the development regulations that apply to the acreage in the coastal zone. The development regulations from the San Diego River Subdistrict are being incorporated in the San Diego River Subdistrict CPIOZ. The application of the San Diego River Subdistrict CPIOZ to the coastal zone acreage does not raise any new resource protection or hazard concerns.

Thus, the proposed rezone and application of the CPIOZ in lieu of the Mission Valley PDO are consistent with the Chapter 3 policies of the Coastal Act. Therefore, staff recommends the Commission approve the subject LCP amendment request as submitted.

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

BACKGROUND

The City of San Diego's first LCP was certified in 1988, and the City then assumed permit authority. The City as a whole is organized such that each separate community within its boundaries is covered by its own distinct community plan. Thus, the City's LCP consists of the certified LUPs for its community segments located within the coastal zone and the certified IP. The IP consists of portions of the City's Municipal Code, along with some PDOs and Council Policies. In 1999, the Commission certified the City's LDC, which primarily consists of Chapters 11 through 15 of the municipal code. It replaced the first certified IP and took effect in the coastal zone on January 1, 2000.

The Mission Valley Community Planning Area is over 3,200 acres in size and is located near the geographic center of the City of San Diego. The Mission Valley Community Plan

was adopted by the City in June 1985; however, the community plan has not been submitted to the Commission for certification.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment No. LCP-6-SAN-19-0161-3 may be obtained from Dennis Davis, Coastal Planner, at dennis.davis@coastal.ca.gov.

EXHIBITS

- [Exhibit 1 – Vicinity Map](#)
- [Exhibit 2 – Mission Valley Community Planning Area](#)
- [Exhibit 3 – Map of Revised Zone](#)
- [Exhibit 4 – CPIOZ Subdistricts](#)

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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, and in 1977 requested that the Coastal Commission permit segmentation of its LUP into twelve parts in order to 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, but some have since been certified as LCP amendments. Other areas of deferred certification still remain today and will be acted on by the Coastal Commission in the future.

The Mission Valley Community Plan was originally adopted by the City on June 25, 1985; however, it was not submitted to the Commission for certification as the land use plan because the majority of the community planning area is located outside of the coastal zone. Of the over 3,200-acre Mission Valley Community Planning Area, only eighteen acres located between Interstate 5 (I-5) and the LOSSAN Rail Corridor are in the coastal zone.

The Mission Valley PDO, part of the City's certified implementation plan, implements the 1985 Community Plan through the use of specific commercial, industrial, multiple use and residential zones for the planning area. It also provides development standards and overlay districts that further regulate development adjacent to the San Diego River to ensure these areas are preserved.

B. STANDARD OF REVIEW

The Commission reviews an amendment to a certified implementation plan for consistency with, and ability to carry out, the most recently certified land use plan. However, no certified land use plan exists for this segment. When the City submits a land use plan for this area, the Commission's standard of review is the Chapter 3 policies of the Coastal Act. And, once certified, the land use plan would embody the policies of the Coastal Act. Therefore, as the underlying standard for land use plans, and to ensure that the implementation plan will conform with a future land use plan, the Chapter 3 policies of the Coastal Act provide the standard of review. The uncertified Mission Valley Community Plan may provide guidance. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

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.

II. MOTION AND RESOLUTION

MOTION:

I move that the Commission reject the Implementation Program Amendment for the City of San Diego certified LCP 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 AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act, 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.

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

A. AMENDMENT DESCRIPTION

The City has recently updated its Mission Valley Community Plan to identify land use and multi-modal mobility strategies to cohesively guide growth and development of the community consistent with City's General Plan and Climate Action Plan. The updated

community plan includes application of citywide zones to implement the community plan land use map, thus requiring rezoning of the Mission Valley Community Plan Area ([Exhibit #2](#)). The majority of the over 3,200-acre community planning area is located outside of the coastal zone; however, eighteen acres of the planning area are located in the coastal zone. The underlying land use for the parcel containing the eighteen acres in the coastal zone is designated as Open Space, but for reasons unknown to the City, the site was zoned for industrial uses. To remedy this discrepancy, the City is requesting to modify the existing zoning on the eighteen acres within the coastal zone from IL-3-1 (Light Industrial) to OF-1-1 (Open Space Floodplain) ([Exhibit #3](#)).

Additionally, the City seeks to amend its Land Development Code (certified IP) to repeal the Mission Valley Planned District Ordinance (PDO), which currently establishes development standards in Mission Valley, and replace it with a Community Plan Implementation Overlay Zone (CPIOZ). The overlay zone provides supplemental development regulations that are tailored to implement the policies of the Mission Valley Community Plan and must be applied in the review of future development proposals. To carry forward the essential functions of the PDO that need to remain with the transition to citywide zones, the Mission Valley CPIOZ includes three CPIOZ subdistricts, the only one of consequence to the current action being the San Diego River Subdistrict CPIOZ that encompasses the eighteen acres of community planning area in the coastal zone. The CPIOZ also references the City's Multiple Species Conservation Program (MSCP) to identify the San Diego River and most adjacent upland areas as Multi-Habitat Planning Area ("MHPA"). The City's MSCP is not part of the certified LCP, but the MHPA that constitutes the "preserve area" and the adjacency guidelines are referenced in the certified LCP. The purpose of the San Diego River Subdistrict CPIOZ is to ensure that development along the San Diego River corridor will allow for an increase of recreational opportunities along the corridor while preserving natural resources.

B. FINDINGS FOR APPROVAL

1) Purpose and Intent of the Ordinance.

The purpose of the ordinance in part is to update the Mission Valley community planning area to include the application of citywide zones by rezoning the community planning area. In the process of rezoning the planning area, the ordinance seeks to correct a land use and zoning discrepancy for properties in the planning area that are located partially within the coastal zone.

The purpose of the Open Space Floodplain (OF) zone is to control development within floodplains to protect the public health, safety, and welfare and to minimize hazards due to flooding in areas identified by the Flood Insurance Rate Maps on file with the City Engineer. It is the intent of the OF zone to preserve the natural character of floodplains while permitting development that will not constitute a dangerous condition or an impediment to the flow of flood waters. It is also the intent to minimize the expenditure of public money for costly flood control projects and to protect the functions and values of the floodplains relating to groundwater recharge, water quality, moderation of flood flows, wildlife movement, and habitat. Through application of the San Diego River Subdistrict

Community Plan Implementation Overlay Zone (CPIOZ), the ordinance also seeks to implement development regulations that will allow for an increase of recreational opportunities along the river corridor while preserving natural resources ([Exhibit #4](#)).

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

The major provisions of the OF zone include:

- OF-1-1 permitted uses include active and passive recreation, natural resource preservation, agriculture processing and aquaculture facilities.
- Limited permitted uses include community gardens, electric vehicle charging, and flood control facilities; however, for parcels zoned OF-1-1 and located in the Coastal Overlay Zone, no structures are permitted within a floodway. No residential uses are allowed on parcels zoned OF-1-1.
- Within the flood fringe of a Special Flood Hazard Area (also referred to as the 100-year floodplain), only development capable of withstanding flooding and that does not require or cause the construction of flood protective works is allowed.

The major provisions of the San Diego River Subdistrict CPIOZ include:

- The CPIOZ is applied within the boundaries of the Mission Valley Community Plan to provide supplemental development regulations that are tailored to implement the vision and policies of this community plan. Where there is a conflict between a CPIOZ supplemental development regulation in this section and the development regulation of the applicable base zone, the CPIOZ supplemental development requirement applies.
- The San Diego River Park Subdistrict includes the River Corridor Area and the River Influence Area. The River Corridor Area is comprised of the current 100-year floodway (floodway) as mapped by the Federal Emergency Management Agency and the 35-foot wide Path Corridor on each side of the floodway. The River Influence Area is the 200-foot wide area extending outward from the River Corridor Area on each side of the river.
- Development within the floodway shall be in accordance with certified LCP's development regulations for Special Flood Hazard Areas, which generally only allows for development capable of withstanding flooding and that does not require or cause the construction of flood protective devices or work.
- Within the 35-foot wide Path Corridor, only the San Diego River Pathway, trails, and passive recreational uses, including picnic areas, scenic or interpretive overlooks, fitness stations, seating, and educational exhibit areas are allowed.
- Children's play areas, multi-purpose courts, turf fields, and active recreation use are only allowed in areas not mapped as Multi-Habitat Planning Area (MHPA), as identified by the City of San Diego MSCP Subarea Plan or determined to be wetland buffers in accordance with certified LCP adjacency guidelines.
- Development on a lot located wholly or partially in the River Corridor Area shall include the San Diego River Pathway. Where portions of the Path Corridor are mapped as MHPA, as identified by the City of San Diego MSCP Subarea Plan, or determined to be wetland buffers in the certified LCP's adjacency guidelines, the

San Diego River Pathway shall be located outside the MHPA and the wetland buffer, immediately adjacent to the Path Corridor.

- The San Diego River Pathway shall be dedicated with an easement that allows public access and shall be completed prior to final inspection of any building associated with a development.
- The San Diego River Pathway shall comply with certain design features including a minimum 10 foot wide pathway of concrete or similar material, in a color that blends with the surrounding native soil; and a minimum 10 foot wide landscape area between the floodway and the San Diego River Pathway.
- Development on lots that abut the River Corridor Area shall provide public access pathways with signage connecting the public street and the San Diego River Pathway.
- Pedestrian-only trails are permitted within the River Corridor Area subject to certain design features. Trail alignments shall mimic natural conditions and minimize grading and disturbance to vegetation.
- Development on a lot located wholly or partially in the River Corridor shall include at least one picnic area or overlook along the San Diego River Pathway unless either exists less than one-half mile away.
- Light poles shall not exceed 12 feet in height and all lighting shall be shielded and directed away from the floodway, the edge of the San Diego River Pathway fronting the river, and the MHPA.
- Information kiosks shall be provided at any location where the San Diego River Pathway intersects a public street.
- Fences located between the San Diego River Pathway and the River shall be provided only as required to protect sensitive habitat or historic resources and shall allow for wildlife movement. Chain link fencing is not permitted.
- The River Corridor Area shall include a mixture of native plants and trees consistent with the surrounding habitat type. Non-native grasses and lawn areas shall not be permitted in any areas mapped MHPA, as identified by the City of San Diego MSCP Subarea Plan or determined to be wetland buffers. Plant materials within 15 feet of the River Corridor Area shall be non-invasive low water use species.

3) Adequacy of the Ordinance to Implement the Chapter 3 Policies of the Coastal Act.

Section 30236 of the Coastal Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30250 of the Coastal Act states, in 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 in part:

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 landforms, to be visually compatible with the character of surrounding areas, [. . .]

Section 30253(1) of the Coastal Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. [. . .]

Of the over 3,200-acre Mission Valley Community Planning Area, only eighteen acres located between I-5 and the LOSSAN Rail Corridor are in the coastal zone. The eighteen acres includes the San Diego River and adjacent upland areas, covered in a mix of native and non-native vegetation that flank the river from the north and south. The San Diego River and much of the area adjacent to the river are mapped in the City Multiple Species Conservation Program as Multi-Habitat Planning Area ("MHPA"), which is the preserve area. In this setting, the MHPA is largely comprised by the rivercourse itself. The 100-year floodway, delineated by blue lines on [Exhibit #3](#), covers the majority of the coastal zone acreage. A portion of the San Diego River Bikeway crosses through the south portion of the eighteen acres, located outside of the 100-year floodway. Some parcels to the south of the San Diego River Bikeway are zoned for light industrial and commercial uses; however, the sites are also located outside of the 100-year floodway. Other than the San Diego River Bikeway and the concrete overpass supports that underpin the I-5, Pacific Highway, and the LOSSAN rail corridor, no major structures are erected within the eighteen acres in the coastal zone.

In addition to Caltrans' right of way for the I-5 and I-8, ten parcels are located within the eighteen acres with the Metropolitan Transit System (municipal bus and trolley operator) and City of San Diego as the other landowners.

In the northwest corner of the eighteen acres, adjacent to Friars Road underneath the I-5 overpass, the City plans to install a future urban amenity ([Exhibit #2](#)). The City expects to install lighting improvements and public art using the existing development (e.g., a painted mural on the existing overpass supports). No new structures would be erected, and future lighting would be shielded away from the San Diego River and any adjacent preserve areas.

The underlying land use designation for this area is Open Space, a designation reserved for land or water areas generally free from development or developed with low intensity uses that respect natural environmental characteristics. However, for reasons unknown by the City, the site was zoned for IL-3-1 (Light Industrial) uses, inconsistent with the City's underlying land use designation. To correct this discrepancy, the parcel encompassing the eighteen acres located in the coastal zone will be rezoned to OF-1-1 (Open Space Floodplain) through the City's rezoning efforts for the Mission Valley Community Plan Update. The Open Space Floodplain zone allows uses compatible with the underlying Open Space land use designation, including active and passive recreation and natural resource preservation. No residential uses are allowed under the Open Space Floodplain zone. Additionally, the City's certified LCP contains special development regulations for structures located in a Special Flood Hazard Area (also referred to as the 100-year floodplain). The floodplain is comprised of the floodway and flood fringe. While other more intensive uses are allowed outside the coastal zone under the Open Space Floodplain zone (e.g., community gardens and flood control facilities), the base zone development regulations in the City's LCP prohibits structures within the floodway, which accounts for the majority of the eighteen acres. As for the flood fringe, the LCP requires the City to make several findings before any permanent structure or fill is allowed within the fringe, including that the proposed development is capable of withstanding flooding and that it does not require or cause the construction of flood protective works. Under the LCP's provisions, only uses compatible with the periodic flooding expected in the floodplain are allowed to be developed in the coastal zone, eliminating the implementation of intensive uses on parcels zoned OF-1-1 in the coastal zone. The proposed rezone properly establishes more resource dependent or public recreational uses for the eighteen acres. The San Diego River does partially serve as a resting and feeding spot for over one hundred species of birds migrating along the Pacific Flyway (Southern Wildlife Preserve). Thus, the Commission finds the OF-1-1 zone and associated uses that are allowed in the coastal zone consistent with Sections 30236, 30240, 30250, 30251, and 30253(1) of the Coastal Act.

To carry forward the essential functions of the Mission Valley PDO that need to remain with the transition to citywide zones, the Mission Valley CPIOZ includes three CPIOZ subdistricts. The only one that is applicable to the eighteen acres of the community planning area in the coastal zone is the San Diego River Subdistrict CPIOZ. The City has carried forward the development regulations for the San Diego River Subdistrict from the Mission Valley PDO, part of the certified LCP, and incorporated them into the San Diego

River Subdistrict CPIOZ. These development regulations include design standards for the San Diego River Pathway, public trails, fences; require permissible development in the floodway to be consistent with the Special Flood Hazard Areas and Environmentally Sensitive Lands development regulations of the certified LCP; and impose biological resource protection measures such as shielding lighting from the floodway. The application of the San Diego River Subdistrict CPIOZ to the eighteen acres in the coastal zone does not raise any new resource protection or hazards concerns. There are no conflicts between the CPIOZ policies and the base zone development regulations in the certified LCP. Thus, the amendments to the certified LCP to replace the Mission Valley PDO with the Mission Valley CPIOZ does not raise any consistency concerns and the LCP amendment may be approved.

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

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local governments 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. The City of San Diego considered this amendment's impacts when it adopted the Mission Valley Community Plan Update EIR (May 31, 2019, SCH No. 2017071066). The proposed rezone to Open Space Floodplain is compatible with the underlying land use and will be more protective of biological resources and minimize risks to life and property from flood hazards. The San Diego River Subdistrict CPIOZ will contain the same open space protections that are provided in the Mission Valley PDO. The application of the San Diego River Subdistrict CPIOZ does not raise any new resource protection or hazard concerns.

In the case of the subject LCP amendment request, the Commission finds that approval of the LCP amendment, as submitted, would not result in significant environmental impacts under the meaning of CEQA. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for any impacts which have not been explored and the LCP amendment, as submitted, can be supported.