

**CALIFORNIA COASTAL COMMISSION**

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# Th13d

## ADDENDUM

**February 9, 2022**

**To:** Commissioners and Interested Persons

**From:** California Coastal Commission  
San Diego Staff

**Subject:** Addendum to **Item Th13d, Del Mar LCP Amendment No. LCP-6-DMR-20-0079-3 (North Commercial and Professional Commercial Land Use and Zone)**, for the Commission Meeting of February 9-11, 2022

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The purpose of this addendum is to make several minor corrections to the staff report as well as identify changes in both the Suggested Modifications and staff findings to reflect additional discussions with and feedback from the City of Del Mar. Staff recommends the following changes be made to the above-referenced staff report. To distinguish from the revisions made to the City's proposed LCPA in the original staff report, deletions made through this addendum are marked by double ~~striketrough~~ and additions are double underlined:

1. New Exhibit 9 (Final Revised Suggested Modification #2) will be added to the staff report. This exhibit is provided as a "clean," easier to read version of the below strike-out/underline Suggested Modification #2.
2. On page 3 of the staff report, the second complete paragraph will be revised as follows:

Nevertheless, the Commission must consider how to minimize and avoid those risks, and therefore, staff is recommending that several key provisions for multi-dwelling unit residences be incorporated into the LCP before this requested additional use can be found allowable. These provisions are a result of working in coordination with the City in order to produce a set of requirements for the new multi-unit residential use that identify and address potential hazards in the NC zone while allowing for the development of affordable housing. In working with the City, several revisions were made to staff's original suggested modification concerning multi-unit development in the floodplain. The resulting final suggested modification can be found in [Exhibit 9](#) and is described below. It is staff's understanding the City is in support with the revised Suggested Modifications.

First, for new residential development to be sited appropriately in special flood hazard areas (that is the area subject to the 100 year floodplain), building owners and landowners must take precautions that ensure that development is designed to a level sufficient for the safety of occupants and the public over the lifetime of the structure. Therefore, a suggested modification is proposed that requires the City to consider several elements during coastal development permit review, including the best available science on sea level rise projections, the status of associated adaptation measures, and an analysis of how these adaptation measures minimize projected flood risk, such as the future provisioning of services to the site that may be impacted by sea level rise, as well as if the creation of new lots via subdivision should be limited, if the boundary between public lands and private lands could shift with rising seas, and if additional adaptation strategies should be required as a condition of permit approval. The suggested modification would also require a multiple unit residence located within the NC Zone and on a parcel within the special flood hazard areas of the Floodplain Overlay Zone as depicted on the 2019 FEMA FIRM, to include design modifications, such as floodproofing and elevation, in order to protect the structure from projected sea level rise based on the best available science and in consideration of applicable adaptation measures. The landowner will also be required to record a notice on the property and notify all occupants that the development is located in an area subject to periodic inundation due to flooding, including projected sea level rise hazardous area, or in an area that may become hazardous, and that sea level rise and flooding may render it difficult or impossible to provide services to the site. The notice will also describe how the boundary between public lands and private lands may shift with rising seas, and the development approval of any structure developed pursuant to this amendment will not be permitted to encroach onto public trust land. Noticing requirements will also include that additional adaptation strategies may be needed in the future consistent with the Coastal Act and certified LCP. Finally, the property owner permittee and their successors in interest would waive the right to hard shoreline protective device for the new residential building. If permit development review indicates that services to the site may be jeopardized by sea level rise; that the boundary between public lands and private land may shift onto the parcel; and/or that additional adaptation strategies may be required, these disclosures will also be included in the notice. Finally, the suggested modification will require permittee acknowledgment and must acknowledge that the development may need to be removed or relocated if the site becomes unsafe for occupancy due to future sea level rise or flood hazard conditions. These requirements are consistent with the Sea level Rise guidance adopted by the Commission.

3. On page 4 of the staff report, the first paragraph will be deleted as follows:

~~A suggested modification to the amendment would also prohibit subdivisions on the parcels of the NC Zone. In accordance with recent Commission guidance,~~

~~subdivisions in hazardous areas may increase the risk to life and property when located in an area at risk from sea level rise, and would ultimately make any community wide action more complicated and less effective given a higher number of property interests concentrated in an area known to be hazardous or that will become hazardous.~~

4. On page 4 of the staff report, the second sentence third paragraph will be corrected as follows:

The City inadvertently failed to add “multiple dwelling unit residential residences at a density of 20 dwelling units per acre” to list of Land Use Designations/Allowed Uses in the NC and PC Zones in the LUP, as well as “emergency shelters” for the NC Zone in the same list.

5. On page 9 of the staff report, Suggested Modification #1 will be corrected as follows:

- NC Repair shops, Blueprinting, Manufacturing, Restaurants, Art and Technical studios, Offices, Warehouses, Multiple dwelling unit residential residences at a density of up to 20 d.u./acre, Emergency Shelters, Gasoline service stations\*, Bars\*, Cocktail lounges\*, Theatres\*, Hotel/Motel\*, Vet clinics\*, Kennel\*, Refuse recycling centers\* .
- PC Offices; professional, medical, dental; banks and financial institutions (exclusive of drive through); Parking lots; Parking garages, Multiple dwelling unit residential residences at a density of up to 20 d.u./acre.

6. On pages 10-11 of the staff report, Suggested Modification #2 will be corrected as follows:

Multiple dwelling unit residential up to a density of 20 dwelling units per acre subject to the following:

1. Proposed projects shall be consistent with the certified Local Coastal Program;
2. The density allowance of 20 dwelling units per acre may not be located on parcels adjacent to the San Dieguito River and Lagoon as depicted in [incorporate LCP Exhibit reflecting detail from [Exhibit 7](#) of CCC Staff Report].
3. No additional subdivisions shall be permitted. During development permit review, the City shall consider the best available science on sea level rise projections (such as the California State Sea Level Rise Guidance (OPC 2018) and the table for La Jolla in Appendix G of the Coastal Commission’s 2018 Sea Level Rise Policy Guidance), the

status of associated adaptation measures (planned and/or implemented), and analysis of how those adaptation measures minimize projected flood risk. This should include consideration of how projected sea level rise and flooding could affect future provision of services to the site; whether the boundary between public land (tidelands) and private land is projected to shift onto the subject project with rising seas; whether the creation of new lots via subdivision should be limited; and whether additional adaptation strategies should be required as a condition of permit approval to address sea level rise and flooding consistent with the Coastal Act and certified LCP.

4. If a proposed multiple dwelling unit project is located on a parcel that falls entirely or partially within the special flood hazard areas identified on the 2019 FEMA Flood Insurance Rate Map (FIRM), the following shall apply as a condition of Coastal Development Permit approval:

a. Development shall be sited and designed, including elevation and floodproofing, to ~~ensure safety~~ minimize flood damage and avoid flood hazards including those from the impacts of projected sea level rise and flooding over the anticipated lifetime of the proposed structure using the best available science on sea level projections and in consideration of applicable adaptation measures; ~~(such as the California State Sea Level Rise Guidance (OPG 2018) and the table for La Jolla in Appendix G of the Coastal Commission's 2018 Sea Level Rise Policy Guidance);~~

b. The landowner shall record a notice on the property and notice all occupants that:

i. The development is located in the Floodplain Overlay Zone(2019 FEMA FIRM), which applies to flood prone properties that are subject to periodic inundation due to flooding, including projected sea level rise and ~~as such is located in a hazardous area or an area that may become hazardous in the future;~~

~~ii. Sea level rise and flooding could render it difficult or impossible to provide services to the site;~~

~~iii. The boundary between public land (tidelands) and private land may shift with rising seas and the development approval does not permit encroachment onto public trust land;~~

~~iv. Additional adaptation strategies may be required in the future to address sea level rise and flooding consistent with the Coastal Act and certified LCP; and~~

~~v. ii. The ~~permittee~~ property owner and all successors in interest waive any rights under Coastal Act Section 30235 and related~~

LCP policies to hard shoreline armoring to protect the development;

c. Where necessary to ensure coastal resource protection and compliance with the Coastal Act based on the site-specific context, the notice required per Section 30.24.030(C)(4)(b) shall also reflect the following:

i. That sea level rise and flooding could render it difficult or impossible to provide services to the site

ii. That the boundary between public land (tidelands) and private land may shift with rising seas and the development approval does not permit encroachment onto public trust land.

iii. That additional adaptation strategies may be required in the future to address sea level rise and flooding consistent with the Coastal Act and certified LCP.

d. The permittee shall acknowledge as a condition of permit approval that while the approved development meets all safety requirements applicable at the time of approval, the development may be required to be removed or relocated and the site restored in accordance with the certified LCP if the Building Official determines the development becomes unsafe for occupancy due to future ~~sea level rise or~~ flood hazard conditions.

7. On page 11 of the staff report, Suggested Modification #5 will be corrected as follows:

NC Repair shops, Blueprinting, Manufacturing, Restaurants, Art and Technical studios, Offices, Warehouses, Multiple dwelling unit residential residences at a density of up to 20 d.u./acre, Emergency Shelters, Gasoline service stations\*, Bars\*, Cocktail lounges\*, Theatres\*, Hotel/Motel\*, Vet clinics\*, Kennels\*, Refuse recycling centers\*.

PC Offices; professional, medical, dental; banks and financial institutions (exclusive of drive through); Parking lots, Parking garages, Multiple dwelling unit residential residences at a density of up to 20 d.u./acre.

8. On page 13 of the staff report, the third sentence of the third complete paragraph will be corrected as follows:

These numbers include 50 ~~35-40~~ units on the Watermark parcel (discussed below) that is currently under review at the City separately from the subject LCPA.

9. On page 14 of the staff report, the second sentence of the second paragraph will be corrected as follows:

The applicant is currently pursuing a permit application for “by-right” processing of a 50 ~~48~~-unit project that includes 10 units reserved for lower-income households.

10. On page 20 of the staff report, the sixth sentence of the first paragraph will be corrected as follows:

However, the LUP does contain a list of allowable uses in each land use designation, and the City inadvertently failed to add the proposed the new allowable use (multi-unit residential residences at a density of up to 20 d.u./acre) to this list for the NC and PC (as well as emergency shelters for the NC Zone specifically).

11. On page 28 of the staff report, the third paragraph will be corrected as follows:

Similar to the inadvertent omission of the proposed allowable land use in the LUP, a description of multi-unit residential residences at a density of up to 20 d.u./acre must be added to its IP. As with the LUP, the City’s IP contains a Zone Designations/Allowed Uses list that does not currently describe either the NC or PC Zone as having an allowable use of multi-unit residential residences at a density of up to 20 d.u./acre, nor that the NC Zone allows for emergency shelters. Therefore, as proposed, the IP amendment cannot be found consistent with the LUP.

12. On page 30 of the staff report, the first sentence under “Findings for Approval If Modified” will be corrected as follows:

As described above, the allowable uses list in the LUP does not include either emergency shelters (for the NC Zone specifically) or multiple dwelling unit residential residences at a density of up to 20 dwelling units per acre for either the NC or PC Zones.

13. On pages 31-32 of the staff report, the second paragraph will be revised as follows:

Therefore, in order to address the risks associated with increasing density in a hazardous area, the inclusion of **Suggested Modification #2** into the LCPA is proposed. This Suggested Modification was crafted in coordination with the City in order to maximize the opportunity for affordable housing while still protecting life, property, and coastal resources. The final version of this suggested modification, as shown in Exhibit 9, requires the City to consider several elements during development permit review, including the best available science on sea level rise projections, the status of associated adaptation measures, and

an analysis of how these adaptation measures minimize projected flood risk, such as the future provisioning of services to the site that may be impacted by sea level rise, as well as if the boundary between public lands and private lands could shift with rising seas, and if additional adaptation strategies should be required as a condition of permit approval. This Suggested Modification also would modify the requirements of the allowable uses permitted in the NC Zone (30.24.030) so that any new or converted multiple dwelling unit building must include several standards as a condition of Coastal Development approval when sited on a parcel that falls entirely or partially within the special flood hazard areas identified on the 2019 FEMA FIRMs. With the incorporation of **Suggested Modification #2**, design and noticing requirements will be applied to the development of a multiple dwelling unit building as described above. Specifically, **Suggested Modification #2** states that a multi-unit dwelling must include elevation, floodproofing, and/or other measures sufficient to safeguard it from the impacts of projected sea level rise over the anticipated lifetime of the proposed structure using the best available science and in consideration of applicable adaptation measures. These suggested modifications would also require landowners in this area to record a notice on their property and notice all occupants that the building is located in the Floodplain Overlay Zone as depicted on the 2019 FEMA FIRM and is therefore on a flood prone property that is subject to periodic inundation due to flooding, including projected sea level rise, ~~is in a hazardous area or an area that may become hazardous; that sea level rise could make it difficult or impossible to provide services to the site; that the boundary between tidelands and private land may shift with rising seas and the development approval does not permit encroachment onto public trust land, and that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified LCP. Finally, the Suggested Modifications would also require that the permittee and that property owner and all successors in interest~~ waive any right under Coastal Act Section 30235 and related LCP policies to hard shoreline armoring to protect the residential building. If permit development review described above indicates that services to the site may be jeopardized by sea level rise, that the boundary between public lands and private land may shift onto the parcel, or that additional adaptation strategies may be required, these disclosures will also be included in the notice. Finally, the suggested modification would require ~~and~~ permittee acknowledgement that the structure may need to be removed or relocated, ~~and the site restored,~~ if the site becomes unsafe for occupancy due to flooding ~~ing~~ hazard conditions as determination by the Building Official ~~and sea level rise.~~

**Suggested Modification #2** would also require the City to consider if the creation of new lots via subdivision should be limited at the time potential development is reviewed for consistency with the LCP. ~~prohibit subdivision of parcels located in the NC Zone.~~ As stated in the Commission's January 21, 2022 memo on the implementation of a new state law (SB 9) in areas vulnerable to sea level rise, the Commission's sea level rise guidance recommends concentrating development away from hazardous areas and limiting subdivisions

so as to minimize risks to life and property while assuring stability and structural integrity of the building over its lifetime without relying on shoreline armoring. However, in the case of the subject LCP amendment, its very intent is to increase density in the NC Zone order to allow for the development of affordable housing, capped at 20 dwelling units per acre. Furthermore, the City anticipates that one way it anticipates meeting its affordable housing goals is through the allowance of condominium construction/conversion, which typically require a subdivision. Because the potential for densification of the area is capped at 20 units per acre, and, as modified herein, the City would have to review the appropriateness of new lot creation during project review, including incorporating noticing requirements, design and floodproofing utilizing the best available science, a waiver of shoreline protection, and owner acknowledgement that removal or relocation of the building may be necessary, allowing subdivisions in this case is consistent with the coastal resource protection policies of the LCP. Subdivisions on these lots may hinder the ability to add on adaptive elements on the site or building into the future as sea level rise progress (for example, development cannot be sited in a more landward or higher elevation location). Lastly, subdivisions increase the amount of property interests in a given area and complicate potential scenarios where management of the area must be addressed on a more comprehensive, community wide scale while maintaining protection of coastal resources and public access.

14. On pages 32-33 of the staff report, the paragraph under “Allowed Uses List” will be corrected as follows:

As described above, the list for allowable uses in the IP does not document multiple dwelling unit residential residences at a density of up to 20 dwelling units per acre for either the NC or PC Zones, or the addition of emergency shelters as an allowable use within the NC Zone. With the incorporation of **Suggested Modification #5**, the new allowed uses for the IP will be clearly applicable for the subject zones within the zoning designation lists, and thus be consistent with the certified LUP.



Final Suggested Modification #2

2. Revise Section 30.24.030(C) as follows:

Multiple dwelling unit residential up to a density of 20 dwelling units per acre subject to the following:

1. Proposed projects shall be consistent with the certified Local Coastal Program;
2. The density allowance of 20 dwelling units per acre may not be located on parcels adjacent to the San Dieguito River and Lagoon as depicted in [incorporate LCP Exhibit reflecting detail from Exhibit 7 of CCC Staff Report].
3. During development permit review, the City shall consider the best available science on sea level rise projections (such as the California State Sea Level Rise Guidance (OPC 2018) and the table for La Jolla in Appendix G of the Coastal Commission's 2018 Sea Level Rise Policy Guidance), the status of associated adaptation measures (planned and/or implemented), and analysis of how those adaptation measures minimize projected flood risk. This should include consideration of how projected sea level rise and flooding could affect future provision of services to the site; whether the boundary between public land (tidelands) and private land is projected to shift onto the subject project with rising seas; whether the creation of new lots via subdivision should be limited; and whether additional adaptation strategies should be required as a condition of permit approval to address sea level rise and flooding consistent with the Coastal Act and certified LCP.
4. If a proposed multiple dwelling unit project is located on a parcel that falls entirely or partially within the special flood hazard areas identified on the 2019 FEMA Flood Insurance Rate Map (FIRM), the following shall apply as a condition of Coastal Development Permit approval:
  - a. Development shall be sited and designed, including elevation and floodproofing, to minimize flood damage and avoid flood hazards including those from the impacts of projected sea level rise and flooding over the anticipated lifetime of the proposed structure using the best available science on sea level projections and in consideration of applicable adaptation measures;

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- b. The landowner shall record a notice on the property and notice all occupants that:
  - i. The development is located in the Floodplain Overlay Zone (2019 FEMA FIRM), which applies to flood prone properties that are subject to periodic inundation due to flooding, including projected sea level rise;
  - ii. The property owner and all successors in interest waive any rights under Coastal Act Section 30235 and related LCP policies to hard shoreline armoring to protect the development.
- c. Where necessary to ensure coastal resource protection and compliance with the Coastal Act based on the site-specific context, the notice required per Section 30.24.030(C)(4)(b) shall also reflect the following:
  - i. That sea level rise and flooding could render it difficult or impossible to provide services to the site.
  - ii. That the boundary between public land (tidelands) and private land may shift with rising seas and the development approval does not permit encroachment onto public trust land.
  - iii. That additional adaptation strategies may be required in the future to address sea level rise and flooding consistent with the Coastal Act and certified LCP.
- d. The permittee shall acknowledge as a condition of permit approval that while the approved development meets all safety requirements applicable at the time of approval, the development may be required to be removed or relocated in accordance with the certified LCP if the Building Official determines the development becomes unsafe for occupancy due to future flood hazard conditions.