

**CALIFORNIA COASTAL COMMISSION**

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# W16a

Date: April 21, 2022

To: **COMMISSIONERS AND INTERESTED PERSONS**

From: **JOHN AINSWORTH, EXECUTIVE DIRECTOR**

Subject: **CITY OF ENCINITAS DE MINIMIS LOCAL COASTAL PROGRAM AMENDMENT  
LCP-6-ENC-21-0075-2 (Inclusionary Housing Update) FOR COMMISSION REVIEW  
AT ITS MEETING OF MAY 11, 2022**

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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 (May 11, 2022).

## PROPOSED AMENDMENT

The City of Encinitas’s LCP Amendment request was filed on January 11, 2022. At its March 2022 hearing, the Commission approved a one-year time extension to April 8, 2023. As such, the last date for Commission action on this item is the March 2023 meeting.

The City proposes to amend its certified LCP Implementation Plan to update regulations and requirements for inclusionary housing to address the need for additional affordable housing in the city. The proposed changes would apply to Chapter 30.41 Affordable Housing of the City’s Municipal Code, which serves as the Implementation Plan

component of the City's LCP. The proposed amendment is presented in attached Ordinance Number 2021-02.

The proposed amendment includes several components and is based on the results of several studies conducted by the City to examine options for requiring new development to provide additional inclusionary housing. First, the proposed amendment would expand the applicability of the City's inclusionary housing requirements. Currently, only residential developments of seven units or more are required to comply with the inclusionary housing provisions. Residential developments of less than seven units are exempt. As proposed, the only new residential development that would be exempt from the inclusionary housing requirements are additions to existing residences of less than 500 sq. ft. New residential development of six or fewer units and residences expanded by 500 sq. ft. or more would be required to construct an ADU affordable to low or very low income household, or pay an in-lieu fee.

Residential developments of seven or more units, which are currently required to comply with the inclusionary housing provisions, would be required to provide additional inclusionary housing units. Currently, the LCP requires applicants to make available either 15% of the new dwelling units to low-income households or 10% of the dwelling units to very low income households at an affordable sales price or rent. The changes would increase these requirements by 5%. As proposed, applicants would be required to make available either 20% of the dwelling units to low-income households or 15% of the dwelling units to very low income households at an affordable sales price or rent.

The proposed ordinance also updates how inclusionary housing in-lieu fees are determined, based on the results of an economic nexus study undertaken by the City. Currently, the City's in-lieu fees are established on a project-by-project basis and are based on the difference or "gap" between what a targeted low-income household could afford to pay for housing, and the median home price for the area at the time the project was being reviewed. The City's proposed fee structure is based on the nexus study and is intended to capture the cost of constructing affordable housing, while not financially overburdening development and discouraging the construction of new market-rate housing. Inclusionary requirements can be satisfied either by the construction of housing on-site with the market rate development, or by the payment of an in-lieu fee. Circumstances where development would be eligible to pay the in-lieu fee include new residential developments of less than seven units, inclusionary requirements that result in a requirement to provide fractional units less than one-half, in cases where funds can provide financial assistance to an identified affordable housing project, or where fee payment would create more affordable units than would be created by the on-site provision.

The proposed amendment also includes some minor new and revised definitions to implement the above changes. Throughout the chapter, references to "affordable" housing would be replaced with the term "inclusionary." The proposed amendment also creates a new affordable housing impact fee required with the construction of new residential care facilities based on a residential care nexus analysis.

## **DISCUSSION**

In March 2019, the Commission approved LCP Amendment No. LCP-6-ENC-18-0068-2 creating a new chapter in the Encinitas Municipal Code (IP) to address regulations and requirements related to the provision of affordable housing. Since then, the City has conducted several studies to explore options to provide additional inclusionary housing. The subject LCP amendment includes changes to the City's code based on the findings of these studies.

The City's proposed amendment is intended to both increase the creation of affordable units in new residential developments and broaden the City's efforts to promote both affordable rental and for sale housing options. As experienced throughout the state, and more critically in coastal areas, the cost of rental and owner-occupied housing has become more and more expensive. Housing costs have increased faster than incomes for many groups in the community. Based on the 2021-2029 regional housing needs plan for San Diego County, prepared by the San Diego Association of Governments (SANDAG), over 50% of the new housing in the County should be affordable to extremely low, very low, low, and moderate-income households. Based on its General Plan, the City has policies to encourage the provision of a wide range of housing by location, unit type and price range to meet housing needs. In this amendment, the City's proposed regulations establish higher standards for requiring the provision of affordable housing within new residential projects.

The proposed IP amendment is consistent with the goals and policies of the LUP. The proposed amendment will not change any coastal zone property/land uses or have any potential to impact coastal resources, either individually or cumulatively. No changes to the development standards for residential development are proposed; inclusionary housing projects will still have to comply with all applicable development standards in the certified LCP. Since the City is not proposing to alter existing development standards or any certified resource protection measures in the LCP, the proposed amendment should not result in any adverse impacts to wetlands, sensitive habitat, designated viewsheds, or coastal access and recreation. Thus, the proposed IP Amendment is found to be consistent with the certified LUP and Chapter 3 of the Coastal Act.

## **DETERMINATION**

The Executive Director determines that the City of Encinitas 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 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.