

CALIFORNIA COASTAL COMMISSION

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Date: May 19, 2022

To: COMMISSIONERS AND INTERESTED PERSONS

From: JOHN AINSWORTH, EXECUTIVE DIRECTOR

Subject: CITY OF ENCINITAS DE MINIMIS LOCAL COASTAL PROGRAM AMENDMENT
LCP-6-ENC-22-0013-1 (Objective Design Standards) FOR COMMISSION REVIEW
AT ITS MEETING OF JUNE 9, 2022

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 (June 9, 2022).

Staff Note: LCP Amendment Action Deadline. The 60-working-day action deadline for the proposed IP amendment is July 8, 2022. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until July 8, 2022 to take a final action on this LCP amendment. Therefore, if the Commission fails to take a final action in this case (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion at the top of the following page. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: I move that the Commission extend the time limit to act on City of Encinitas Local Coastal Program Amendment Number LCP-6-ENC-22-0013-1 for one year.

PROPOSED AMENDMENT

The City of Encinitas's LCP Amendment request was filed on April 13, 2022. As such, the last date for Commission action on this item is the June 2022 meeting, absent a time extension.

The City proposes to amend its certified LCP Implementation Plan to remove subjective language from its residential design standards and replace it with objective language. The proposed changes would apply to Chapters 23.08 Design Review, 30.04 Definitions, and 30.16 Residential Zones of the City's Municipal Code, which serves as the Implementation Plan component of the City's LCP. In addition, proposed changes would apply to the Downtown Encinitas Specific Plan, North 101 Corridor Specific Plan, and Cardiff-by-the-Sea Specific Plan. The proposed amendment is presented in attached Ordinance Number 2022-02.

The proposed amendment includes minor changes to the existing language of the LCP. For example, words like "should" would be replaced with "shall" and the phrase "to the extent practicable" would be removed. The amendment also includes a new checklist and point system to establish recreational amenity requirements for new multi-family residential developments. The proposed changes will apply to new multi-family and mixed-use residential projects and will not apply to single-family homes, accessory dwelling units (ADUs), or commercial and industrial projects that do not contain a residential component.

DISCUSSION

Historically zoning codes and design guidelines were developed to be flexible and allow for interpretation on a case-by-case basis. The State determined that subjective design standards and guidelines could negatively impact the development of housing and so passed Senate Bill (SB) 35 in 2017 and SB 330 in 2019 that require that residential projects be reviewed using objective standards. The legislation further states that a local agency may only use objective standards to deny or reduce the density of certain projects. The City's 5th Cycle Housing Element included development of objective design standards for multiple family development as a program to be completed by the City.

Objective design standards are typically measurable and demonstrable and use language such as "shall" and "must." Subjective design guidelines are typically open to interpretation and not measurable and use words such as "should" or "may." The intent of objective design standards is to provide specific standards that will make clear to developers, design professionals, applicants, city staff, decision-makers, and the public what will be used in the review of project submittals.

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. Existing development standards will continue to regulate building height, setbacks, density, floor-area ratio (FAR), open space, etc., while the new objective design and development standards will regulate criteria such as site layout, architectural elements, pedestrian connections, and landscaping, to ensure that new residential developments maintain a design quality reflective of the community character. 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.