

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CALIFORNIA 92108-4402
(619) 767-2370 FAX (619) 767-2384
WWW.COASTAL.CA.GOV



W17

San Diego Coast District Deputy Director's Report for July 2022

Prepared July 06, 2022 (for the July 13, 2022 Hearing)

To: Commissioners and Interested Parties
From: Karl Schwing, San Diego Coast District Deputy Director

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, emergency CDPs, and local government acceptance of modifications for LCP certification for the San Diego Coast District Office are being reported to the Commission on July 13, 2022. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's San Diego Coast District Office in San Diego. Staff is asking for the Commission's concurrence on the items in the San Diego Coast District Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on July 13th.

With respect to the July 13th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on July 13, 2022 (see attached)

Waivers

- 6-21-0393-W, City of San Diego River Levee Flap Gates Replacement (San Diego)
- 6-22-0201-W, City of San Diego Pump Station #14 Repairs (San Diego)
- 6-22-0288-W, Johnson SFR Addition (Solana Beach)
- 6-22-0322-W, Scott SFR Addition (Solana Beach)
- 6-22-0384-W, Bray Condominium Remodel (Solana Beach)
- 6-22-0454-W, SDCRAA Temporary Northside Ground Transportation Facilities (San Diego)

Emergency Permits

- G-6-22-0026, Beacons Beach Temporary Emergency Closure (Encinitas)

LCP Certification Review

- LCP-6-DMR-21-0035-1, 5th Cycle Housing Element (Del Mar)

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CALIFORNIA 92108-4402
PH (619) 767-2370 FAX (619) 767-2384
WWW.COASTAL.CA.GOV



June 23, 2022

Coastal Development Permit Waiver Improvements to Existing Structures or Repair and Maintenance Coastal Act Section 30610

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13250(c), Section 13252(e), or Section 13253(c), Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 6-21-0393-W

Applicant: City of San Diego Transportation and Storm Water Department attn:
Christine Rothman

Location: San Diego River southern levee east of Sunset Cliffs Blvd bridge, Ocean Beach, San Diego (San Diego County) (APN(s): 435-480-17-00)

Proposed Development: In-kind replacement of 3 damaged flap gates within the San Diego River southern levee system and after-the-fact approval for the removal of the previous gates.

Rationale: The project site consists of a concrete apron and three storm water outfalls within the southern rip rap embankment of the San Diego River levee system. The 2018 removal of the three damaged flap gates utilized a truck-mounted crane and flat bed truck staged on the public bike path above the outfall, with no staging occurring within the concrete apron. Installation of the new approx. 7 x 7 ft. flood flap gates and brackets will take approx. 7 days and also utilize a crane, along with a vector truck to remove water from the concrete apron during installation, staged on approx. 0.03 acres of the public bike path and adjacent disturbed land atop the levee. A tiger dam and approx. 72 sandbags will be placed within the concrete apron to limit water intrusion and prevent discharges during the installation. Public access on the bike path will be controlled through flag operators and detours while work is occurring. The project site is situated

Coastal Development Permit Waiver
6-21-0393-W

within an artificial rip rap-covered levee with limited habitat, though a biological monitor will be present during the work and pre-construction bird-surveys will be conducted due to the proximity of the river habitat. Thus, as proposed, the project will not substantially impact public access, water quality, or sensitive habitat, and is consistent with Chapter 3 of the Coastal Act.

This waiver will not become effective until reported to the Commission at its July 2022 meeting. If three (3) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:

A handwritten signature in black ink, appearing to read "Alex Llerandi", written over a circular stamp or mark.

Alexander Llerandi
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CALIFORNIA 92108-4402
PH (619) 767-2370 FAX (619) 767-2384
WWW.COASTAL.CA.GOV



July 05, 2022

Coastal Development Permit Waiver Improvements to Existing Structures or Repair and Maintenance Coastal Act Section 30610

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13250(c), Section 13252(e), or Section 13253(c), Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 6-22-0201-W

Applicant: City of San Diego Public Utilities Department attn: Lindsey Frick

Location: 3214 Bayside Walk, Mission Bay Park, San Diego (San Diego County)
APN(s): N/A

Proposed Development: Excavate an approx. 10 x 18 ft. pit adjacent to the existing sewer pump station #14 (SPS14) to repair and seal the western wall and repair an exterior water leak. Construction staging is to occur in a 20 x 60-ft. equipment area and a 20 x 20-ft. spoil area east of SPS 14, with no closure of public sidewalk.

Rationale: The proposed development is needed to repair and seal the western wall of SPS14, which was damaged by an undetermined below-grade water leak outside the structure. The spoils from the excavated pit adjacent to SPS 14 will be taken off-site until needed to refill the pit at project completion. Equipment will be staged on public lawn area near SPS14 during the day, and not stored overnight. Construction BMPs including, but not limited to, fiber rolls, tarp coverings, and drip pans will be used. The project area will be surrounded by a 6-ft. tall safety fence, but no public sidewalks will be closed during the approximately 1-2 week project duration. The proposed development will not substantially impact coastal resources, public access, or water quality, and is consistent with Chapter 3 of the Coastal Act.


Coastal Development Permit Waiver
6-22-0201-W

This waiver will not become effective until reported to the Commission at its July 2022 meeting. If three (3) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:

DocuSigned by:

93259924E9C41E8
Alexander Herandi
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CALIFORNIA 92108-4402
PH (619) 767-2370 FAX (619) 767-2384
WWW.COASTAL.CA.GOV



June 22, 2022

Coastal Development Permit Waiver Improvements to Existing Structures or Repair and Maintenance Coastal Act Section 30610

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13250(c), Section 13252(e), or Section 13253(c), Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 6-22-0288-W

Applicant: Todd and April Johnson

Location: 603 Glencrest Place, Solana Beach (San Diego County) (APN: 263-270-22)

Proposed Development: Remodel of an existing 1-story, 1,366 sq. ft. single-family residence, including conversion of approximately 506 sq. ft. of garage space to living space, enclosure of an approximately 77 sq. ft. patio, and an approximately 1,983 sq. ft. addition, including a new 959 sq. ft. second floor and new 586 sq. ft. garage, on a 17,385 sq. ft. lot.

Rationale: The proposed residential addition requires a permit because the site is located between the first public roadway and sea and involves an increase in more than 10% of the existing floor area. The proposed addition will be located within an established residential neighborhood consisting of single-family residences similar in size and scale to the proposed development; therefore, the project will not be out of character with the existing community. There are no steep slopes, native vegetation or public views that will be affected by the addition. The bioretention basin to be constructed on the southwestern end of the property will not affect any sensitive habitat. The project is consistent with the zoning and plan designations for the City of Solana

Coastal Development Permit Waiver
6-22-0288-W

Beach and its certified LUP, as well as all applicable Chapter 3 policies of the Coastal Act, and no adverse impacts to coastal resources are anticipated.

This waiver will not become effective until reported to the Commission at its July 2022 meeting. If three (3) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:

Stephanie Leach
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
PH (619) 767-2370 FAX (619) 767-2384
WWW.COASTAL.CA.GOV



July 1, 2022

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 6-22-0322-W

Applicant: Charles and Lauren Scott

Location: 678 San Mario Drive, Solana Beach, San Diego County (APN: 263-582-05)

Proposed Development: Construction of an approximately 280 sq. ft. addition; interior remodel; roof replacement; and installation of new trellis and siding at an existing 1,966 sq. ft. two-story single-family residence with attached 503 sq. ft. garage on a 12,840 sq. ft. lot.

Rationale: The proposed project requires a permit because the site is located between the sea and first public road and the addition will result in an increase of more than 10% of the existing floor area. The proposed project is located within an established residential neighborhood consisting of residences similar in size and scale to the proposed development. The site is adjacent to coastal sage scrub habitat but the proposed development will not result in any direct impacts on this native habitat and potential fuel modification required for the new addition will not impact any habitat areas that are not already impacted by fuel modification for the neighboring residences on either side of the subject site. The proposed project will not block any public views. The project is consistent with the zoning and plan designations for the City of Solana Beach and its certified Land Use Plan, as well as all applicable Chapter 3 policies of the Coastal Act, and no adverse impacts to coastal resources are anticipated.

This waiver will not become effective until reported to the Commission at its July 2022 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less

Coastal Development Permit Waiver
6-22-0322-W

than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:

Carrie Boyle
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CALIFORNIA 92108-4402
PH (619) 767-2370 FAX (619) 767-2384
WWW.COASTAL.CA.GOV



June 22, 2022

Coastal Development Permit Waiver Improvements to Existing Structures or Repair and Maintenance Coastal Act Section 30610

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13250(c), Section 13252(e), or Section 13253(c), Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 6-22-0384-W

Applicant: Rebecca Bray

Location: 233 South Helix Avenue #47, Solana Beach, San Diego County
(APN: 298-520-01-47)

Proposed Development: Remodel involving replacement and enlargement of windows and sliding glass doors in an existing 1,525 sq. ft. condominium unit.

Rationale: The existing condominium building is located within 50 feet of the coastal bluff, and thus the proposed window and door enlargement requires a permit. The proposed development will not increase the size of the unit or impact geologic stability. The development does not result in alteration of greater than 50% of the exterior walls of the existing structure. The proposed development will not affect public views or coastal access, and no adverse impacts to coastal resources are anticipated. The project is consistent with the zoning and plan designations for the City of Solana Beach and its certified Land Use Plan, as well as all applicable Chapter 3 policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its July 2022 meeting. If three (3) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Coastal Development Permit Waiver
6-22-0384-W

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:

Stephanie Leach
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CALIFORNIA 92108-4402
PH (619) 767-2370 FAX (619) 767-2384
WWW.COASTAL.CA.GOV



June 24, 2022

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 6-22-0454-W

Applicant: San Diego County Regional Airport Authority

Location: Admiral Boland Way, south of Rental Car Center (APN: 450-790-22)

Proposed Development: Temporary relocation of the taxi hold lot and airport shuttle storage and dispatch to paved lots on the north side of the airport. The taxi hold lot would include striped parking, lighting, portable restrooms, and a break area. The shuttle bus storage and dispatch lot would include lighting, two temporary trailers, and employee parking.


Rationale: The purpose of the project is to temporarily relocate ground transportation facilities while the final long-term locations of the two lots are constructed in approximately December 2024. The two sites are entirely paved and were previously used for construction employee parking and equipment storage during the construction of facilities on the north side of the airport. The project is located across the airport runway and approximately 1,100 ft. from the California least tern nesting site. To minimize any possible impact to the nesting birds, the applicant will construct the project outside of the nesting season, if possible, or provide a biological monitor if construction does occur during that time. In addition, proposed temporary lighting will be limited to a color correlated temperature of 3,000 kelvins and directed away from the nesting site. The U.S. Fish and Wildlife Service has reviewed the project and agrees that the project as proposed is not expected to impact the terns. The proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

Coastal Development Permit De Minimis Waiver
6-22-0454-W

This waiver will not become effective until reported to the Commission at its July 2022 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Executive Director

DocuSigned by:

D5DBC5ECBB2D41B...
Melody Lasiter
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5200
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

**EMERGENCY COASTAL DEVELOPMENT PERMIT**

Emergency G-6-22-0026 (Beacons Beach Bluff Failure)

Issue Date: June 29, 2022

Permittee: City of Encinitas, Attn: Anna Colamussi**Emergency Location:** Beacon's Beach bluffs and public access trail, along Neptune Avenue near West Leucadia Blvd, Encinitas, San Diego County. (APN No: 254-04-031).**Emergency Description:** A bluff failure and reactivation of a historic landslide occurred between May 1 and 2, 2022, causing visible cracks and fissures along the bluff and destabilizing the existing public access trail, including knocking down handrails and undermining a portion of the wooden access stairs and path.**Emergency Development:** Immediate and temporary closure of the Beacon's Beach bluff and public access trail from May 2, 2022 through approximately July 31, 2022, including installation of temporary fencing at the top of bluff and beach to prevent the public from entering the failure area, closure of the public parking lot, and placement of sensors and equipment for bluff stability monitoring. Closure and placement of the sensors occurred on 5/2/2022.**Executive Director's Determination**

The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

Handwritten signature of Diana Lilly in blue ink.

6/30/2022

Diana Lilly, San Diego Coast District Manager, for John Ainsworth, Executive Director

Enclosure: ECDP Acceptance Form

cc: (via email): Anna Colamussi (City of Encinitas); Darren Smith (California State Parks)

Emergency CDP G-6-22-0026 (Beacon's Beach Failure)

Issue Date: June 29, 2022

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's San Diego Coast District Office within 15 days of the date of this ECDP (i.e., by July 14, 2022). This ECDP is not valid unless and until the acceptance form has been received in the San Diego Coast District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Commission's San Diego Coast District Office on June 21, 2022. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.
3. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., City of Encinitas, California State Parks, California State Lands Commission, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
4. By exercising this ECDP, Permittee acknowledges and agrees that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.
5. By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs

Emergency CDP G-6-22-0026 (Beacon's Beach Failure)

Issue Date: June 29, 2022

(including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.

6. The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
7. Within 90 days of ECDP issuance (i.e., by September 27, 2022), the Permittee shall either: (a) remove all of the materials placed or installed in connection with the emergency development, and restore all affected areas to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP); or (b) submit a complete application to the City of Encinitas for a regular CDP to authorize the emergency development (or for a different project designed to address the emergency development). If such regular follow-up CDP application is withdrawn by the Permittee, or is denied by the City, or if it remains incomplete for a period of 90 days, then all of the materials placed and/or installed in connection with the emergency development shall be removed, and all affected areas shall be restored to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP).
8. Failure to meet any of the applicable requirements of Condition 7 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.
9. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding

Emergency CDP G-6-22-0026 (Beacon's Beach Failure)

Issue Date: June 29, 2022

impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.

10. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
11. By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
12. The Permittee shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.
13. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.

If you have any questions about the provisions of this ECDP, please contact the Commission's San Diego Coast District Office at SanDiegoCoast@coastal.ca.gov or 7575 Metropolitan Drive, Suite 103, San Diego, CA 92108, (619) 767-2370.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384



EMERGENCY PERMIT ACCEPTANCE FORM

TO: CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

RE: **Emergency Permit No. 6-22-0026-G**

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the San Diego Coast Area Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that a regular Coastal Permit is necessary to permanently authorize the emergency work. I agree to apply for a regular Coastal Permit within 90 days of the date of the emergency permit (i.e., by September 27, 2022).

Anna Colamussi
Signature of property owner

Anna Colamussi - City of Encinitas
Name
505 S. Vulcan Ave
Address
Encinitas, CA 92024

7/1/22
Date of Signing

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384



W17

Prepared June 23, 2022 (for July 13, 2022 Hearing)

To: Commissioners and Interested Persons

From: John Ainsworth, Executive Director
Diana Lilly, San Diego Coast District Manager
Stephanie Leach, Coastal Planner

Subject: Certification Review for City of Del Mar LCP Amendment Number LCP-6-DMR-21-0035-1 (5th Cycle Housing Element)

On May 11, 2022, the California Coastal Commission considered a proposed City of Del Mar LCP amendment (LCP-6-DMR-21-0035-1) designed to amend its certified Implementation program to create a new Housing Element Implementation Overlay Zone in order to allow for the by-right development of multiple dwelling unit residential at a density of 20-25 dwelling units per acre with 20% of the units earmarked as affordable, as well as to apply this new overlay to two parcels in the NC Zone known as the “Watermark” parcels. At that time, and after a public hearing, the Commission conditionally certified the amendment provided it was modified as suggested by the Commission.

The City of Del Mar considered the Commission’s conditional certification on June 6, 2022, and approved a modified version of the LCP amendment that day in response to the Commission’s conditional certification, including the suggested modifications (see attachment).

The Executive Director has reviewed the City’s June 6, 2022 action, and has determined that it is legally adequate to meet all of the Commission’s conditional certification requirements. The Executive Director will report that determination to the Coastal Commission at the Commission’s monthly meeting on July 13, 2022 as part of the San Diego Coast District Director’s Report. The Commission meeting starts at 9am on July 13th, and the District Director’s Report is item number 17 on the agenda for that day. Interested persons are welcome to submit comments and/or to sign-up to testify to the Commission regarding this matter under that agenda item (see the Commission’s website at www.coastal.ca.gov for further information and instructions to participate in these ways).

Please note that this certification review is not a time to revisit any substantive issues associated with the approval of the subject LCP amendment, as certification review is limited to the question of whether the County adopted the suggested modifications to the LCP amendment approved by the Commission. Please further note that the Executive Director’s determination is not subject to any required concurrence or approval by the Commission, but rather is simply being reported to the Commission as is required by the Commission’s regulations in order to allow for the amended LCP to be certified in that form (see Title 14, Division 5.5, Sections 13544 and 13544.5). Upon reporting this item to the

Commission in the Central Coast District Director's Report, the amended LCP will be certified as of that date and time.

If you have any questions about this LCP amendment certification review process, including questions about how to submit written comments and/or to testify to the Commission, please contact the San Diego Coast office at (619) 767-2370 or SanDiegoCoast@coastal.ca.gov.

ORDINANCE NO. 989

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ACCEPTING THE COASTAL COMMISSION MODIFICATIONS TO THE 5th CYCLE HOUSING ELEMENT PROGRAM 2G LOCAL COASTAL PROGRAM AMENDMENT BY AMENDING PROSPECTIVE ORDINANCE 979 THAT ADDS A NEW ZONING CHAPTER 30.92 TO THE DEL MAR MUNICIPAL CODE TO CREATE A NEW HOUSING ELEMENT IMPLEMENTATION OVERLAY ZONE (HEI-OZ) AS AN OVERLAY ZONING TOOL THAT CAN BE APPLIED TO REAL PROPERTY THROUGH FUTURE REZONE ACTIONS AT THE DISCRETION OF THE CITY COUNCIL WHEN NECESSARY TO IMPLEMENT FUTURE REQUIRED CITY OF DEL MAR HOUSING ELEMENT PROGRAM ACTIONS PER STATE LAW; AND BY AMENDING PROSPECTIVE ORDINANCE 980 THAT APPLIES THE HEI-OZ TO APNS 299-100-47 AND 299-100-48

WHEREAS, the Housing Element is a State-mandated policy document with associated mandated regulatory requirements as set forth in the California Government Code; and

WHEREAS, California Government Code §65583.2(h) and (i) imposed a requirement on the City of Del Mar to process a rezone program to allow multiple dwelling unit residential use by-right at a density range of 20-25 dwelling units per acre with an affordability component as reflected in the prior Housing Element (5th Cycle Program 2G); and

WHEREAS, the City Council adopted Ordinances 979 and 980 to implement the required 5th Cycle Housing Element Program 2G rezone action and submitted the associated Local Coastal Program Amendment (LCPA) application to the California Coastal Commission (CCC) for certification; and

WHEREAS, on May 11, 2022, the Coastal Commission conditionally certified the LCPA on the condition that the City accept CCC's modifications via ordinance; and

WHEREAS, this Ordinance, which accepts CCC's modifications, is consistent with prior City Council action on March 5, 2021, adopting a Resolution that amended the Del Mar Community Plan land use designation applicable to "North Commercial" and City Council action on April 5, 2021, adopting two Ordinances that further implemented the required 5th Cycle Housing Element Program 2G rezone of APNs 299-100-47 and 299-100-48 located in the North Commercial Zone; and

WHEREAS, once created the overlay zone could be applied to specific parcels via future rezone actions as necessary to address future rezone programs when required to implement the City's Housing Element and comply with State law; and

WHEREAS, pursuant to State law, future housing development on parcels in the overlay zone will be subject to an administrative level ministerial approval process where submitted development applications will be reviewed for compliance with the published development standards and mitigation, monitoring, and reporting criteria; and

WHEREAS, local decisions on development applications within the CCC appealable area would be appealable to CCC in accordance with State law and the City's certified LCP.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Del Mar does hereby ordain as follows:

SECTION ONE: That Del Mar Municipal Code (DMMC) Section 30.92.020 be amended to read as follows:

30.92.020 Areas of Applicability.

The areas of applicability for the Housing Element Implementation Overlay Zone shall include the following properties:

<u>APN Location</u>	<u>Housing Element Program Description</u>	<u>Base Zone</u>	<u>Overlay Zones</u>
299-100-47-00 299-100-48-00	5 th Cycle Program 2G – Two Parcels further described in DMMC Section 30.92.030(E)	North Commercial (NC)	Bluff, Slope, and Canyon; Floodplain; and Lagoon

SECTION TWO: That DMMC Section 30.92.030 be amended to read as follows:

30.92.030 Process for Permit Approval.

- A. Notwithstanding the standard permit process provisions of the Del Mar Municipal Code, permit approvals for proposed multiple dwelling unit housing development within the Housing Element Implementation Overlay Zone shall be issued in accordance with an administrative level ministerial approval process where the proposed development is consistent with the applicable Housing Element program indicated in Section 30.92.020 and development standards in Section 30.92.040.
- B. Proposed development on property in the Housing Element Implementation Overlay Zone that does not meet the criteria stated in Section 30.92.030(A) shall be subject to the standard procedures for permit approval pursuant to the Del Mar Municipal Code.
- C. An administrative Coastal Development Permit (CDP) shall be required for proposed development.

- (1) The administrative CDP shall be obtained in accordance with Section 30.75.080(E).
- (2) The Planning Director shall prepare written findings of fact in accordance with Section 30.75.140 as necessary to support any decision to grant permit approval.
- (3) No public hearing shall be required.
- (4) Public notice shall be required in accordance with Section 30.75.120.
- (5) Once a final decision of approval, conditional approval, or denial is issued by the Planning Director, the notice of final action shall be provided within five working days to the Executive Director of the Coastal Commission and to any interested parties who requested notice in writing in accordance with Section 30.75.100.
- (6) Within the appealable area of the coastal zone (Section 30603 of the Coastal Act and as generally shown on the City Post Certification Map) property that is located between the first public road and the sea, within 300 feet of a beach or the mean high tide line, and all areas within 100 feet of wetlands and streams), the Planning Director's decision to approve an Administrative CDP in the Housing Element Implementation Overlay Zone may be appealed to the Coastal Commission within 10 working days in accordance with Section 30.75.110. Proposed development in the Housing Element Implementation Overlay Zone that is located outside of the coastal zone appealable area is not appealable to the Coastal Commission.

D. Upon issuance of an administrative CDP, the applicant may apply for an administrative level approval of required Construction Permits as applicable.

E. Reserved.

SECTION THREE: That DMMC Section 30.92.040 be amended to read as follows:

30.92.040 Development Standards.

The development standards applicable to proposed development in the Housing Element Implementation Overlay Zone shall be in accordance with the applicable base zone, overlay zones, and all applicable provisions of DMMC Title 30, unless otherwise indicated herein, or where necessary to comply with Federal and State law.

A. Density. 20-25 dwelling units per net acre.

B. Construction Design Standards.

- (1) Setbacks.

- a. Front yard: 10 feet or as otherwise required, whichever is greater.

Street Side Yard: 10 feet or as otherwise required, whichever is greater.
- b. If parcels in the Overlay Zone share a property line with an adjacent parcel developed with an existing single dwelling unit or duplex residential use, the following additional setback requirements apply to proposed projects in the Overlay Zone to provide an appropriate transition to the existing use:
 - i. A minimum 15-foot-wide landscaped buffer (setback) shall be provided and maintained on the project side of any property line.
 - ii. Any upper stories of residential uses in the Overlay Zone shall be setback 30 feet from any property line adjacent to the residential use.
- c. Construction, grading, or other encroachment of any kind on substantial steep slopes (as defined in DMMC Section 30.52.060A.1.b), or within 20 feet of the top or 10 feet of the bottom of substantial steep slopes exceeding 25 percent grade, or the construction of structures which overhang such steep slopes or steep slope setbacks, shall be not be allowed.

(2) Building Design.

- a. Maximum average size of dwelling units for a development site shall not exceed 1,000 square feet of "Bulk Floor Area" as defined and regulated in DMMC Chapter 30.72, excepting that attached dwelling units shall be measured to the center of shared building walls.
- b. No more than 75% of any building facade shall be in a single plane. An average of a five-foot offset, with a minimum of one-foot, is required for the remaining 25% of the building facade.
- c. Decks on any roof of any building shall not be allowed.
- d. Habitable portions of the development exceeding one-story shall have a "flat roof" design, allowing minimum necessary slope for drainage.
- e. Single-story design elements such as entries and clerestories with two-story volume or heights shall not be allowed.
- f. Ceiling heights on any habitable building level shall not exceed 10 feet.

- g. Elevated deck areas associated with individual units shall be limited to 100 square-feet in area and shall be oriented towards the street, and no elevated deck shall face a property line shared with an adjacent parcel developed with an existing single dwelling unit or duplex residential use.
- h. Covered outdoor areas, including but not limited to entries, porches, decks and balconies, shall be limited to 10% of the associated unit size.
- i. Earth tone paint and material colors shall be used for building exteriors, including flat roofs.

(3) Auxiliary Structures/Equipment and Utilities.

- a. All roof appurtenances including, but not limited to air conditioning units and mechanical equipment shall be shielded to eliminate noise and architecturally screened from view from on-site parking areas, adjacent public streets, and adjacent properties.
- b. All ground-mounted mechanical equipment, including but not limited to heating and air conditioning units, trash receptacle areas and adequate areas for collecting and loading recyclable materials, shall be completely shielded to eliminate noise and screened from surrounding properties by use of a wall, view-obscuring fencing and/or landscaping, or enclosed within a building.
- c. Ground-mounted mechanical or electrical equipment shall be screened using a combination of elements including solid masonry walls, berms, and landscaping. Screening wall shall be designed to be architecturally compatible with the building design. All new and existing utility service connections within the boundaries of the development site shall be placed underground.
- d. Trash receptacles and adequate areas for collecting and loading recyclable materials shall be incorporated into the building design, located in garages, and/or enclosed by a six-foot high masonry wall with view-obscuring gates and screened with vegetation. The finish materials and colors of an exterior enclosure shall match the exterior building materials. No trash receptacle and areas for collecting and loading recyclable materials shall face a property line shared with an adjacent parcel developed with an existing single dwelling unit or duplex residential use.
- e. Outdoor storage areas shall be entirely enclosed by solid masonry walls not less than six feet in height to adequately screen such areas from public view. Substitutions such as masonry, wood, or metal

pilasters with wrought iron or chain link and view-obscuring material must be harmonious with exterior building materials.

- f. Any gutters, scuppers, or downspouts proposed on the exterior of a building shall be decorative or designed to be integrated with the building façade.

(4) Site and Landscape Standards.

- a. Hardscape shall be limited to no more than 20 percent of front yard and street side yard setbacks, including driveways and drive aisles.
- b. Screening plants shall buffer privacy encroaching views in at least 75% of the intended area, with species selected to reach this standard within one-year of planting. Grasses and deciduous plants shall not be used for screening purposes.
- c. For screening purposes, any new trees shall be provided at a minimum 24-inch box size and any new shrubs shall be provided at a minimum five-gallon size.
- d. New trees shall be non-invasive according to the California Invasive Plant Council guidance.
- e. Only regionally native species shall be planted within steep slope setback areas and wetland buffer areas.

(5) Parking.

- a. Parking shall be provided in accordance with DMMC Chapter 30.80.
- b. Garage parking shall be required in accordance with the provisions of DMMC Chapter 30.80, unless accommodation without a garage enclosure is necessary to meet the minimum density range to provide affordable units.
- c. When garage parking is not required per the exception listed in Section 30.92.040.B-5(b), required parking areas/spaces shall be:
 - i. Located at the rear of the development site and screened from public view by the dwelling unit structure(s) and/or landscape screening; or
 - ii. Located at grade, situated beneath dwelling units and screened from view along fronting streets by architectural and/or landscaping features.

- d. Private drive aisles accessing parking shall be located at the rear or side of a property to avoid excessive curb cuts and maximize landscaping at the street frontage.
 - e. Curb cuts shall be located to maximize sight distances for motorists, bicycles and pedestrians entering or exiting the property, crossing the driveways, and to limit interference with off-site circulation, parking, and safety. Any vegetation proposed to be planted adjacent to a driveway shall be selected and located so as to maintain adequate sight lines to and from the property, and along the property frontage to the public street(s) and intersection(s).
 - f. Driveway slope angles shall not exceed 15%.
 - g. Open-sided parking coverings that contain solar collectors/panels shall not be calculated towards maximum allowed Lot Coverage.
 - H. Surface parking areas shall be separated from a building with both a raised pedestrian sidewalk (minimum four feet in width) and a landscape strip (minimum eight feet in width).
- (6) Exterior Lighting.
- a. All exterior lighting shall be low intensity, shielded, and directed downward, below the horizontal plane of the fixture, to prevent objectionable brightness or light trespass onto adjacent properties. The source of the light bulb must not be visible from adjacent properties or public rights of way. Natural gas lighting shall not be allowed. The color temperature of exterior lighting located adjacent to ESHA, or adjacent to the shoreline, shall be 2700 Kelvin or lower.
 - b. Fixtures must be "Full Cut Off" designated or "Fully Shielded" fixtures, so that no light is emitted above the lowest light emitting part of the fixture. Shielded and unshielded up-lighting shall not be allowed.
 - c. Light fixtures shall be located no closer to the property line than four times the mounting height of the fixture, and shall not exceed the height of adjacent off-site structures.
 - d. Focused flood lighting may be allowed for security purposes but shall be mounted to be downward directed only, shall be located no higher than the first story, and shall utilize motion-sensor activation at all times.
 - e. Accent lighting used only for highlighting architectural features (e.g., "wall washing") shall not be allowed.

- f. Pole-mounted lights shall not be allowed unless the lighting source is entirely screened from public view from a public street or shielded in a courtyard or interior portion of a multiple-dwelling unit complex and light is shielded from any adjacent parcel developed with an existing single dwelling unit or duplex residential use.

C. Minimization of Flood Risk.

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:

- (1) During review of applications for development, 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 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.
- (2) 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.

SECTION FOUR: That DMMC Section 30.92.050 be amended to read as follows:

30.92.050 Mitigation, Monitoring, and Reporting.

All proposed multiple dwelling unit housing development within the Housing Element Implementation Overlay Zone shall be subject to the following objective standard protocols for mitigation, monitoring, and reporting as necessary to avoid a significant impact to the environment in accordance with applicable State and Federal laws.

A. Cultural Resources.

- (1) Historic Resources.

- a. Where development would involve the alteration or demolition of a structure greater than 50 years old, a historic evaluation by a Secretary of Interior's Standards for Architectural Historian or Historic Architect shall be provided to determine if the resource meets the definition of a Historic Resource as defined in CEQA Guidelines Section 15064.5. If the structure is determined to be a Historic Resource, any proposed alteration shall follow mitigation guidelines contained in CEQA Guidelines Section 15126.4(b). Mitigation standards may include, but are not limited to avoidance and preservation, conducting alterations in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (including as applicable, standards for Preservation, Rehabilitation, Restoration and Reconstruction), and documenting resources. The approach to comply with these standards shall be prepared by an Architectural Historian or Historic Architect and provided to the City.
- b. Demolition and/or significant diminution of designated historic landmarks shall be prohibited.

(2) Native American Consultation.

Upon receipt of a development proponent's preliminary application, the City shall request consultation regarding the proposed development with any California Native American Tribe that is traditionally and culturally affiliated with the geographic area, as described in Section 21080.3.1 of the Public Resources Code, and contact the Native American Heritage Commission for assistance in identifying any California Native American Tribe. The City shall provide formal notice for each Tribe traditionally and culturally affiliated with the geographic area of the project site including the location and a description of the proposed development, and an invitation to engage in scoping consultation. The local government shall request that each tribe notify the City if it accepts the invitation to engage in consultation within 30 days, unless additional time is requested.

The local government must initiate consultation within 30 calendar days of a Tribe's acceptance of the invitation to engage in consultation. Consultation occurs between the City and the tribe(s) and must comply with the confidentiality requirements. Tribal consultation concludes either 1) upon documentation of an enforceable agreement regarding the treatment of tribal resources at the project site (Government Code §65913.4(b)(2)(D)(i)), or 2) one or more parties to the consultation, acting in good faith and after a reasonable effort, conclude that a mutual agreement cannot be achieved (Government Code §65913.4(b)(2)(D)(ii)).

(3) Archaeological Survey.

- a. Any development project that involves disturbance of soils, including native soils that may have been previously disturbed or compacted, shall be required to submit an archaeological survey report unless previous tribal consultation correspondence for the project site indicates there is no concern with grading activities on site
- b. An archaeological survey report shall be submitted by a Registered Professional Archaeologist.
- c. The survey report shall include a record search of known archaeological resources and document results of the field survey including any resources encountered.

(4) Siting and Design

Development shall be sited and designed to avoid adverse impacts to important archaeological resources to the maximum extent feasible. If there is no feasible alternative that can avoid impacts to important or unique archaeological resources, then the alternative that would result in the least adverse impacts to important or unique archaeological resources that would not result in additional adverse impacts to other coastal resources shall be required.

(5) Testing and Mitigation

- a. If potential impacts to archaeological resources cannot be avoided, the Registered Professional Archaeologist shall develop and implement an archaeological testing program. The testing program shall be adequate to allow a determination of significance pursuant to CEQA Guidelines Section 15064.5(b) and shall include a Native American monitor.
- b. Should the testing find significant resources are present, a mitigation program shall be implemented consistent with CEQA Guidelines Section 15126.4(b)(3).
- c. Mitigation shall be designed in compliance with the guidelines of the State Office of Historic Preservation and the State Native American Heritage Commission. Mitigation may include, but is not limited to, conservation and protection of the site in perpetuity, implementation of a data recovery plan, or other on-site preservation methods such as capping.
- d. In-situ preservation and avoidance of cultural depositions shall be considered the preferred mitigation option.

- i. For in-situ preservation or reburial, the boundaries of the resource shall be determined and a setback shall be no less than 20 feet and may be larger if necessary to protect the cultural deposit.
 - ii. Where in-situ preservation and avoidance is not feasible, partial or total recovery of important or unique archaeological resources shall be undertaken.
 - iii. Examples of methods to accomplish in-situ preservation or avoidance include, but are not limited to:
 - Siting and designing structures to avoid important or unique archaeological resources;
 - Planning construction to prevent contact with important or unique archaeological deposits;
 - Planning parks, green space, or other open space to preserve important or unique archaeological sites;
 - “Capping” or covering important or unique archaeological sites with a layer of soil before building tennis courts, parking lots, or similar facilities. Capping may be used where: the soils to be covered will not suffer serious compaction; the cover materials are not chemically active; the site is one in which the natural processes of deterioration have been or can be effectively arrested; and the site has been recorded.
 - iv. Although the placement of fill on top of an archaeological site may reduce direct impacts of construction, indirect impacts may result from the loss of access to the site for research purposes and scarification and compaction of soils.
 - v. To mitigate these impacts, a sample of the cultural resource shall be excavated and appropriately curated for research purposes; and
 - vi. Action shall be taking to designate important or unique archaeological sites into permanent conservation easements held for the benefit of the public.
- e. A Native American monitor shall be consulted regarding the proposed mitigation plan as well as representatives of Native American groups that agreed to participate in the initial consultation process. If there is disagreement regarding the culturally affiliated tribal government, the Native American Heritage Commission shall

be consulted. All reports, methods, testing programs, curation, and other aspects of the archaeological investigation shall follow the Secretary of the Interior's Guidelines for Archaeological Documentation.

(6) Preconstruction Meeting Coordination and Archaeological and Native American Monitoring.

- a. Archaeological monitoring is required in accordance with Section 30.92.050(A)(3)(b), unless a Registered Professional Archaeologist and Native American Monitor provide written recommendation that monitoring is not recommended.
- b. Prior to the start of any ground-disturbing activity, an archaeological and Native American monitor from a traditionally and culturally affiliated tribe that is included on an updated Native American Heritage Commission (NAHC) list, as well as a Native American most likely descendant (MLD) when State Law mandates identification of a MLD, shall be retained to monitor ground-disturbing activities including, but not limited to, grading, excavation, brush clearance, and grubbing. The archaeological monitor shall conduct preconstruction cultural resources worker sensitivity training to bring awareness to personnel of actions to be taken in the event of a cultural resources discovery.
- c. The duration and timing of monitoring shall be determined by the qualified archaeologist in consultation with the City and the Native American Monitor. Initially, all ground-disturbing activities shall be monitored. However, the qualified archaeologist, based on observations of soil stratigraphy or other factors, and in consultation with the City and the Native American Monitor, may reduce the level of monitoring as warranted.

(7) Discovery of Archaeological Resources

- a. In the event that archaeological resources are accidentally discovered or unearthed during construction activities, all job operations within a 25-meter radius shall be temporarily suspended or redirected until the qualified archaeologist and Native American monitor have identified and evaluated the nature and significance of the find, in compliance with CEQA Guidelines Section 15064.5(f).
- b. Construction activities shall be redirected to other work areas until the archaeologist and Native American monitor determine that work can resume in the vicinity of the find.

- c. If the artifact that is accidentally discovered or unearthed is of Native American origin, the certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources shall be consulted for identification and evaluation.
- d. If the discovery is determined significant, a data recovery program or other treatment method determined in consultation with the City and Native American with knowledge of the cultural resources, if applicable, shall be implemented in order to mitigate impacts to the resource.
- e. The applicant shall transfer ownership of Native American cultural resources to the appropriate Native American Tribe for proper treatment and disposition, if requested by the Tribe.
- f. In the event that human remains are discovered or unearthed during construction activities, all job operations within a 25-meter radius of the human remains shall be temporarily suspended or redirected and the county coroner must be contacted as required by California Health and Safety Code Section 7050.5.
- g. If the remains are determined by the coroner to be Native American in origin, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) within 24 hours. California PRC Sections 5097.94 and 5097.98 require consultation with the NAHC, protection of Native American remains, and notification of most likely descendants to ensure the appropriate and dignified treatment of Native American human remains and any associated grave goods.
- h. The City shall notify the Coastal Commission staff that significant archaeological resources were discovered during construction.

B. Biological Resources.

(1) Required Technical Reports and Surveys

The applicant shall provide information with the development application detailing the biological resources present on-site including identification of jurisdictional resources such as State or Federal wetland, environmentally sensitive habitat area (as defined in DMMC Section 30.75.030). If wetlands are present as defined in DMMC Section 30.53.030, a jurisdictional wetland delineation shall be provided. If there is a potential for sensitive plant or wildlife species to be present, applicable protocol surveys shall be conducted.

(2) Siting Design and Monitoring

a. Protection of Wetlands

- i. If wetlands are present on-site the project design shall ensure wetlands are preserved and where appropriate restored, along with a minimum 100-foot wetland buffer. If wetlands are located off-site, a 100-foot wetland buffer shall be provided from the edge of the off-site wetland to the edge of the development footprint.
- ii. The wetland buffer may be reduced to no less than 50-feet with written concurrence from the California Department of Fish and Wildlife (CDFW) and the California Coastal Commission, and after findings have been made that the physical characteristics of the site, such as the size and dimensions of the property, are adequate to protect the resources of the adjacent wetlands.
- iii. The findings for a reduced wetland buffer shall be based on site-specific factors, such as the type, size and nature of the development proposed, the mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials which may exist between the proposed development and wetland areas; the need for upland transitional habitat, or other similar factors which will serve to contribute to the purposes of a wetland buffer area. When making these findings, the recommendations of CDFW and CCC shall be considered.
- iv. Permitted uses in wetlands are specified in DMMC Section 30.53.080.
- v. Wetland buffers shall be consistent with DMMC Section 30.53.090. Public access to wetlands and wetland buffer areas shall be restricted as necessary to maintain the biological productivity of the wetland. This may be accomplished by landscape berms, fencing, or other suitable barriers.

b. Protection of Environmentally Sensitive Habitat Areas (ESHA)

- i. Sensitive habitat areas (including wetlands and wetland buffers) shall be retained or restored to their natural state to ensure the future protection of the designated area(s) from encroachment, disturbance, or degradation.
- ii. Prior to the issuance of Certificate(s) of Occupancy, protected habitat areas shall be preserved through recordation of an

open space deed restriction, conservation easement, or open space easement over the protected area(s) to ensure their protection and to serve notice to the property owner, subsequent owners or interested parties of the restrictions in effect on such property.

- iii. ESHA shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- iv. 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.
- v. Sensitive habitat shall be protected by appropriate buffers. Encroachment into ESHA buffers shall be avoided, including encroachment for fuel modification and brush management.

(3) Protected Trees

Removal of Torrey Pines or Monterrey Cyprus trees shall be replaced or mitigated at appropriate ratios as determined by the Planning Director in consultation with a qualified arborist.

- (4) Where landscaping or revegetation is proposed, the landscaping and/or revegetation plan shall not include any invasive plant species listed on the California Invasive Plant Council's Invasive Plant Inventory Database or cultivars of any such listed species.

(5) Limits on Construction During Breeding Season

- a. The clearing and grading of trees and shrubs shall occur outside of the avian and raptor breeding season of February 1 through August 31 to avoid damage to nests and nesting birds consistent with the Migratory Bird Treaty Act.
- b. If clearing and grading during the avian breeding season is proposed, then a focused nest survey shall be conducted by a qualified biologist 72 hours prior to the vegetation removal. If active nests are discovered during the nest survey, those nests shall be avoided until the young have fledged.
- c. Appropriate nest setback distances shall be implemented during construction based on applicability of noise attenuation measures, the topography between the nest and the proposed disturbance

activity, and the surrounding vegetation. These setbacks shall be a minimum of 300 feet for passerine species and 500 feet for raptor species, but may be reduced when located in highly urban settings if approved by the Executive Director of the California Coastal Commission.

- d. Where habitat for California gnatcatcher is present within or adjacent to the project site, breeding season avoidance measures shall be implemented.
 - i. If project-related work is to occur during the breeding season for California gnatcatcher (February 15 through August 31), pre-construction protocol-level surveys for California gnatcatcher shall be performed to determine the status of breeding California gnatcatchers on site and within 500 feet of the site.
 - ii. If a nesting California gnatcatcher pair is detected on site or within 500 feet of the site, noise attenuation measures shall be implemented to ensure that ambient noise levels are equal to or less than 65 decibels at the nest.
 - iii. If ambient noise levels before project construction exceed 65 dB, noise attenuation measures shall be implemented to ensure the baseline noise level is not exceeded.
 - iv. Nest monitoring by an individual holding a Section 10(a) U.S. Fish and Wildlife Service recovery permit for California gnatcatcher shall be conducted to ensure that the nesting California gnatcatchers remain undisturbed by construction.

C. Noise.

- (1) Construction Noise. The applicant shall provide a construction noise mitigation program to the City that demonstrates how construction activities will comply with DMMC Section 9.20.050. Construction noise reduction measures may include, but are not limited to the following:
 - a. Temporary sound barriers/shielding adjacent to sensitive receivers. The required location, height, and materials of the barrier shall be specified.
 - b. Siting of staging areas, stationary noise sources, and other noise generators away from sensitive receivers.
 - c. Reduction of construction equipment idling time and fitting of construction equipment with noise reducing devices.

d. Resident notification of construction schedule.

(2) On-site Noise.

a. Project designs shall ensure all outdoor noise generating equipment is shielded to provide noise attenuation to achieve noise level limits at the nearest property line consistent with DMMC Section 9.20.040 - Sound Level Limits.

b. Project outdoor use areas shall be shielded from roadway noise through building attenuation or other methods.

D. Paleontological Resources.

(1) Submittal Requirements, Technical Reports, and Surveys.

Applicants shall be required to provide the following supporting information as part of a development application to determine applicability of this section:

a. The types and depth of geological formations present.

b. The paleontological sensitivity of each geologic formation.

c. Proposed grading depths into each formation.

(2) Siting and Design

a. New development shall be sited and designed to avoid adverse impacts to paleontological resources to the maximum extent feasible.

b. If there is no feasible alternative that can eliminate all impacts to paleontological resources, then the alternative that would result in the fewest or least significant impacts to resources shall be selected.

c. Impacts to paleontological resources that cannot be avoided through siting and design alternatives shall be mitigated.

d. When impacts to paleontological resources cannot be avoided, mitigation shall be required that includes procedures for monitoring, grading and handling fossil discoveries that may occur during development.

(3) Preconstruction Meeting Coordination and Monitoring

- a. Any project that requires disturbance into high or moderate sensitivity paleontological formations shall be required to provide a paleontological monitor during ground disturbing activities.
- b. A qualified paleontologist (an individual with an MS or PhD in paleontology or geology who is familiar with paleontological procedures and techniques, who is knowledgeable in the geology and paleontology of San Diego County, and who has worked as a paleontological mitigation project supervisor in the County for a least one year) shall attend the preconstruction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues.
- c. A paleontological monitor (an individual who has experience in the collection and salvage of fossil materials, working under the direction of a qualified paleontologist) shall be on site on a full-time basis during the original cutting of previously undisturbed deposits of high paleontological resource potential to inspect exposures for contained fossils.
- d. Grading activities in previously undisturbed deposits of moderate paleontological resource potential shall be monitored on a part-time basis.

(4) Discovery of Paleontological Resources

- a. In the event that paleontological resources are discovered or unearthed during project subsurface activities, all earth-disturbing work within a 100-meter radius shall be temporarily suspended or redirected until a certified paleontologist has recovered, identified, and/or evaluated the nature and significance of the find, in compliance with CEQA Guidelines Section 15064.5(f).
- b. Mitigation measures shall be implemented to address the impacts of the construction on the resources following the guidance of 30.92.050(A)(4)(d).
- c. After the find has been appropriately mitigated, work in the area may resume.
- d. During the monitoring and recovery phases of the mitigation program, the qualified paleontologist and/or the paleontological monitor shall routinely collect stratigraphic data (e.g., lithology, vertical thickness, lateral extent of strata, nature of upper and lower contacts, and taphonomic character of exposed strata). Collection of such data is critical for providing a stratigraphic context for any recovered fossils.

- e. Fossil remains collected during monitoring and salvage shall be cleaned (removal of extraneous enclosing sedimentary rock material), repaired (consolidation of fragile fossils and gluing together broken pieces), sorted (separating fossils of the different species), and cataloged (scientific identification of species, assignment of inventory tracking numbers, and recording of these numbers in a computerized collection database) as part of the mitigation program.
- f. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections such as the San Diego Natural History Museum. Donation of the fossils shall be accompanied by financial support for preparation, curation, and initial specimen storage, if this work has not already been completed.
- g. A final summary report shall be completed that outlines the results of the mitigation program. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils.
- h. The City shall notify the Coastal Commission staff that significant paleontological resources were discovered during construction.

E. Public Views.

Projects shall be designed to ensure that no scenic views from public streets, roads or pedestrian trails are obstructed, unless there is no feasible alternative siting which eliminates or significantly reduces the obstruction, and that the bulk and scale of the proposed structure have been minimized to the greatest extent feasible commensurate with preserving the physical characteristics of the site. Protection of public views will be evaluated based on consistency with public view protection policies IV-22 through IV-27 of the City of Del Mar Local Coastal Program (LCP) Land Use Plan as well as the appropriate setback(s) that protect public scenic views to the ocean.

F. Steep Slopes.

Construction, grading, or other encroachment of any kind on substantial steep slopes exceeding 25 percent grade, or within 20 feet of the top or 10 feet of the bottom of substantial steep slopes exceeding 25 percent grade, or the construction of structures which overhang such steep slopes or steep slope setbacks, shall be prohibited except as specified in DMMC Section 30.52.060(A).

G. Wildfire.

To ensure protection of the public health and safety from wildfire, all development within or adjacent to a "Very High" or "High" Fire Hazard Severity Zone shall be required to

incorporate enhanced fire safety measures consistent with Section(H) of the Bluff, Slope and Canyon Overlay Zone Regulations found in the certified LCP as well as the State Fire Code and Building Code to the satisfaction of the Fire Marshall and Building Official.

H. Flooding

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:

1. The landowner shall record a notice on the property and notice all occupants that:
 - a. 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;
 - b. 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.
2. Where necessary to ensure coastal resource protection and compliance with the Coastal Act based on the site-specific context, the notice required per Section 30.92.050(H)(1) shall also reflect the following:
 - a. That sea level rise and flooding could render it difficult or impossible to provide services to the site;
 - b. 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; and
 - c. 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.
3. 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.

SECTION FIVE: That DMMC Section 30.75.100 (Notice of Action on Coastal Development Permit Applications) be amended to read as follows:

30.75.100 Notice of Action on Coastal Development Permit Applications

Upon final action on an application for a Coastal Development Permit, the City shall, within five working days of the final action, mail notice to the Executive Director of the California Coastal Commission and to interested parties who have requested notice in writing describing the action taken by the City.

SECTION SIX: That DMMC Section 30.75.110 (Coastal Development Permits Reviewed by the City – Appeals to the Coastal Commission) be amended to read as follows:

30.75.110 Coastal Development Permits Reviewed by the City – Appeals to the Coastal Commission.

(A) [No change]

(B) The period for appeal to the Coastal Commission on an action rendered by the City on a Coastal Development Permit application shall be ten working days, commencing on the day after written notice of the City's final action on the application is received at the staff offices of the Coastal Commission.

(C) [No change]

SECTION SEVEN: This Ordinance amends Ordinance 979 which creates the prospective DMMC Zoning Chapter 30.92 Housing Element Implementation Overlay Zone (HEI-OZ) and Ordinance 980 which amends Ordinance 979 and applies the HEI-OZ Overlay Zone to APNS 299-100-47 and 299-100-48.

SECTION EIGHT: The City Council finds that approval of this Ordinance is Statutorily Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15265 because the proposed action constitutes an amendment to the City's certified Local Coastal Program (LCP) to facilitate the implementation of Government Code Section 65583.2 (h) and (i) pursuant to State Housing law. CEQA does not apply to activities or approvals by a local government as necessary for the preparation and adoption of a LCP amendment for review and certification by the California Coastal Commission (CCC) as set forth in Section 21080.9 of the Public Resources Code. Accordingly, the certified City of Del Mar LCP constitutes a plan for use in the CCC's regulatory program as certified under Section 21080.5 of the Public Resources Code. The proposed actions include a corollary amendment to the City's Municipal Code (Zoning). The future application of the Overlay Zone to certain parcels as required by the City's Housing Element to implement Government Code Section 65583.2 (h) and (i) will be analyzed in accordance with CEQA prior to such approval.

SECTION NINE: This Ordinance was introduced by the City Council on May 16, 2022.

SECTION TEN: The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating the votes cast.

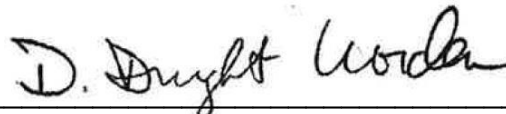
SECTION ELEVEN: Upon adoption, the Ordinance will be submitted to the California Coastal Commission for final certification of the submitted Local Coastal Program Amendment. The Ordinance will take effect and be in force on the date the Coastal Commission takes action to unconditionally certify the Local Coastal Program Amendment.

SECTION TWELVE: The City shall file a copy of the adopted Ordinance with the State Department of Housing and Community Development once final certification is granted by the Coastal Commission.

SECTION THIRTEEN: If any section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, illegal or unconstitutional by a decision or order of any court of competent jurisdiction, then such decision or order shall not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council hereby declared that it would have passed and adopted this Ordinance, and each section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases is declared invalid, illegal or unconstitutional.

BE IT FURTHER RESOLVED, that staff is hereby directed to submit the Local Coastal Program Amendment to the Coastal Commission for final certification.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 6th day June 2022.



Dwight Worden, Mayor
City of Del Mar

APPROVED AS TO FORM:



Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 989, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 6th day of June, 2022, by the following vote:

AYES: Mayor Worden, Deputy Mayor Martinez, Council Members Druker, Gaasterland and Quirk
NOES: None
ABSENT: None
ABSTAIN: None



Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar