

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
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San Diego Coast District Deputy Director's Report for August 2023

Prepared August 03, 2023 (for the August 10, 2023 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 August 10, 2023. 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 August 10th.

With respect to the August 10th 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 August 10, 2023 (see attached)

Waivers

- 6-23-0519-W, Braun ADU (Solana Beach)
- 6-23-0525-W, Caltrans I-5 Guardrails (San Diego)
- 6-23-0527-W, Held ADU (Solana Beach)

Emergency CDPs

- G-6-23-0058, 1200 Block S. Pacific Street Revetment (Oceanside)

LCP Certification Review

- LCP-6-SAN-21-0091-1, Spaces as Places (San Diego)

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July 24, 2023

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: 6-23-0519-W

Applicant: Andrea Braun

Location: 1104-1106 Highland Dr, Solana Beach (San Diego County) (APN: 298-380-23)

Proposed Development: Construction of a new approximately 660 sq. ft. one-story detached accessory dwelling unit with attached front and rear decks totaling approximately 200 sq. ft., on a 21,850 sq. ft. lot with an existing approximately 3,954 sq. ft., 2-story single-family residence.

Rationale: The project site is not between the sea and the first public road and is approximately 1.3 miles inland from the beach. The proposed project is located within an established residential neighborhood consisting of single-family residences similar in size and scale to the proposed development, thus the project will not be out of character with the existing community. The proposed accessory unit is consistent with the City of Solana Beach standards for accessory units in an area designated for Estate Residential uses. The development will not block any public views and adequate parking will be provided. Additionally, 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 August 2023 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

Coastal Development Permit De Minimis Waiver
6-23-0519-W

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,

Kate Huckelbridge, PhD
Executive Director

Original on File signed by:

Nora Ives
Coastal Program Analyst

cc: Commissioners/File

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July 13, 2023

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 13238, 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: 6-23-0525-W

Applicant: California Department of Transportation (Caltrans), Mr. Julio Reyes

Location: Interstate-5, Post Mile 20.8-21.3, at the Sea World Drive Offramp, City of San Diego

Proposed Development: Caltrans proposes replacement and extension of the existing guardrail on Interstate-5 (I-5) at the Sea World Drive southbound offramp (post mile 20.8-21.3) in the City of San Diego. Work will include the removal of existing 208 linear feet of Metal Beam Guardrail and installation of 605 linear feet of Midwest Guardrail System to meet current safety standards. Additionally, 535 linear feet of existing asphalt curb will be removed and replaced with 630 linear feet of hot mix asphalt curb. All work will be conducted within the Caltrans right-of-way. The project will require minimal non-native vegetation trimming and removal and no trees will be removed. The project will take 20 days to complete, and the Sea World Drive southbound offramp will be closed for 50 consecutive hours to allow for construction access and protect the travelling public. Temporary detour signage will be installed during the closure. In addition to daytime work, night work will occur, necessitating temporary lighting. The work will be scheduled outside of the busy summer months to protect public access to nearby coastal resources.

Rationale: The proposed project will replace and extend the existing guardrail at the Sea World Drive I-5 southbound offramp to protect motorists from fixed objects adjacent to the highway. The primary purpose of the proposed project is to protect public safety. Caltrans proposes that all work will be conducted in conformance with the Statewide General National Pollutant Discharge Elimination System, including requirements to

July 13, 2023

Coastal Development Permit Waiver
No. 6-23-0525-W

implement construction best management practices (BMPs) to prevent pollutants from entering Tecolote Creek. Therefore, proposed development will not impact aquatic resources, and no work is proposed within the banks of Tecolote Creek. Ground disturbance outside of existing paved areas will be minimal, and most disturbed soil will remain onsite and be compacted. Any excess soil and debris from the construction work will be disposed of at an authorized facility. As proposed, the project has no potential to adversely impact coastal resources, such as water quality, environmentally sensitive habitat areas, wetlands, public access or recreation, and is consistent with past Commission actions in the area and the Chapter 3 policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its August 2023 meeting. If three (3) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Kate Huckelbridge
Executive Director

Melissa Escaron
Transportation Program Analyst

cc: Commissioners/File

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July 25, 2023

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: 6-23-0527-W

Applicant: Scott and Donelle Held

Location: 345 S. Granados Ave., Solana Beach (San Diego County) (APN: 298-075-11-00)

Proposed Development: Construction of a new, detached, approximately 748 sq. ft. one-story ADU, demolition of an existing pool, deck, hardscape, and septic system, construction of a new patio, and associated grading and hardscaping to an existing 3,866 sq. ft., two-story single-family residence with an attached, approximately 200 sq. ft. garage on a 9,859 sq. ft. lot.

Rationale: The project site is located approximately 0.5 miles from the inland extent of the beach and is not located between the sea and first public road. The proposed project is located within an established residential neighborhood consisting of single-family residences similar in bulk and scale to the proposed development; therefore, the project will not be out of character within the existing community. The project is consistent with the Scaled Residential Overlay designation of the City of Solana Beach's certified Land Use Plan and is consistent with the Medium Density Residential zoning designation. The project site is within ½ mile of a transit stop, and therefore no additional off-street parking is required for the ADU. The project will not block any public views or impact public access. 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; no adverse impacts to coastal resources are anticipated.

Coastal Development Permit De Minimis Waiver
6-23-0527-W

This waiver will not become effective until reported to the Commission at its August 2023 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,

Kate Huckelbridge, PhD
Executive Director

Original on File signed by:

Julia Prieto
Coastal Program Analyst

cc: Commissioners/File

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**EMERGENCY COASTAL DEVELOPMENT PERMIT**

Emergency CDP G-6-23-0058 (1200 Block S. Pacific St.
Revetment)

Issue Date: July 25, 2023

Permittee: Michael Papale, W.R. Widener Personal Trust, Devona Fae Johnson, Todd Stoner, Diana Davis on behalf of Beachfront Only Properties.

Emergency Location: Revetment seaward of three residences located at 1213, 1215 and 1219 South Pacific Street (APN 152-141-05-00, 152-141-06-01, 152-1401-02, 152-141-07-01, and 152-141-07-02), Oceanside, San Diego County.

Emergency Description: Wave action during recent high tides and the past winter's storms have caused revetment rocks to migrate seaward of the revetment, forming a void inland of the revetment leading to an unstable revetment configuration and imminent threat to the residences' foundations, as well as a danger to members of the public who may climb in or around the void.

Emergency Development: Dismantle existing rock revetment; remove and dispose of concrete off site, including unpermitted concrete stairs; sort existing rock to restack the revetment to its previously permitted configuration (CDP 6-83-494); repair or replace damaged/lost filter fabric (approximately 30%); and import 19,500 cubic yards of crushed quarry rock to backfill the void landward of the revetment, as well as 170 cubic yards of beach quality sand to create an approximately 3-ft cap on top of the crushed rock. Work will be conducted using an excavator that would access the site via the vacant lot south of 1219 S. Pacific Street.

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)

Emergency CDP G-6-23-0058 (1200 Block S. Pacific Street Revetment)

Issue Date: July 25, 2023

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.



7/25/2023

Kanani Leslie, San Diego Coast Coastal Program Manager, for Kate Huckelbridge, Executive Director

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 August 9, 2023). 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 Development described above. 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. The emergency development authorized on a temporary basis by this ECDP must be completed within 45 days of ECDP issuance (i.e., by September 8, 2023).
4. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., City of Oceanside, 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.
5. 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 (such as for impacts on sand supply and public recreational area), 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.
6. 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 (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.

7. By exercising this ECDP, Permittee acknowledges that they are required to submit a comprehensive alternatives analysis as part of the application for a regular Coastal Development Permit, including but not limited to analyzing the feasibility of using a vertical wall and/or relocating the revetment as far landward as possible to minimize encroachment of shoreline armoring onto the beach. In a July 10, 2023 meeting Commission staff advised the Permittee that because the revetment is proposed to be dismantled and restacked as part of the proposed emergency work, the revetment should be rebuilt as far landward as possible as part of the emergency work, but instead the Permittee has agreed to evaluate this alternative, as well as other alternatives (e.g., vertical wall) as part of the follow-up regular Coastal Development Permit. The Permittee thereby acknowledges that the follow-up regular Coastal Development Permit may require that all or a portion of the development constructed under the ECDP be removed and that a replacement and/or different type of shoreline armoring be built further landward.
8. 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.
9. Within 120 days of ECDP issuance (i.e., by November 22, 2023), 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 (i.e., satisfying the requirements of Title 14 California Code of Regulations Section 13056) for a regular CDP to authorize the emergency development (or for a different project designed to address the emergency development), including submitting all information and materials requested, and as directed, by the Executive Director if/when

the Executive Director determines that such application is incomplete. If such regular follow-up CDP application is withdrawn by the Permittee, or is denied by the Commission, or if it remains incomplete for a period of 120 days after the Executive Director informs the Permittee that the application is incomplete, 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).

10. Failure to meet any of the applicable terms and conditions of this ECDP 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. 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.
11. 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 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.
12. A licensed civil engineer with experience in coastal structures and processes shall oversee all construction activities and shall ensure that all emergency development is limited to the least amount necessary to temporarily abate the emergency consistent with the terms and conditions of this ECDP.
13. Any rock dislodged onto the beach from the revetment during emergency construction activities shall be retrieved and restacked at an appropriate location within the constructed structure. Any existing rock already on the beach in the area seaward of the revetment on the Permittee's property may also be retrieved and stacked on the structure. Such fugitive rock shall only be so retrieved and stacked if it is located above the tidal reach and able to be retrieved without significant excavation (i.e., where more than 50% of the rock is visible above the beach elevation). Any other rock work, including any addition of other rock and/or any expansion of the revetment's configuration, shall be prohibited. If any rock is retrieved from the beach, the location of the retrieval and the volume of rock shall be documented and submitted to the Executive Director as part of the regular coastal development permit.

14. All emergency construction activities shall limit impacts to coastal resources (including public recreational access and the Pacific Ocean) to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements:
15. Construction activities shall be limited to no more than a total of 45 days, and shall take place on non-holiday weekdays to the maximum extent feasible.
16. All construction activities shall take place during daylight hours (i.e., from one-hour before sunrise to one-hour after sunset). Lighting of the beach and/or intertidal area is prohibited.
17. Construction work and equipment operations: shall avoid areas seaward of the tidal extent as much as possible; shall be prohibited in ocean waters, and avoid wetted sand (i.e., areas either wet and/or with a noticeable sheen from tidal and/or wave action) to the greatest extent possible; and shall avoid beachgoers and beach recreational areas as much as possible.
18. Any grading of or in intertidal areas shall be prohibited.
19. Any construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by one-hour after sunset each day that work occurs.
20. All construction areas shall be minimized and demarked by temporary fencing designed to allow through public access and protect public safety to the maximum extent feasible, where such areas shall be limited in their spatial extent as much as possible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
21. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
22. All construction activities that result in discharge of materials, polluted runoff, or wastes to the beach or the adjacent marine environment shall be prohibited. Equipment washing, refueling, and/or servicing shall not take place on the beach. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each workday.
23. All areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand that is impacted by construction shall be filtered as necessary to remove any construction debris.
24. All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment.

Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/cleanup of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.

25. The Permittee shall notify planning staff of the Coastal Commission's San Diego Coast District Office immediately upon completion of construction. If planning staff should identify reasonable restoration measures, such measures shall be implemented immediately.
26. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
27. Within 30 days of completion of construction authorized by this ECDP, the Permittee shall submit site plans and cross sections to the Executive Director clearly identifying all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos and/or videos showing the project site at multiple locations before the emergency (if available), during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections.
28. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.
29. 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.

30. 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.
31. 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.
32. 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 (619) 767-2370.

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Th18

Prepared July 24, 2023 (for August 10, 2023 Hearing)

To: Commissioners and Interested Persons

From: Kate Huckelbridge, Executive Director
Diana Lilly, San Diego Coast District Manager
Alex Llerandi, Coastal Planner

Subject: Certification Review for City of San Diego LCP Amendment Number LCP-6-SAN-21-0091-1 (Spaces as Places)

On December 14, 2022, the California Coastal Commission considered a proposed City of San Diego LCP amendment (LCP-6-SAN-21-0091-1) designed to permit and add regulations for outdoor dining spaces (“streetaries”), active sidewalks, promenades, and outdoor dining on private property. 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 San Diego considered the Commission’s conditional certification on June 6, 2023, and approved a modified version of the LCP amendment that day in response to the Commission’s conditional certification, including the suggested modifications.

The Executive Director has reviewed the City’s June 6, 2023, 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 Month meeting on August 10, 2023, as part of the San Diego Coast District Director’s Report. The Commission meeting starts at 9am on August 10th, and the District Director’s Report is item number 18 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 San Diego 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.

RESOLUTION NUMBER R- 314916

DATE OF FINAL PASSAGE MAY 26 2023

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT THE ADOPTION OF THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO THE SPACES AS PLACES MUNICIPAL CODE AMENDMENTS ARE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTIONS 15301(c) (EXISTING FACILITIES), 15303 (NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES), 15304(h) (MINOR ALTERATIONS TO LAND), AND 15311 (ACCESSORY STRUCTURES); AND THAT NONE OF THE EXCEPTIONS TO THE EXEMPTIONS FOUND IN CEQA GUIDELINES SECTION 15300.2 WOULD APPLY.

WHEREAS, on November 9, 2021, the City Council adopted Ordinance O-21319, the Spaces As Places amendments to Separately Regulated Use Regulations of the Municipal Code and LCP; and

WHEREAS, on December 14, 2022, the CCC conditionally certified the Spaces as Places amendments with several suggested modifications to the Spaces As Places Regulations and associated CDP requirements (Project); and

WHEREAS, the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.), section 21084, states that the CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.) shall list those classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt from CEQA; and

WHEREAS, pursuant to that authority, CEQA Guidelines sections 15300-15333 list the categorical exemptions promulgated by the California Office of Planning and Research and

adopted by the Secretary of the California Natural Resources Agency for those classes of Projects which have been determined not to have a significant effect on the environment; and

WHEREAS, the Planning Department has established that the Project is categorically exempt from CEQA pursuant to CEQA Guidelines sections 15301(c) (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304(h) (Minor Alterations to Land), and 15311 (Accessory Structures); and that none of the exceptions to the exemptions found in CEQA Guidelines Section 15300.2 apply to the Project; and

WHEREAS, the Council of the City of San Diego has considered the potential environmental effects of the Project; and

WHEREAS, on May 22, 2023, the City Council held a duly noticed public meeting and considered the written record for the Project as well as public comment; and


WHEREAS, the Council of the City of San Diego, using its independent judgment, has determined that the Project will not have a significant effect on the environment; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council of the City of San Diego determines that the Project is categorically exempt from CEQA pursuant to CEQA Guidelines sections 15301(c) (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304(h) (Minor Alterations to Land), and 15311 (Accessory Structures); and that none of the exceptions to the exemptions found in CEQA Guidelines Section 15300.2 apply.

BE IT FURTHER RESOLVED, that the that the City Clerk is directed to file a Notice of Exemption regarding the Project with the Clerk of the Board of Supervisors for the County of San Diego.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Noah J. Brazier
Deputy City Attorney

NJB:nja
05/18/2023
Or. Dept: Planning Dept.
Doc. No. 3309101

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 22 2023.

DIANA J.S. FUENTES
City Clerk

By 
Deputy City Clerk

Approved: 5/24/23
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on MAY 22 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 26 2023.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
Interim City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- <u>314916</u>

ORDINANCE NUMBER O- 21655 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 12 2023

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0704, 126.0707, AND 126.0708; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY AMENDING SECTIONS 141.0621, 141.0628, AND 141.0629 ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S MODIFICATIONS REQUIRED FOR CERTIFICATION OF SPACES AS PLACES PROGRAM AND CODE UPDATE TO THE LAND DEVELOPMENT CODE AND LOCAL COASTAL PROGRAM.

WHEREAS, on November 9, 2021, the Council of the City of San Diego adopted the Spaces as Places amendments to the Land Development Code of the San Diego Municipal Code pursuant to Ordinance O-21391 (Spaces as Places Ordinance); and

WHEREAS, the Land Development Code serves as the Implementation Plan to the City's certified Local Coastal Program (LCP); and

WHEREAS, the Spaces as Places Ordinance must be certified by the California Coastal Commission (Commission) as consistent with Coastal Act policies because it amends the City's LCP before it can become effective in the Coastal Overlay Zone; and

WHEREAS, on December 14, 2022, the Commission considered and approved certification of the Spaces as Places Ordinance with modifications related to replacement of parking removed for Spaces as Places improvements located within the Beach Impact Area but outside of a Transit Priority Area, and additional regulations related to the permitting of Spaces as Places improvements within the Coastal Overlay Zone; and

WHEREAS, the City desires to accept the Commission's modifications; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 12, Article 6, Division 7 of the San Diego Municipal Code is amended by amending sections 126.0704, 126.0707, and 126.0708, to read as follows:

§126.0704 Exemptions from a Coastal Development Permit

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit:

(a) through (i) [No change in text.]

§126.0707 Decision Process for a Coastal Development Permit

(a) A decision on an application for a City-issued Coastal Development Permit in the *non-appealable area* of the Coastal Overlay Zone shall be made in accordance with Process Two. The decision may be appealed to the Planning Commission in accordance with Section 112.0504. The following are exceptions to this decision process:

(1) A decision on an application for a *capital improvement program project* or *public project* in the *non-appealable* or the *appealable area* of the Coastal Overlay Zone shall be made in accordance with Section 126.0707(c).

(2) A decision on an application in the *non-appealable area* of the Coastal Overlay Zone for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on

private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made in accordance with Section 126.0707(h).

(b) through (c) [No change in text.]

(d) Except for Coastal Development Permits issued in accordance with Sections 126.0707(g) and 126.0707(h), conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision for public access, open space, or conservation easements or the relocation or redesign of proposed site improvements. In any *subdivision* or other land division, such conditions shall be imposed at the time of the *subdivision* or other land division, rather than through subsequent development permits. When conditions pertaining to public access, open space, or conservation easements are imposed, the City Manager shall notify the Executive Director of the Coastal Commission as set forth in Section 126.0719.

(e) through (g) [No change in text.]

(h) A decision on an application in the non-*appealable area* of the Coastal Overlay Zone for a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made as follows:

- (1) A Coastal Development Permit for sidewalk cafes, streetaries, active sidewalks, and promenades shall be issued as a Public Right-of-Way Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 7, Section 129.0730, Section 112.0502, and Section 141.0621 or 141.0629, as applicable.
- (2) A Coastal Development Permit for outdoor dining on private property shall be issued as a Building Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 2, Section 129.0730, Section 112.0502, and Section 141.0628.
- (3) Sections 126.0711, 126.0712, 126.0713, 126.0715 and 126.0716 related to recordation, issuance, initial utilization, time extension, and modification or amendment of a Coastal Development Permit shall not apply to a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks.
- (4) If the proposed *coastal development* involves any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8), a Coastal Development Permit shall be required in accordance with a Process Two as specified in Section 126.0707(a).

§126.0708 Findings for Coastal Development Permit Approval

Except for Coastal Development Permits issued in accordance with Section 126.0707(g) through (h), an application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section

126.0708(b) that are applicable to the proposed *development*. Coastal Development Permits issued in accordance with Section 126.0707(g) shall be approved if the administrative *findings* in Section 126.0708(c), and if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied. Coastal Development Permits issued in accordance with Section 126.0707(h) shall be approved if the administrative findings in Section 126.0708(d) and, if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied.

(a) through (c) [No change in text.]

(d) The following administrative findings shall be made for Coastal Development Permits required for sidewalk cafes, streetaries, active sidewalks, outdoor dining on private property, and promenades permitted in accordance with Section 126.0707(h) in order to ensure that the *coastal development* conforms to the *Local Coastal Program*:

- (1) The proposed Coastal Development Permit will preserve existing public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program* land use plan and Chapter 13, Article 2, Division 4.
- (2) The proposed *coastal development* complies with the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1.
- (3) The proposed *coastal development* does not involve any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8).

- (4) The proposed *coastal development* will not preclude public access to any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program* land use plan.

Section 2. That Chapter 14, Article 1, Division 6 of the San Diego Municipal Code is amended by amending sections 141.0621, 141.0628, and 141.0629, to read as follows:

§141.0621 Sidewalk Cafes, Streetaries, and Active Sidewalks

The sidewalk cafes, streetaries, and active sidewalks regulations establish requirements for outdoor dining and other uses located within the *public right-of-way*. For the purposes of this Section, sidewalk cafes are defined as outdoor dining spaces located within the sidewalk area of the *public right-of-way* that are associated with adjacent eating and drinking establishments; streetaries are defined as outdoor spaces located in a *street* space formerly dedicated to parking spaces that serves as an extension of an eating and drinking establishment; and active sidewalks are defined as the permanent extension of the curb into the *public right-of-way* to facilitate activation of the *public right-of-way* through recreational amenities, landscaped areas, seating areas, farmers market, *artworks* or outdoor dining. Sidewalk cafes, streetaries, and active sidewalks are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. It is not the intent of this Section to regulate outdoor eating and drinking establishment areas that are located on private property.

- (a) [No change in text.]

(b) Limited Use Regulations for Streetaries

(1) [No change in text.]

(2) Permit Requirements

(A) through (B) [No change in text.]

(C) Removal of on-street parking spaces to construct streetaries shall comply with the following:

- (i) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of a streetary.
- (ii) Outside of Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for a streetary, except as provided in 141.0621(b)(2)(C)(i).
- (iii) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for a streetary, except as provided in 141.0621(b)(2)(C)(i).
- (iv) Within both the Coastal Overlay Zone and the Beach Impact Area of the Parking Impact Overlay

Zone, all on-street parking removed to construct a streetary shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public either on the same *premises* as the business proposing the streetary, or off-premises through shared parking in accordance with Section 142.0545.

(D) through (Q) [No change in text.]

(3) through (5) [No change in text.]

(c) Limited Use Regulations for Active Sidewalks

(1) through (2) [No change in text.]

(3) Permit Requirements:

(A) [No change in text.]

(B) Removal of on-street parking spaces to construct active sidewalks shall comply with the following:

(i) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of active sidewalks.

(ii) Outside of the Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for active

sidewalks, except as provided in

141.0621(c)(3)(B)(i).

- (iii) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for an active sidewalk, except as provided in 141.0621(c)(3)(B)(i).
- (iv) Within both the Coastal Overlay Zone and the Beach Parking Impact Area, all on-street parking removed to construct an active sidewalk shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public either on the same *premises* as the business proposing the active sidewalk, or off-premises through shared parking in accordance with Section 142.0545.

(C) through (K) [No change in text.]

(4) through (7) [No change in text.]

§141.0628 Outdoor Dining on Private Property

The permanent use of a private property for outdoor dining is permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations:

(a) Permit Requirements:

(1) through (4) [No change in text.]

(5) Removal of required *off-street parking spaces* to construct outdoor dining on private property shall comply with the following:

(A) *Off-street parking spaces* that are accessible in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of outdoor dining on private property.

(B) Outside of a *transit priority area*, *off-street parking spaces* shall not be removed for the construction of outdoor dining on private property unless they are in excess of the minimum number of parking spaces required by Chapter 14, Article 2, Division 5.

(C) Within a *transit priority area* and outside of the Coastal Overlay Zone, removal of *off-street parking spaces* shall not be the basis of denial of the permit for outdoor dining on private property, except as provided in 141.0628(a)(5)(A).

(D) Within both a *transit priority area* and the Coastal Overlay Zone, the following regulations apply:

(i) Outside of the Beach Impact Area of the Parking Impact Overlay Zone, *off-street parking spaces* in excess of the minimum number of spaces required

by Chapter 14, Article 2, Division 5 may be removed for the construction of outdoor dining on private property. All parking required by Chapter 14, Article 2, Division 5 that is removed for the construction of outdoor dining on private property shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public through shared parking in accordance with Section 142.0545.

- (ii) Within the Beach Impact Area of the Parking Impact Overlay Zone, all *off-street parking spaces* removed to construct outdoor dining on private property shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public through *shared parking* in accordance with Section 142.0545.

(6) through (9) [No change in text.]

- (b) [No change in text.]

§141.0629 Promenade

For the purposes of this Section, a promenade is defined as the partial or complete *street* closure to vehicular traffic to facilitate active transportation uses such as walking, biking, recreation, outdoor dining, and enjoyable public interaction. Promenades enhance pedestrian safety, encourage non-motorized transportation

and foster neighborhood interaction and outdoor activities, increasing the likelihood that more pedestrians will travel by foot or bicycle. Within the Coastal Overlay Zone, Promenades shall not be permitted along *streets* that are adjacent to exclusively residential uses. A promenade initiated by the City shall not be subject to the additional requirements of this Section.

(a) [No change in text.]

(b) Permit Requirements:

(1) [No change in text.]

(2) For promenades that remove on-street parking spaces the following shall apply:

(A) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of promenades.

(B) Outside of Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for promenades, except as provided in 141.0629(b)(2)(A).

(C) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way permit for promenade, except as provided in 141.0629(b)(2)(A).

(D) Within both the Coastal Overlay Zone and the Beach Parking Impact Area, all on-street parking removed to construct a promenade shall be replaced with an equivalent number of *off-street parking spaces* provided at no cost to the public either on the same *premises* as the business(es) proposing the promenade, or *off-premises* through shared parking in accordance with Section 142.0545.

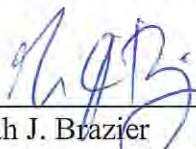
(3) through (9) [No change in text.]

(c) through (d) [No change in text.]

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall not take effect until the date the California Coastal Commission unconditionally certifies these provisions as a Local Coastal Program amendment, or until the thirtieth day from and after its final passage, whichever occurs later.

APPROVED: MARA W. ELLIOTT, City Attorney

By  _____
Noah J. Brazier
Deputy City Attorney

NJB:nja
02/24/2023
Or. Dept: Planning
Doc. No.: 3229875

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 06 2023.

DIANA J.S. FUENTES
City Clerk

By *Connie Patterson*
Deputy City Clerk

Approved: 6/12/23
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0704, 126.0707, AND 126.0708; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY AMENDING SECTIONS 141.0621, 141.0628, AND 141.0629 ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S MODIFICATIONS REQUIRED FOR CERTIFICATION OF SPACES AS PLACES PROGRAM AND CODE UPDATE TO THE LAND DEVELOPMENT CODE AND LOCAL COASTAL PROGRAM.

§126.0704 Exemptions from a Coastal Development Permit

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit:

(a) through (i) [No change in text.]

~~(j) Outdoor dining on private property and promenades, streetaries, and active sidewalks designed in accordance with the Land Development Code and the Spaces as Places Design Manual.~~

§126.0707 Decision Process for a Coastal Development Permit

(a) A decision on an application for a City-issued Coastal Development Permit in the *non-appealable area* of the Coastal Overlay Zone shall be made in accordance with Process Two, ~~except that a decision on an application for a capital improvement program project or public project in the non-appealable or the appealable area of the Coastal Overlay Zone~~

~~shall be made in accordance with Section 126.0707(e).~~ The decision may be appealed to the Planning Commission in accordance with Section 112.0504. The following are exceptions to this decision process:

- (1) A decision on an application for a *capital improvement program project* or *public project* in the *non-appealable* or the *appealable area* of the Coastal Overlay Zone shall be made in accordance with Section 126.0707(c).
- (2) A decision on an application in the *non-appealable area* of the Coastal Overlay Zone for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made in accordance with Section 126.0707(h).

(b) through (c) [No change in text.]

(d) Except for Coastal Development Permits issued in accordance with Sections 126.0707(g) and 126.0707(h), conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision for public access, open space, or conservation easements or the relocation or redesign of proposed site improvements. In any *subdivision* or other land division, such conditions shall be imposed at the time of the *subdivision* or other land division, rather than through subsequent development permits. When conditions pertaining to public

access, open space, or conservation easements are imposed, the City Manager shall notify the Executive Director of the Coastal Commission as set forth in Section 126.0719.

(e) through (g) [No change in text.]

(h) A decision on an application in the non-appealable area of the Coastal Overlay Zone for a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made as follows:

- (1) A Coastal Development Permit for sidewalk cafes, streeteries, active sidewalks, and promenades shall be issued as a Public Right-of-Way Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 7, Section 129.0730, Section 112.0502, and Section 141.0621 or 141.0629, as applicable.
- (2) A Coastal Development Permit for outdoor dining on private property shall be issued as a Building Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 2, Section 129.0730, Section 112.0502, and Section 141.0628.
- (3) Sections 126.0711, 126.0712, 126.0713, 126.0715 and 126.0716 related to recordation, issuance, initial utilization, time extension, and modification or amendment of a Coastal Development Permit

shall not apply to a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks.

- (4) If the proposed *coastal development* involves any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8), a Coastal Development Permit shall be required in accordance with a Process Two as specified in Section 126.0707(a).

§126.0708 Findings for Coastal Development Permit Approval

Except for Coastal Development Permits issued in accordance with Section 126.0707(g) through (h), an application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are applicable to the proposed *development*. Coastal Development Permits issued in accordance with Section 126.0707(g) shall be approved if the administrative *findings* in Section 126.0708(c), and if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied. Coastal Development Permits issued in accordance with Section 126.0707(h) shall be approved if the administrative findings in Section 126.0708(d) and, if applicable, the supplemental findings in Section 126.0708(b), are satisfied.

(a) through (c) [No change in text.]

- (d) The following administrative findings shall be made for Coastal Development Permits required for sidewalk cafes, streeteries, active sidewalks, outdoor dining on private property, and promenades permitted in accordance with Section

126.0707(h) in order to ensure that the *coastal development* conforms to the *Local Coastal Program*:

- (1) The proposed Coastal Development Permit will preserve existing public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program* land use plan and Chapter 13, Article 2, Division 4.
- (2) The proposed *coastal development* complies with the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1.
- (3) The proposed *coastal development* does not involve any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8).
- (4) The proposed *coastal development* will not preclude public access to any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program* land use plan.

§141.0621 Sidewalk Cafes, Streetaries, and Active Sidewalks

The sidewalk cafes, streetaries, and active sidewalks regulations establish requirements for outdoor dining and other uses located within the *public right-of-way*. For the purposes of this Section, sidewalk cafes are defined as outdoor dining spaces located within the sidewalk area of the *public right-of-way* that are associated with adjacent eating and drinking establishments; streetaries are defined as outdoor spaces located in a *street* space formerly dedicated to parking

spaces that serves as an extension of an eating and drinking establishment; and active sidewalks are defined as the permanent extension of the curb into the *public right-of-way* to facilitate activation of the *public right-of-way* through recreational amenities, landscaped areas, seating areas, farmers market, *artworks* or outdoor dining. Sidewalk cafes, streetaries, and active sidewalks are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. It is not the intent of this Section to regulate outdoor eating and drinking establishment areas that are located on private property.

(a) [No change in text.]

(b) Limited Use Regulations for Streetaries

(1) [No change in text.]

(2) Permit Requirements

(A) through (B) [No change in text.]

(C) ~~Removal of parking spaces, with the exception of accessible parking spaces in accordance with Title 24 of the California Code of Regulations (California Building Standards Code), shall not be the basis of denial of a Public Right-of-Way Permit for a streetary. Removal of on-street parking spaces to construct streetaries shall comply with the following:~~

(i) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of

Regulations (California Building Standards Code)

shall not be removed for the construction of a streetary.

- (ii) Outside of Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for a streetary, except as provided in 141.0621(b)(2)(C)(i).
- (iii) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for a streetary, except as provided in 141.0621(b)(2)(C)(i).
- (iv) Within both the Coastal Overlay Zone and the Beach Impact Area of the Parking Impact Overlay Zone, all on-street parking removed to construct a streetary shall be replaced with an equivalent number of off-street parking spaces provided at no cost to the public either on the same premises as the business proposing the streetary, or off-premises through shared parking in accordance with Section 142.0545.

(D) through (Q) [No change in text.]

(3) through (5) [No change in text.]

(c) Limited Use Regulations for Active Sidewalks

(1) through (2) [No change in text.]

(3) Permit Requirements:

(A) [No change in text.]

(B) ~~Removal of parking, with the exception of accessible spaces in accordance with Title 24 of the California Code of Regulations (California Building Standards Code), shall not be a basis of denial of a Public Right of Way Permit for an active sidewalk.~~ Removal of on-street parking spaces to construct active sidewalks shall comply with the following:

(i) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of active sidewalks.

(ii) Outside of the Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for active sidewalks, except as provided in 141.0621(c)(3)(B)(i).

(iii) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay

Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for an active sidewalk, except as provided in 141.0621(c)(3)(B)(i).

- (iv) Within both the Coastal Overlay Zone and the Beach Parking Impact Area, all on-street parking removed to construct an active sidewalk shall be replaced with an equivalent number of off-street parking spaces provided at no cost to the public either on the same premises as the business proposing the active sidewalk, or off-premises through shared parking in accordance with Section 142.0545.

(C) through (K) [No change in text.]

(4) through (7) [No change in text.]

§141.0628 Outdoor Dining on Private Property

The permanent use of a private property for outdoor dining is permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations:

(a) Permit Requirements:

(1) through (4) [No change in text.]

(5) ~~Removal of required off-street parking spaces on a premises where any portion of the premises is located within a transit priority area,~~

~~with the exception of any existing accessible spaces in accordance with Title 24 of the California Code of Regulations (California Building Standards Code), shall not be a basis of denial of the permit.~~ Removal of required *off-street parking spaces* to construct outdoor dining on private property shall comply with the following:

- (A) *Off-street parking spaces* that are accessible in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of outdoor dining on private property.
- (B) Outside of a *transit priority area*, *off-street parking spaces* shall not be removed for the construction of outdoor dining on private property unless they are in excess of the minimum number of parking spaces required by Chapter 14, Article 2, Division 5.
- (C) Within a *transit priority area* and outside of the Coastal Overlay Zone, removal of *off-street parking spaces* shall not be the basis of denial of the permit for outdoor dining on private property, except as provided in 141.0628(a)(5)(A).
- (D) Within both a *transit priority area* and the Coastal Overlay Zone, the following regulations apply:

(i) Outside of the Beach Impact Area of the Parking Impact Overlay Zone, off-street parking spaces in excess of the minimum number of spaces required by Chapter 14, Article 2, Division 5 may be removed for the construction of outdoor dining on private property. All parking required by Chapter 14, Article 2, Division 5 that is removed for the construction of outdoor dining on private property shall be replaced with an equivalent number of off-street parking spaces provided at no cost to the public through shared parking in accordance with Section 142.0545.

(ii) Within the Beach Impact Area of the Parking Impact Overlay Zone, all off-street parking spaces removed to construct outdoor dining on private property shall be replaced with an equivalent number of off-street parking spaces provided at no cost to the public through shared parking in accordance with Section 142.0545.

(6) through (9) [No change in text.]

(b) [No change in text.]

§141.0629 Promenade

For the purposes of this Section, a promenade is defined as the partial or complete *street* closure to vehicular traffic to facilitate active transportation uses such as walking, biking, recreation, outdoor dining, and enjoyable public interaction.

Promenades enhance pedestrian safety, encourage non-motorized transportation and foster neighborhood interaction and outdoor activities, increasing the likelihood that more pedestrians will travel by foot or bicycle. Within the Coastal Overlay Zone, promenades shall not be permitted along *streets* that are adjacent to exclusively residential uses. A promenade initiated by the City shall not be subject to the additional requirements of this Section.

(a) [No change in text.]

(b) Permit Requirements:

(1) [No change in text.]

(2) ~~Removal of parking, with the exception of accessible spaces in accordance with Title 24 of the California Code of Regulations (California Building Standards Code), shall not be a basis of denial of the permit. For promenades that remove on-street parking spaces the following shall apply:~~

(A) On-street accessible parking spaces provided in accordance with Title 24 of the California Code of Regulations (California Building Standards Code) shall not be removed for the construction of promenades.

- (B) Outside of Coastal Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way Permit for promenades, except as provided in 141.0629(b)(2)(A).
- (C) Within the Coastal Overlay Zone and outside of the Beach Impact Area of the Parking Impact Overlay Zone, removal of on-street parking spaces shall not be the basis of denial of a Public Right-of-Way permit for promenade, except as provided in 141.0629(b)(2)(A).
- (D) Within both the Coastal Overlay Zone and the Beach Parking Impact Area, all on-street parking removed to construct a promenade shall be replaced with an equivalent number of off-street parking spaces provided at no cost to the public either on the same premises as the business(es) proposing the promenade, or off-premises through shared parking in accordance with Section 142.0545.

(3) through (9) [No change in text.]

(c) through (d) [No change in text.]

NJB:nja
02/24/2023
Or. Dept: Planning
Doc. No.: 3229882

Passed by the Council of The City of San Diego on JUN 06 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 12 2023.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
Interim City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAY 22 2023

, and on JUN 12 2023.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES
Interim City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21655