

**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



# TH19b

Date: July 26, 2023

To: **COMMISSIONERS AND INTERESTED PERSONS**

From: **KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DIANA LILLY, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
ALEX LLERANDI, COASTAL PLANNER, SAN DIEGO COAST DISTRICT**

Subject: **STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR  
AMENDMENT NO. LCP-6-SAN-22-0025-1 (2021 Land Development Code  
Update) for Commission Meeting of August 9-11, 2023.**

---

## SYNOPSIS

On June 28, 2022, the City of San Diego Local Coastal Program (LCP) Amendment No. LCP-6-SAN-22-0023-1 (2020 Land Development Code Update) was filed in the San Diego District office as part of the City's first LCP submittal for 2022. The 2020 Land Development Code Update received a one-year time extension from the Commission at the August 2022 hearing, and the latest this can be heard is the August 2023 hearing.

### SUMMARY OF AMENDMENT REQUEST

The amendment involves the City's 2021 annual update to the Land Development Code (LDC), the certified Implementation Plan (IP) of its LCP, containing 33 items consisting of streamlining permit requirements and hearing procedures, bring certain ordinances into compliance with recent state laws, modify development limits for the La Jolla Shores Planned District, allow greater flexibility in parking and communal space requirements, and general corrections and updates, among other changes.

### SUMMARY OF STAFF RECOMMENDATION

The Land Development Code provides the City of San Diego's regulations for the development and use of property within the City of San Diego and provides information on zoning, subdivisions, grading, and other related land use activities. The City has a code monitoring and updating process to address new issues and unforeseen challenges not anticipated when the Land Development Code was originally adopted. The update process also allows the City to modify and streamline permitting processes as needed.

The majority of the 33 items contained in the 2021 Land Development Code Update do not raise issues with regards to the certified LCP. However, after review by the Commission and discussion with the City, two ordinance changes were identified that do have the

potential to adversely impact coastal resources and public access: allowing home occupations to remove a required off-street parking space, and raising the threshold for lighting intensity that is not required to be shielded. Additionally, an inadvertent grammatical error by the City was identified in a third ordinance that will be corrected in this action.

Regarding Home Occupations, the LCPA would allow one of the required residential parking spaces at a site where a home occupation is in operation to be removed. The City has stated the intent of the amendment is to promote home occupation business, which may reduce traffic and greenhouse gases by allowing increased flexibility for home businesses. Reducing the residential parking space requirement would allow, for example, a parking space to be converted to a workspace into workspace for an office or assembly area, although the ordinance would allow the removal of the spot for any use. However, while the practice of remote work has dramatically increased due to the pandemic, the conducting of business from home is more likely to increase the intensity of use of a property if, for example, customers, vendors and/or employees of the home occupation visit the residence to conduct business. Providing support for small business and entrepreneurs is a laudable goal, but in the coastal areas of the City where parking is most impacted, this reduction of parking coupled with an increase in intensity of use is likely to adversely impact public access as residents and patrons of the business would use public street parking if insufficient off-street parking is present, displacing visitors who would otherwise use the street parking. For several decades, the Commission and the City's certified LCP have recognized the Beach Impact Area (BIA), an overlay zone covering approximately the three blocks of oceanfront land, as a special area warranting additional protections given its high level of visitation and recreation by the public ([Exhibit 2](#)). The BIA covers a small fraction of the City's coastal zone and a tiny percentage of the City's 375 square miles. In this small but intensely utilized area, development that does not adequately balance parking needs with the surrounding community can have an outsized impact on public beach access. The proposed amendment does not have any provisions limiting the removal of required spaces in areas already heavily impacted by high visitation and low parking supply, such as the Beach Impact Area, or time limits on the duration that the home occupation could occupy the required parking. Thus, Suggested Modification No. 1 prohibits the reduction of required parking for home occupations when it occurs in the BIA. The BIA is a fairly small segment of the City's coastal zone, and an extremely small part of the overall city, so the suggested modification is not expected to have substantial impact on the city's residents to be able to conduct their employment at home, while still preserving the public's ability to access the coast.

The City's amendment to Section 142.0740 would increase the threshold for lighting exempt from shielding requirements from the current 4,050 lumens to 6,200 lumens, a 53% increase. The City states that the California Green Building Standards Code has the less restrictive 6,200 lumen limit, and that the proposed amendment would local code in line with it, and allow increased lighting in areas where crime is an issue. However, the siting, amount, and intensity of lighting has a direct impact on the visual quality of the coastal zone. Because more intense lighting can increase adverse effects such as light spillover into habitat or increased sky glow, which can affect migrating birds, the Commission and City have a history of addressing lighting concerns in the City's open space projects, such as in their park spaces. The shielding and direction of light fixtures is one of the primary means by which light spillover can be minimized, and the current

LCP-6-SAN-22-0025-1

threshold of 4,050 lumens – a measure of total light being emitted over a period of time, generally described as one lumen equaling one candle’s light – recognizes that there is a limit below which the intensity of light is such that its risk of light spillover without shielding is limited. By increasing the threshold for light fixtures exempt from shielding by 53%, the amendment would dramatically increase the amount of lighting intensity that a development could have without requiring shielding. The Commission’s ecologist has reviewed the amendment and determined the proposed increase in unshielded lighting is inappropriate given the extent of the City’s coastline, the amount of development in proximity to habitat and open space areas, and the City’s location within the Pacific Flyway bird migratory route, which could be impacted by increased ambient lighting and skyglow. For purposes of addressing pedestrian safety, the City could look at increasingly shielded light levels, or potentially increasing pedestrian level lighting. But a general increase in light intensity for unshielded lighting would unnecessarily increase sky glow and potentially disrupt migrating birds. Therefore, Suggested Modification No. 3 will retain the existing threshold of 4,050 lumens in the coastal zone, allowing development to continue to use unshielded lighting in lower-intensity designs while balancing it with the LCP’s resource protection policies.

Suggested Modification No. 2 simply corrects a grammatical error in Section 142.0528 by deleting the duplicate word “accessible.” The substance of the change to that section does not raise issue with regards to the land use plan.

Because much development in the City’s coastal zone is either in proximity to sensitive habitat or in scenic viewsheds,

Thus, with the above suggested modifications addressing off-street parking and lighting design the amendment can be found consistent with the certified LUPs for the City of San Diego and approved, as modified.

The appropriate motions and resolutions begin on page 6. The suggested modifications begin on page 7. The findings for denial of the Implementation Plan Amendment as submitted begin on page 11. The findings for approval of the plan, if modified, begin on page 13.

## **BACKGROUND**

The City’s first IP was certified in 1988, and the City then assumed permit authority. The IP consisted of portions of the City’s Municipal Code, along with some Planned District Ordinances (PDOs) and Council Policies. In 1999, the Commission certified the City’s Land Development Code, which primarily contains Chapters 11 through 15 of the Municipal Code. The LDC replaced the first IP and took effect in the coastal zone on January 1, 2000. The Commission has certified many IP amendments since 2000.

## **ADDITIONAL INFORMATION**

Further information on the City of San Diego LCP amendment No. LCP-6-SAN-22-0025-1 may be obtained from Alexander Llerandi, Coastal Planner, at (619) 767-2370 or [SanDiegoCoast@coastal.ca.gov](mailto:SanDiegoCoast@coastal.ca.gov).

**TABLE OF CONTENTS**

- I. OVERVIEW .....5**
  - A. LCP HISTORY ..... 5
  - B. STANDARD OF REVIEW..... 5
  - C. PUBLIC PARTICIPATION..... 5
- II. MOTIONS AND RESOLUTIONS.....6**
- III. SUGGESTED MODIFICATIONS .....7**
- IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO  
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED, AND  
APPROVAL IF MODIFIED .....9**
  - A. AMENDMENT DESCRIPTION..... 9
  - B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN ..... 9
- V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY  
ACT (CEQA).....16**

**EXHIBITS**

[Exhibit 1 – Strikeout/Underline Ordinances](#)

[Exhibit 2 – Beach Impact Area Map](#)

## **I. OVERVIEW**

### **A. LCP HISTORY**

The City of San Diego has a long history of involvement with the community planning process, and in 1977, requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988, for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time, but some have since been certified as LCP amendments. Other areas of deferred certification still remain today and will be acted on by the Coastal Commission in the future.

Since the effective certification of the City's LCP, there have been numerous major and minor amendments processed by the Commission. These have included everything from land use revisions in several segments, to the rezoning of single properties, to modifications of city-wide ordinances. In November 1999, the Commission certified the City's Land Development Code (LDC) and associated documents as the City's IP, replacing the original IP adopted in 1988. The LDC became effective in January 2000.

### **B. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum opportunity to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## II. MOTIONS AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

### 1. MOTION:

I move that the Commission reject the Implementation Program Amendment No. LCP-6-SAN-22-0025-1 for the City of San Diego as submitted.

### **STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of San Diego and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plans. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

### 2. MOTION:

I move that the Commission certify the Implementation Program Amendment No. LCP-6-SAN-22-0025-1 for the City of San Diego if it is modified pursuant to the staff recommendation.

### **STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plans. Certification of the

Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

### III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Section 141.0308 shall be modified as follows:

#### **Section 141.0308 Home Occupations**

Home occupations are business conducted by residents on the premises of their homes. Home occupations, including cottage food operations authorized pursuant to California Government Code section 51035, 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. An applicant may deviate from the requirements in Section 141.0308(k) through (n) by obtaining a Neighborhood Use Permit in accordance with Section 126.0203.

[...]

- (c) The home occupation may reduce required off-street parking spaces by one off-street parking space, so long as the reduction does not result in the elimination of all off-street parking spaces and the home occupation is not located in the Beach Impact Area of the Parking Impact Overlay Zone.

2. Section 142.0528 shall be corrected as follows:

#### **Section 142.0528 Parking Standards Priority Area Regulations**

- (a) Parking Requirement. Off-street parking spaces are not required.

[...]

- (3) A passenger drop-off and loading zone shall be provided along the street frontage, near the main accessible entrance unless there is an existing compliant passenger drop-off and loading zone within 200 feet from the main accessible entrance of the development. The passenger drop-off and loading zone shall comply with the City of San Diego Standard Drawings for Public Works Construction. An accessible route within the boundaries of the premises shall be provided, from the ~~accessible~~ main accessible entrance of

the development to the passenger drop-off and loading zone, in accordance with the California Building Code.

3. Section 142.0740 shall be modified as follows:

**Section 142.0740 Outdoor Lighting Regulations**

[...]

- (c) General regulations that apply to all outdoor lighting:

[...]

- 2) Shields and flat lenses shall be required to control and direct the light below an imaginary horizontal plane passing through the lowest point of the fixture, except for:

[...]

- i. Outdoor lighting fixtures less than 6,200 initial luminaire lumens outside of the Coastal Overlay Zone and outdoor lighting fixtures less than 4,050 initial luminaire lumens within the Coastal Overlay Zone, including landscape lighting and decorative lighting.



## **IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED, AND APPROVAL IF MODIFIED**

### **A. AMENDMENT DESCRIPTION**

The Land Development Code provides the City of San Diego's regulations for the development and use of property within the City of San Diego and provides information on zoning, subdivisions, grading, and other related land use activities. The City has a code monitoring and updating process to address new issues and unforeseen challenges associated with implementation of the Land Development Code, and to identify opportunities to modify and streamline permitting processes as needed. The City submits the proposed revisions annually as a code update to the LCP.

The 2021 Land Development Code Update includes 33 items, separated into three categories: regulatory reforms, compliance with state law, and corrections and clarifications. Sixteen of the items are simply corrections and clarifications to make the existing ordinances easier for the public to read. Two of the items address compliance with state laws regarding thresholds for unshielded outdoor lighting and adding organic material storage to existing refuse and recycling regulations. The remaining items address regulatory reforms to implement locally originated changes, such allowing fiber optic equipment in the public right-of-way through a ministerial permit, exempting certain park amenities from paying development impact fees, clarifying the Floor Area Ratio (FAR) and fence requirements for the La Jolla Shores Planned District, removing adult entertainment uses from mixed-use zones, increasing the zones where community gardens are allowed, and allowing artisan food and beverage uses in light industrial zones, among other changes.

There are two changes of particular note in this amendment that are discussed in further detail below because the revisions have the potential to impact coastal resources that are protected in the certified Land Use Plan. The first would allow Home Occupations to reduce required off-site parking spaces for the residential use by one off-street parking space, as long as the reduction does not result in the elimination of all off-street parking spaces. Second, the proposed amendment would revise the City's Outdoor Lighting Regulations that apply to all outdoor lighting to increase the lighting intensity threshold for light fixtures that are exempt from shielding requirements from the current 4,050 lumens to 6,200 lumens.

### **B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN**

The standard of review for LCP implementation plan submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The certified LUP has a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

In the case of the City of San Diego, the City's LUPs are comprised of community planning areas based on its established neighborhoods and future urbanizing areas. Predicated on those community planning areas, the City utilized the geographic segmentation provisions

of the LCP regulations and developed its land use plan component covering twelve different communities (i.e., North City, La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay Mesa-Nestor, Downtown, Barrio Logan, and others). Each community plan or LCP Land Use Plan contains policies that protect public views, scenic resources, public access, recreational opportunities, and sensitive coastal resources including, but not limited to, beaches, bluffs, slopes, hillsides, and environmentally sensitive lands in that community. The Commission's review of the proposed amendment to the Land Development Code must ensure that development is approved only when consistent with the certified LUPs.

Listed below are representative policy excerpts contained in several of the certified LUP segments in the Coastal Overlay Zone for the City of San Diego.

### **Pacific Beach Community Plan**

- Create safe, pleasant, and useful pedestrian and bicycle pathways to connect the residential neighborhoods of Pacific Beach, such as Crown Point and Braemar, with commercial areas and community facilities, such as schools, parks, and the library. Remove barriers which impede pedestrian, bicycle, and disabled access.

### **Ocean Beach Community Plan**

- Efficiently manage on-street parking to better serve the beach and commercial areas.
- Protect and improve visual access at street ends in conjunction with coastal physical access projects. Such public improvements should consider inclusion of benches, landscaping, improved walkways, bicycles racks, and stairwells from street ends to the beaches below.

### **La Jolla Land Use Plan**

- Enhance existing public access to the ocean, beach, and park areas such as Ellen B. Scripps Park and Kellogg Park along the shoreline in order to be of greatest benefit to neighborhood residents and visitors to the community.
- Public views to and from the ocean from the first public roadway adjacent to the ocean shall be preserved and enhanced, including visual access across private properties at yards and setbacks.

### **Mission Beach Precise Plan**

- The provision of increased residential, commercial, and recreational parking in order to reduce the serious deficit that presently exists.

### **Peninsula Community Plan**

- Curb cuts or street vacation requests which reduce available on-street parking should not be allowed unless comparable replacement parking is provided in the immediate vicinity.

## 1. FINDINGS FOR DENIAL

The majority of the 33 items contained in the 2021 Land Development Code Update do not raise issues with regards to conformance with the certified LCP. However, there are two ordinance changes that do have the potential to adversely impact coastal resources and public access: allowing home occupations to remove a required off-street parking space, and raising the lighting intensity threshold for lighting fixtures that must be shielded. Additionally, an inadvertent grammatical error by the City was identified in an ordinance that will be corrected in this action.

With the onset of the COVID-19 pandemic and the dramatic increase of people conducting business from home, the City wishes to give greater flexibility to residents who operate a home occupation business, by allowing them to removal one required parking space for the existing residential use. The City has stated the intent of the amendment is to allow residents to convert a parking space into workspace such as an office or assembly area, although the ordinance would allow the remove of the spot for any use. However, while the practice of remote work has dramatically increased due to the pandemic, the conducting of business from home is more likely to increase the intensity of use of a property if, for example, customers, vendors and/or employees of the home occupation visit the residence to conduct business. Providing support for small business and entrepreneurs is a laudable goal, but in the coastal areas of the City where parking is most impacted, this reduction of parking coupled with an increase in intensity of use is likely to adversely impact public access as residents and patrons of the business would use public street parking if insufficient off-street parking is present, displacing visitors who would otherwise use the street parking. The proposed amendment does not have any provisions limiting the remove of required spaces in areas already heavily impacted by high visitation and low parking supply, such as the Beach Impact Area, or time limits on the duration that the home occupation could occupy the required parking. Thus, this decrease in parking requirement without mitigation for the potential impacts to public access would result in adverse impacts to public access not in conformance with the policies of the certified land use plans.

The City's amendment to Section 142.0740 would increase the threshold for lighting exempt from shielding requirements from the current 4,050 lumens to 6,200 lumens, a 53% increase. The City states that the California Green Building Standards Code has the less restrictive 6,200 lumen limit, and that the proposed amendment is simply bringing local code in line with it. The California Building Standards Code, of which the Green Building Standards Code is a part, is the building code for the state and is contained in the California Code of Regulations. Yet while the Building Standard Code sets statewide standards for construction, local governments are able to put more restrictive requirements in place if warranted. Thus, in this case, the City is not mandated to lessen its threshold for lighting exempt from shielding requirements. The City has miles of coastline, much of it containing sensitive resources such as beaches, estuaries, lagoons, wetlands, and uplands, some in close proximity to development. Ordinances requiring the shielding and directing of lighting so as to limit light spillover are important tools to protect habitat integrity and limit the footprint of development, both directly and indirectly.

Sky glow is created when light is reflected and scattered by dust and gas particles in the atmosphere. Nighttime sky glow is caused primarily by light that is emitted upward, but can also be caused by light that is reflected from the ground, or by natural sources such as the moon and stars. Sky glow is inherently inconsistent, and can vary widely depending on weather conditions, the amount of dust and gas in the atmosphere and even the viewing angle. Sky glow creates increased background luminance (or brightness) and therefore results in decreased contrast.

Glare is defined as visual discomfort resulting from high contrast in brightness levels. Each visible luminaire source or surface relative to the surrounding background (sky, hills, and foreground) has the potential to result in “glare”. There are two types of glare: 1) Disability Glare, which is glare that reduces the ability to see or identify objects, and 2) Discomfort Glare, which is glare that produces ocular discomfort, but does not reduce the ability to see. Substantial glare impacts can adversely affect day or nighttime views. The magnitude of the sensation of glare depends on such factors as the size, position, and luminance of a source; the number of sources; and the luminance to which the eyes are adapted.

The City of San Diego is directly in the path of the Pacific Flyway (Figure 1) that includes the northward spring and southward fall migrations, which occur during the months of late March through May and September, October, and the first part of November, respectively. Birds migrating along this route are heading to the Canadian Arctic, Canadian plains, and Canadian boreal forest in the spring, and to Mexico, South America, and Pacific Islands in the fall. The “Pacific Flyway” is a descriptor for a phenomenon that encompasses the entire state of California and depending on the types of migrating birds, certain pathways (e.g. bordering the ocean, along valleys, etc.) will be more frequented, and certain habitats (coastlines, riparian areas, wetlands) will be more important stopovers, than others. Over 67 species of waterfowl, raptors, shorebirds, and songbirds are known to regularly migrate through the San Diego area, traveling at night and stopping for a time by ocean shorelines, inland and coastal creeks, wetlands, and neighborhoods<sup>1</sup>.

The principal way to mitigate sky glow and glare is via luminaire shielding. The City of San Diego already does not require outdoor light fixtures of up to 4,050 lumens to be shielded, and this limit should be maintained. An increase to 6,200 lumens represents a 53% increase in light intensity, which would increase the adverse impacts on habitat and birds.

---

<sup>1</sup> See: <https://www.borealbirds.org/US-cities-birding-lists/San-Diego>. The Boreal Songbird Initiative is a network of conservation and birding groups interested in raising awareness in the U.S. and Canada about the importance of the boreal forest and other locations for migratory birds. They conduct migratory bird research and manage and maintain a migratory bird database.



Figure 1. Source: [http://www.borealbirds.org/birdguide/map\\_losanjeles.shtml#anchor](http://www.borealbirds.org/birdguide/map_losanjeles.shtml#anchor).

Thus, as proposed, the amendment's changes regarding home occupation parking requirements and unshielded outdoor lighting do not conform with the public access, visual resource, and habitat policies of the certified land use plans, and the amendment must be denied as submitted.

## 2. FINDINGS FOR APPROVAL IF MODIFIED

Suggested Modification No. 1 addresses the City's proposed change to Section 141.0308 allowing parking reductions for home occupations. The City's LCP has the Beach Impact Area (BIA) of the Parking Impact Overlay Zone, generally consisting of the three blocks or quarter-mile closest to the coast. The BIA identifies the portion of the City that, due to high visitation and inadequate parking supply, is especially sensitive to parking requirements and, for most development, requires a greater parking supply than is required for similar development located elsewhere in the City. While the BIA occupies only a small percentage of the overall 375 square miles of the City of San Diego, its year-round popularity and high visitation by the public identified it decades ago as an area of special significance to the public warranting special protections. The Commission's actions to balance parking requirements with efforts to promote alternate transit are meant to lessen the impact of the gradual shift from vehicular transportation to alternate transit on those members of the public who live far enough from the coast that commuting on alternate transit would be greatly burdensome. The Commission has several instances in past LCP Amendments, such as Spaces as Places (LCP-6-SAN-21-0091-1) regarding outdoor dining areas, identified the BIA is important for providing public access and warranting protective measures to preserve the parking supply therein. Thus, Suggested Modification No. 1 will prohibit the reduction of required parking for home occupations when it occurs in the BIA. The Commission recognizes that more of the public are working from home due to operating changes brought about by the COVID-19 pandemic, but the BIA is a fairly small segment of the City's coastal zone, and an extremely small portion of the City as a whole

and the suggested modification is not likely to have any impact on residents in the BIA being able to conduct their employment at home while preserving the public's ability to access the coast. The City should monitor and evaluate the impact that the removal of various parking requirements throughout San Diego has and will have to determine if limiting or removing parking does reduce vehicle miles travelled and lead to the creation of adequate alternative form of access and circulation. It is worth noting that beach parking in the city has long been insufficient to meet demand and yet has not resulted in the development of efficient mass transit access to the shoreline.

Suggested Modification No. 2 simply corrects a grammatical error in Section 142.0528 by deleting the excess word "accessible." The substance of the change to that section does not raise issue with regards to the land use plan.

Suggested Modification No. 3 addresses the City's proposed change to Section 142.0740 to increase the threshold for exempting lighting from shielding requirements from 4,050 lumens to 6,200 lumens. The siting, amount, and intensity of lighting has a direct impact on the visual quality of the coastal zone and the habitat therein. Because more intense lighting can increase adverse effects such as light spillover into habitat or increased sky glow, which can affect migrating birds, the Commission and City have a history of addressing lighting concerns in the City's open space projects, such as in their park spaces. For example, the Commission and City have reached compromises wherein lights of 3000 Kelvin color temperature are used in coastal areas rather than higher temperatures used by the City outside the coastal zone. In this specific case, the design of the light fixture, rather than its Kelvin color temperature, is being addressed. Shielding and directing light fixtures is one of the primary means by which light spillover can be minimized, and the current threshold of 4,050 lumens – a measure of total light being emitted over a period of time, generally described as one lumen equaling one candle's light – recognizes that there is a limit below which the intensity of light is such that its risk of light spillover without shielding is limited. Yet by increasing the threshold for light fixtures exempt from shielding by 53%, the amendment would dramatically increase the amount of lighting intensity that a development could have without requiring shielding. While it is true that the LCP's environmentally sensitive land (ESL) regulations, which set requirements for avoiding and limiting both direct and indirect impacts on sensitive habitat, are not being amended in this code update and will continue to apply to all development, including related lighting, not all impacts from lighting, such as increased ambient lighting and skyglow, are not directly addressed in the ESL regulations, and must be limited through other means. The Commission's ecologist concurs that the proposed increase in unshielded lighting intensity is appropriate due to anticipated increased light trespass and ambient lighting affecting both terrestrial habitat and migratory birds. Because much development in the City's coastal zone is either in proximity to sensitive habitat or in scenic viewsheds, Suggested Modification No. 3 will retain the existing threshold of 4,050 lumens in the coastal zone, allowing development to continue to use unshielded lighting in lower-intensity designs while balancing it with the LCP's resource protection policies.

Regarding the remainder of the 2021 Land Development Code Update, those items do not raise concerns with respect to adverse impacts on coastal resources. Sixteen of the items are corrections and clarifications to the code. The amendment modifying posting notice regulations will result in notices that are more easily viewed by the public. The specification of Floor Area Ration (FAR) and fence regulations in the La Jolla Shores Planned District,

where currently they are undefined, will not change any land use or zoning designations and bring development there in line with the rest of the City. The allowance for community gardens in certain light industrial zones will enhance community character for communities, often lower income, in proximity to the zones, while not supplanting the industrial nature of the zone. Similarly, the allowance of artisan food and beverage uses in industrial zones is in line with light manufacturing development. Amendments to the affordable housing regulations allowing the inclusion of studios and micro-units to meet bedroom counts will grant developers greater flexibility to provide affordable housing. Finally, the allowance for telecommunication equipment in the public right-of-way that cannot be undergrounded is not expected to substantially impact public access or views because such equipment will be limited to three feet in height and four feet in radius.

However, while the amendment to Section 131.0461 addressing architectural projections and encroachments in residential zones does not raise issue, the amendment would add regulations allowing balconies to encroach up to four feet into required yard areas. Thus, it is important to note that the preambulatory language of Section 131.0461 clearly states that:

“[n]o permitted architectural projection or encroachment may be located in required yards within view corridors that are designated by land use plans in the Coastal Overlay Zone...”

As such, two clarifications are needed regarding Section 131.0461. First, the preambulatory language is not being modified, and thus the new language regarding balcony encroachments does not create a new right of encroachment in the coastal zone. Secondly, while the term “designated” is undefined with regards to view corridors, it is construed by the Commission broadly to encompass all areas granting the public a view of the coast. While some of the certified land use plans, such as the La Jolla Community Plan, have map figures showing the locations of several view corridors, it has always been the Commission’s position that any such figures are not exhaustive, and that public view corridors are identified on a case-by-case basis as the circumstances allow.

The City states that the intent of its amendment to Section 142.0810 is also to bring local law in line with state law. In this case, “organic” (e.g., compost) material and storage requirements would be included in existing regulations governing refuse and recycling storage. Currently, Section 142.0810 prohibits material storage areas from being located in any front yard, street side yard, street yard, parking area, landscaped area, or any other area required by the municipal code, of which the Land Development Code is a part, to be maintained unencumbered in accordance with fire and safety laws. The proposed amendment would remove almost all of those siting prohibitions and simply require that the material storage area be onsite, accessible to haulers from the public right-of-way, and not in a required landscaped area. While the City’s goal of implementing requirements for the responsible handling of organic waste to reduce landfill volume is supportable, the increased permissibility of the siting of waste storage areas does create the possibility of adverse impacts to public access, public views, and habitat, as in many cases, the required yards on a property also serve as required public view corridors or public accessways or may create a buffer between development and nearby habitat areas. However, the 20201 Land Development Code Update is not modifying the public view or habitat protection policies currently in the LCP, and the City has confirmed that all material storage areas, like any other development, would be subject to the LCP ordinances

requiring the provision of public view corridors or habitat buffers when the circumstances dictate them. Thus, adverse impacts to coastal resources from the amendments regarding organic waste provisions would not be significant.

Thus, with the above suggested modifications addressing off-street parking and lighting design, the amendment can be found consistent with the certified LUPs for the City of San Diego and approved, as modified.

## **V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission.

For the City's action, an environmental impact report (EIR No. 96-0333) was completed for the original adoption of the Land Development Code, and a Program EIR (No. 104495) was prepared and certified for the General Plan Update. The City has previously utilized these documents for CEQA compliance in association with other code amendments. The City determined that this action would not result in new significant, indirect, or cumulative impacts over and above those disclosed in the aforementioned documents.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA. In this particular case, the LCP amendment will not have any significant adverse effect on coastal resources, and there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. In summary, no adverse impacts to coastal resources are anticipated and approval of the proposed amendment is consistent with CEQA.