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# TH14a

Date: August 23, 2023

To: **COMMISSIONERS AND INTERESTED PERSONS**

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Subject: **STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR  
AMENDMENT NO. LCP-6-SAN-22-0023-1 (2020 Land Development Code  
Update) for Commission Meeting of September 7, 2023.**

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## 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 2020 annual update to the Land Development Code (LDC), which serves as the certified Implementation Plan (IP) of its LCP, containing 46 items consisting of streamlining permit requirements and hearing procedures, changing landscape requirements, modifying housing incentives, and general corrections and updates, among other changes.

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission deny the LCP amendment as submitted and approve it as modified by staff.

The majority of the 46 items contained in the 2020 Land Development Code Update do not raise issues with regards to conformance with the certified Land Use Plan (LUP). However, two of the ordinance changes do have the potential to adversely impact public access to the coast: Allowing outdoor dining associated with Placemaking development to occur in off-street parking areas and allowing restaurants in the City's Transit Priority Area to replace all required off-street vehicle parking with bicycle parking.

“Placemaking,” is generally defined as temporary, small-scale projects or use of public right-of-way and private property to activate streetscapes to enhance the pedestrian experience and provide spaces with temporary small-scale development to support the temporary use, such as plazas, shade structures, benches, decorative art and lighting, etc. Placemaking aligns with many policies of both the Commission and the City by encouraging alternate transportation by enhancing non-vehicular rights-of-way. With the onset of the COVID-19 pandemic and resulting increase in outdoor dining spaces, the City decided to amend the regulations addressing Placemaking on private property to expand the scope of what could be considered Placemaking to allow existing restaurants to convert private parking lots into outdoor dining.

However, after the City adopted the 2020 Code Update’s Placemaking change, the City adopted, and the Commission certified, the Spaces as Places LCP amendment No. LCP-6-SAN-21-0091-3. Spaces as Places is a comprehensive program addressing and allowing for the conversion of off-street parking to outdoor dining on private property to serve a primary commercial use. Thus, Spaces as Places essentially encompasses the Placemaking aspect of the subject amendment.

In its approval of the Spaces as Places LCPA, the Commission determined that some off-street parking spaces converted to dining area would have to be replaced, particularly in the City’s Beach Impact Area (BIA), an overlay zone covering approximately three blocks closest to the coast. The City’s certified LCP identifies the BIA as a special area warranting additional protections given its high level of visitation and recreation by the public. In such a small, intensely utilized area, developments that do not adequately balance their parking needs with the surrounding community are likely to have an outsized impact on public access compared to inland portions of the City, due to the unique nature of the area.

Because the subject amendment was adopted prior to the Commission’s approval of the Spaces as Places LCPA, the limitations on the conversion of outdoor parking incorporated into the Spaces as Places LCPA are not included in the proposed Placemaking ordinance. However, since approval of the Spaces as Places LCP amendment, the enactment of Assembly Bill 2097 (2022, Friedman) prohibits local governments and state agencies from imposing parking requirements on most development within a half mile of a major transit stop of major transit corridor. The majority of the BIA is located within the City’s Transit Priority Area, and thus, applying the same limitations to the subject LCPA requiring the replacement of parking converted to outdoor dining or similar commercial uses would not be enforceable. Despite this limitation, as explained in the Executive Director’s memorandum regarding AB 2097 ([Exhibit 3](#)), local governments still have a duty to conform to the public access policies of the Coastal Act and their certified LCP, and identified impacts to access must still be addressed, not through parking requirements, then through alternative means, which are not present in the City’s amendment as proposed.

In addition, the LCP Update would also allow restaurants within the City’s Transit Priority Area to convert any or all of the required off-street parking spaces to bicycle parking at a ratio of one parking space to two bicycle spaces. Improvements to bicycle infrastructure is one way in which vehicle miles travelled can be reduced, and alternative transit promoted. But as the Commission noted when reviewing the aforementioned Spaces as Places amendment and its allowance to convert off-street parking, while bicycle and pedestrian

infrastructure improvements help people already residing in proximity to the coast and commercial uses walk or bike to their destination, the City of San Diego is 375 square miles, and it takes approximately 1.5 hours to travel from the eastern parts of the city to the coast by bus or trolley, and travelling from inland areas to the coast via bicycle is not feasible for most people. Given this three-hour round trip by alternate transit, in the areas of the City where parking is already at a premium (i.e., the Beach Impact Area) it is likely that usurpation of public parking by commercial uses (e.g., expanded restaurant seating) and conversion of off-street parking to bicycle parking without replacement of those vehicle spaces or an increase in the provision of mass transit or other off-setting measures will have the effect of discouraging coastal recreation by those members of the public not in close proximity to the coast. Because of the high cost of housing located within walking distance of the shoreline, measures that limit coastal access for people who are not within walking or bicycle distance disproportionately impacts lower income communities, which raises environmental justice concerns.

To date, the City has already submitted, and the Commission approved, several LCP amendments designed to reduce parking requirements and require the incorporation of measures that promote alternate transit and reduce vehicle miles traveled (VMT) into new development. One such amendment was Complete Communities (LCP-6-SAN-21-0033-1), which the Commission approved with suggested modifications in April 2022 and certified in September 2022. Among the changes to the certified LCP contained in Complete Communities was a new Appendix R to the Land Development Manual, a complementary document to the Land Development Code that together serve as the City's certified Implementation Plan. Appendix R: Transportation Study Manual, is designed to provide guidance to the public on how to prepare transportation studies that identify transportation impacts of proposed development and determine the necessary improvements to address them. Appendix E of the Transportation Study Manual – TDM [Transportation Demand Management] Strategies and Effectiveness Calculations – lists the available primary and supportive strategies available to applicants to choose from to mitigate their calculated transportation impact.

While many of the City's previous LCP amendments requiring the implementation of VMT-reducing and transit promoting measures are aimed at larger developments, some of those measures are applicable to smaller scale development that may avail itself of the parking reduction allowed in this amendment. Because these documents already exist in the LCP and their use would further consistency in the City's actions to reduce VMT and promote transit, it is appropriate to use the measures contained in the existing Appendix E of the Transportation Study Manual to help offset the public access impacts the removal of vehicle parking spaces can have. Therefore, **Suggested Modification No. 2** requires development under Placemaking that is located in the Beach Impact Area and that converts off-street parking to outdoor dining to select and implement either one or two mitigation measures from Appendix E to address the transportation impact that the removal of parking in the heavily visited coastal area of the City will have on public access.

Similarly, in line with the heightened sensitivity to parking demand and public access in the BIA, **Suggested Modification No. 3** requires that the conversion of required off-street vehicle parking spaces to bicycle parking spaces in the BIA must also provide VMT reducing and transit promoting measures selected from Appendix E of the Transportation Study Manual, so as to mitigate the impact that deletion of parking will have on the ability

of coastal visitors who live too far away to reasonably reach the coast by bike or transit to still be able to be accommodated. The BIA covers a small fraction of the City's coastal zone and a smaller percentage of the 375 square miles of the total area of San Diego. Requiring these measures in just the BIA strikes a balance between the benefits of providing additional bicycle parking with the potential public access impacts resulting from the removal of vehicle spaces. Furthermore, this modification will not unduly interfere with the ability of the City to promote bicycle transit, as the LCP currently has as part of its parking ordinances requirements for the provision of bicycle parking in addition to vehicle parking, which will continue to be in effect.

Finally, the City, being the largest jurisdiction in the coastal zone and receiving millions of coastal visitors a year, should monitor and evaluate the impact that the removal of various parking requirements throughout the City has and will have to determine if limiting or removing parking does reduce vehicle miles travelled and lead to the creation of adequate alternative forms of access and circulation. It is worth noting that beach parking in the City has been insufficient to meet demand for years but it has not yet resulted in the development of efficient mass transit access to the shoreline. Because no comprehensive public parking study of the coastal area has been conducted by the City, to being implementing such a monitoring system, **Suggested Modification No. 1** adds a new ordinance to the Land Development Code requiring the City to collect and transmit to the Commission information regarding the location, scope, and number of permits granted for the conversion of off-street parking, so that all parties may begin to formulate a clearer picture as to the pattern of off-street parking in the coastal area.

Thus, as modified in this report, the 2020 Land Development Code Update can be found in conformance with the public access and resource protection policies of the City of San Diego's certified LCP.

The appropriate motions and resolutions begin on page 7. The suggested modifications begin on page 8. The findings for denial of the Implementation Plan Amendment as submitted begin on page 12. The findings for approval of the plan, if modified, begin on page 15.

## **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-22-0023-1 may be obtained from Alexander Llerandi, Coastal Planner, at (619) 767-2370 or [SanDiegoCoast@coastal.ca.gov](mailto:SanDiegoCoast@coastal.ca.gov).

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### EXHIBITS

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[Exhibit 2 – Map of Beach Impact Area \(BIA\) of Parking Impact Overlay Zone](#)

[Exhibit 3 – Executive Director memorandum regarding AB 2097](#)

## **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-22-0023-1 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, and the 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-22-0023-1 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. Add new ordinance Section 132.0803 as follows:

**132.0803 Exceptions to the Parking Impact Overlay Zone Within the Beach Impact Area**

Where state law precludes enforcement of parking requirements, the City of San Diego shall track and provide an annual report to California Coastal Commission for projects located within the Beach Impact Area of the Parking Impact Overlay Zone, that includes:

- a) the total number of businesses issued coastal development permits during the prior year under Spaces and Places and Placemaking that approved the reduction of required parking spaces;
  - b) the total number of parking spaces lost by said approvals;
  - c) the location of said businesses; and
  - d) any parking complaints received associated with said approvals.
2. Section 141.0421 shall be modified as follows:

**141.0421 Placemaking on Private Property**

Placemaking on private property 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:

[...]

- (f) A placemaking project shall only occur on premises that are vacant at the time the Temporary Use Permit application is submitted or within parking lots



on premises within transit priority areas, except in existing disabled accessible parking spaces serving the premises.

- 1) Where state law precludes enforcement of parking requirements, a placemaking project located within the Beach Impact Area of the Parking Impact Overlay Zone that removes parking for outdoor dining that would otherwise be required by the City's Parking Regulations (Chapter 14, Article 2, Division 5) must implement a minimum of two transportation amenities contained in the Transportation Study Manual Appendix E: TDM Strategies and Effectiveness Calculations categories "Neighborhood/Site Enhancement," "Transit System Improvements," "Commute Trip Reduction Programs," or "Commute Trip Reduction Additional Strategies" (excepting Price Workplace Parking). An applicant shall be responsible for implementation of each amenity that it chooses and may not rely on another applicant's completion of the amenity to satisfy its own requirements.

3. Section 142.0530 shall be modified as follows:

### **Section 142.0530 Nonresidential Uses – Parking Ratios**

Footnotes for Table 142.05F

1. Eating and Drinking Establishments. The minimum parking ratios apply to eating and drinking establishments that do not have a common parking area with any other uses. There is no minimum parking requirement or maximum permitted parking for outdoor dining. With Transit Priority Areas, minimum required parking can be replaced by a placemaking project if a Temporary Use Permit is obtained in accordance with Section 123.0402. Within the CN, CO and CV Zones, minimum parking required can also be replaced with bicycle parking at a ratio of 2 bicycle parking spaces provided for every required vehicle parking space. Within the BIA, where state law precludes enforcement of parking requirements, a project that replaces up to one vehicle parking space that would otherwise be required by the City's Parking Regulations for bicycle parking must implement a minimum of one Bicycle TDM contained in the "Neighborhood/Site Enhancement" section of the Transportation Study Manual Appendix E: TDM Strategies and Effectiveness Calculations. Projects that replace more than one such parking space must implement a minimum of two Bicycle TDMs. An applicant shall be responsible for implementation of each amenity that it chooses and may not rely on another applicant's completion of the amenity to satisfy its own requirements. Within the Coastal Overlay Zone, outdoor dining areas such as decks, patios, terraces, etc., are considered part of the eating and drinking establishment's gross floor area and are included in calculating parking requirements.

## **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, to modify and streamline permitting processes as needed. The City submits the proposed revisions annually as a code update to the LCP.

The 2020 Land Development Code Update includes 46 items, separated into four categories: corrections, regulatory reform, new regulations, and compliance with state law. Approximately twenty-seven items consist of grammatical, spelling, and redundancy corrections. The seventeen items addressing regulatory reform modify various development requirements in the code, such as requiring evergreen trees rather than palm trees in parking lot landscaping, allowing greater flexibility in commercial setbacks, removing the requirement to reserve a certain percentage of Floor Area Ratio (FAR) for parking, removing the six-month vacancy period for commercial spaces to house interim residential, extending the period of commercial inactivity that can still keep previously conforming parking from two to five years, and clarifying how certain development measurements, such as height and gross floor area, are made with regards to light wells and carports, respectively. As discussed in greater detail below, the City is proposing two amendments that would change parking requirements: the first would allow the expansion of outdoor dining for existing restaurants in the City's Transit Priority Area into off-street parking lots, and the second would allow restaurants to replace vehicle parking spaces with bicycle parking spaces.

The one 2020 Code Update item addressing new regulations will create a new, separately regulated land use subcategory for Adult Day Care Facility, which will be defined as a facility that operates on a less-than-24 hours basis providing people 18 years and older with medical and personal care services to address physical or mental impairments. Such facilities would be allowed as a limited use in certain open space park, agricultural residential, and residential zones.

The one item addressing state law will add organic material to refuse and recycling regulations, as well as streamline regulations addressing the siting of collection areas for recyclables, refuse, and organic material to allow them required yard setback areas.

### **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 46 items contained in the 2020 Land Development Code Update do not raise issues with regards to conformance with the certified Land Use Plan (LUP). However, two of the ordinance changes do have the potential to adversely impact public access to the coast: Allowing outdoor dining associated with Placemaking development to occur in off-street parking areas and allowing replacement of required off-street vehicle parking with bicycle parking.

At the February 2020 hearing, the Commission certified LCP Amendment No. LCP-6-SAN-18-0064-2, introducing a new use into the certified LCP, “Placemaking,” which is generally defined as temporary, small-scale projects or use of public right-of-way and private property to activate streetscapes to enhance the pedestrian experience and provide spaces with temporary small-scale development to support the temporary use, such as plazas, shade structures, benches, decorative art and lighting, etc. The intent is to allow residents to reimagine and creatively reinvent unused or underutilized spaces in their neighborhoods to cultivate a sense of community, create gathering spaces, showcase public art, illuminate landscape, beautify forgotten parcels or illustrate the area’s cultural vibe. Placemaking can be an adaptable, fairly low-cost method for a local government or members of the public to enhance a public space or introduce new community amenities. Placemaking aligns with many policies of both the Commission and the City encouraging alternate transportation by enhancing non-vehicular rights-of-way. Examples of such placemaking include the erection of “parklets,” shaded seating areas located within public parking spaces on the side of the street, or placing shipping containers and crates on a vacant private parcel to create an event venue.

With regards to Placemaking on private property, the original amendment certified in February 2020 envisioned that any commercial activity associated with the Placemaking development or activity would be operated in support of the Placemaking amenity, not as a standalone commercial facility. For example, a food or merchandise stand erected during an event, rather than an autonomous retail or food service facility. However, with the onset of the COVID-19 pandemic and resulting increase in outdoor dining spaces, the City decided to amend the regulations addressing Placemaking on private property to expand the scope of what could be considered Placemaking. The subject amendment would allow, under the auspices of the Placemaking ordinance, the conversion of off-street parking areas to outdoor dining areas associated with a primary commercial use, such as a restaurant, in the City’s Transit Priority Area, defined as that area within a half mile of a major transit stop.

However, after the City adopted the 2020 Code Update’s Placemaking change, the City adopted, and the Commission certified, the Spaces as Places LCP amendment No. LCP-

6-SAN-21-0091-3. Spaces as Places is a comprehensive program addressing and allowing for the conversion of off-street parking to outdoor dining on private property to serve a primary commercial use. Spaces as Places allows the outdoor dining area as a permanent use in mixed use zones, commercial zones, and certain industrial zones upon obtaining the necessary building and coastal development permits. Thus, Spaces as Places essentially encompasses the Placemaking aspect of the subject amendment, which, like development under the Spaces and Places regulations, requires building and coastal development permits, but also requires a temporary use permit of a maximum five-year duration and only allows outdoor dining in commercial zones.

In its approval of the Spaces as Places LCPA, the Commission determined that required off-street parking spaces converted to dining area outside of the City's Beach Impact Area (BIA), an overlay zone covering approximately three blocks closest to the coast, must be replaced with an equivalent number of off-street parking spaces provided at no cost to the public, either on the same premises or through a shared parking agreement. Excess parking spaces do not need to be replaced. Within the Beach Impact Area, *all* parking that is removed for outdoor dining on private property must be replaced with an equivalent number of off-street parking spaces provided at no cost to the public, either on the same premises or through a shared parking agreement.

This is because the conversion of off-street parking serving an existing commercial use simultaneously increases the intensity of use on the property while decreasing the capacity of the property to contain the parking demand on-site, leading to greater likelihood that patron parking will occupy public street parking used by non-patrons to visit the coast. For several decades, the City's certified LCP has recognized the BIA as a special area warranting additional protections given its high level of visitation and recreation by the public. In such a small, intensely utilized area, developments that do not adequately balance their parking needs with the surrounding community are likely to have an outsized impact on public access compared to inland portions of the City, due to the unique nature of the area.

Because the subject amendment was adopted prior to the Commission's approval of the Spaces as Places LCPA, the limitations on the conversion of outdoor parking incorporated into the Spaces as Places LCPA are not included in the proposed Placemaking ordinance. While the temporary use permits for outdoor dining required by the Placemaking amendment would have a limited duration, they would be renewable, meaning they will function in the same manner as projects approved via Spaces as Places.

However, since approval of the Spaces as Places LCP amendment, the enactment of Assembly Bill 2097 (2022, Friedman) prohibits local governments and state agencies from imposing parking requirements on most development within a half mile of a major transit stop of major transit corridor. The majority of the BIA is located within the City's Transit Priority Area, and thus, applying the same limitations to the subject LCPA requiring the replacement of parking converted to outdoor dining or similar commercial uses would not be enforceable. Despite this limitation, as explained in the Executive Director's memorandum regarding AB 2097 (Exhibit 3), local governments still have a duty to conform to the public access policies of the Coastal Act and their certified LCP, and identified impacts to access must still be addressed, not through parking requirements,

then through alternative means, which are not present in the City's amendment as proposed.

The second concern regarding potential adverse impacts to public access arises from the 2020 Land Development Code Update's changes to Footnote 1 of Table 142-05F. The Land Development Code generally breaks down the parking requirements for various land uses by category, with tables listing the parking requirements for those categories. Table 142-05F contains the parking requirements for eating and drinking establishments, a common land use in visitor-serving areas along the coast.

The 2020 Land Development Code Update would amend Footnote 1 of Table 142-05F to insert language stating that within the Transit Priority Area, off-street parking area serving an eating and drinking establishment could be converted to outdoor dining area in accordance with Placemaking permitting regulations. The amendment then goes further to state that within the neighborhood commercial, office commercial, and visitor commercial zones, any or all of the required off-street parking spaces could also be converted to bicycle parking at a ratio of one parking space to two bicycle spaces.

The Commission is in full support of efforts to promote alternative means of transit. However, before eliminating vehicle parking spaces, it is important to acknowledge that while many of the coastal communities of San Diego are walkable, and biking is a popular means of transportation there, for the purposes of getting to the shoreline, bicycles are a means that best serves those who already live within those coastal communities. As the Commission noted when reviewing the aforementioned Spaces as Places amendment and its allowance to convert off-street parking, while bicycle and pedestrian infrastructure improvements help people already residing in proximity to the coast and commercial uses walk or bike to their destination, the City of San Diego is 375 square miles, and it takes approximately 1.5 hours to travel from the eastern parts of the city to the coast by bus or trolley, and travelling from inland areas to the coast via bicycle is not feasible for most people. Given this three-hour round trip by alternate transit, in the areas of the City where parking is already at a premium (i.e., the Beach Impact Area) it is the likely that usurpation of public parking by commercial uses (e.g., expanded restaurant seating) and conversion of off-street parking to bicycle parking without replacement of those vehicle spaces or an increase in the provision of mass transit or other off-setting measures will have the effect of discouraging coastal recreation by those members of the public not in close proximity to the coast. Because of the high cost of housing located within walking distance of the shoreline, measures that limit coastal access for people who are not within walking or bicycle distance disproportionately impacts lower income communities, which raises environmental justice concerns.

The City is working on developing alternatives to private vehicles for beach access, such as the new Pacific Beach shuttle pilot program, which is on demand service using an electric, low-speed shuttle that can take up to five passengers at a time around the Pacific Beach community as well as the Balboa Avenue Transit Station, helping people move around the region without relying on a car. These and other efforts, when widespread and expanded to serve more people and populations (such as people with surfboards) are expected to help provide beach access opportunities for visitors and residents who do not live within walking or biking distance of the shoreline, particularly as public street parking for single-occupancy vehicles is increasingly unavailable. In addition, many commercial

sites have the capacity to provide new or additional bicycle parking without removing existing vehicle parking spaces, as bicycle racks do not occupy a large amount of space. There could be circumstances where it would be appropriate to reduce some number of vehicle spaces if applicants were to provide secure bicycle storage or electrical bicycle charging and storage spaces, as the lack of these facilities probably does limit people's willingness to use bicycle transportation. However, as the amendment currently proposes, allowing the replacement of all vehicle parking spaces in the Beach Impact Area would result in impacts to public access, inconsistent with the certified LCP.

Thus, as proposed, the amendment's changes regarding outdoor dining on private property and conversion of vehicle parking to bicycle parking does not protect the public access needs of the general public. Additionally, given the concentration of many outdoor eateries in the coastal communities that experience the heaviest visitation and the most acute parking constraints, the failure to require replacement or other mitigation for the loss of parking would further increase the public's challenge in visiting the coast and dissuade such visitation. The lack of such protection is not in conformance with the public access policies of the certified LUPs and the amendment must be denied as submitted.

## **2. FINDINGS FOR APPROVAL IF MODIFIED**

While the City's proposed Placemaking amendment has many similarities to the approved Spaces as Places program, due to the recent enactment of AB 2097 and its prohibition on local governments and state agencies imposing parking requirements for most development within a half mile of major transit stops and transit corridors, alternative measures to address the impacts to public access must be identified.

On June 30, 2023, the Commission's Executive Director released a memo to planning directors of coastal cities and counties advising on how this legislation should be implemented in the Coastal Zone ([Exhibit 3](#)). Historically, the Commission and local governments implementing their LCPs have often imposed minimum parking requirements to ensure that development is consistent with the public access and recreation policies of the Coastal Act and certified LCPs. These public access and recreation policies continue to apply, but imposition of minimum parking requirements is no longer allowed where AB 2097 applies.

Much of the City's Beach Impact Area, the approximately three blocks closest to the coast that is the primary focus of the suggested modifications, is located within one-half mile of various major transit stops. Thus, suggested modifications requiring the replacement of parking converted to outdoor dining or prohibiting the conversion of vehicular parking to bicycle parking would not be applicable or enforceable in these areas.

Because as discussed herein alternative forms of transit are still extremely limited in the City of San Diego, at least in the short term, AB 2097 is likely to cause public access impacts in the coastal zone that will be difficult to fully mitigate. It will also likely have impacts far outside the transit-rich areas it directly applies to, as inland residents and visitors may have a harder time traveling to access the coast. This is particularly the case for coastal visitors and inland residents that must travel far to reach the coast and cannot afford to live in coastal areas. AB 2097 applies only in areas with existing major transit, but it does not require that this transit be able to connect visitors and inland residents traveling

from elsewhere to the coast. In the coastal zone, high costs of housing and historical exclusionary public policies and private practices such as refusing to finance home purchases for households of color and imposing deed restrictions that restricted sales of homes to certain groups based on race, creed, or color, have excluded households of color and lower income households from owning and renting property on the coast. As a result, applying AB 2097 in the coastal zone may raise environmental justice concerns as lower income households and households of color are less likely than wealthy, white households to live on the coast, and thus may have more difficulty accessing the coast without adequate public parking.

The June 2023 memorandum discusses how the Commission and local governments can impose other types of conditions in these areas to ensure projects and LCPs are consistent with the public access and recreation policies of the Coastal Act and certified LCPs. Local governments must plan for and develop alternative ways for the public to access the coast from across their jurisdictions, such as through investing in public transit and developing programs that facilitate public access by, for example, creating free shuttles to the coast and additional public parking facilities.

In future LCP updates, the City of San Diego should consider the impacts that proposed development located within one-half mile of a major transit stop may have on public access and recreation and include strategies to adequately mitigate the impacts of development on access and recreation consistent with the Coastal Act. While the addition of bicycle lanes and spaces is one tool, the City of San Diego should also evaluate such options as the following:

- Increased public transit to visitor destination areas, such as increased transit service areas or routes, shorter intervals of service, additional bus stops, and park-and-ride lots and shuttles
- Free or low-cost shuttles connected to public park-and-ride facilities that provide appropriate design (e.g., to meet the needs of beach visitors and people with disabilities) and adequate intervals and duration of service to public access and recreational areas
- Public access in-lieu/development fee programs intended to improve, protect, and enhance public access and recreation opportunities for people of all abilities and incomes

Other potential options are outlined in the memorandum.

AB 2097 is a potential step towards reducing our car-centric manner of accessing the coast. However, implementation in the coastal zone requires an increased emphasis on alternative ways of providing access to the coast and developing systems for implementing and constructing alternative transit.

To date, the City has already submitted, and the Commission approved, several LCP amendments designed to reduce parking requirements and require the incorporation of measures that promote alternate transit and reduce vehicle miles traveled (VMT) into new development. One such amendment was Complete Communities (LCP-6-SAN-21-0033-1),



which the Commission approved with suggested modifications in April 2022 and certified in September 2022. Among the changes to the certified LCP contained in Complete Communities was a new Appendix R to the Land Development Manual, a complementary document to the Land Development Code that together serve as the City's certified Implementation Plan. Appendix R: Transportation Study Manual, is designed to provide guidance to the public on how to prepare transportation studies that identify transportation impacts of proposed development and determine the necessary improvements to address them. Appendix E of the Transportation Study Manual – TDM [Transportation Demand Management] Strategies and Effectiveness Calculations – lists the available primary and supportive strategies available to applicants to choose from to mitigate their calculated transportation impact.

While many of the City's previous LCP amendments requiring the implementation of VMT-reducing and transit promoting measures are aimed at larger developments, some of those measures are applicable to smaller scale development that may avail itself of the parking reduction allowed in this amendment. Because these documents already exist in the LCP and their use would further consistency in the City's actions to reduce VMT and promote transit, it is appropriate to use the existing Appendix E of the Transportation Study Manual with the currently proposed amendment. Suggested Modification No. 2 requires development under Placemaking that is located in the Beach Impact Area and that converts off-street parking to outdoor dining to select and implement either one or two mitigation measures from Appendix E, depending on how many parking spaces are converted, to address the transportation impact that the removal of parking in the heavily visited coastal area of the City will have on public access.

Similarly, in line with the heightened sensitivity to parking demand and public access in the BIA, Suggested Modification No. 3 requires that the conversion of required off-street vehicle parking spaces to bicycle parking spaces in the BIA must also provide VMT reducing and transit promoting measures selected from Appendix E of the Transportation Study Manual, so as to mitigate the impact that deletion of parking will have on the ability of coastal visitors who live too far away to reasonably reach the coast by bike or transit to still be able to be accommodated. The Beach Impact Area of the Parking Overlay Zone generally consists of the three blocks closest to the coast and has been identified by the City as the area where public beach parking is already extremely impacted and thus where any further reduction would have a significant impact on parking availability. The BIA covers a small fraction of the City's coastal zone and a smaller percentage of the 375 square miles of the total area of San Diego. Requiring these measures in just the BIA strikes a balance between the benefits of provide additional bicycle parking with the potential public access impacts resulting from the removal of vehicle spaces. Furthermore, this modification will not unduly interfere with the ability of the City to promote bicycle transit, as the LCP currently has as part of its parking ordinances requirements for the provision of bicycle parking in addition to vehicle parking, which will continue to be in effect.

Finally, the City, being the largest jurisdiction in the coastal zone and receiving millions of coastal visitors a year, should monitor and evaluate the impact that the removal of various parking requirements throughout the City has and will have to determine if limiting or removing parking does reduce vehicle miles travelled and lead to the creation of adequate alternative forms of access and circulation. It is worth nothing that beach parking in the

City has been insufficient to meet demand for years but it has not yet resulted in the development of efficient mass transit access to the shoreline. Because no comprehensive public parking study of the coastal area has been conducted by the City, to being implementing such a monitoring system, Suggested Modification No. 1 adds a new ordinance to the Land Development Code requiring the City to collect and transmit to the Commission information regarding the location, scope, and number of permits granted for the conversion of off-street parking, so that all parties may begin to formulate a clearer picture as to the pattern of off-street parking in the coastal area.

With regards to the remaining forty-four items in the 2020 Land Development Code Update, they do not represent items that would adversely impact coastal resources. Over half of the remaining items are simply clarifications or grammatical, spelling, or numbering corrections to make the code easier to read by the public. Of the more substantive changes, the change to the landscaping regulations for vehicle areas to require canopy trees and prohibit the currently allowed palm trees will have a positive impact on reducing heat islands caused by paved areas and improving community character. The amendments allowing greater development flexibility by not requiring that a certain percentage of Floor Area Ratio (FAR) be reserved for parking or that commercial setbacks can be between the maximum and minimum values, rather than just one or the other, are not expected to adversely impact public access or public views because the ordinances requiring a specific number of parking spaces or provision of view corridors along waterfront properties are not being modified. The removal of the current six-month vacancy requirement before interim residential use can be put in commercial space will not impact coastal recreation because the LCP currently prohibits such interim residential use in the coastal zone so as to protect visitor serving uses. The addition of Adult Day Use Facilities as a new use in the code is not expected to adversely impact coastal resources because it would be allowed in zones where some level of support facility is already allowed by the LCP. Should such a facility be proposed in the coastal zone, it would need to acquire a coastal development permit and adhere to all habitat, public access, and public view protection policies of the certified LCP.

The remaining amendments generally add greater flexibility for development to achieve a higher residential density as part of the City's efforts to address the current housing shortage. The city-wide measures allow for greater lot coverage or exempt smaller developments of fifty units or less from having to achieve certain thresholds to qualify for bonuses, while the measures specific to downtown, which is almost entirely outside of the coastal zone, would reduce parking requirements for hotels and residential projects. In contrast to the issues raised about parking reductions for outdoor dining, the downtown area is very densely developed and served by several forms of alternate transit. Thus, parking reductions in this area are less likely to adversely impact coastal visitors due to the ability of both residents and visitors to more easily travel by alternate means compared to the rest of the city.

Thus, with the above suggested modifications addressing coastal permit review and public parking replacement, 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.