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Date: February 22, 2024

To: COMMISSIONERS AND INTERESTED PERSONS

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Subject: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT NO. LCP-6-CCP-23-0014-1 (Midway-Pacific Highway Height
Limit) for Commission Meeting of March 14, 2024)

SYNOPSIS

On October 5, 2023, the subject City of San Diego Local Coastal Program (LCP) Implementation Plan (IP) Amendment was filed in the San Diego District. The amendment received a one-year time extension from the Commission at the December 2023 hearing, and the latest the amendment can be heard is the December 2024 hearing.

The subject amendment was submitted by the City on May 11, 2023 along with two other LCP amendments that are currently under review by Commission staff: LCP-6-SAN-23-0013-1 (2022 Land Development Code Update) received a one-year time extension from the Commission at the July 2023 hearing and LCP-6-NOC-23-0015-1 (Mira Mesa Community Plan) received a one-year time extension at the December 2023 hearing.

SUMMARY OF AMENDMENT REQUEST

The proposed amendment would revise the Land Development Code, which serves as the certified Implementation Plan (IP) of the City of San Diego's LCP, to exclude the Midway-Pacific Highway Community from the Coastal Height Limit Overlay Zone, which limits buildings to a height of 30 feet. The amendment would not change the underlying base zone regulations, including the base zone's density or height limit of 100 feet.

SUMMARY OF STAFF RECOMMENDATION

The Midway-Pacific Highway community is located east of the Point Loma Peninsula, south of the San Diego River, west of Interstate 5, and north of the San Diego International Airport and San Diego Bay ([Exhibit 1](#)). Only a small area of this community planning area is within the Coastal Zone and under the coastal permit authority of the City of San Diego, including a section of land north of Interstate 8 and adjacent to the southern side of the San Diego River and an approximately one-mile portion of the Pacific Highway corridor

between Washington Street and Laurel Street. Thus, the subject amendment would be limited to 1.5 acres, comprised of eight parcels in the Coastal Zone ([Exhibit 2](#)).

The standard of review for LCP implementation amendments is their consistency with and ability to carry out the provisions of the certified LUP. In this case, the proposed IP amendment is consistent with and adequate to carry out the Midway–Pacific Highway Community Plan Update (LUP). The proposed amendment would directly affect eight privately owned parcels within the Coastal Zone which are zoned for industrial small-scale uses. The LUP requires that structure heights be compatible with the safety zones identified in the Land Use Compatibility Plan (LUCP) for the San Diego International Airport (SDIA). In this case, the LUCP limits the height of development on the subject parcels to below 100 ft. to 130 ft. However, the height of the subject parcels would continue to be limited to 100 ft. by the industrial small-scale base zone height limit. In addition, no coastal view impacts would occur within the Coastal Zone, as the affected parcels are located on the landward boundary of the Coastal Zone. Finally, since the area south of and along the San Diego River is designated for park use, no future private development will be possible in that location that could potentially reduce public views of the coast or limit public access. Staff recommends that the Commission certify LCP-6-CCP-23-0014-1 as submitted.

The appropriate motions and resolutions begin on page 5. The findings for approval of the Implementation Plan Amendment as submitted begin on page 5.

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 subject City of San Diego LCP amendment No. LCP-6-CCP-23-0014-1 may be obtained from Melody Lasiter, Coastal Planner, at (619) 767-2370 or SanDiegoCoast@coastal.ca.gov.

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EXHIBITS

- [Exhibit 1 – Vicinity and Coastal Zone Boundary](#)
- [Exhibit 2 – Jurisdictional Boundary and Impacted Site](#)
- [Exhibit 3 – City of San Diego Ordinance No. 21508](#)
- [Exhibit 4 – City of San Diego Resolution No. 314520](#)

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 proposed amendment was approved by a majority of voters in a City-wide election in 2022 and the City has held City Council and Rules Committee 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. MOTION AND RESOLUTION

MOTION:

I move that the Commission reject the Implementation Program Amendment for the City of San Diego as submitted.

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a NO vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted 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 IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of 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 or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

III. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The proposed amendment would revise the Land Development Code, which serves as the certified Implementation Plan (IP) of the City of San Diego Local Coastal Program (LCP), to exclude the Midway-Pacific Highway Community from the Coastal Height Limit Overlay Zone, which limits building height to 30 feet or less in that zone. The amendment would not change the underlying base zone regulations, including the base zone's density and the height limit of 100 feet.

The Midway–Pacific Highway community is located east of the Point Loma Peninsula, south of the San Diego River, west of Interstate 5, and north of the San Diego International Airport and San Diego Bay ([Exhibit 1](#)). Only a small area of community planning area is within the Coastal Zone and under the coastal permit authority of the City of San Diego, including a section of land north of Interstate 8 and adjacent to the southern side of the San Diego River; and an approximately one-mile portion of the Pacific Highway corridor

between Washington Street and Laurel Street. The subject amendment would impact 1.5 acres comprised of eight parcels in the Coastal Zone. The remaining properties in the Coastal Zone include the 388-acre Marine Corps Recruitment Depot within the Federal Government’s jurisdiction, and 10.5 acres of properties owned by the San Diego Unified Port District (Port) that are within the Port’s jurisdiction and subject to the certified Port Master Plan ([Exhibit 2](#)).

Amendment Background

On December 7, 1972, a voter initiative known as Proposition D (“Prop D”) established a 30-foot maximum structure height in coastal areas of the City of San Diego known as the Coastal Height Limit Overlay Zone (“CHLOZ”). The initiative was spurred by the approval and construction of tall residential and hotel developments along San Diego’s coast and the subsequent desire by voters to protect coastal views and community character by having a uniform height limit over the City’s coastal zone. Separate from the CHLOZ, the City also has city-wide zones that establish various maximum structure heights on properties based on the specific zone type.

In November 2020, a ballot proposal to exempt the Midway-Pacific Highway Community from the CHLOZ (Measure E) was passed in the City of San Diego but later struck down by a Superior Court Judge. The court held that the City should have performed additional environmental analysis prior to placing Measure E on the November 2020 ballot.

Following the approval of a Supplemental Environmental Impact Report (SEIR) by the City in July 2022, a second ballot measure to exempt the Midway-Pacific Highway Community from the CHLOZ (Measure C) was placed on the November 8, 2022 ballot, and approved by the majority of voters.

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 Midway-Pacific Highway Community Plan, or LUP for this planning area, has a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

Policy LU-4.78 states:

Ensure that future uses, building intensity, and structure heights are compatible with the safety zones, noise contours, and airspace protection surfaces identified in the Airport Land Use Compatibility Plan for San Diego International Airport.

Policy LU-4.82 states:

Provide and emphasize physical access to San Diego Bay via Sassafras, Palm, and Laurel Streets, and maintain bay views from the public right-of-way at Kettner Boulevard and Redwood, Palm, and Olive Streets as feasible.

Policy CE-3.1 states:

Preserve, protect, and enhance public access to the Coastal Zone within the community.

C. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. In this case, the proposed IP amendment is consistent with and adequate to carry out the Midway–Pacific Highway Community Plan (LUP). The proposed amendment would directly affect eight privately owned parcels within the Coastal Zone that are zoned for industrial small-scale uses. The LUP requires that structure heights be compatible with the safety zones identified in the Land Use Compatibility Plan (LUCP) for the San Diego International Airport (SDIA). In this case, the LUCP limits the height of the subject parcels to below 100 ft. to 130 ft. depending on the parcel. However, the height of the subject parcels would continue to be limited to 100 ft. by the industrial small-scale base zone height limit, which is below the height limit required by the LUCP. In addition, no coastal view impacts would occur within the Coastal Zone, as the affected parcels are located on the landward boundary of the Coastal Zone. While view impacts from outside the Coastal Zone, including from Interstate 5, may occur, the Coastal Commission cannot regulate those impacts¹. Finally, since the area south of and along the San Diego River is designated for park use, no future private development will be possible in that location that could potentially reduce public views of the coast or limit public access.

IV. 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. Instead, the Coastal Commission acts as lead agency for the purposes of fulfilling CEQA. 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.

The City adopted a Final Supplemental Environmental Impact Report (SCH No. 2022030324) in July 2022 to the 2018 Final Environmental Impact Report (SCH No. 2015111013) for the Midway-Pacific Highway Community Plan Update that included a Statement of Overriding Considerations finding that the impacts to views would be significant and unavoidable but were outweighed by benefits of removing the height limit which would 1) give the City greater flexibility to develop a wider range of housing types, 2) supports new and enhanced local commercial, retail, and office opportunities, 3) support

¹ See *Sierra Club v. California Coastal Commission* (2005) 35 Cal.4th 839 [In considering permit applications, Coastal Commission may not regulate impacts in the coastal zone that arise from outside the coastal zone].

the opportunity for more creative outdoor open spaces, and 4) implement strategies in the City's 2015 Climate Action Plan and 2022 Draft Climate Action Plan by supporting residential opportunities that promote sustainable development.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In this particular case, the LCP amendment will not have any significant adverse effect on coastal resources since views from within the Coastal Zone would not be impacted, 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.