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Date: March 26, 2024

To: COMMISSIONERS AND INTERESTED PERSONS

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Subject: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT NO. LCP-6-SAN-23-0027-2 (Housing Action Package) for
Commission Meeting of April 10-12, 2024.

SYNOPSIS

On July 13, 2023, the City of San Diego Local Coastal Program (LCP) Amendment No. LCP-6-SAN-23-0027-2 (Housing Action Package) was filed in the San Diego District office as part of the City's second LCP submittal for 2023. The Housing Action Package received a one-year time extension at the September 7, 2023, Commission hearing, and **the latest this item can be heard is the September 2024 hearing**. This item was originally scheduled for the March 2024 Commission hearing, but the City requested a postponement to respond to the staff recommendation.

SUMMARY OF AMENDMENT REQUEST

The Housing Action Package (HAP) involves updates to the Land Development Code (LDC), which serves as part of the certified Implementation Plan, to incentivize and promote new housing development. The HAP also incorporates Senate Bill 9 (SB 9) into the LDC by allowing urban lot splits and construction of two dwelling units on each lot, or alternatively allowing the creation of up to four dwelling units on an unsplit lot, along with related ordinances regarding setbacks and parking.

SUMMARY OF STAFF RECOMMENDATION

The Housing Action Package (HAP) is comprised of three parts. The first part incorporates amendments to the Land Development Code (LDC) that would incentivize the construction of more homes, focus development near transit, and help to create greater affordability. The second part implements Senate Bill (SB 9) by adding a new division to the LDC, and the third part provides refinements to the existing Accessory Dwelling Unit (ADU) regulations to align with the SB 9 regulations and modify regulations to address community concerns.

Broadly, and consistent with SB 9, the proposed amendment would allow the subdivision of single-family residentially zoned parcels and the construction of up to two residential units on each lot (i.e., a lot that previously only allowed one residence may now be subdivided and each of the lots allowed two units, thereby totaling four). SB 9 seeks to intensify the amount of allowed residential development within urbanized areas zoned for single-family residential use in California as a means of helping to address the state's housing – particularly affordable housing – crisis, a crisis that is particularly acute in the coastal zone. Alternatively, the amendment would also allow the construction of up to four dwelling units on one parcel that is not undergoing a lot split.

In general, the expected outcome of such a program is residential densification and intensification of use in such single-family residential areas. In many coastal jurisdictions, single-family zoning comprises the bulk of their respective coastal zone, and thus these areas represent opportunity for residential densification including to help meet affordable and market rate housing goals. Such an approach is not so different from the Coastal Act's (and by extension local government LCP) direction to concentrate new development into existing developed areas (per Coastal Act Section 30250). As a general rule, existing developed areas are less likely to raise significant coastal resource concerns. SB 9 also attempts to make better use of the coastal zone's single-family residential areas, recognizing that conventional single-family residential land use practices and development, especially as it relates to large lot single-family development, limits the amount of housing stock.

That said, the Coastal Act doesn't allow for carte blanche approval for all urban infill development; there are rules to protect important coastal resources such as bluffs and beaches (e.g., by being set back appropriately so as not to need coastal armoring), wetlands and sensitive habitats (e.g., prohibiting residential development within these areas), public views and public access (e.g., ensuring that both are protected in development proposals), and resources affected by public service limitations (e.g., limiting development in areas where water or wastewater inadequacies are leading to adverse coastal resource impacts). The Coastal Act and corresponding LCP policies protect these resources, and thus all development, including SB 9 development, must be consistent with those policies. While in most cases existing LCP requirements should be able to address these coastal resource issues for SB 9 development in the same manner that LCPs protect such resources when any development is proposed, in some cases it may be appropriate or necessary to include specific prescriptions for SB 9 development (e.g., requiring off-street parking in areas where residential parking competes with coastal access, or prohibit SB 9 development, including in areas with known public service capacity constraints or on eroding blufftop parcels fronting the ocean, etc.). And in all LCP cases, a proposed amendment requires an evaluation of the particular single-family residential context and issues to promote thorough evaluation of permit applications.

In this case, the City's coastal zone is predominantly urban in nature and built out, and thus the vast majority of new residential development that would be fostered by the proposed amendment would be considered "infill" development in areas that generally do not raise coastal resource issues. For those issues that remain, the amendment makes clear that, within the coastal zone, such development must still comply with the Coastal Act and applicable LCP policies, including in terms of CDP requirements. That said, the

proposed amendment requires a few modifications to address particular coastal resource and public access considerations. With respect to public coastal access and parking, the City of San Diego serves as a significant visitor destination, with a high volume of visitors arriving in cars from further inland. While the proposed amendment requires off-street parking in certain identified shoreline locations, namely the Beach Impact Area of the Parking Overlay Zone (BIA), the majority of the BIA is overlapped by the Transit Priority area, which does not require parking and supersedes the BIA. As such, residential density in the City's coastal zone could quadruple while off-street parking diminishes, impacting the street parking the public currently relies on to visit the coast.

Increased density can also provide opportunities to expand alternative forms of transit and promote bike-friendly, walkable neighborhoods. In 2019, the Commission approved LCP Amendment No. LCP-6-SAN-19-0063-1, creating the Transit Priority Area (TPA) to identify the segments of the City within a half-mile of major transit that would be prime locations for transit-oriented development with increased densities and lower parking requirements. To help protect and enhance public access as density increases, Commission staff worked with the City to develop a suggested modification expanding the applicability of the City's Transit Amenity Program to cover all residential development in the BIA. All multiple dwelling unit residential development, defined as two more or more dwelling units on the same lot, within the TPA shall provide transportation amenities based on its Transportation Amenity Score, calculated by and selected from Appendix Q of the Land Development Manual. Requiring new development to participate in this program will help reduce vehicle trips by informing, educating, and incentivizing transit use, bicycling, walking, and ridesharing, limiting impacts to on-street public parking opportunities while still fostering needed infill development.

To protect against coastal hazards, a suggested modification requires that new development sites that lie outside of the existing mapped floodplain but in an area identified by the best available science to be subject to future sea level rise provide analysis and the owners' acceptance of risk, currently required by the LCP policies for ADUs in those areas. This language is identical to existing language in the City's code that governs development regulations of accessory dwelling units and moveable tiny houses. Other modifications are for clarity, including ensuring that all SB 9-related development must be consistent with the LCP, including the requirement to meet wetland, creek, and ESHA setbacks.

In sum, the proposed amendment as modified would help implement the state's goal of providing more housing while balancing this densification with protection of coastal resources. As modified, the proposed amendment is consistent with and adequate to carry out the Land Use Plan (LUP), the standard of review for this IP amendment. Therefore, staff recommends that the Commission approve the amendment with the suggested modifications.

The appropriate motions and resolutions begin on page 6. The suggested modifications begin on page 8. The findings for denial of the Implementation Plan Amendment as submitted begin on page 17. The findings for approval of the plan, if modified, begin on page 21.

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 LCP-6-SAN-23-0027-2 may be obtained from Alexander Llerandi, Coastal Planner, at (619) 767-2370 or SanDiegoCoast@coastal.ca.gov.

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EXHIBITS

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

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

[Exhibit 3 – Table of Development Scenarios](#)

[Exhibit 4 – Land Development Manual Appendix Q](#)

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-23-0027-2 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-23-0027-2 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 Plan. 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 141.0302 shall be modified as follows:

Section 141.0302 Accessory Dwelling Units and Junior Accessory Dwelling Units

(a) [...]

(b) [...]

1. [...]

2. [...]

[...]

(J) Within the Coastal Overlay Zone, ADUs and JADUs shall comply with the wetlands regulations in Section 143.0141(b), the sensitive coastal bluffs regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, and the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

2. Section 143.1310 shall be modified as follows:

Section 143.1310 Construction of Multiple Dwelling Units in a Single Dwelling Unit Zone

(a) [...]

1. [...]

2. [...]

3. [...]

4. Transportation Amenities

A. Within a Transit Priority Area and within the Beach Impact Area of the Parking Impact Overlay Zone, residential development, including an urban lot split under Section 143.1315, shall be required to provide transportation amenities based on the Transportation Amenity Score in accordance with Section 142.0528. Transportation amenity means a feature provided by a development that reduces vehicle trips by informing, educating, and incentivizing transit use, bicycling, walking, and ridesharing. The types of transportation amenities are listed in the Land Development Manual Appendix Q.

The applicant shall be required to provide transportation amenities on each lot with new residential dwelling units.

(45) Landscape Regulations

[...]

(56) Supplemental Regulations within Area of Future Sea Level Rise

[...]

(67) Development Impact Fees for development constructed in accordance with this Division shall comply with Section 142.0640(b)

(8) Dwelling units shall comply with the wetlands regulations in Section 143.0141(b), the sensitive coastal bluff regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, and the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

[...]

3. Section 143.1315 shall be modified as follows:

Section 143.1315 Urban Lot Splits in a Single Dwelling Unit Zone

[...]

(g) Notwithstanding Section 143.1315(f), an urban lot split and construction of a second dwelling unit with a maximum gross floor area of 800 square feet shall be permitted on each of the lots created by an urban lot split, regardless of non-compliance with one or more development regulations, subject to the following:

- (1) The development shall comply with the floor area ration of the underlying base zone unless the development incorporates an existing structure that exceeds the allowable floor area ratio or is under the allowable floor area ratio by less than 800 square feet, in which case a second dwelling unit that does not exceed 800 square feet shall be permitted.
- (2) The development shall comply with the lot size requirements in Section 143.1315(f)(1)
- (3) Within the Coastal Overlay Zone, development shall comply with the wetlands regulations in Section 143.0141(b), the sensitive coastal bluff regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, and the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

(h) Within the Coastal Overlay Zone, the following apply to urban lot splits outside of Special Flood Hazard Areas and within an area of future sea level rise (within a 75-year horizon) as determined by the City Manager based on the most current sea level rise vulnerability maps:

- (1) The urban lot split shall comply with the regulations in Section 143.0146(b) and if applicable, Section 143.0146(g). The base flood elevation utilized, and the applicability of Section 143.0146(g), shall be based on the FIRM Zone of the Special Flood Hazard Area in closest proximity to the premises on which the dwelling unit is proposed.
 - A. Hard shoreline armoring shall not be constructed to protect the lot from the effects of sea level rise.
 - B. The record owner of the urban lot shall, in a form that is approved by the City Manager, acknowledge the following:
 - i. The urban lot split is located in an area of future sea level rise that may become hazardous in the future:
 - ii. Sea level rise could render it difficult or impossible to provide services to the premises;
 - iii. The boundary between public land (tidelands) and private land may shift with rising seas and the development approval does not permit encroachment onto public trust land;
 - iv. Additional adaptation strategies may be required in the future to address sea level rise, consistent with the Coastal Act and certified Local Coastal Program, and;
 - v. The record owner shall waive any rights under Public Resources Code Section 30235 and related Local Coastal Program policies to any hard shoreline armoring to protect the lot.

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

A. DESCRIPTION OF SENATE BILL 9

The State of California is experiencing a critical shortage of affordable housing. In recognition of this critical shortage, the state Legislature passed numerous laws in recent years aimed at increasing construction of additional housing units, and preferably affordable units. State Senate Bill (SB) 9, which took effect January 1, 2022, established a series of new regulations to allow for ministerial approval (i.e., without discretionary review or hearing) of two residential units on one parcel and/or urban lot splits¹ on parcels located in single-family residential zones.² Broadly speaking, SB 9 seeks to intensify the amount of allowed residential development within urbanized areas zoned for single-family residential use in California as a means of helping to address the state's housing – particularly affordable housing – crisis, a crisis that is particularly acute in the coastal zone.

Specifically, SB 9 allow that lots that previously allowed only one single-family residence may now be subdivided into two lots and each subsequent lot can be built with up to two single-family residences, thereby potentially increasing the amount of development on a particular lot from its current limit of one residence to up to four, if applicable criteria are met. The intent is to facilitate additional housing opportunities in areas previously zoned solely for one residential unit. In many coastal jurisdictions, such single-family zoning comprises the bulk of its coastal zone area, and thus these areas represent places of opportunity for residential densification to help meet affordable and market rate housing goals.

SB 9 includes specific objective criteria and provides that local governments may impose their own additional objective standards so long as they do not have the effect of precluding the construction of up to two units or that would preclude either of the two units from being at least 800 square feet. The specific criteria in SB 9 include, but are not limited to:

- No off-street parking is required if the units are located within one-half mile of a high-quality transit corridor or within one block of a car share vehicle.
- Prohibitions on SB 9 development within high fire and flood hazard zones, designated historic properties, and affordable housing units.
- SB 9 units cannot be used as short-term rentals (i.e., rentals must be for a term longer than 30 days).

¹ The lot split is for the creation of no more than two new parcels of approximately equal area provided that one parcel shall not be smaller than 40% of the original parcel proposed for subdivision and provided that both newly created parcels are not smaller than 1,200 square feet. A local agency may adopt a smaller minimum lot size by regulation.

² SB 9 is codified at Government Code Sections 65852.21 and 66411.7 and amended Government Code Section 66452.6.

- Local governments may prohibit accessory dwelling units (ADUs) or junior accessory dwelling units (JADUs) on parcels where a second unit or lot split occurs.
- A local government may deny a two-unit project or lot split if it finds that it would have an adverse impact on public health and safety or the physical environment and for which there is no feasible mitigation.
- Specific to lot splits, SB 9 requires that such development must also comply with the Subdivision Map Act, except as otherwise expressly provided in SB 9, and applicants must occupy one of the housing units as their principal residence for a minimum of three years.

Importantly, and notably for coastal resource purposes, SB 9 includes a Coastal Act savings clause that states that SB 9 shall not be construed to supersede or lessen the effect of the Coastal Act, except that local governments are not required to hold public hearings for coastal development permits (CDPs). This means that, aside from CDP public hearing requirements, projects utilizing SB 9's provisions must still be found in compliance with the Coastal Act or Local Coastal Program (LCP) policies implementing the Coastal Act.

B. AMENDMENT DESCRIPTION

The Housing Action Package (HAP) is comprised of three parts. The first part incorporates amendments to the Land Development Code (LDC) that would incentivize the construction of more homes, focus development near transit, and create greater affordability. The second part implements Senate Bill (SB 9) by adding a new division to the LDC, and the third part provides refinements to the existing Accessory Dwelling Unit (ADU) regulations to align with the SB 9 regulations and modify regulations in light of community concerns. The three parts contain the following amendment types:

Affordable Housing in All Communities: These amendments will allow the following in areas located near transit, identified as Highest and High Resource Communities by the State of California in the California Tax Credit Allocation Committee Opportunity Area Maps (defined as having access to high paying jobs, high performing schools, and better air quality), and in community planning areas with less than 5% deed-restricted affordable housing:

1. Units to be developed in non-residential zones that do not allow multi-family development only if the development is 100% affordable to very low, low, and moderate-income levels.
2. Off-site affordable units built pursuant to the City's Density Bonus program.
3. Off-site affordable units built pursuant to the City's Inclusionary Housing program.

Employee Housing Incentive Program: These amendments would allow non-residential development to pay into the Inclusionary Housing Fund of the Affordable Housing Fund in

exchange for development incentives, as specified in the Employee Housing Incentive Program Fee resolution. This proposal is intended to assist in the promotion of job growth in the City while also addressing the housing crisis.

Live/Work Flexibility: These amendments would change the requirements for Live/Work units to encourage more opportunities for living and working in the same space. Currently, the City allows for the development of Live/Work units that function as both a home and place of business. Over the past several years, the workforce needs have changed, and more Live/Work units are desired to accommodate more people who work remotely.

Housing at City Facilities: These amendments would allow for by-right housing developments on existing and new publicly owned sites. For example, when the City constructs a library or other public facility, it could include housing units in the development. The City could also build housing on parking lots or other City-owned existing built spaces.

Housing Accessibility Program: These amendments would provide incentives to housing developments that include more accessible housing, including housing for seniors or people with disabilities. Residents with disabilities need more opportunities to live in accessible homes with adequate space in kitchens and bathrooms and accessible routes throughout the building. As San Diego's population ages, creating accessible homes is also an important way to ensure more residents can remain in homes in San Diego.

Housing for Families: These amendments would incentivize the construction of housing units with three or more bedrooms to allow families of all sizes more housing opportunities. Additional incentives would be provided for units with three or more bedrooms reserved for moderate-income households.

Building Permit Timeline Adjustments: These amendments would extend the building permit expiration to streamline phased development of residential master plan projects.

Affordable Housing Permit Requirements: These amendments would remove the requirement for additional discretionary permits for increases in density for development that complies with the City's affordable housing regulations.

Senate Bill 9: These amendments would create a new division in the LDC Chapter 14. The regulations would apply within single-family residential zones and would not apply within farmlands, wetlands, the Multiple Habitat Planning Area, Environmentally Sensitive Lands, very high fire severity zones (unless certain mitigation measures are met), hazardous waste sites, earthquake fault zones, special flood hazard areas, floodways, or a site with a designated historical resource or within a designated historical district. Also, SB 9 does not allow the proposed development to demolish or alter dwelling units that are currently affordable covenant restricted, that have been occupied by a tenant in the last three years, or that are single room occupancy hotel rooms.

Accessory Dwelling Units and Junior Accessory Dwelling Units: These amendments will amend the existing ADU/JADU regulations to bring them in line with the new SB 9 regulations, as well as address community concerns regarding setbacks, landscaping, and Development Impact Fees for supportive infrastructure.

C. 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.

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, bicycle racks, and stairwells from street ends to the beaches below.
- Reduce vehicular traffic demand placed on the street network by encouraging the use of alternative modes of transportation, including public transit, bicycles, and walking.
- Enhance transit patron experience by improving transit stops and increasing transit service frequency.
- Support transitional housing uses in Ocean Beach.
- Provide housing for all economic levels.

- Enforce the Coastal Zone Affordable Housing Replacement Program to facilitate replacement of existing affordable housing units and the retention of existing affordable units. Required replacement housing should be constructed in Ocean Beach.
- 2.1.2 Utilize the Affordable Housing Density Bonus Program to assist the building industry in providing adequate and affordable housing for all economic segments of the community.
- 2.1.3 Ensure that new residential development is constructed within the density ranges identified in this Plan and meets adopted parking standards.
- 2.1.4 Support existing and new transitional housing projects in Ocean Beach.
- 2.1.5 Retain and expand the number of affordable housing units in Ocean Beach.
- 2.2.3 Maintain the inventory of lower cost rental rooms for visitors and expand the inventory should the opportunity arise... Prioritize provision of lower-cost visitor serving recreation and marine-related development.
- 2.4.1 Preserve existing hotel/motel/hostel facilities from removal or conversion to residential units.
- 2.4.2 Encourage the addition of overnight accommodations, particularly serving the low/moderate cost range in the community.
- Rehabilitate existing hotel/motel/hostel facilities where feasible.

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.
- Introduce opportunities for the production of more affordable housing within La Jolla to meet the housing needs of all income levels.

Balanced Communities

- a. The City should promote opportunities for the development of affordable housing by allowing a density bonus, provided that this extra density is allowed only for projects certified by the Housing Commission. To qualify, a portion of the additional units would need to be restricted as affordable housing to "low-income, "or "very low-

income" persons under applicable state statutory standards for the affordable housing density bonus and implementing City regulations.

- b. The City should pursue replacement of demolished affordable housing units within the community in order to maintain affordable housing units that exist in La Jolla, consistent with the locational priorities stated in the Coastal Overlay Zone Affordable Housing Replacement regulations.
- c. The City should encourage the use of affordable housing programs administered by the Housing Commission to promote the development of affordable housing. These programs include both land use and financial incentives.
- d. The City should seek to locate higher density housing principally along transit corridors and in proximity to emerging lower income employment opportunities.

Mission Beach Precise Plan

- The provision of increased residential, commercial, and recreational parking in order to reduce the serious deficit that presently exists.
- The promotion of a wider variety of dwelling unit sizes including studios, one, two or more bedroom houses and apartments.
- The encouragement of all types of individuals and family sizes to live in Mission Beach.
- The promotion of an economically balanced community through the investigation of individual and community rehabilitation efforts, changes in taxing and assessment procedures, and the use of subsidy funds where applicable.

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

Generally speaking, SB 9 represents a fairly significant shift in traditional planning as it relates to single-family zoning, which historically stands for one residential unit per lot. Such a shift is not inconsistent with recent planning trends (including the recent encouragement by the State for accessory dwelling units in single-family residential areas) that aim to respond to growing housing shortages in certain areas of the country, California in particular. In California's coastal areas, the housing shortages and inequities are particularly acute given the high cost of land and favorable living conditions. And, of course, housing, like most forms of development, can run up against important and protected coastal resources, including public recreational access, sensitive habitats, and coastal visitor-serving uses. This potential tension in the coastal zone between housing development and protection of coastal resources makes it especially critical to ensure that

the implementation of State laws such as SB 9 is balanced and harmonized with Coastal Act and LCP requirements.

With respect to the proposed amendment, in general the expected outcome of such a program is residential densification and intensification of use in such single-family residential areas. Such an approach is not so different from the Coastal Act's (and by extension local government LCP) direction to concentrate new development into existing developed areas (see e.g. Public Resources Code, Section 30250).

Generally, existing developed areas are less likely to raise significant coastal resource concerns. And Senate Bill 9 also attempts to make better use of the coastal zone's single-family residential areas, recognizing that conventional single-family residential land use practices and development, especially as it relates to large lot single-family development, limits the amount of housing stock that can be developed. Thus, SB 9 goals are generally in harmony with Coastal Act/LCP goals that foster infill development, and in particular SB 9 attempts to do so by providing tools that can help to change long-standing practices associated with single-family residential development, and to make better use of such residential areas in a way that can possibly accommodate more housing. Given the state's current housing crisis, providing more housing opportunities in already developed communities is key, because in the coastal zone not doing so may put more pressure to build housing in outlying or peripheral areas that could lead to concerns regarding more sensitive rural, agricultural, and natural lands.

That said, the Coastal Act doesn't allow for carte blanche approval for all urban infill development; there are rules to protect important coastal resources such as bluffs and beaches (e.g., by being set back appropriately so as not to need coastal armoring), wetlands and sensitive habitats (e.g., prohibiting residential development within these areas), public views and public access (e.g., ensuring that both are protected in development proposals), and resources affected by public service limitations (e.g., limiting development in areas where water or sewer inadequacies are having adverse coastal resources impacts). The Coastal Act and corresponding LCP policies protect these resources, and thus all development, including SB 9 development, must be consistent with them.

While in most cases existing LCP requirements (such as the LUP provisions cited above) should be able to address these coastal resource issues for SB 9 development in the same manner that LCPs protect such resources when any development is proposed, in some cases it may be necessary to include specific prescriptions for SB 9 development (e.g., requiring off-street parking in areas where residential parking competes with coastal access, or even prohibitions on SB 9 development, including in areas with known public service capacity constraints or on eroding blufftop parcels fronting the ocean, etc.). And in all LCP amendments, implementation requires an evaluation of the particular single-family residential context and issues to thoroughly analyze CDP applications.

In the City of San Diego, the proposed amendment is largely consistent with the above-described framework by ensuring that all SB 9 development is otherwise consistent with existing LCP provisions, as well as specifying additional requirements to address particular resource needs. The City is predominantly urban in nature and built out, and thus the vast majority of new residential development that would be fostered by the proposed

amendment would be considered “infill” development in areas that generally do not raise coastal resource issues. The City’s proposed SB 9-related provisions largely track the requirements specified in the State law itself, including prohibiting SB 9 development within historic properties and high fire and flood hazard zones; protections for existing affordable housing units; prohibiting use of SB 9-related units as short-term vacation rentals; prohibiting ADUs on lots already densified by SB 9-related development; and a minimum 1,200 square-foot lot size for new parcels. And finally, the amendment makes clear that, within the coastal zone, such development must comply with the Coastal Act and applicable LCP policies, including in terms of CDP requirements. Thus, at a broad level, providing for additional infill development within the City’s single-family neighborhoods does not raise significant coastal resource issues, and any latent issues can be appropriately addressed by LCP requirements.

However, three of the ordinance changes as proposed do have the potential to adversely impact sensitive habitat and public access to the coast due to inadequate clarity with regards to conformity with coastal resource protections, inadequate mitigation for the loss of off-street parking in highly impacted coastal areas visited by the public, and insufficient measures to address future sea level rise.

Section 141.0302

Section 141.0302 governs the siting, design, and construction of accessory dwelling units (ADU) and junior accessory dwelling units (JADU) and was substantially amended as part of LCP Amendment No. LCP-SAN-21-0005-5 (2019 Housing Legislation), approved with suggested modifications by the Commission in December 2021. In that action, the Commission suggested ordinance language prohibiting the conversion of existing structures into ADU/JADUs if the structure was non-conforming with the wetland regulations, sensitive bluff regulations, beach regulations, and supplemental regulations (e.g. public view corridors) of the certified LCP. The Commission also suggested language imposing requirements for an ADU/JADU constructed outside of the existing mapped floodplain but in an area identified by latest science to be within future sea level rise. The City accepted the modifications.

As currently proposed in the Housing Action Package amendment, the various subsections of Section 141.0302 would be reconfigured and streamlined, as well as incorporate references to other sections introduced in this amendment governing multi-unit housing and lot splits in single family zones. However, while Section 141.0302 would retain the modifications accepted by the City in 2022, the proposed amendment lacks adequate protection of coastal resources and public access.

Section 141.0302(b)(2)(E) allows for reduced setbacks of zero to four feet from the side and rear property lines for ADU/JADUs, depending on the height of the structure and presence of neighboring residences. While the reduced setback is unlikely to result in adverse impacts to sensitive resources or public views for the majority of properties in the coastal zone, there are properties in proximity to sensitive habitat or the shoreline where such minimal setbacks could cause adverse impacts if ADU/JADUs are constructed within required buffer areas or within required public view corridors. As proposed, the amendment lacks language requiring that the ADU/JADU setback must comply with the

LCP's regulations for wetlands, coastal bluffs, beaches, and public views, and thus increases the likelihood that new ADU/JADUs would adversely impact those resources.

Section 143.1310

Section 143.1310 governs construction of multiple dwelling units in a single dwelling unit zone. Just as with Section 141.0302 governing ADU/JADUs above, this section as proposed does not require a setback for an existing structure that is converted to a dwelling unit, and allows a dwelling unit constructed in the same location and envelope as the existing structure to observe the same setback as the structure it replaced. However, it lacks Section 141.0302's prohibition on converting existing structures to dwelling units if they are non-conforming with the wetland, bluff, beach, and public view regulations of the LCP. Because the concerns about impacts to those resources from conversion of non-conforming structures is the same regardless of whether it as an ADU or full dwelling unit being developed, the lack of such a prohibition creates an inconsistency in the LCP and does not conform to the resource protection policies of the LUP.

Additionally, as with the ADU/JADU regulations of 141.0302, the proposed amendment allows zero to four-foot setbacks from the side and rear properties lines for new dwelling units constructed under its provisions. While these changes will not likely result in adverse impacts to coastal resources and public access for most properties in the coastal zone, there are properties near the shoreline or sensitive habitat for which such reduced setbacks would be an issue. As with the 141.0302, the City did not include any language requiring that the setbacks still comply with the wetland, bluff, beach, and public view regulations of the LCP, so it is possible that new dwelling units could be constructed too close to habitat or within a required view corridor, out of conformance with the resource protection policies of the LUP.

With regards to parking, the City's amendment as proposed recognizes the Commission's past focus on protecting public access in the Beach Impact Area of the Parking Overlay Zone, generally the 3-4 blocks closest to the coast. The Beach Impact Area (BIA) is recognized as the portion of the City where demand for public parking is highest and where higher parking standards than elsewhere in the City are typically warranted. As proposed, off-street parking would not be required in the Transit Priority Area (TPA), defined as the area within a half-mile of a major transit stop, and would be required outside of the TPA and outside of the BIA at one space for the third and fourth dwelling unit on a property, and outside of the TPA but within the BIA for each dwelling unit on the premises, unless a car share service is available within one block.

While the requirement of an off-street parking space for each dwelling unit in the BIA would help lessen adverse impacts to members of the public who rely on street parking to access the coastal, in practice, this requirement would provide very little benefit. This is because, as currently mapped, the TPA encompasses almost the entirety of the BIA ([EXHIBIT 2](#)), with very few of the popular coastal destinations in the City outside of the BIA. Because the prohibition on requiring parking in the TPA would supersede the requirement to provide a parking space for each dwelling unit in the BIA, under the currently proposed language, very few of the potential dwellings units that would be allowed in the BIA under this amendment would actually have to provide parking, leading to adverse impacts similar to if there was no parking requirement at all. In the absence of other measures to lessen the

impact of increasing density in the BIA, the amendment as proposed will have adverse impacts on public parking that will be substantially unmitigated.

Section 143.1315

Section 143.1315 governs urban lot splits in a single unit dwelling zone. Subsection (g) as proposed permits an urban lot split and construction of a second dwelling unit with a maximum gross floor area of 800 square feet on each lot created by an urban lot split regardless of non-compliance with development regulations. However, while it is likely that some development could be built without detriment to coastal resources and public access, regulations regarding wetlands, bluffs, beaches, and public views must be complied with in order to conform to the requirements of the certified LUPs and the Coastal Act. As proposed, the amendment does not contain any language requiring conformance with these regulations, and thus the construction of additional dwelling units not in conformity with those policies would create adverse impacts to coastal resources and public access.

Furthermore, as part of its December 2021 conditional certification of LCP-6-SAN-21-0005-5, the Commission suggested language governing the development of ADUs, JADUS, and movable tiny houses on properties outside the currently mapped floodplain but within an area identified by the latest science as subject to future sea level rise. As proposed, the City included this language in Section 143.1310 governing construction of multiple dwelling units in a single dwelling unit zone. However, it did not include this language in Section 143.1315 governing lot splits in a single dwelling unit zone. While lot splits do not necessarily have to include the demolition or construction of physical development, lot splits are nevertheless considered development under the LCP and the Coastal Act, as lot splits lead to increased density and the creation of new development rights. Thus, it is just as important, if not more important, at the lot split stage as it is in the actual construction stage to identify properties that are subject to future sea level rise and place reasonable regulations on them governing what is and is not permitted on such properties. The lack of such requirements for lot splits could lead to increased density without proper measures taken in anticipation of future sea level rise.

Thus, for the reasons stated above, the Housing Action Package amendment is not in conformity with the resource protection and public access policies of the certified Land Use Plans and must be rejected as proposed.

2. FINDINGS FOR APPROVAL IF MODIFIED

While the certified LCP's environmentally sensitive land regulations apply to all development in the City's coastal zone, the intent of SB 9 to encourage the development of dwelling units by superseding certain local development regulations such as density should not suggest that other development regulations protecting coastal habitat and public access are also superseded. Thus, Suggested Modification No. 1 will add clarifying language to Section 141.0302 making it clear that the development requirements related to wetlands, beach and bluff setbacks, and public view corridors must be complied with when developing additional dwelling units under SB 9.

Suggested Modification No. 2 to Section 143.1310 similarly adds language explicitly stating the requirement to still comply with development regulations protecting wetlands, bluffs, beaches, and public view corridors. However, it also addresses the anticipated adverse impacts to public access from Section 141.0302's limited parking requirements in the Beach Impact Area (BIA). As explained in the Findings for Denial, the City's proposal to require a parking space for each dwelling unit in the BIA would be largely inapplicable given that the vast majority of the BIA is covered by the Transit Priority Area (TPA), where the prohibition requiring off-street parking for dwelling units supersedes the BIA. The City's LCP application lacks studies or transit information showing what the anticipated percentage of new dwelling units that would use alternate transit would be as compared to the use of private vehicles. Because the amendment would allow up to a quadrupling of dwelling units on a lot, the potential for substantial increase in tenants and thus demand for public street parking also relied upon by the public to visit the coast could increase dramatically in the BIA, which has been identified for decades in the LCP as an area where the higher-than-normal demand warrants additional parking measures.

Discussions between Commission and City staff identified a manner in which an existing program in the certified LCP could be extended to the residential development anticipated in this amendment to minimize the impacts to public access and promote greater use of alternate transit. In October 2019, the Commission approved LCP-6-SAN-19-0063-1 (Transit Priority Area), amending the City's Implementation Plan to incorporate the Transit Priority Area (TPA) into the City's planning regulations. Among that amendment's changes, it added Section 142.0528: Parking Standards Transit Priority Area Regulation, requiring in part that multiple dwelling unit residential development located within the TPA to calculate a "Transit Amenity Score" contained in a new Appendix Q in the Land Development Manual [[Exhibit 4](#)]. The development in turn would then be required to provide transit amenities equal to that score as chosen from a menu of amenities also contained in Appendix Q.

While Section 142.0528 already applies to multiple dwelling unit development (defined in Section 113.0103 as two or more dwelling units on the same lot), and thus will already apply to much of the residential development anticipated under this amendment, Suggested Modification No. 2 will expand its applicability to a greater range of residential development within the BIA, such as lot splits that build a single dwelling unit on each lot. [[Exhibit 3](#)] In short, all development allowed under SB 9 in the BIA would now have to comply with the City's Transportation Amenities Program. While the menu of transit amenities in Appendix Q, like the original TPA amendment itself, was substantially designed with large-scale multifamily development in mind rather than the 2-4 dwelling unit developments allowed under SB 9, several of the items, such as transit passes for tenants, are still applicable. Thus, by expanding the existing Transit Amenity Program in the City's LCP, the incentive for the tenants in the new dwelling units to use alternate transit would be significantly increased, and the demand on already limited street parking reduced.

Finally, Suggested Modification No. 3 to Section 143.1315 also adds language clearly stating the requirement for lot splits under this amendment to comply with the wetland, bluff, beach, and public view requirements of the LCP. While there may be cases that lot splits occur without accompanying construction of development on them, it is nevertheless important that the compliance with such provisions still be demonstrated at that stage due to the fact that lot splits create new development rights, and it is important that the City and

applicant are aware early in the process whether the resulting smaller lots would be constrained by the requirements for setback from wetlands, bluffs, beaches, or public view corridors.

Suggested Modification No. 3 also adds a new section addressing lot splits in areas outside of currently mapped flood plains but within areas identified by the currently best available science as subject to future sea level rise. The language of the modification mirrors the sea level rise language added by the Commission to the City's 2019 Housing Legislation amending its ADU development regulations and currently proposed by the City in this LCP amendment regarding construction of multiple dwelling units in a single family residential zone. As with the addition of language to the lot split provisions addressing compliance with habitat and public view regulations at the early stages, it is similarly important that the number of lots within areas of future sea level rise is not substantially increased without proper measures taken to anticipate and address future hazard risk.

Notwithstanding the issues identified with certain provisions of this amendment as proposed, the majority of the amendments in the Housing Action Program do not raise issues with respect to coastal resources and in many cases further the goals of the certified LCP and Coastal Act.

Section 131.0623 Additional Use Regulations of Industrial Zones would encourage and facilitate living in closer proximity to employment opportunities, and thus reducing the impacts of greenhouse gas emissions and traffic, by clarifying and expanding where residential development is allowed in certain industrial zones.

As proposed, Section 141.0302 includes new language in subsection (b)(2)(H) stating that construction of ADU/JADUs does not require the correction of previously conforming conditions on the premises. The Commission typically views new development on non-conforming lots as opportunities to simultaneously address existing non-conformities, especially those regarding habitat and bluff setbacks, due to the development activity occurring on the property. However, the certified LCP already contains fairly strict and protective requirements for development on non-conforming blufftop and beachfront properties in Section 127.0106. That section places floor area limits on new additions and requires removal of non-conforming square footage beyond 500 sq. ft. of new space, while also prohibiting new basements and requiring compliance with the applicable Land Use Plan, among other measures. Thus, the amendment's proposal to not require amelioration of non-conformities on properties constructing a new ADU does not weaken the existing requirements for non-conformities on those coastal properties where non-conformities can have the greatest impact.

Section 142.1305 Methods of Compliance addresses the provision of inclusionary dwelling units, which are affordable units required to be included in multi-family residential development, including the requirements for providing affordable units off-site of the primary market-rate development. The Commission first addressed the City's Inclusionary Housing Program when it certified LCP Amendment No. LCP-6-SAN-20-0045-2 at the August 2022 hearing. The Commission's approval included a suggested modification placing equitable requirements for locating affordable units off-site of market rate development in the coastal zone, such as requiring that the off-site location be located in the Transit Priority Area and high opportunity areas as identified by the State Treasurer for

community improvement. Whereas that August 2022 amendment was limited to the coastal zone, the City is now expanding the off-site eligibility criteria city-wide, making its housing ordinances more equitable. Similarly, Section 143.0745 Locating Required Affordable Dwelling Units Off-Site and Section 143.0746 Affordable Housing in All Communities similarly adopt these same criteria to identify eligible sites for the location of required or proposed affordable housing on a separate property from the primary development.

Section 143.0720 Density Bonus in Exchange for Affordable Housing Units addresses the lack of incentives for larger affordable units, consisting of three or more bedrooms for larger families, by providing additional incentives beyond those for smaller affordable units to encourage a greater balance in unit design in the market. The amendment would also lift the cap on density increases provided as an incentive for eligible development.

Section 143.0742 Incentives for Non-Residential Development addresses the Employee Housing Incentive Program, which, for eligible non-residential development that contributes to the construction of affordable housing through the payment of the Employee Housing Incentive Program Fee, grants development incentives so as to work in conjunction with the City's other ordinances encouraging greater dwelling units in close proximity to employment opportunities.

Section 143.1303 Application of Multi-Dwelling Unit and Urban Lot Split Regulations in Single Dwelling Unit Zones addresses the City's efforts to incorporate SB 9 into its LCP. Because the City of San Diego consists of hundreds of square miles with lots of all types located in various circumstances, this section prudently contains a thorough list of prohibited circumstances in which the increased density and lot splits allowed by SB 9 cannot occur. Among the prohibited circumstances are prime farmland, wetlands, very high fire hazard areas, flood zones except in limited circumstances, environmentally sensitive lands, historical districts, or where the demolition of existing affordable housing would be involved, among others. This will balance the City's need for additional housing with the avoidance of exacerbating public risk or impacts to sensitive resources.

In order to ensure that the increased residential density and lot splits allowed by SB 9 go toward addressing the City's long-term housing needs, Section 143.1307 Rental Dwelling Units Constructed in Accordance with this Division prohibits dwelling units constructed under SB 9 from being rented for a period of less than 31 days. The City currently has a robust supply of short-term rental units in addition to its stock of hotel and motel rooms to serve the large volume of annual visitors, so this prohibition on short term rentals of these particular units should not cause adverse impacts to overnight visitor accommodations.

Section 145.4002 When the Housing Accessibility Program Applies will increase and clarify the eligibility of development that is either exempt from or exceeds the accessibility requirements of the California Building Code for development incentives, encouraging the provision of development that is accessible to a greater percentage of the community. The amendment also prohibits the development incentives from being out of conformance with the certified Land Use Plan and the environmentally sensitive land regulations.

Thus, with the proposed modifications, the City's Housing Action Package can be brought into conformance with the habitat protection, public access, and coastal hazard policies of the certified Land Use Plan and Coastal Act and approved.

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.