

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384



Th20a

Date: January 16, 2025

To: COMMISSIONERS AND INTERESTED PERSONS

From: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
KAITLIN CARNEY, DISTRICT SUPERVISOR, SAN DIEGO COAST DISTRICT
CHELSEA JANDER, COASTAL PLANNER, SAN DIEGO COAST DISTRICT

Subject: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR
AMENDMENT NO. LCP-6-CAR-23-0048-1 (ADU Update 2023) for
Commission Meeting of February 5-7, 2025

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on January 3, 2024. A one-year time extension was granted on March 14, 2024. As such, the last date for Commission action on this item is March 28, 2025. This amendment affects the City's certified Implementation Plan only.

The subject request was submitted with LCP Amendment No. LCP-6-CAR-23-0049-1, which relates to updating the zoning code regarding alternative and temporary housing and was certified as submitted on September 12, 2024; LCP Amendment No. LCP-6-CAR-23-0050-1, which relates to establishing citywide objective design standards and is scheduled for consideration at the February 2025 Commission hearing; and LCP Amendment No. LCP-6-CVR-23-0051-1, which relates to modifying the Village and Barrio Master Plan to include objective design standards and will be scheduled for a future hearing.

SUMMARY OF AMENDMENT REQUEST

The City of Carlsbad proposed amendment includes revisions to the City's Zoning Ordinance, part of the certified LCP implementation plan (IP), in order to bring the City's zoning code into compliance with state law regarding accessory dwelling units (ADUs). Specifically, the proposed amendment modifies Zoning Ordinance Chapter 21.04 "Definitions" to change effective dates; Chapter 21.09 "R-E Rural Residential Estate Zone" to clarify parking requirements; Chapter 21.10 "R-1 One-Family Residential Zone" to provide additional provisions on how the City can approve or deny ADUs, update height development standards, and update references to state law; Chapter 21.38 "P-C Planned Community Zone" and Chapter 21.45 "Planned Developments" to remove conflicting language for development standards within the Planned Community zone.

In response to the state housing crisis, the California legislature recently passed two bills, Assembly Bill 2221 (Quirk-Silva, 2022) and Senate Bill 897 (Wieckowski, 2022), which amended Government Code sections 65852.2 and 65852.22 to further encourage the development of ADUs and junior accessory dwelling units (JADUs). The new legislation went into effect Jan. 1, 2023, and local governments are expected to update their local ordinances to comply with the state legislation. Local governments retain full discretion to apply land use regulations for roof decks, building separation, landscaping, architecture, and standards to prevent impacts to historic resources, as they deem appropriate. The proposed amendment was submitted to make the ADU and JADU policies of the LCP consistent with these state laws.

The City is proposing amendments to its certified IP to modify existing ADU provisions as set forth in the Housing Element. The proposed amendments will allow the City to continue making timely and effective implementation of its housing programs, as well as provide compliance with state law by addressing affordable, diverse housing availability within the City.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the Implementation Plan (IP) amendment as submitted.

The Commission and the City are tasked with encouraging affordable housing that serves diverse communities while ensuring that coastal resources and public access are protected. The intent of the proposed amendment is to make the certified LCP consistent with recent state law by clarifying and expanding the provisions for accessory dwelling units (ADUs). The proposed amendment is consistent with the City's Housing Element Program 1.2, which requires the City to integrate state housing law into the Carlsbad Zoning Ordinance that serves, in part, as the City's certified IP.

Within the proposed amendment, Chapter 21.10 "R-1 One-Family Residential Zone" would provide additional provisions on how the City can approve or deny ADUs. However, since all ADUs within the Coastal Zone will still require the appropriate coastal development review and permits where required, and no changes to this process are proposed, there are no anticipated coastal resource impacts. In addition, the proposed amendment for Chapter 21.10 "R-1 One-Family Residential Zone" would remove the maximum height limit for all ADU development and update height standards based on the underlying zone or existing development on a particular site. All of the maximum height limits are consistent with the LUP and any potential impacts to public views have been minimized. The proposed amendment includes a modification to parking requirements for ADUs in Chapter 21.09 "R-E Rural Residential Estate Zone" and makes R-E Rural Residential Estate zone consistent with other zones in regard to parking requirements for ADUs. Therefore, there are no anticipated adverse impacts on public access through spillover as a result of the proposed change. Other changes proposed update references to state law and will not result in adverse impacts on coastal resources or public access.

Therefore, staff recommends that the Commission find that the City's proposed amendment to amend the Zoning Ordinance conforms with and is adequate to carry out the certified Land Use Plans. No adverse impacts to public access or coastal resources are anticipated. Staff is therefore recommending that the amendment be approved as submitted by the City.

The appropriate motions and resolutions begin on page 5. The findings for approval of the Implementation Plan Amendment as submitted begin on page 6.

BACKGROUND

There are six geographic segments in the City's LCP. The City's LCP has a unique history in that special legislation directed the Commission to draft the initial LCP. One segment, the Village Redevelopment Area LCP, was certified in 1988 and the City has been issuing coastal development permits there since that time. On October 21, 1977, the City assumed permit jurisdiction and has been issuing coastal development permits for all of the remaining segments, except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP amendment No. LCP-6-CAR-23-0048-1 may be obtained from Chelsea Jander, Coastal Planner, at (619) 767-2370 or SanDiegoCoast@coastal.ca.gov.

TABLE OF CONTENTS

I. OVERVIEW 5

 A. LCP HISTORY 5

 B. STANDARD OF REVIEW 5

 C. PUBLIC PARTICIPATION 5

II. MOTION AND RESOLUTION.....5

III. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED.....6

 A. AMENDMENT DESCRIPTION 6

 B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN 7

 C. FINDINGS FOR APPROVAL 8

IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY
ACT (CEQA).....10

EXHIBITS

- [Exhibit 1 – Proposed IP Amendment](#)
- [Exhibit 2 – City Council Resolution No. 2023-140](#)
- [Exhibit 3 – City Council Ordinance No. CS-449](#)
- [Exhibit 4 – Planning Commission Resolution No. 7474](#)

I. OVERVIEW

A. LCP HISTORY

The City of Carlsbad's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties, and Village-Barrio. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. The Village LCP segment was expanded and renamed the Village-Barrio in 2019. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. This amendment modifies the City's implementation plan.

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

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. MOTION AND RESOLUTION

MOTION:

I move that the Commission reject the Implementation Program Amendment for the City of Carlsbad 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 Carlsbad 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 as amended, 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 CARLSBAD IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City proposes to amend the Implementation Plan (IP) component of its certified Local Coastal Program (LCP), specifically Zoning Ordinance Chapter 21.04 “Definitions” to change effective dates; Chapter 21.09 “R-E Rural Residential Estate Zone” to clarify parking requirements; Chapter 21.10 “R-1 One-Family Residential Zone” to provide additional provisions on how the City can approve or deny ADUs, update height development standards, and update text; Chapter 21.38 “P-C Planned Community Zone” and Chapter 21.45 “Planned Developments” to remove conflicting language for development standards within the Planned Community zone.

Related History

Previous Commission actions certified two prior LCPAs similar in nature to the proposed amendment. On December 13, 2017, LCPA No. LCP-6-CAR-17-0055-2/Accessory Dwelling Units was conditionally certified with suggested modifications. That LCP amendment included updates to the City’s Zoning Ordinance to revise regulations related to accessory dwelling units consistent with state law, such as updating development standards and clarifying the types of development that are exempt from coastal development permit requirements. The suggested modifications addressed public views by limiting maximum heights for ADUs, protecting coastal resources to require that ADUs must conform to LCP approved buffers, and clarifying when a coastal development permit is required. The City accepted the mods and the LCPA became effective on March 7, 2018. On March 9, 2022, the Commission conditionally certified LCPA No. LCP-6-CAR-20-0077-2/ADU Updates with suggested modifications. That LCP amendment included updating sections of the City’s existing ADU regulations, such as updating size and height standards for ADUs and JADUs, clarify habitat preserve buffers and geologic stability setbacks, eliminate parking requirements, and exempting certain ADUs from permit

requirements where ADUs are attached to the primary residence. The suggested modifications clarified public access provisions through replacement parking and minor clerical changes. The City accepted the mods and the LCPA became effective on September 7, 2022.

The Proposed LCPA

In response to the state housing crisis, the California legislature recently passed two bills, Assembly Bill 2221 (Quirk-Silva, 2022) and Senate Bill 897 (Wieckowski, 2022), which amended Government Code sections 65852.2 and 65852.22 to further encourage the development of ADUs and junior accessory dwelling units (JADUs). The new legislation went into effect January 1, 2023, and local governments are expected to update their local ordinances to comply with the state legislation. Local governments retain full discretion to apply land use regulations for roof decks, building separation, landscaping, architecture, and standards to prevent impacts to historic resources, as they deem appropriate. The proposed amendment was submitted to bring ADU and JADU policies to be consistent with these state laws¹.

As such, the proposed amendment expands on and clarifies what is generally already allowed per the certified LCP and makes changes consistent with new state laws. For example, ADUs are already permitted within the certified LCP, and the proposed amendment clarifies development standards such as parking requirements and height requirements. Chapter 21.10 "R-1 One-Family Residential Zone" carries the most substantial changes, which provide additional provisions on how the City can approve or deny ADUs. However no changes are proposed to the CDP process and all ADUs within the Coastal Zone will still require the appropriate coastal development review and permits, when required. Secondly, this chapter removes unclear language regarding maximum height of ADUs and updates the language to provide specific guidance for different development scenarios based on the current development on a particular site. The maximum height limits will vary depending on whether the ADU will be attached or detached to an existing single family residence, two family or multiple-family dwelling units, or constructed attached to a detached garage. Effectively, this means that for some detached ADUs, the height limit will increase from 16 feet to 18 feet, a change that does not significantly affect public views or other coastal resources. Therefore, the proposed LCP amendments update the existing provisions within the certified LCP.

Please see [Exhibit 1](#) for the proposed IP amendment text.

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

¹ After submittal and filing of this LCPA, the California Department of Housing and Community Development (HCD) submitted a detailed comment letter to the City of Carlsbad regarding inconsistencies between the City's code language and current state law that are not related to coastal resource protection. As the housing laws change over time, the City intends to address all of HCD's concerns in an upcoming LCP amendment submittal and HCD staff have indicated that they are in agreement with such approach.

LUP has a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

Mello II

Policy 1-1 Allowable Land Uses states:

Allowable uses are those that are consistent with both the General Plan and the Local Coastal Program.

Policy 7-10 Parking states:

Parking standards set forth within the City of Carlsbad Zoning Ordinance are appropriate for the future development of various land uses.

Policy 8-1 Site Development Review states:

The Scenic Preservation Overlay Zone should be applied where necessary throughout the Carlsbad coastal zone to assure the maintenance of existing views and panoramas. Sites considered for development should undergo individual review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

The City of Carlsbad's certified Mello I LUP also includes the above-cited language of Policy 7-10.

East Batiquitos Lagoon

Policy 6 Scenic and Visual Qualities states, in relevant part:

The scenic and visual qualities of the area are of great value to the region. Again, the focal point for these qualities is Batiquitos Lagoon. The viewshed to the lagoon and from the lagoon shoreline are important resources. Many of the requirements previously established by this document address visual quality components [...]

Housing Element Program

Housing Element Program 1.2 states:

Respond, in a timely manner, to update the Carlsbad Zoning Ordinance / Municipal Code to integrate changes in State housing law.

C. FINDINGS FOR APPROVAL

The Commission and the City are tasked with encouraging affordable, diverse housing while ensuring that coastal resources and public access are protected. The intent of the proposed amendment is to make the certified LCP consistent with state law by clarifying and expanding the provisions for accessory dwelling units (ADUs).

The standard of review for LCP Implementation (IP) amendment is their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP). The proposed amendment includes changes that are determined to be consistent with the LUP. These changes include modifications to the ADU sections of certified IP. The proposed amendment is consistent with the City's Housing Element Program 1.2, which requires the City to integrate state housing law into the Carlsbad Zoning Ordinance that serves, in part, as the City's certified IP. In addition, Policy 1-1 Allowable Land Uses of the Mello II section of the LUP requires that allowable land uses are consistent with both the General Plan and the Local Coastal Program. The proposed amendment does not change any densities or land use designations, and it is consistent with the LUP.

Within the proposed amendment, Chapter 21.10 "R-1 One-Family Residential Zone" would provide additional provisions on how the City can approve or deny ADUs. However, since all ADUs within the Coastal Zone will still require the appropriate coastal development review and permits where required, there are no new anticipated coastal resource impacts. In addition, the proposed amendment for Chapter 21.10 "R-1 One-Family Residential Zone" would remove the maximum height limit for all ADUs and update height development standards based on the underlying zone or existing development on a particular site. LUP Mello II Policy 8-1 and East Batiquitos Lagoon Policy 6 both address the importance of protecting existing views and panoramas. Since the proposed amendment does not allow heights to exceed 30 feet generally or in particular the height limit of the applicable zone, the impacts to public views have been minimized and are therefore consistent with the LUP.

The proposed amendment includes a modification to parking in Chapter 21.09 "R-E Rural Residential Estate Zone," which clarifies parking requirements to be consistent with other zones established within another section of the certified IP. LUP Mello II Policy 7-10 requires that parking standards are appropriate for the future development of various land uses. The proposed amendment removes a parking exception for parcels zoned R-E Rural Residential Estate and requires that parking for ADUs be consistent with the existing parking standards set forth in the certified IP in Chapter 21.44. The proposed amendment makes R-E Rural Residential Estate zone consistent with other zones in regard to parking requirements for ADUs. In addition, there are no parcels currently zoned R-E Rural Residential Estate in the Coastal Zone. Therefore, required parking will continue to be provided and the proposed amendment is not anticipated to have impacts to public access through parking spillover concerns.

Lastly, the proposed amendment updates references to state law in Chapter 21.04 "Definitions" and Chapter 21.10 "R-1 One-Family Residential." In the proposed amendment for Chapter 21.38 "P-C Planned Community Zone" and Chapter 21.45 "Planned Developments" the changes remove conflicting language for development standards within the Planned Community zone. The proposed amendment removes restrictive language on where ADUs can be developed within the Planned Community Zone based on parcel size. The proposed amendment clarifies that ADUs within this zone must be permitted according to the certified IP language for R-1 One-Family Residential Zone. These changes do not have coastal resource impacts as the R-1 One-Family Residential Zone already includes adequate coastal resource protection provisions.

Therefore, the proposed amendment will encourage affordable, diverse housing types within the coastal zone while minimizing adverse impacts to coastal resources and public access as required by the LUP. The proposed amendment will ensure that coastal resource protections within the City of Carlsbad remain protected, and it is consistent with the LUP.

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 determined that the subject LCP amendment is exempt from environmental review pursuant to CEQA Guidelines Section 15282(h) [adoption of ordinance regarding ADUs] and Section 15061(b)(3) [no potential for causing a significant effect on the environment. (Cal. Code of Regs., tit.14.) 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 as proposed will not have any significant adverse effects on the environment and no significant coastal resource impacts are anticipated. Therefore, the Commission finds that the subject LCP as proposed conforms to CEQA.