

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, NOVEMBER 15, 2005 AT 10:00 A.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. – 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk.

OTHER LEGISLATIVE MEETINGS

The **SAN DIEGO REDEVELOPMENT AGENCY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Redevelopment Agency Secretary at (619) 533-5432.

A Special Meeting of the **SAN DIEGO HOUSING AUTHORITY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Housing Authority Secretary at (619) 578-7540.

ITEM-300: ROLL CALL.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today’s docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under “Non-Agenda Public Comment.”

COUNCIL, CITY ATTORNEY, CITY MANAGER COMMENT

REQUEST FOR CONTINUANCE

The Council will now consider requests to continue specific items.

=== LEGISLATIVE SCHEDULE ===

Noticed Hearings, Discussion

ITEM-330: Airport Noise Monitoring Stations. (Peninsula, Uptown, Ocean Beach, Mission Beach, Centre City, Southeast Community Plan Area. Districts 2 and 8.)

Matter of the appeal by Robert A Epler from the decision of the Planning Commission in approving an application to approve a Public Right-of-Way Use Permit to install and maintain 9 airport noise monitoring stations on new 20-foot poles within the public right-of-way within the specified communities and zones.

CITY MANAGER'S RECOMMENDATION: Adopt the resolution to deny the appeal, and approve the Public Right- of-Way Use Permit.

=== LEGISLATIVE SCHEDULE (Continued) ===Noticed Hearings, Discussion (Continued)

ITEM-331: Fourth Update to Land Development Code-Amended Per Coastal Commission.

Matter of approving, conditionally approving, modifying or denying the Fourth Update to the Land Development Code as amended by the Coastal Commission. The Land Development Code is the approved implementation plan of the City's certified Local Coastal Program (LCP). The Fourth Update to the Land Development Code includes proposed amendments of the LCP, which requires certification by the California Coastal Commission. On November 22, 2004 the City Council adopted the Fourth Update to the Land Development Code, which included a total of 42 issues, and directed staff to submit the LCP amendment package to the Coastal Commission for certification. On June 8, 2005, the Coastal Commission approved the Fourth Update Local Coastal Program amendment application with some minor modifications to Issue 1, Reasonable Accommodations, and Issue 4, Public Right-of-Way Permits. Minor modifications have been incorporated into Section 131.0466 to clarify that in the coastal overlay zone, a proposed deviation to accommodate a disabled person would be required to have the least impact on coastal resources. Section 126.0504 has been modified to clarify that encroachments in the public right-of-way would not be permitted in the coastal zone where they would conflict with a public view protected by the applicable land use plan.

The Fourth Update to the Land development Code constitutes an amendment to City of San Diego's Local Coastal Program (LCP) and must be certified by the Coastal Commission. Before the Fourth Update to the Land Development Code can become effectively certified by the Coastal Commission via Executive Director Determination, the City Council shall adopt the revised ordinances for the Fourth Update to the Land Development Code, including suggested modifications to Sections 126.0504 and 131.0466.

CITY MANAGER'S RECOMMENDATION: Introduce the ordinances in Subitems A, B and C; and adopt the resolution in Subitem D.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-330: Airport Noise Monitoring Stations.

Matter of the appeal by Robert A Epler from the decision of the Planning Commission in approving an application to approve a Public Right-of-Way Use Permit to install and maintain 9 airport noise monitoring stations on new 20-foot poles within the public right-of-way within the following communities and zones:

<u>Proposed Monitoring Station</u>	<u>Street Location</u>	<u>Community & Council District</u>	<u>Applicable Zones</u>
3	Eighth Avenue & Date Street at 1650 Eighth Avenue	Centre City, Cortez Hill (Council Dist. 2)	Centre City Planned District CCPD-C Airport Approach Overlay Zone AAOZ) Airport Environs Overlay Zone (AEOZ), CCDC Redevelopment
4A	Juniper Street & Second Avenue at 2321 Second Avenue	Uptown (Council Dist. 2)	Mid City Communities Planned Dist. MCCPD-MR-1000, AAOZ, AEOZ
5A	Fir Street & Columbia St. at 1835 Columbia Street	Centre City, (Council Dist. 2)	Centre City Planned District CCDP-C, AAOZ, CCDC Redevelopment
8	Oleander Place and Amaryllis Drive at 3738 Amaryllis Drive	Peninsula (Council Dist. 2)	RS-1-7, AAOZ, AEOZ, Coastal Height Limit
14A	Sunset Cliffs Blvd and Cape May Ave. at 2051 Sunset Cliffs Blvd. (Bethany Evangelical Lutheran Church)	Ocean Beach (Council Dist. 2)	RM-1-1, Coastal Overlay Zone (City jurisdiction, non-appealable), AAOZ, AEOZ, Coastal Height Limit, Ocean Beach Emerging Historic District
18	Nutmeg Street and Brant St. at 426 W. Nutmeg Street	Uptown (Council Dist. 2)	RS-1-1, AAOZ, AEOZ

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-330: (Continued)

<u>Proposed Monitoring Station</u>	<u>Street Location</u>	<u>Community & Council District</u>	<u>Applicable Zones</u>
23	North Jetty Rd. & Mission Blvd. at 700 N. Jetty Rd.	Mission Beach (Council Dist. 2)	Mission Beach Planned District Zone R-S, Coastal Overlay Zone (State jurisdiction), First Public Roadway, Sensitive Coastal Overlay Zone, Special Flood Hazard Area, AEOZ, Coastal Height Limit
25A	Santa Barbara St. between Niagara and Newport Ave. at 4390 Niagara Avenue	Peninsula (Council Dist. 2)	RS-1-7 Coastal Overlay Zone (City jurisdiction, non-appealable), AAOZ, AEOZ, Coastal Height Limit, Coastal Permit (City jurisdiction, non-appealable)
26	Gateway Center Way adjacent to Dennis Allen Park at 3636 Gateway Center Avenue	Southeast (Council Dist. 8)	RS-1-7, AEOZ, Mount Hope Redevelopment Project Area, Southeast Development Corp. (SEDC)

(See City Manager Report CMR-05-219. Project No. 67657. Peninsula, Uptown, Ocean Beach, Mission Beach, Centre City, Southeast Community Plan Area. Districts 2 and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution to deny the appeal, and approve the Public Right-of-Way Use Permit:

(R-2006-)

Adoption of a Resolution granting or denying the appeal, and granting or denying Public Right-of-Way Use Permit No. 249359, with appropriate findings to support Council action.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-330: (Continued)

OTHER RECOMMENDATIONS:

Planning Commission on August 25, 2005 voted 4-0; was opposition.

Ayes: Steele, Ontai, Schultz, Otsuji

Not present: Chase, Garcia, Griswold

The Ocean Beach Planning Board At the July 6, 2005 meeting of the Ocean Beach Planning Board, the Board voted 9-0-1 to recommend approval of the location of Site 14A (Cape May Ave/Sunset Cliffs Blvd) within their community planning area. On July 7, 2004 the Ocean Beach Planning Board was given an advisory briefing on the Coastal Development Permit for the Site 24.

The Peninsula Community Planning Board At the December 16, 2004 meeting of the Peninsula Community Planning Board, the Board voted 10-0-0 to recommend approval of the location of Sites 8 (Oleander Place/Amaryllis Dr.) and 25A (Santa Barbara St. between Niagara and Newport Avenues) within their community planning area.

Uptown Planners At the July 5, 2005 meeting of the Uptown Planners, the Board voted 13-0-0 to recommend the location of Sites 4A (2nd Avenue/Juniper St.) and 18 (Nutmeg St./Brant St.) within their community planning area.

Centre City Advisory Committee At the June 15, 2005 meeting of the Centre City Advisory Committee, the Committee voted unanimously (on consent) to recommend Sites 3 (8th Ave./Date St.) and 5A (Columbia St./Fir St.) within their community planning area.

Southeastern San Diego Planning Committee At the February 15, 2005 meeting of the Southeastern San Diego Planning Committee, the Committee voted 10-0-0 to recommend the location of Site 26 (Gateway Center Way adjacent to Dennis Allen Park) within their community planning area.

Mission Beach The Mission Beach Precise Planning Board was presented and advisory briefing on June 15, 2004 regarding the California Coastal Commission Coastal Development Permit for Site 23. A recommendation vote was not taken.

Other Recommendations: The Airport Coalition is a Loma Portal area citizen's group concerned about the impacts of San Diego International Airport (SDIA) on the surrounding community. The Coalition provided input in the SDIA 2000 Title 21 Variance process and was a signatory to the stipulation that required Airport Noise Office staff to "...accept suggestions from the Airport Coalition, as a representative of the community, regarding future location of one of the noise monitoring stations to be implemented as part of the upgrade program."

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-330: (Continued)

OTHER RECOMMENDATIONS: (Continued)

The Coalition requested placement of an additional (non-essential) “ridgeline” remote noise monitoring terminal to measure actual departure aircraft noise levels inside the 65dB CNEL contour at or close to the highest elevation in the Loma Portal area under the departure flight path. The proposed location of station 8 was in direct response to the Airport Coalition.

CITY MANAGER SUPPORTING INFORMATION:

Under the provisions of Title 21 of the California Noise Standards, the San Diego County Regional Airport Authority (Airport Authority), owner/operator of San Diego International Airport (SDIA), is mandated to provide continuous monitoring of the SDIA noise impacts on surrounding communities. The acceptable level of aircraft noise for persons living near airports is established by the California Noise Standards to be a Community Noise Equivalent Level (CNEL) of 65 decibels (dB). SDIA has been determined to be a “Noise Problem Airport” under Title 21 and must monitor noise impacts of its operations to support regulatory reporting and noise mitigation initiatives. Airport noise is monitored through a network of 24 remote noise monitoring stations as part of the Airport Noise and Operations Monitoring System-Geographic Information System (ANOMS-GIS). Because of the importance of correctly modeling and measuring the location of the noise contours, and because the location of these noise contours shift over time due to changes in aircraft and airport operations, the Airport Authority must periodically upgrade and reconfigure its network of remote monitoring stations to correctly measure the existing noise environment. As such, the Airport Authority is proposing to install nine new airport noise monitoring stations in various locations around SDIA.

The Planning Commission voted to approve staff recommendation on August 25, 2005 by a vote of 4-0-0, but directed the applicant to meet with the neighbors concerned about the precise location of proposed Station 8 in the Loma Portal neighborhood of the Peninsula Community to try to find a more suitable specific site location. A meeting was conducted on site on Friday, September 2, 2005 to look for alternative locations. Consensus was not reached over an alternative site location and an appeal was subsequently filed.

FISCAL IMPACT: The cost of processing this application is paid for by the applicant.

Oppenheim/Halbert/CW

Staff: Cory Wilkinson, 619-557-7900

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: Fourth Update to Land Development Code-Amended Per Coastal Commission.

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The Fourth Update to the Land development Code constitutes an amendment to City of San Diego's Local Coastal Program (LCP) and must be certified by the Coastal Commission. Before the Fourth Update to the Land Development Code can become effectively certified by the Coastal Commission via Executive Director Determination, the City Council shall adopt the revised ordinances for the Fourth Update to the Land Development Code, including suggested modifications to Sections 126.0504 and 131.0466.

(See City Manager Report CMR-04-228. Districts-Citywide.)

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinances in Subitems A, B and C; and adopt the resolution in Subitem D:

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

Subitem-A: (O-2006-50)

Introduction of an Ordinance Amending Chapter 10, Article 3, Division 1, by Amending Section 103.1703; Amending Chapter 11, Article 1, Division 1, by Amending Section 111.0105; Amending Chapter 11, Article 1, Division 2, by Repealing Section 111.0203; Amending Chapter 11, Article 1, Division 2, Sections 111.0207 and 111.0208; Amending Chapter 11, Article 2, Division 3, by Amending Section 112.0304; Amending Chapter 11, Article 2, Division 5, by Amending Sections 112.0501 and 112.0506; Amending Chapter 11, Article 3, Division 1, by Amending Section 113.0103; Amending Chapter 11, Article 3, Division 2, by adding Section 113.0231; Amending Chapter 11, Article 3, Division 2 by Amending Sections 113.0249 and 113.0252, and 113.0270, 113.0273, and 113.0276; Amending Chapter 12, Article 1, Division 3, by Amending Sections 121.0302, 121.0309, and 121.0312; Amending Chapter 12, Article 5, Division 1, by Amending Section 125.0120; Amending Chapter 12, Article 6, Division 3, by Amending Section 126.0303; Amending Chapter 12, Article 6, Division 4, by Amending Section 126.0402; Amending Chapter 12, Article 6, Division 5, by Amending Section 126.0502 and 126.0504; Amending Chapter 12, Article 6, Division 7, by Amending Section 126.0704; . Amending Chapter 12, Article 6, Division 8, by Amending Section 126.0804; and Amending Chapter 12, Article 6, Division 9, by Repealing Sections 126.0901, 126.0902, 126.0903, 126.0904, 126.0905, 126.0906, and 126.0907; Amending Chapter 12, Article 7, Division 1, by Amending Sections 127.0104 and 127.0106; Amending Chapter 12, Article 8, Division 1, by Amending Sections 128.0103 and 128.0104; Amending Chapter 12, Article 9, Division 1, by Amending Sections 129.0104 and 129.0112; Amending Chapter 2, Article 9, Division 2, by Amending Section 129.0214; Amending Chapter 12, Article 9, Division 5, by Amending Section 129.0506; Amending Chapter 12, Article 9, Division 7, by Amending Sections 129.0702, 129.0703, 129.0710, and by adding Section 129.0715; Amending Chapter 13, Article 1, Division 2, by Amending Section 131.0231 and adding Section 131.0260; Amending Chapter 13, Article 1, Division 4, by Amending Sections 131.0443, 131.0444, 131.0461, 131.0464, and by adding Section 131.0466; Amending Chapter 13, Article 1, Division 5, by Amending Section 131.0540; Amending Chapter 13, Article 2, Division 12, by Amending Section 132.1202; Amending Chapter 14, Article 1, Division 10, by Amending Section 141.1004; Amending Chapter 14, Article 2, Division 1, by adding Section 142.0150; Amending Chapter 14, Article 2, Division 3, by Amending Section 142.0340; Amending Chapter 14, Article 2, Division 4, by Amending Section 142.0402; Amending Chapter 14, Article 2, Division 5, by Amending Section 142.0560; Amending Chapter 14, Article 2, Division 6, by adding Section

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

Subitem-A: (Continued)

142.0607; Amending Chapter 14, Article 2, Division 6, by Amending Sections 142.0611 and 142.0670; Amending Chapter 14, Article 2, Division 8, by Amending Section 142.0810; Amending Chapter 14, Article 2, Division 12, by Amending Section 142.1240; Amending Chapter 14, Article 3, Division 1, by Amending Sections 143.0110, 143.0111, 143.0126, 143.0140, 143.0142; and 143.0144; Amending Chapter 14, Article 3, Division 3, by Amending 143.0302; Amending Chapter 14, Article 4, Division 2, by Amending Section 144.0231; Amending Chapter 14, Article 4, Division 2, by adding Section 144.0233; and Amending Chapter 14, Article 6, Division 1, by Amending Section 146.0106, all relating to Fourth Update of the Land Development Code.

Subitem-B: (O-2006-50a)

Introduction of an Ordinance Amending Chapter 14, Article 3, Division 1, of the San Diego Municipal Code, by Amending Section 143.0110 relating to the Land Development Code.

Subitem-C: (O-2006-51)

Introduction of an Ordinance Amending Chapter 5, Article 9.5, Division 4, of the San Diego Municipal Code by Amending Section 59.5.0401, pertaining to Noise and Abatement Control; by Amending Chapter 6, Article 2, Division 1 through 3 by repealing Division 1-3; and by Amending Chapter 6, Article 2, Division 7 by Amending and Renumbering Section 62.07 to 62.0701, and adding Section 62.0702, pertaining to Public Rights-of-Way and Land Development.

Subitem-D: (R-2006-427)

Adoption of a Resolution adopting the ordinances which comprise of the Fourth Update to the Land Development Code, including the amendments to the Local Coastal Program in conformance with the suggested modifications of the California Coastal Commission;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

Subitem-D: (Continued)

Directing the City Manager to submit these amendments to the Local Coastal Program as approved by City Council to the California Coastal Commission for final certification and incorporation into the City's certified Local Coastal Program;

Declaring that this Local Coastal Program amendment shall become effective 30 days after the certification of the Local Coastal Plan Amendment is unconditionally certified by the California State Coastal Commission.

OTHER RECOMMENDATIONS:

Planning Commission on November 29, 2001, voted 7-0 to recommend approval with five recommendations. 1) That the Adult Entertainment item not be included in the approval at the request of staff. 2) That the Item on the Definition of Kitchen be deleted from the Fourth Update and sent back to staff for further revisions. 3) That a 90 day review period be maintained for SROs. 4) That prior to going to City Council, staff work through the issues raised on the reasonable accommodations. 5) That staff continue looking at all community open space category issues for potential updates in the future; no opposition.

Ayes: Garcia, Stryker, Anderson, Lettieri, Schultz, Brown, Butler

This is a matter of City-wide effect. No community group(s) have taken a position on the item.

CITY MANAGER SUPPORTING INFORMATION:

The Land Development Code is the approved implementation plan of the City's certified Local Coastal Program (LCP). The Fourth Update to the Land Development Code includes proposed amendments of the LCP, which requires certification by the California Coastal Commission. On November 22, 2004 the City Council adopted the Fourth Update to the Land Development Code, which included a total of 42 issues, and directed staff to submit the LCP amendment package to the Coastal Commission for certification. On June 8, 2005, the Coastal Commission approved the Fourth Update Local Coastal Program amendment application with some minor modifications to Issue 1, Reasonable Accommodations, and Issue 4, Public Right-of-Way Permits.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

Minor modifications have been incorporated into Section 131.0466 to clarify that in the coastal overlay zone, a proposed deviation to accommodate a disabled person would be required to have the least impact on coastal resources. Section 126.0504 has been modified to clarify that encroachments in the public right-of-way would not be permitted in the coastal zone where they would conflict with a public view protected by the applicable land use plan. Please refer to the ordinance prepared by the City Attorney for correct numbering and sequence of modified code language within Sections 126.0504 and 131.0466.

The City Manager recommends that the City Council approve the associated Fourth Update ordinances Amending the Land Development Code including the minor modifications to Sections 126.0504 and 131.0466 as suggested by the Coastal Commission, and direct staff to request a final determination by the Executive Director of the Coastal Commission for incorporation of the amendments into the City's certified LCP.

FISCAL IMPACT:

The staffing costs and fiscal impacts to prepare the proposed regulations are part of the LDC Implementation Work Program as approved by LU&H on March 4, 2004 (CMR No. 04-048).

Oppenheim/Halbert/AJL

LEGAL DESCRIPTION:

The amendments would be implemented City-wide.

NOTE: Regarding Items 1-4 and 8-42 of the Fourth Update: This activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) ("General Rule").

Regarding Items 5-7 of the Fourth Update: The City of San Diego as Lead Agency under CEQA has reviewed and considered an Addendum to an Environmental Impact Report (LDR File No. 42-1548) dated August 18, 2003, covering this activity. Adopted November 22, 2004 by Resolution R-299851.

Staff: Amanda J. Lee--(619) 446-5367.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT