STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Council Members
FROM: David Ott, City Manager
MEETING DATE: June 29, 2011
ORIGINATING DEPT: Community Development Department
SUBJECT: Public Hearing - Local Coastal Program Land Use Plan

BACKGROUND:
The California Coastal Act is a state law which provides additional regulations that
govern development in the Coastal Zone. The entire city of Solana Beach is contained
within the Coastal Zone. All building and land development within the Coastal Zone
must be consistent with its provisions. Permit authority to review and approve
development in the Coastal Zone is initially administered by the California Coastal
Commission (CCC) until a Local Coastal Program (LCP) has been adopted for each
local jurisdiction within the Coastal Zone. Building permit approval and certain
discretionary development permit approval authority would transfer to the City of Solana
Beach upon the adoption of an LCP.

The City has been actively engaged in the preparation of a Local Coastal Program
(LCP) Land Use Plan (LUP) since 2000. An LCP consists of (1) a Land Use Plan (LUP)
and (2) Local Implementation Plan (LIP) (i.e., the implementing zoning ordinances and
maps).

The Coastal Act contemplates the preparation of an LCP by jurisdictions with local land
use authority (such as cities and counties). It provides a process for submittal of the
draft LCP for proposed certification by the CCC. The Coastal Act states that the CCC
shall certify the LCP if it is found to be consistent with the Coastal Act.

The CCC may approve, approve with conditions or deny an LCP based upon their
finding of consistency with the Coastal Act. Once certified by the CCC, the LUP and the
subsequent LIP, which comprise the LCP must be considered by the City Council and
approved for adoption before the LCP can go into effect.

The first step in this process is for the CCC to consider the City's draft LCP/LUP for
certification. The draft LCP/LUP has been prepared and provided to the public for
review and comment and is the subject of this report. The draft LCP/LUP contains
policies which have been prepared by Staff to be consistent with the Coastal Act.

CITY COUNCIL ACTION:

AGENDA ITEM
B.1.
CCC certification of an LCP, followed by the City’s adoption, is required to implement an LCP. Completion of this process will provide for the State’s delegation of certain development and building permit approval authority to the City. After the adoption of an LCP (LUP+LIP), Council decisions on development projects may be appealed to, or by, the CCC pursuant to Coastal Act §30603 only for projects located between the sea and the first public road or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

The draft LCP/LUP contains policies that have been developed to address a multitude of citywide issues; however, beach and bluff issues continue to dominate the interests and concerns of the City, community, stakeholder groups and CCC staff. The draft LCP/LUP reflects the effort to achieve a balance of interests, rights and needs of the residents and interested stakeholders and the requirements of the Coastal Act. Solana Beach community stakeholders developed several of the key policies in the draft LCP/LUP and the document has continued to evolve during a multi-year process with the public participating. This includes community members, stake holder groups and discussions with the CCC staff.

The City has prepared and submitted five draft LCP/LUP’s to the CCC in 2001, 2006, 2007, 2008 and 2009. The 2001 and 2006 submittals were not accepted by CCC staff as complete applications, a hearing was not scheduled, and no CCC action was taken. Subsequent versions of the draft LCP/LUP in 2007 and 2008 were modified by the City to incorporate the comments of the CCC staff and the input of a stakeholder group. In 2007, CCC staff requested that the City staff to withdraw and resubmit the application, to allow for additional time for their review. At that time CCC staff indicated it would recommend denial of the draft LCP/LUP without further CCC review and City revision. The City chose to withdraw the application and resubmit it.

In 2008, the resubmitted document was significantly modified to respond to the comments of the CCC staff and the input of the stakeholder group. The draft LCP/LUP was presented to the CCC at a hearing in November 2008. The CCC staff report recommended denial of the draft LCP/LUP, and also included CCC suggested modifications to the draft LCP/LUP that neither City staff nor the members of the citizens’ group were in agreement with. At that hearing, the CCC directed its staff to work with the City to develop a certifiable LCP/LUP and return to the Commission for its consideration. The City again withdrew its application and in September 2009 prepared a draft LCP/LUP which was submitted to the CCC for review. After completing revisions to the 2009 LUP, the stakeholder group subsequently disbanded and the City continued to work directly with CCC staff.

The following is a list of the dates that City Staff and CCC staff met following submittal to the CCC of the September 2009 draft LUP:

- August 17, 2010
- September 30, 2010
- October 28, 2010
- January 31, 2011
- April 25, 2011
On September 9, 2009 the Solana Beach City Council approved the draft LCP/LUP for submittal. The draft LCP/LUP and supporting materials were submitted to CCC staff on September 24, 2009. On October 12, 2009 CCC staff sent the City a letter acknowledging receipt of the draft LCP/LUP and requesting that the City provide additional technical information on the “clean sand lens” that exists within the City’s coastal bluffs. City Staff provided the clean sand lens information they requested and CCC staff deemed the draft LCP/LUP submittal complete on August 10, 2010.

CCC regulations allow 90-days (plus a one year extension) for its Commission to certify, certify with modifications or deny an LCP/LUP. Once the CCC has acted to certify the LCP/LUP with or without modifications, the City Council then has the opportunity to consider it for final adoption. The Council may choose to approve or deny the LCP/LUP; however, the City may not make modifications or amendments to the LCP/LUP once the CCC has certified it except through a formal LCP/LUP revision or Amendment process.

The purpose of this Staff Report is for the consideration by Council of the draft LCP/LUP after circulating the document for a 6 week public review period. The action proposed is for the Council to conduct a public hearing and after considering all testimony and information at the public hearing, direct the City Manager to submit the draft LCP/LUP to the CCC for its certification pursuant to Public Resources Code (PRC) Section §30503. A copy of the public hearing notice is included as Attachment 1 to this Staff Report.

**DISCUSSION:**
The Revised Draft April 13, 2011 Local Coastal Program Land Use Plan (Draft April LCP/LUP) is the subject of this report. The document was first distributed with the issuance of the Staff Report for the Council meeting on that same date in a redline/strikeout format and a clean version format. These documents are on file with the City Clerk and the Community Development Department. This is also posted on the City’s website on line.

Comments, edits and suggestions of CCC staff on the September 2009 LCP/LUP were received by the City over a ten month period beginning in March 2010 and ending in January 2011. All of the CCC staff suggested LCP/LUP modifications were forwarded to the City Council and to the public on January 26, 2011 and again on April 13, 2011. City Staff met and has continued to coordinate with the LCP Council Ad Hoc Committee meeting on April 4th and January 18, 2011 and on November 16, 2010. Following the direction of the City Council that was formally provided to City Staff on January 26, 2011, revisions to the draft LCP/LUP were made by City Staff. At the April 4th, 2011 LCP Ad Hoc meeting City Staff and the Committee reviewed the changes to the draft LCP/LUP and discussed the few remaining topics where the City’s draft LCP/LUP and CCC staff are not in accord. The issues remaining including:

- The hotel room $30,000 per room “mitigation” fee;
- Changing the City’s existing short-term rental policies;
- Potential feedback regarding the proposed “minimum size home” within bluff top property;
- Potential further comments on the wild land urban interface setback provisions.
City Staff transmitted the revised draft LCP/LUP to the City Council, CCC and the public for a public review and comment period beginning April 14, 2011 and ending on June 8, 2011 in accordance with Public Resources Code Section 30500 et seq.). City Staff prepared and published a “clean” and a redline/strikeout version of the revised draft LCP/LUP. During the six week public comment period, the City received a total of five comment letters, copies of which are included as Attachment 2 to this Staff Report. Comment letters were received from the following individuals/entities:

- Robert Randall
- David J. Winkler
- D. Wayne Brechtel, Worden Williams, APC
- Jim Jaffee, Surfrider Foundation including “Solana Beach Seawall Petition” with 134 signatures.
- Jon Corn, Axelson Corn Attorneys at Law

The letters included comments, questions, and suggested LCP/LUP text and policy changes. Although the draft LCP/LUP contains policies that have been developed to address the full range of citywide issues; beach and bluff issues continue to dominate the interests and concerns of the community and stakeholder groups as evidenced by these comment letters. In general, the comment letters focused on the following LCP/LUP topics:

- Descriptions of the City’s shoreline including wave cut platform, littoral cell sand supply, bluff sand contributions and erosion patterns, public access, sea level change and shoreline retreat;
- Support for, and opposition to, the twenty year permit life for new coastal BRDs;
- Support for, and opposition to, deletion of the year 2081 seawall removal policies included in the previous draft LCP/LUP;
- Support for, and opposition to, sand and public recreation impact fees for coastal BRDs and the expenditure of those fees;
- Modifications proposed to bluff top development and setback regulations pertaining to existing, legal non-conforming homes and those destroyed by disaster.

Responses to public comments made during the six-week public review and comment period are provided below:

- Comments have been raised advocating for and against BRDs. The LUP neither endorses or discourages the installations of BRDs. Long-standing existing City regulations (SBMC 17.68) allow for the construction of BRDs when the required findings are met including a finding that a principal bluff top structure is in imminent danger and when designed to mitigate impacts on shoreline sand supply. The current draft LUP continues this same neutral position on BRDs in compliance with the Coastal Act (Section 30235).
• Comments were received that disagreed with the LCP/LUP proposed sand mitigation fee and public recreation deposit. Both the sand mitigation fee and the public recreation fee originated with the CCC and Coastal Act Section 30235. The CCC has been imposing and collecting sand mitigation fees from BRD permittees for more than 10 years. The CCC began to impose and collect public recreation fees for BRDs in approximately 2006. As part of the original compromise that was reached between members of the community, Surfrider and bluff top property owners, the City of Solana Beach included policies in its draft LCP/LUP and in 2007 adopted Resolution 2007-42 establishing an interim mitigation fee deposit of $1,000 per linear foot for all new BRD projects.

The LUP contains provisions for imposing Sand Mitigation Fees, and when established, compliance with the CCC’s Public Recreation Fees. Bluff property owners who construct coastal structures are required to pay the City a Sand Mitigation Fee based on the CCC formula as detailed in LUP Appendix A. It is anticipated that the City’s LUP companion document, the Local Implementation Plan (LIP) will contain the specific regulatory mechanism establishing the payment of both the sand mitigation fee and the public recreation fee. At the present time, it is the City’s understanding that the CCC is imposing the full payment of the sand mitigation fee (consistent with the formula shown in LUP Appendix A) at the time a CCC CDP permit is issued for a BRD. The CCC is also collecting full payment of the public recreation fee utilizing the City’s interim fee deposit of $1,000 per linear foot. City permits for BRD’s to date have included a $1,000 per linear foot fee deposit to cover both fees with one-third due at the time the City permit issued and the remainder payable over time. BRD applicants providing proof of prior payment to the CCC are given a dollar-for-dollar credit against mitigation fees already paid as the fees are ultimately intended to be replacement fees and not duplicative fees with those charged by other government agencies.

• Concerns were expressed that with the removal of the requirement of the 2081 date to remove BRDs that the mitigation efforts in the LCP would not be sufficiently detailed and that the City has not proceeded with a financing plan. However, the CCC cannot find that the LCP does not meet the Coastal Act for lack of funding. See Pub. Res. Code § 30516(a) ("Approval of a local coastal program shall not be withheld because of the inability of the local government to financially support or implement any policy or policies contained in this division... "). It is difficult to prepare a financial plan until the LUP is approved and all conditions are known. For that reason applicants for an LCP may hold off on implementing any logistic plan or financing plan. It is important to understand the conditions under which the City will be operating when the LCP is certified. The Coastal Act does not require these studies to be in place prior to certification. The LCP, when certified, will only apply to new BRDs or existing BRDs that require a discretionary permit for repair, maintenance or replacement, pursuant to LUP policies in Chapter 4. Any property owner who received (or receives)
permit approval after June 2007, but prior to LCP certification, is subject to the terms and conditions of the permit as approved.

- A comment was made that a two year time period was not long enough to construct a BRD. Current and long-standing City policy is to issue Conditional Use Permits (CUPs) for BRDs with a two-year permit life within which construction must be initiated. This two year window is intended to allow applicants to obtain CCC permit approval, plus other State and Federal approvals, before coming back to the City for a construction/grading permit. Current City regulations allow for an extension of this two-year permit life, prior to the expiration of the permit, if it can be reasonably demonstrated that a good faith effort has been made to obtain all permits but that additional time is still needed.

- Comments were received that preventative BRDs should be included in the LUP. This section of the LUP has been changed from the previous draft LUP in response to the suggested modifications from the CCC staff. Although the City agrees that "preventative" BRDs could forestall the need for a larger BRD, section 30235 of the Coastal Act allows BRDs when required to protect existing structures or public beaches in danger from erosion and does not allow them to be built in advance of, or in anticipation of, an imminent threat to the principal structure. The LUP, as proposed, is in full compliance with the Coastal Act.

- Comments were received that the City should complete the public recreation fee study. The City completed a good faith attempt to objectively resolve the fee study issue as requested by the stakeholder group because they were unable to agree to a set fee. In April 2010, the City completed a draft fee study and conducted a public hearing on the fee study to determine the amount of fees that maybe appropriately assessed as mitigation for the potential adverse effects on public recreation and public lands resulting from placing a BRD on a public beach. The City received a substantial number of comments (much of them conflicting) on the fee study from local stakeholders including property owners, surfers, environmentalists and CCC staff and the fee study remains a draft. Because this is a statewide issue, and not just a Solana Beach issue, the City will provide this draft study and the data developed by the City to the CCC. The City has initiated coordination with the CCC and other state regulatory entities in an effort to develop a uniform statewide Public Recreation / Land Lease Fee. Based on the October 2010 MHTL survey, the land on which BRD are proposed to be located may include public lands owned by either the State of California, the City of Solana Beach or both. In addition, the location of the MHTL is constantly changing. The City is collecting a $1,000 per linear foot fee deposit to be applied towards a future Public Recreation/Land Lease Fee. Therefore, until such time as a final Public Recreation/Land Lease Fee is adopted by the City and the Coastal Commission it is recommended that the City continue to impose an interim fee deposit in the amount of $1,000 per linear foot to be applied as a credit toward the Public Recreation/Land Lease Fee.
• One of the comments alluded that the City had not met the intent of the settlement with Surfrider. The City met and satisfied all its obligations under the settlement agreement with Surfrider in Case nos. GIN 038824 and GIN 041711.

• Comments were received as to whether the LUP is in compliance with the Coastal Act. The LUP, as proposed, is in full compliance with the Coastal Act.

• Public comments were received expressing concern over the proposed revision to mandate that permits granted for BRD expire after 20 years and that the conditions that required the installation of the BRD be reevaluated after that 20 year period. The CCC has recently begun implementing this requirement for current permit applications. As explained in the CCC permit application #6-09-033 (Garber et al.):

To ensure that this project does not prejudice future shoreline planning options, including with respect to changing and uncertain circumstances that may ultimately change policy and other coastal development decisions (including not only climate change and sea level rise, but also due to legislative change, judicial determinations, etc.), staff recommends that this approval be conditioned for a twenty-year period. Despite applicant projections that the seawall will last for more than twenty years, it has been staff’s experience that shoreline armoring, particularly in such a significantly high-hazard area as this project, tends to be augmented, replaced, and/or substantially changed within about twenty years. Rising sea levels and attendant consequences will tend to further delimit such a time period in the future, potentially dramatically, depending on how far sea level actually rises.

A twenty-year period better responds to such potential changes and uncertainties, including to allow for an appropriate reassessment of continued armoring and its effects at that time in light of what may be differing circumstances than are present today, including with respect to its physical condition after twenty years of existence. In addition, with respect to climatic change and sea level rise specifically, the understanding of these issues should improve in the future, given better understanding of the atmospheric and oceanic linkages and more time to observe the oceanic and glacial responses to increased temperatures, including trends in sea level rise. Such an improved understanding will almost certainly affect CDP armoring decisions, including at this location. Of course it is possible that physical circumstances as well as local and/or statewide policies and priorities regarding shoreline armoring are significantly unchanged from today, but it is perhaps more likely that the baseline context for considering armoring will be different – much as the Commission's direction on armoring has changed over
the past twenty years as more information and better understanding has been gained regarding such projects, including their effect on the California coastline. For these reasons, the Commission is authorizing the proposed seawall for 20 years from the date of this approval. This limitation is implemented through Special Conditions 2 and 3.

The intent of these conditions is to limit further encroachment on the public resources (adjacent bluff and beach) with additional mid-bluff or upper bluff protective devices, and to allow for potential removal of the approved seawall when it is no longer necessary to protect the development that required the seawall. The conditions are also to put the property owners on notice that redevelopment of the parcels should not rely on bluff or shoreline protective works for stability and such alternatives as removing the seaward portion(s) of the structure, relocation inland, and/or reduction in size should be considered to avoid the need for bluff or shoreline protective devices in this hazardous area. Such options are all feasible for new development and would stop the perpetuation of development in non-conforming locations that would eventually lead to complete armoring of the bluffs and long-term, adverse impacts to the adjacent public beach and State tidelands. Special Condition #2 recognizes that the proposed seawall is being approved under Section 30235 to protect existing structures in danger from erosion. Any future redevelopment of the affected properties will re-evaluate current conditions and new development should be sited safely, independent of any shoreline protection.

From these comments, the CCC staff recommendation to permit BRDs for only 20 years is based upon experience that BRDs require replacement or repair within that period, policies may change, beach or ocean conditions may change, or the structure requiring the support of the BRD will have been remodeled and moved further from the bluff edge. There is no policy or requirement for BRDs to be automatically removed at the end of the 20-year period. Instead, the property owner would have to seek a new permit based on those future circumstances and new mitigation fees could be assessed if the permit is renewed.

Comments also objected to the change from 2081 to a 20-year period because 2081 was selected based upon the (75-year) compromise of the citizen committee. That committee disbanded itself. Moreover, the City is required to certify the proposed LCP only if it meets the policies of the Coastal Act and is best suited for the City. See Pub. Res. Code § 30512.2.

- Some of the public comments also state that the 20-year time period is arbitrary and that the Coastal Act requires that permits be issued for BRDs. The arbitrariness argument could also be applied to 2081 date selected by the
compromise. The question is not whether the date is arbitrary, but whether it serves the purposes of the Coastal Act. Section 30235 of the Public Resources Act allows for the permitting of BRDs, but the statute is permissive and allows for more considerations than just to protect homeowners as the comment received suggests.

- Comments were received that there is a right to build a BRD. The language of Public Resources Code § 30235 is permissive, not exclusive. It allows seawalls under certain conditions: (1) when necessary to protect existing structures and (2) when they can be designed to minimize sand loss. The statute does not purport to preempt other sections of the Act that require the Commission to consider other factors in granting coastal development permits. (e.g., §§ 30604, subd. (c) [the Commission "shall" make findings that the permit complies with public access and recreational policies]; 30251 [scenic and visual qualities of coastal areas "shall" be considered and protected as a resource of public importance]; 30240 [environmentally sensitive habitats "shall" be protected].) Nor does the statutory language purport to limit the Commission's duty to consider other impacts and discretion to impose conditions to mitigate them. (Ocean Harbor House Homeowners Association v. California Coastal Commission, 163 Cal. App. 4th 215, 241 (2008)). In the past, mitigation efforts have often been related to mitigation fees to provide the government with funding to offset the negative impacts of the development. Here, the CCC is proposing a different way to mitigate against the effects of the BRDs to limit their viability. The CCC is not limited to measures specifically set forth in the Coastal Act when considering mitigation efforts. La Costa Beach Homeowners' Assn. v. California Coastal Commission, 101 Cal. App. 4th 804, 817 (2002). So long as this requirement applies only to new or pending applications, there is no taking because the expiration period is a condition on the new development, not taking from existing entitlements. A permit condition is not unconstitutional if the permit condition is roughly proportional to the effect to be mitigated by that condition. See Dolan v. City of Tigard, 512 U.S. 374, 390-91 (1994). Moreover, many BRDs are constructed on City property on the bluffs, and thus the City can impose a time period limitation as part of the permit terms. In considering the revisions as proposed by CCC staff and incorporated in the LUP, the City Council is to evaluate whether the CCC staff's proposal for a 20-year expiration on BRD permits best meets the Coastal Act's policies and how this requirement would affect future development, the environment, and coastal access.

- A comment was made that we should specifically include the ability to form geologic hazard abatement districts (GHAD) in the LUP. Specific reference to GHAD in LUP Policy 4.58, while it may provide encouragement to coordinate efforts among property owners for maintenance and repair of BRDs, is unnecessary because the stated intent of this policy is to encourage participation among adjacent property owners seeking BRDs. Certainly, a GHAD may serve this function, but one is not required to be singled out as the only option to meet
this policy. State law provides for GHAD applications and the property owners ability to submit one for Council consideration remains. The City is not legally required to call it out in its LUP.

It has been suggested that Policy 4.36 that was deleted at the recommendation of CCC staff should be restored to the LCP in that it sets forth the policy in the Coastal Act that any structure destroyed in a disaster may be replaced:

The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

Pub. Res. Code § 30610(g)(1). Structure does include any supporting devices. See Pub. Res. Code § 30610(g)(2)(C). However, Policy 4.36, as included in previous drafts, contemplates allowing a BRD to be installed regardless whether it had been installed in the first place. Indeed, PRC section 30610(g)(1) noted above only allows for the replacement of structures already existing. See Whaler's Village Club v. California Coastal Com., 173 Cal. App. 3d 240, 253 (1985).

It was also suggested that Policy 4.19 be revised to include an exception for structures rebuilt subsequent to a disaster and deleting the last sentence specifically added by CCC staff that reads: “This policy as defined in Chapter 8 shall apply to maintenance, repairs, additions, improvements and to structures destroyed by disasters.” As previously noted the last sentence in Policy 4.19 was specifically added at the recommendation of CCC staff. As currently written, Policy 4.19 does not preempt the Coastal Act nor does it supersede section 30610(g)(1) of Public Resources Code.

- Comments were received asserting that all additions and improvements in compliance with City Ordinances must be approved. City regulations require review for bluff top projects because of the unique site characteristics associated with development on the geologically unstable coastal bluffs. Maintenance and repair efforts on bluff top homes may qualify for a building permit (non-discretionary approval) (SBMC 17.68.070). The LUP restates the City's status quo with respect to bluff top development. The determination of whether proposed changes are structural or non-structural in nature is made on a case by case basis by the City during either (a) pre-application consultation or (b) at the time a permit application is submitted to the City for review and processing. The LUP does not change existing City regulations regarding the types of development that are subject to a discretionary approval by the City rather it is a restatement of current City regulations in effect. Consistent with the Coastal Act (Public Resources Code §30610(d)), repair and maintenance activities of bluff
homes do not require a CDP, although the City may require a permit if the City
determines such repairs and maintenance are structural in nature and would
therefore potentially result in adverse environmental impacts.

Additional comments which were received via email after the close of the public review
period are provided in Attachment 3. City Staff and the City’s LUP Ad Hoc Committee
members have reviewed and discussed the comment letters received by the City.
Based on a review of the comments received during the public review period, City Staff
are not recommending any revisions to the April 13, 2011 Draft LCP/LUP because (a)
most of the actual proposed text changes are non-substantive and do not materially
change the LUP and (b) the proposed substantive LUP policy changes suggested by
the commenters would likely be in conflict with CCC staff recommendations and
suggested modifications.

As indicated above, the CCC must act on the City’s draft LCP/LUP prior to November
10, 2011. There are five remaining meetings of the California Coastal Commission
scheduled to occur prior to November 10, 2011 including the following:

- July 13-15, 2011 in Santa Rosa;
- August 10-12, 2011 in the Central Coast area;
- September 7-9, 2011 in Eureka;
- October 5-7, 2011 in Los Angeles or Orange County; and,
- November 2-4, 2011 in Oceanside

At the April 25th, 2011 meeting with City Staff, the CCC staff identified the October 2011
meeting for consideration of the City’s LCP/LUP for reasons of both timing to allow for
preparation of the CCC staff report and location of the CCC meeting.

In conclusion, the purpose of this special City Council meeting and Staff Report is to (1)
provide background information to the Council and the public in support of the public
hearing to give all interested parties an opportunity to provide oral comments in addition
to written comments that were submitted and (2) to obtain direction from the City
Council, following the conclusion of the public hearing, regarding the adoption of
Resolution 2011-093 (Attachment 4) which, if approved, provides direction to the City
Manager to facilitate the submission of the draft April 13, 2011 LCP/LUP to the CCC
for a public hearing in fall 2011 for its proposed certification as being consistent with the
provisions of the Coastal Act.

**CEQA COMPLIANCE STATEMENT:**
Preparation and adoption of a Local Coastal Program is statutorily exempt from CEQA
per CEQA Guidelines Section §15265. The LCP, however, is not exempt from an
environmental review. The Coastal Act itself contains certain environmental protection
policies, which must be met before the Coastal Commission will approve the LCP. See
Pub. Res. Code §§ 30510-14. The LCP process is exempt because the criteria under
the Coastal Act are the functional equivalent of the EIR process. See Santa Barbara County Flower & Nursery Growers Association v. County of Santa Barbara, 121 Cal. App. 4th 864, 872 (2004).

**FISCAL IMPACT:**
There are no fiscal impacts with this action at this time.

**WORKPLAN:**
Adoption of an LCP continues to be one of the City’s top priorities.

**OPTIONS:**
- Direct the City Manager to transmit the April 13, 2011 Draft LCP/LUP to the CCC for formal review and consideration for a CCC public hearing prior to November 10, 2011 and continue to coordinate with CCC staff to finalize the LCP/LUP for proposed CCC certification.
- Provide alternative direction to Staff.

**DEPARTMENT RECOMMENDATION:**
Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the public hearing; Report Council disclosures; Receive public testimony; Close the public hearing.

2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15265 of the State CEQA Guidelines, the LCP process is exempt because the criteria under the Coastal Act are the functional equivalent of the EIR process; and

3. Adopt Resolution 2011-093 providing direction to the City Manager to transmit the April 14, 2011 Draft LCP/LUP to the CCC for formal review and consideration for a CCC public hearing prior to November 10, 2011 and continue to coordinate with CCC staff to finalize the LCP/LUP for CCC consideration and proposed approval.

**CITY MANAGER’S RECOMMENDATION:**
Approve Department Recommendation

[Signature]
David Ott, City Manager

Attachments:
1. Public Hearing Notice for the June 29th, 2011 Special Council Meeting
2. Comment letters on the April 13, 2011 draft LCP/LUP received during the six-week public review period.
3. Comment letters received after the close of the six-week public review period and prior to the public hearing.
4. Resolution 2011-093
5. Panoramic aerial photograph of the City of Solana Beach, view looking east from the Pacific Ocean showing the coastline of Solana Beach the northern edge of the city adjacent to the San Elijo Lagoon to the left, the eastern edge of the city at top and the southern edge of the city adjacent to the Del Mar Fairgrounds to the right of the photo.
NOTICE OF PUBLIC HEARING
DRAFT LOCAL COASTAL PROGRAM LAND USE PLAN

Notice is hereby given, in accordance with Public Resources Code (section 30500 et seq.), that the City of Solana Beach City Council will hold a special meeting to conduct a public hearing on June 29, 2011 to consider adoption of the April 2011 Draft Local Coastal Program (LCP) Land Use Plan (LUP) and submittal of the draft LUP to the California Coastal Commission. The April 2011 Draft LUP was prepared by the City in response to comments received by Coastal Commission staff on the September 2009 Draft LUP. The current Draft LUP was issued by the City Council for public review and comment from April 20, 2011 through June 8, 2011. The draft LUP is available for review in the Community Development Department at the City of Solana Beach City Hall, 635 South Highway 101, Solana Beach, California, 92075. The LUP is also available electronically at the following website address: http://www.cityofsolanabeach.org

PUBLIC HEARING: June 29, 2011 @ 5:00P.M.
Council Chambers
City of Solana Beach City Hall
635 South Highway 101
Solana Beach, CA 92075

PROJECT DESCRIPTION: The Draft LCP LUP covers the whole of Solana Beach as the entire City is located within the Coastal Zone. The City of Solana Beach (City) has been actively engaged in the development of a Local Coastal Program (LCP) Land Use Plan (LUP) since 2000. The City's LCP consists of (1) a LUP and (2) Local Implementation Plan (LIP) (i.e., zoning ordinances and maps) which together meet the Coastal Act requirements and implement its provisions and policies within the City.

ENVIRONMENTAL STATUS: Preparation of a Local Coastal Program is statutorily exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines section 15265.

PUBLIC COMMENTS ON THE LUP: Verbal comments may be made in person at the public hearing scheduled for June 29, 2011 at 5pm. Written comments must be received by the City on or before June 8, 2011 and may be submitted to the City at the address listed above or electronically by sending them to Tchristiansen@cosb.org or by fax at 858-755-1782.

If you have any questions about the City's LCP LUP, you are encouraged to contact Tina Christiansen at 858-720-2440. The City of Solana Beach is committed to making its programs, services and activities accessible to individuals with disabilities. If you require reasonable accommodation to participate in this process or any other City program, service or activity, please contact Solana Beach City Hall, 635 South Highway 101, or telephone (858) 720-2440.