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# **Amendments to the Land Development Code ESL Regulations – Wetland Deviations**

**City of San Diego  
Community Planners  
Committee  
September 22, 2008**



# Introduction

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- **ESL adopted to assure protection of resources consistent with conservation principles and private property rights**
- **Impacts to resources allowed only through a Site Development Permit (SDP) consistent with findings as specified in LDC Section 126.0504 (a) (b) (c)**



# Findings

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**Overall, project must be designed to avoid wetland impacts to the maximum extent practicable; the findings to allow for a deviation from the regulations are:**

- No feasible measures to further minimize potential adverse impacts on ESL**
- Proposal is minimum necessary to afford relief from special circumstances**



# Existing LDC

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**Currently limited guidance provided to staff, applicant and decision maker regarding:**

- **Evaluation of impacts**
- **Under what circumstances deviations should be considered and approved**





# **City Council Direction - History**

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- **Asked staff to identify in what development situations wetland impacts may be considered and to develop criteria and analysis to assist in evaluation and decision making**
- **Established working group(s) comprised of environmental organizations, development community and city staff**



# Working Groups

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- **Met over a several year period to address task**
- **Presented unresolved issues to LU&H with respect to :**
  - **Definition of an Essential Public Project**
  - **Use of the Economic Viability Option**
  - **Mitigation ratios for biologically superior projects**



# Land Use and Housing

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**In March 2004, LU&H directed staff to:**

- **Develop a list of Essential Public Projects**
- **Develop a definition of Essential Public Project**
- **Require double mitigation for biologically superior projects**
- **Complete the environmental review process before proceeding to City Council**



# **Draft LDC and Bio Guidelines Amendments**

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**City's alternative, the project, evolved based upon:**

- LU&H direction**
- Wildlife Agencies comments**
- Amount of time elapsed between committee direction and final preparation of draft amendments and environmental documentation.**





# **General Project Description**

- **Clarify when impacts to wetlands outside of the Coastal Zone may be requested with SDP**
- **LDC amendments establishes the only three project scenarios that may be considered for deviations from the wetland regulations**
- **Land Development Manual – Biology Guidelines provide direction to staff and applicant on impact analysis for each of the three project types and mitigation requirements**



# **Draft Amendment Language - ESL**

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## **Section 143.0110 and 143.0101 - Development regulations for Sensitive Biological Resources**

- **Minor revisions for clarification and rearrangement of existing language**

## **Section 143.0150 – Deviations from Environmentally Sensitive Lands Regulations**

- **Establishes the three categories for which deviations from wetland regulations may be requested through an SDP**



# Deviation Categories - EPP

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## Essential Public Projects (EPP) –

- Projects identified in an adopted land use plan and identified on the Essential Public Projects List adopted by CC resolution and included as an appendix to the LDM – Bio Guidelines
- Linear Infrastructure
- Maintenance of public infrastructure
- State and federally mandated projects



# Economic Viability

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- **Deviation may be requested to preserve an economically viable use**
- **Minimum necessary to achieve use and shall avoid impacts to the maximum extent practicable**





# **Biologically Superior**

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- **Deviation may be requested to implement a superior biological result- provides a net increase in quality and viability**
- **Impacted resources shall be demonstrated to be of low biological quality**



# Land Development Manual – Biology Guidelines

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- **Minor revisions and reorganization of information**
- **Provides direction for impact analysis for each of the options, including survey protocols**
- **Establishes (consistent with draft LDC language) the three development scenarios for which a deviation from the wetland regs may be requested**



# **LDM – Biology Guidelines**

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- **Establishes criteria for Essential Public Projects**
- **Provides detailed and consistent direction on preparation of economic viability analysis**
- **Provides direction regarding determination of biological quality of wetland types**



# LDM – Biology Guidelines

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- **Requires and defines procedure for obtaining concurrence from resource agencies**
- **Defines two alternatives within the Biologically Superior Option and establishes two sets of mitigation ratios**
- **Wetland Buffer based upon functions and values (same as existing requirement). If analysis not provided, defaults to 100-foot buffer**





# **LDM- Biology Guidelines**

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- **San Diego fairy shrimp**
- **No project exemptions or specific pipeline provision**
- **Long Term Management – lands dedicated to the City of San Diego must be accompanied by funding for any in perpetuity management and monitoring required as part of a project's state and federal permits**



# Comparisons Between Project and Alternatives

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- **Definition of Essential Public Project Option**
- **Economic Viability Option mitigation requirements**
- **Factors for determining wetland quality**
- **Wildlife Agencies Review Requirements**
- **Working group provides for specific project exemptions**
- **Wetland Buffer Requirements**



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