

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



May 27, 2009

Th13a

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE MAJOR LCP
AMENDMENT 1-08 (Telecommunication Facilities) for Commission Meeting of
June 10-12, 2009**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on May 9, 2008. The Coastal Act establishes a 60 day review period for implementation plan amendments; however, a one-year time extension was granted on June 12, 2008. As such, the last date for Commission action on this item is July 9, 2009. This report addresses the City's entire submittal.

SUMMARY OF AMENDMENT REQUEST

The City of Oceanside is requesting an amendment to its Implementation Plan to allow for the placement and/or construction of Co-User Communication Facilities within the Downtown District. Co-User communication facilities can be described as antennas and facilities that are part of a system or network of voice, data, or information transmission, relay, and reception. Currently, the City has only one definition for all types of communication facilities and this definition is too narrow to adequately define the various types of current uses (antenna, reception antenna, telecommunication, switching stations, broadcasting studios, etc). In addition, communication facilities are only permitted in a limited number of the downtown subdistricts. This LCP amendment is intended to address this deficiency and provide modern definitions, siting criteria, and standard conditions of approval for the most commonly used types of communication facilities.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the LCP amendment with several suggested modifications. The City's amendment references language from a policy that was never brought forward to the Commission for certification into its LCP. As such, staff, in coordination with the City, has developed a series of modifications that serve to incorporate the language contained in the City's referenced policy, thereby facilitating the

development of Co-User facilities in the downtown area. The suggested modifications include: incorporating modern definitions, uses and regulations for these various types of Communication Facilities, as well as updating the Downtown District's Commercial Uses Land Use Matrix.

Specifically, the first suggested modification will remove the language proposed by the City, as it does not meet the intent of the City's amendment. The second modification adds five new definitions including: reception antennas, minor and major co-user communication facilities, and pole and monitoring antennas to Article 4a of the City Implementation Plan. The third suggested modification will update the Downtown District's Commercial Land Use Matrix (Article 12) to allow reception antennas as a permitted use, and to conditionally permit minor and major co-user communications facilities. The final suggested modification will provide the siting criteria and standard conditions of approval for the additional types of communication facilities defined above.

Staff recommends that the Commission find the Implementation Plan Amendment 1-08, as modified, consistent with the City of Oceanside's certified LCP; and, therefore, recommends approval of the modified amendment.

The appropriate resolutions and motions begin on page 5. The suggested modifications begin on page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on page 12. The findings for approval of the plan, if modified, begin on page 15.

BACKGROUND

In February 1996, Federal laws were enacted to clearly define local government authority over the siting of telecommunication systems. At that time, the City of Oceanside's existing zoning code provisions had not been updated since 1988, and, as such, the need for revision to that section of the zoning code became apparent. In response, the City of Oceanside amended its zoning code to accomplish the following:

- A comprehensive revision of Section 3025 Antennas and Microwave Equipment. Re-title Section as Reception Antennas and Communication. These changes will be applicable to all zones within the City including the Downtown "D" District.
- Provide a "Definition" section to define and identify reception antennas and the various types of communication facilities.
- Establish categorical zoning standards for permitted reception antenna.
- Establish a multi-tiered permit process for communication facilities. Allows the permitting of certain limited scale and shared use communication facilities through ministerial permit process. Reserves a public hearing Conditional Use Permit (CUP) process for new stand-alone communication facilities. Allows all other types of communication facilities, not eligible for ministerial permitting and not requiring a CUP, to be permitted through an administrative CUP process administered by the Planning Director or the Redevelopment Director within the Downtown District.

Through some miscommunication between the Coastal Commission and the City, the City did not bring forward these modifications to the Commission for review and certification. As such, Commission staff and the City have been working in cooperation to include the most pertinent language of these previously incorporated zoning regulations in its Implementation Plan. Moreover, through review of this amendment, it became apparent that there are several additional updates to the City's Implementation Plan that have not been certified by the Coastal Commission. The City is aware of this deficiency and has expressed its willingness to work with the Commission to bring forward these updates as LCP amendments to be reviewed and approved by the Commission without delay. However, given the scope of work and time necessary to process such an amendment, and the delay this LCP amendment has previously endured, both the City and Commission staff have agreed to move forward with this individual LCP amendment prior to the other updates.

ADDITIONAL INFORMATION

Further information on the City of Oceanside LCP Amendment #1-08 may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of Oceanside first submitted its Local Coastal Program Land Use Plan (LUP) to the Commission in July 1980, and it was certified with suggested modifications on February 19, 1981. This action, however, deferred certification on a portion of the San Luis Rey River valley where an extension of State Route 76 was proposed. On January 25, 1985, the Commission approved with suggested modifications the resubmitted LUP and Implementing Ordinances. The suggested modifications related to the guaranteed provision of recreation and visitor-serving facilities, assurance of the safety of shorefront structures, and the provision of an environmentally sensitive routing of the proposed Route 76 east of Interstate 5. The suggested modifications to the Zoning/Implementation phase resulted in ordinances and other implementation measures that were consistent with the conditionally certified LUP policies.

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for "commercial" use; the Commission's suggested modification designated it as "open space." On July 10, 1985, the Commission certified the City's Local Coastal Program as resubmitted by the City, including deferred certification on the above parcel.

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.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - 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.

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment for the City of Oceanside 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 AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Oceanside 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 Plan. 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

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment for the City of Oceanside if it is modified as suggested in this staff report.*

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 Oceanside 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 carryout 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.

PART 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. Remove the following language from Article 12 - Downtown District - Property Development Regulations as follows:

~~See Section 3025: Antennas and Microwave Equipment. For the purposes of this section the definition of “Utilities, minor” shall have the same meaning as “communication facilities” in Section 3025 B.2 of the Zoning Ordinance and the siting of Communication Facilities shall be governed by Section 3025 of the Zoning Ordinance.”~~

2. Add language to Article 4a Section 450 G - Communication Facilities, as follows:

450 Commercial Use Classifications

G. Communications Facilities. Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding Utilities (Major). This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.

Reception Antenna and Co-User Communication Facilities shall also be defined in Subsections a-d below:

a. Reception Antenna and Co-User Communication Facilities - Definitions

a. Reception Antenna - An antenna that is designed and used only for the purpose of receiving broadcast and subscriber services such as radio, television, and microwave communication. Typical antenna types include skeletal-type and dish antennas.

b. Co-User Communication Facility - Antennas and facilities that are part of a system or network of voice, data, or information transmission, relay,

and reception, and which are conducted through the licensed use of an allocated portion of the global electromagnetic spectrum. Services typically provided by these facilities include wireless telecommunication, paging systems and data-link systems. Specifically, a Co-User Communication Facility is shared by more than one communication system, or is a facility which is shared by a communication facility and another independent use or activity.

1. Minor Co-User Facility - A co-user communication facility with as many as 5 whip or pole antennas.

2. Major Co-User Facility - A co-user communication facility with more than 5 whip or pole antennas or a co-user facility consisting of antennas which are not whip or pole types of antennas.

c. Pole Antenna - An antenna with a rod-like shape.

d. Monitoring Antenna - An antenna that is used to monitor or track the operation of a same-site communication facility.

3. Add Reception Antenna, Minor Co-User Facility, and Major Co-User Facility to the Commercial Uses of Article 12 - Land Use Matrix as follows:

- P-Permitted
- U-Use Permit
- C-Administrative Use Permit
- *-Not Permitted
- V-Visitor Serving Uses

Subdistrict	1	1a	2	3	4a	4b	5	5a	6a	6b	6c	7a	7b	8a	8b	9	10	11	12	13	14	15	V	
	Commercial																							
Ambulance Service	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	*	*	*	*	*	*	*
Animal product sales	C	C	*	C	*	*	C	*	*	*	C	*	C	*	*	C	*	*	*	*	*	*	*	
Artist Studio	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	C	*	C	*	*	*	*	*	V
Bank / Savings & Loan	P	P	P	P	*	*	*	*	*	*	*	*	U	*	*	P	*	*	*	*	*	*	*	
Drive-through/drive up	U	U	U	U	*	*	*	*	*	*	*	*	U	*	*	U	*	*	*	*	*	*	*	V
Self-service ATM	C	C	C	C	*	*	*	*	*	*	*	*	C	*	*	C	*	*	*	*	*	*	*	V
Catering Service	C	C	C	*	*	*	*	*	*	*	*	*	*	*	*	C	*	*	*	*	*	*	*	
Commercial Recreation & Entertainment	U	*	U	*	*	*	*	*	U	U	U	*	U	*	*	U	U	*	U	*	*	*	V	
Communication Facility	U	U	U	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	U	*	*	*	

<u>Major Co-User Facility</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>
<u>Minor Co-User Facility</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>
<u>Reception Antennas</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

4. Add new Section 1232 regarding Reception Antennas and Co-User Facilities into Article 12 D Downtown District as follows:

1232 Reception Antennas and Co-User Facilities: Purpose and Siting Criteria.

A. Purposes. This section is intended to promote and provide for the following:

1. To establish a zoning permit and land use review process consistent with the City’s Telecommunication Policies and which accommodate the public’s ability to access communication, broadcast, and subscription services which are transmitted through the global atmospheric radio-frequency spectrum.
2. To maintain certain aesthetic values and land use compatibility through a land use review process for certain types of these facilities that may have potential impact upon public welfare.
3. To regulate the siting of telecommunications facilities so as to comply with the limitations, constraints and policies set forth in relevant federal and state telecommunications law.

B. Reception Antennas: Siting Criteria. A reception antenna is permitted on any structure if it complies with each of the following criteria:

1. Maximum Number. The maximum number of reception antennas is limited to two per structure.
2. Minimum Setbacks.
 - A. Interior side and rear property line - 10 feet.
 - B. Corner-side property line - zoning district standard.
 - C. Reception antennas may not be installed within the front yard setback area of the underlying zoning district.
3. Maximum Size.

A. Roof-mounted antenna - 4 feet diameter for dish and 60 cubic feet for skeletal type.

B. Ground-mounted - 5 feet diameter for dish type and 60 cubic feet for skeletal-type.

4. Maximum Height.

A. Roof-mounted -

1. Skeletal-type antennas - 1- feet above the district height limit.

2. Dish mounted - no higher than the principal or predominant roof-line of the structure.

B. Ground-mounted - 12 feet above grade.

Additional height may be authorized through an administrative conditional use permit issued by the Planning Director in accordance with the provisions of Article 41 of this ordinance.

5. Surface Materials and Finishes. Reflective surfaces are prohibited.

6. Screening: The structural base of a ground-mounted antenna, including all bracing and appurtenances, but excluding the antenna itself, shall be screened from the views from neighboring properties by walls, fences, buildings, landscape, or combinations thereof not less than 5 feet high.

7. Cable Undergrounding. All wires and cables necessary for operation of the antenna and its reception shall be placed underground, except for wires or cables attached to the exterior surface of a structure.

C. Communication Facilities. Siting Criteria. Communication facilities may be installed and operated within any zoning district subject to the following categorical standards and processes.

1. Minor Co-User Communication Facilities. Co-User facilities consisting of a limited number of whip or pole antennas and monitoring antennas shall be allowed subject to the following limitations:

A. Antenna Type. Permitted antennas are limited to pole and monitoring antennas/

B. Maximum Number.

1. Pole Antennas - one per 1,000 square-feet of roof area up to a maximum of 5 antennas.

2. Monitoring Antennas - one per every permitted communication facility.

C. Maximum Height.

1. Pole Antennas - 10 feet above height of a building or co-user facility.

2. Monitoring Antennas - 1-foot above height of co-user facility.

D. Maximum Antenna Size.

1. Pole antenna - 4 inches diameter.

2. Monitoring antennas - 1 cubic foot.

E. Appearance. Antennas must be colored or painted to blend with the predominant background features (e.g., building, landscape, sky).

2. Administrative Conditional Use Permit Requirement. Major Co-User Communication Facilities and, within the coastal zone, Minor Co-User Facilities. In accordance with the requirements specified within Article 41 of this Ordinance, the Planning Director may approve the siting, development, and operation of a Major or Minor Co-User Communication Facility through an administrative process. The Planning Director's decision may be appealed to the Planning Commission. A permit issued pursuant to this section shall be subject to the requirements set forth in Subsections 3(A-F) below

3. Standard Conditions of Approval. The following standard conditions of approval shall apply to all Minor and Major Co-User Communication Facilities:

A. The Conditional Use Permit shall be limited to a term of 5 years. However, the CUP may be renewed in accordance with the provisions of the Zoning Ordinance.

B. Upon one year of facility operation, and upon any change-out of facility equipment, the permittee(s) shall provide to the Planning Director a statement of radio-frequency radiation output and output compliance with the limitation of governing licensing authorities.

C. The permittee(s) shall exercise a good-faith effort to incorporate the best available equipment technology to effect a reduction in the visual presence of the approved antenna and facility equipment. The change-out and retro-fit of equipment shall be conducted by the permittee(s) after such equipment becomes available and exhibits common use at similar facilities. Upon the City's request and discretion, the permittee(s) shall be required to provide an

independently prepared technical analysis demonstrating compliance with this condition. The permittee(s)' inability to demonstrate the use of current technologies may be grounds for the revocation of the CUP.

D. The permittee(s) shall exercise a good-faith effort to cooperate with other communication providers and services in the operation of a co-user facility, provided such shared usage does not impair the operation of the approved use. Upon the City's request and discretion, the permittee(s) shall provide an independently prepared technical analysis to substantiate the existence of any practical technical prohibitions against the operation of a co-use facility. The permittee(s)' non-compliance with this requirement may be grounds for the revocation of the CUP.

E. The approved communication facility shall be subject to, and governed by, any and all licensing authority by any governmental agency having jurisdiction. The City's local approval of a communication facility shall not exempt the permittee(s) from any such pre-emptive regulations.

F. The approved facility shall address the appearance of the entire site and shall upgrade or repair physical features as a means of minimizing view impacts to the community. Such techniques shall include, but shall not be limited to, site landscaping, architectural treatments, painting, and other methods to minimize visual impacts to the public streetscape.

PART IV. FINDINGS FOR REJECTION OF THE CITY OF OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City of Oceanside is requesting an amendment to its Implementation Plan to allow for the placement and/or construction of Co-User Communication Facilities within the Downtown District. Co-User communication facilities can be described as antennas and facilities that are part of a system or network of voice, data, or information transmission, relay, and reception. Currently, the City has only one definition for all types of communication facilities and this definition is too narrow to adequately define the various types of current uses (antenna, reception antenna, telecommunication, switching stations, broadcasting studios, etc). In addition, Communication Facilities are only permitted in a limited number of the downtown subdistricts. This LCP amendment is intended to address this deficiency and provide modern definitions, siting criteria, and standard conditions of approval for the most commonly used types of communication facilities.

B. SUMMARY FINDINGS FOR REJECTION

This LCP amendment is in response to an appeal filed in 2007 for the placement of a Co-User Communication Facility on an existing building located at 999 Pacific Street, in the North Coast Village residential project. The location is directly adjacent to the coast and south of the San Luis Rey River mouth, and can generally be considered a scenic area. The appellant brought forward concerns of impacts to public coastal views, as well as the lack of a proper use classification for such a project. At the time of the Co-User facility's approval, the definition that most closely fit the proposal was "Communication Facility". Communication Facilities are not a permitted use at the proposed location. As such, the City submitted the subject LCP amendment (1-08) in response to the concerns raised by the appeal. However, the City's proposed language made reference to a policy within its Zoning Ordinance that was never brought forward to be reviewed and approved by the Commission and thus was never incorporated into the certified Implementation Plan. Since that time, the City and Commission staff have worked together to isolate the most pertinent definitions, policies, siting criteria, and standard conditions of approval in order to incorporate them into the certified LCP. Without these modifications, the existing land use matrix would remain, and the proposed communication facility that is the subject of a separate CDP application would not be a permitted use. In addition, the potential impacts to coastal views have not been addressed by the City's IP Amendment submittal. As such, the City's proposed amendment cannot be found consistent with the certified land use plan as submitted.

C. SPECIFIC FINDINGS FOR REJECTION

a) Purpose and Intent of the Ordinance.

The purpose of the "D" Downtown District is to promote the long-term viability and redevelopment of the downtown area. In addition, the ordinance seeks to maintain and promote an appropriate mix of uses while establishing necessary land use controls and development criteria. The "D" Downtown District establishes special land use subdistricts with individual objectives. The proposed LCP amendment includes modifications to two separate Articles within the City of Oceanside's certified Implementation Plan; Article 4a, and Article 12. Both of these articles are specific to only the downtown portion of the City. The specific modifications for each article are discussed below.

b) Major Provisions of the Ordinance.

Article 4a

Article 4a was added to the City's LCP in 2008. The City proposed a new sub-article to the existing Article 4 (Use Classifications) to address use classifications specific to the Redevelopment/Downtown area. As such, the City submitted language that mirrored Article 4, the use classifications for the entire City, with modifications to address uses that would only be permitted within the Redevelopment/Downtown area. These uses included condominium hotels and fractional use hotels. The subject amendment would

authorize additional use classifications within the Downtown District associated with the physical facilities required to aid in the transmission of communication and information.

Article 12

Article 12 provides land-use controls and development criteria for the downtown area consistent with the City's General Plan, Redevelopment Plan and the Local Coastal Program.

c) **Adequacy of the Ordinance to Implement the Certified LUP Segments.**

City of Oceanside LCP Land Use Policies for Visual Resources

Findings.

[...]

2. The City's grid street pattern allows public views of these water bodies from several vantage points. Most east-west streets in the Coastal Zone offer views of the ocean...

Policies.

VI. Visual Resources and Special Communities

1. In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment.
3. All new development shall be designed in a manner which minimizes disruption of natural land forms and significant vegetation.
4. The city shall maintain existing view corridors through public rights-of-way.

[...]

8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

VII. New Development and Public Works

1. The City shall deny any project which diminishes public access to the shoreline, degrades coastal aesthetics, or precludes adequate urban services for coastal-dependent, recreation, or visitor serving uses.

City of Oceanside LCP – Design Standards for Preserving and Creating Views

The visual orientation to the Pacific Ocean is a major identity factor for the City of Oceanside. Traditional view corridors should be preserved and reinforced in the placement of buildings and landscaping. Additionally, some views not presently recognized deserve consideration in the design and location of further coastal improvements.

1. Regulating various types of Communication Facilities within the Downtown District.

Over the past decade, local jurisdictions and the Coastal Commission have both seen an increasing number of proposals for the placement of Co-User Communication Facilities. Companies such as Sprint, Verizon, AT&T, etc. are constantly striving to increase and improve their cellular phone reception capabilities. Proposals include locating these Co-User Communication Facilities on a variety of existing structures ranging from commercial and residential buildings to lamp posts, electrical towers, artificial trees, etc. In order to process these proposals within the coastal zone, many cities have developed policies, siting criteria, and conditions of approval, and incorporated these provisions into their Local Coastal Programs through the certification of an LCP amendment.

To date, the City of Oceanside has yet to receive approval from the Coastal Commission for any such update. In 2007, the City approved a Co-User Communication Facility on an existing multi-family residential structure located within Subdistrict 5 of the Downtown area. A concerned citizen appealed the approved project to the Coastal Commission, contending that such a development was not considered an allowable use within Subdistrict 5. Article 12 of the City's Implementation Plan contains a Land Use Matrix that identifies Land Use Classifications thereby establishing permitted uses within the subdistricts of the Downtown District. Of these uses, a broadly-applied term "Communication Facilities" is a use that is permitted in a limited number of the subdistricts. Commission staff reviewed the project and agreed that the definition "Communication Facility" was the most appropriate Land Use Classification for the proposal and that it was not a permitted use.

The City has since submitted an LCP amendment attempting to address this issue, and proposed language that made reference to a set of definitions, siting criteria, and standard conditions of approval associated with these types of developments. However, the proposed language did not adequately address the concerns raised by the appellant for two reasons. The City made reference to the policies included as suggested modifications herein; however, this language is not part of the certified LCP and thus cannot be applied in the coastal zone. Second, the proposed language does not modify the Downtown Area's Commercial Land Use Matrix to permit such proposals.

The City's proposed language referenced a specific policy contained in a different article of the Zoning document, Article 30. Article 30 contains Site Regulations applicable to all areas of the City. However, through some miscommunication, the City updated this article without bringing forward an amendment request to the Coastal Commission. Therefore, the language proposed by the City associated with the subject amendment

referenced a policy that was not in the certified LCP. As such, the policy could not be used to determine the modern types of Communication Facilities that could be allowed within the Downtown District.

The policy referenced by the City included siting criteria and standard conditions of approval for Co-User Communication Facilities, Stand Alone Communication Facilities and other various types of antennas. These criteria and conditions were developed to address concerns of potential view impacts associated with these types of facilities. Without this language, these concerns have not been addressed. The City's certified land use plan policies included above serve to document the many ways the City protects public coastal views, and as such, the amendment as submitted cannot be considered consistent with these policies.

2. Commercial Uses - Land Use Matrix

Within Article 12 of the City's certified implementation plan, permitted commercial land uses for the Downtown District are provided by a land use matrix. Co-User Communication Facilities are best described by the use classification "Communication Facility" within this land use matrix. However, Communication Facilities are an unpermitted use in the majority of subdistricts within the Downtown District, including subdistrict 5. As previously discussed, this LCP amendment was proposed by the City to allow for the placement of a Co-User Communication Facility within subdistrict 5. However, the City has proposed no new uses be included in the Land Use Matrix, nor has it modified the existing term "Communication Facilities" to be an allowable use within a greater number of the downtown subdistricts, including subdistrict 5. As such, the intent of the amendment has not been met, and Co-User Communication Facilities remain an unpermitted use.

In conclusion, the intent of the City was to modernize Article 12 of its certified Implementation Plan to facilitate the placement of Co-User Communication facilities within various subdistricts in the downtown area. However, the City's proposed language makes reference to a policy that is not part of its certified LCP, and fails to address the issue that these types of uses were currently permitted in a very limited portion of the downtown area. As such, the amendment as proposed does not address the potential impacts of these facilities within the expanded area in which they would be allowed, and thus cannot be found consistent with the certified Land Use Plan.

PART V. FINDINGS FOR APPROVAL OF THE CITY OF OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

The City's proposed language included a reference to a policy, which through some miscommunication, was not certified into its LCP. However, the language included in this referenced policy would adequately address the coastal resource concerns associated with various antenna, reception, and communication facilities. As such, the modifications proposed by the Commission mirror this language. Further, by mirroring

the City's language, the process of approval will remain consistent both inside and outside the coastal zone. Specifically, the suggested modifications will adequately define and regulate various types of Communication Facilities in the Downtown District and include these new uses in the City's Commercial Land Use Matrix. The specific modifications are discussed in detail below.

A. Specific Findings for Approval.

1. Regulating various types of Communication Facilities within the Downtown District.

The Commission has suggested two modifications to define and regulate the various types of modern antenna and/or communication facilities. One modification adds new definitions to Article 4a Section 450 - Commercial Use Classifications. These definitions were developed by the City and taken from its code. The language keeps the existing broad definition of Communication Facilities, but further defines Reception Antennas and Minor and Major Co-User Facilities as three new uses. The section also identifies two types of antennas: pole and monitoring. The definitions are included simply to further clarify the types of reception antennas allowed and are not considered new uses. This language will modernize the City's definition of Communication Facilities, and it will provide a method to specify the type of facility allowed, instead of having all uses fall within one general definition, where those facilities were not even permitted uses in the majority of the downtown area.

Another suggested modification (#4) serves to provide regulation for the above described types of communication facilities. Reception antennas are considered the smallest-scale facility, and as such, the suggested modification requires these types of proposals to be limited by number, setbacks, size, and height, screening and cable undergrounding. There is no requirement for a public hearing, or the issuance of a conditional use permit. If the project meets all the above mentioned requirements, no additional conditions will be required. The suggested modification does, however, require additional regulations associated with both Minor and Major Co-User Facilities. These two terms are separated by the number of associated antennas. Minor Co-User facilities have 5 or fewer antennas, where Major Co-User Facilities have more than 5. However, in the coastal zone, both Minor and Major Co-User Facilities are regulated in the same way. The new policy requires that these facilities only be permitted through the issuance of a conditional use permit. The policy further includes six standard conditions of approval. The most pertinent conditions include a requirement that the permittee (or applicant) exercise a good faith effort to incorporate the best equipment technology in order reduce the visual presence of the approved antenna and facility equipment. The condition further requires that the permittee change-out and retro-fit the existing equipment as new technologies are available. The second condition requires that the proposed communication facility address the appearance of the entire site and upgrade or repair any physical features as a means of minimizing view impacts. Included in these are: site landscaping, architectural treatments, and painting. Both of these conditions serve to

adequately address the policies regarding protection of public coastal views that are included in the City's LUP.

Furthermore, it should be noted that Co-User Communication Facilities are traditionally placed on already existing buildings, thus impacts to habitat are unlikely. However, if a proposal came forward for a facility that impacted habitat, under the provisions of the City's certified LCP, such a proposal would require a coastal development permit. It would be during this review that any potential impacts to habitat would be addressed. As such, impacts to sensitive habitat would be addressed consistent with the certified LCP. Therefore, as modified, the Implementation Plan amendment can be found consistent with the City's certified Land Use Plan (LUP).

2. Commercial Uses - Land Use Matrix

As previously discussed, the City uses a land use matrix to identify the permitted commercial uses within the Downtown District. Currently, there is only one type of use to address the numerous sorts of projects pertaining to the transmission of communication and information: Communication Facility. Furthermore, this use classification was only permitted in a limited number of subdistricts. As such, the Land Use Matrix has been updated to include three additional land use classifications: Reception Antennas, Minor Co-User Facilities and Major Co-User Facilities. Reception Antennas are generally defined as the smaller-scale types of projects and, as such, are a permitted use in all subdistricts. As modified by the Commission, Minor and Major Co-User Facilities, coupled with the siting criteria and standard conditions discussed above, are conditionally permitted in all subdistricts.

B. Conclusions.

In 2007, the City of Oceanside approved a project which would likely be considered inconsistent with its LCP, and the City's approval of the CDP was subsequently appealed by a member of the public to the Commission. In response to this appeal, the City submitted an LCP amendment to accommodate the approval of these types of projects within the downtown area. The amendment as proposed by the City simply referred to a policy contained in a different article of its certified Implementation Plan. This policy did define, provide siting criteria, and impose standard conditions of approval for the most widely used types of communication facilities. However, due to some miscommunication between the City and the Commission, these modifications were never brought forth for the Commission's approval and as such could not be considered part of the City's LCP and were not the appropriate standard of review. Additionally, because the article in which this updated language was located (Article 30) was not a component of the City's amendment (Article 12 and 4a), the Commission could not simply modify Article 30 to reflect the City's changes. As such, the Commission identified and included the most important sections of that policy language, contained in Article 30, into the appropriate sections of Article 4a and Article 12 (the Zoning Ordinance specific for the Downtown District).

However, it should be noted that during this amendment review, it became apparent that additional modifications have been made by the City to its Implementation Plan in the past, without submitting those changes for review and approval by the Commission. The City is aware of this, and has agreed to bring forward a comprehensive package of amendments to rectify the disparities. Currently, the City and Commission staff are working cooperatively to identify all uncertified modifications and will continue to work on these revisions and will bring them forward to the Commission for review as soon as possible. However, in the interim, the modifications suggested by the Commission address the intent of this LCP amendment, and the associated appeal until such a comprehensive amendment can be completed. Therefore, the concerns associated with reception antennas and communication facilities; namely public view impacts, have been adequately addressed through the suggested modifications listed above and, as modified by the Commission, can be found consistent with the City's certified LCP.

PART VI. 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.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, as amended, does conform with CEQA provisions. As outlined in the staff report, the IP amendment, as proposed, is inconsistent with the land use policies of the certified LUP. However, if modified as suggested, the amendment can be found in conformity with and adequate to carry out all of the land use policies of the certified LUP. Therefore, the Commission finds that approval of the LCP amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP Amendment 1-08 if modified as suggested herein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO. 07-OR0724-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING SECTION 1230 OF ARTICLE 12 OF THE OCEANSIDE ZONING ORDINANCE, (ZA-201-07 & LCPA-201-07)

RECEIVED
JAN 24 2008
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COUNTY DISTRICT

(City of Oceanside –Applicant)
(ZA-201-07 & LCPA-201-07)

WHEREAS, Article 12 of the Oceanside Zoning Ordinance regulates uses within the Redevelopment Area;

WHEREAS, it is in the public interest to amend the zoning regulations pertaining to these uses to allow telecommunication facilities within the coastal zone;

WHEREAS, the proposed amended section of Article 12 of the Zoning Ordinance which further defines various land uses are more particularly described in Exhibit “A”, attached hereto and incorporated herein by reference;

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the State Guidelines thereto as amended to date;

WHEREAS, based upon such evidence, testimony and staff reports, this Council finds the proposed amendment to Article 12 conforms to the City’s Redevelopment Plan and General Plan;

NOW, THEREFORE, the City Council of the City of Oceanside DOES ORDAIN as follows:

That Zone Amendment Application ZA-201-07 and LCPA-201-07 amending the text of Article 12 Section 1230 of Zoning Ordinance No. 095-006 as specified in Exhibit “A” is hereby approved and the Economic and Redevelopment Director is hereby directed to amend the Zoning Ordinance text as specified by this Exhibit.

1. Provisions of Exhibit “A”, as incorporated, have been included for informational purposes only and reflect the amended sections of the Zoning Ordinance No. 095-006 which have been stricken, removed or otherwise modified by the enactment of this Ordinance.

2. Notice is hereby given that the time within which judicial review must be sought on this decision is governed by California Government Code Section 65860 (b).

EXHIBIT #1
Signed Ordinance
LCPA #1-08 Telecommunication Facilities California Coastal Commission

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. The Ordinance shall not be codified.

4. The City Clerk of the City of Oceanside is hereby directed to publish the title of this Ordinance and a summary of Exhibit "A" once within fifteen (15) days after its passage in the North County Times, a newspaper of general circulation published in the City of Oceanside. This Ordinance shall take effect and be in force on the thirtieth (30) day from and after its final passage.

INTRODUCED at a regular meeting of the City Council of the City of Oceanside, California, held on the 7th day of November 2007, and, thereafter,

PASSED AND ADOPTED by the Oceanside City Council on this 5th day of December, 2007, by the following vote:

AYES: CHAVEZ, FELLER, KERN
NAYS: WOOD, SANCHEZ
ABSENT: NONE
ABSTAIN: NONE

Signature on file

Mayor of the City of Oceanside

ATTEST:

APPROVED AS TO FORM:

Holly Probaugh, Ass't.

City Clerk

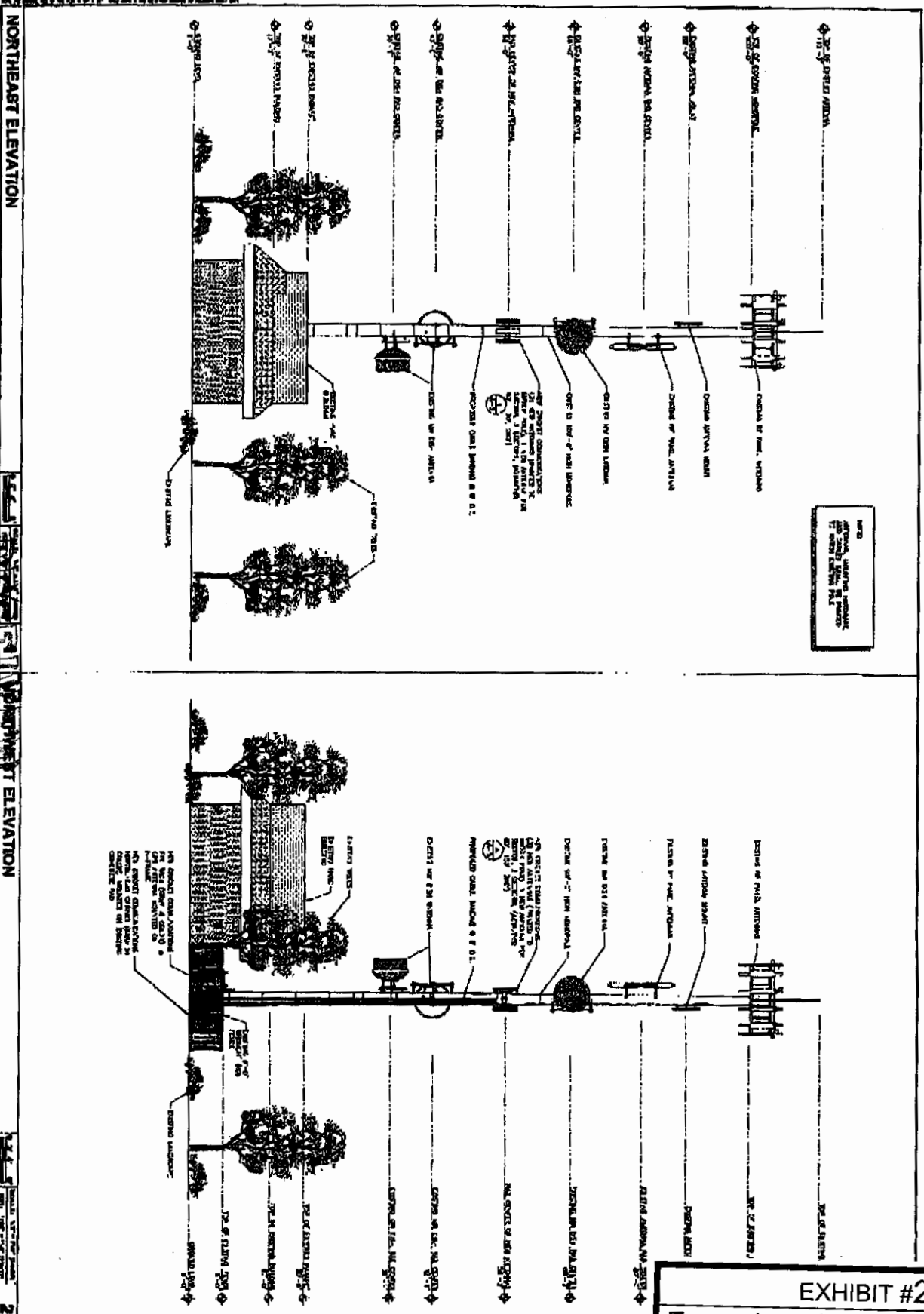
Signature on file
Deane

City Attorney

EXHIBIT "A"
"D" Downtown District Ordinance
Zoning Text Amendment
ZA-201-07 & LCPA-201-07

* Proposed Changes are Bolded

See Section 3025: Antennas and Microwave Equipment. For the purposes of this section the definition of "Utilities, minor" shall have the same meaning as "Communication Facilities" in Section 3025 B.2 of the Zoning Ordinance and the siting of Communication Facilities shall be governed by Section 3025 of the Zoning Ordinance.



NOTES:
 1. ALL ELEVATIONS SHOWN ARE FOR THE PROPOSED FACILITY.
 2. ALL DIMENSIONS ARE IN FEET AND INCHES.
 3. ALL MATERIALS TO BE SPECIFIED BY THE ARCHITECT.

EXHIBIT #2
Examples of proposed Co-User Communication Facilities
 LCPA #1-08 Telecommunication Facilities
 California Coastal Commission

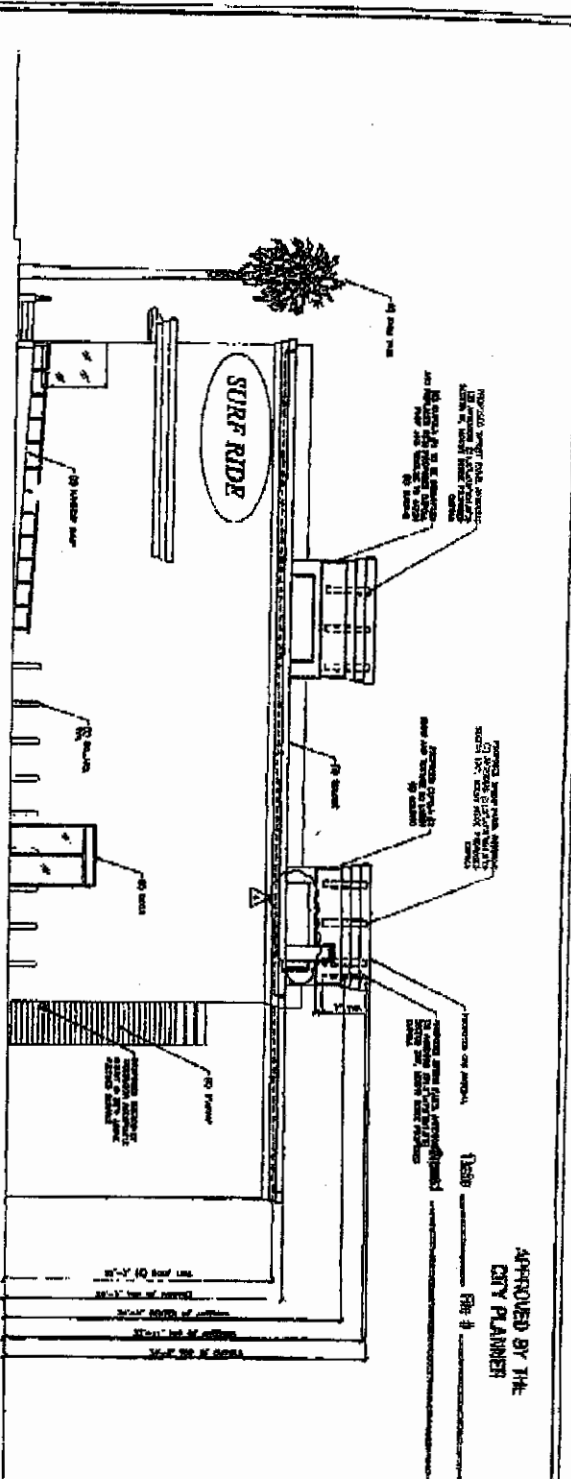
REGISTRATION

MAY 2 6 2003

CALIFORNIA COASTAL COMMISSION
 SAN DIEGO COAST I

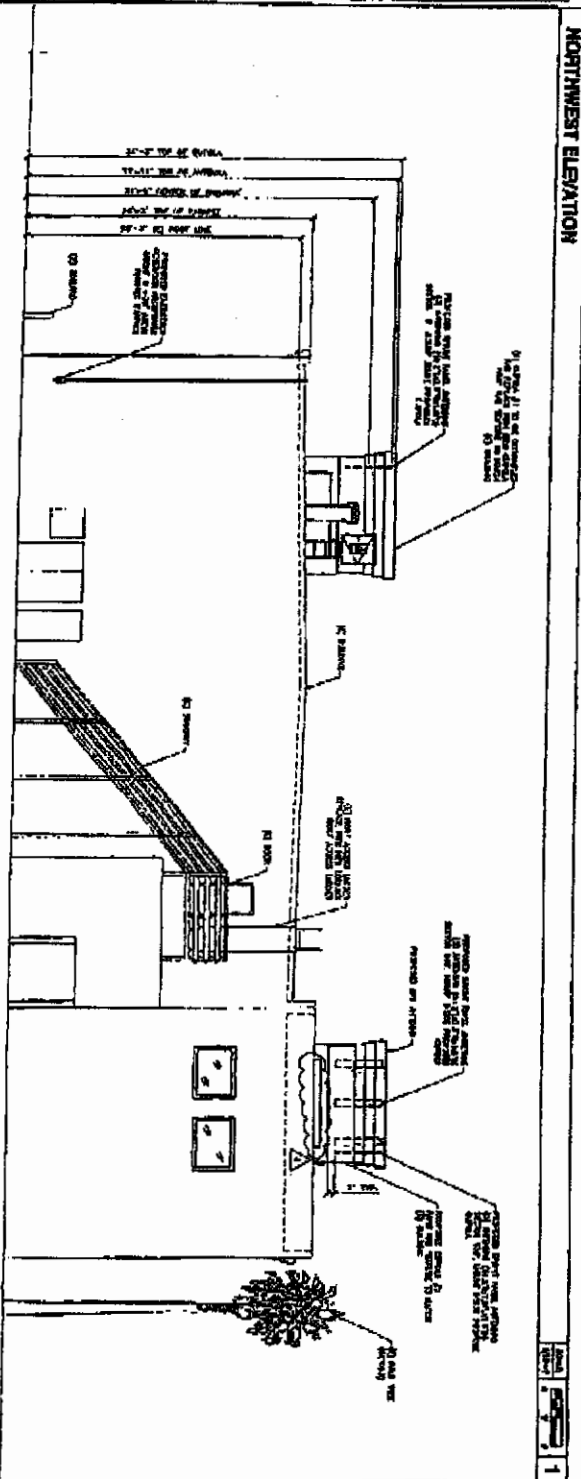
PROJECT NO.	3300-TRE
SITE NAME	CO-LOOK
ST. ADDRESS	651 BENTLEY BL.
CITY AND STATE	OCEANSIDE, CA
OWNER	CO-LOOK
DATE	MAY 2 6 2003

A-3



APPROVED BY THE
CITY PLANNER

1800
File #



SOUTHWEST ELEVATION

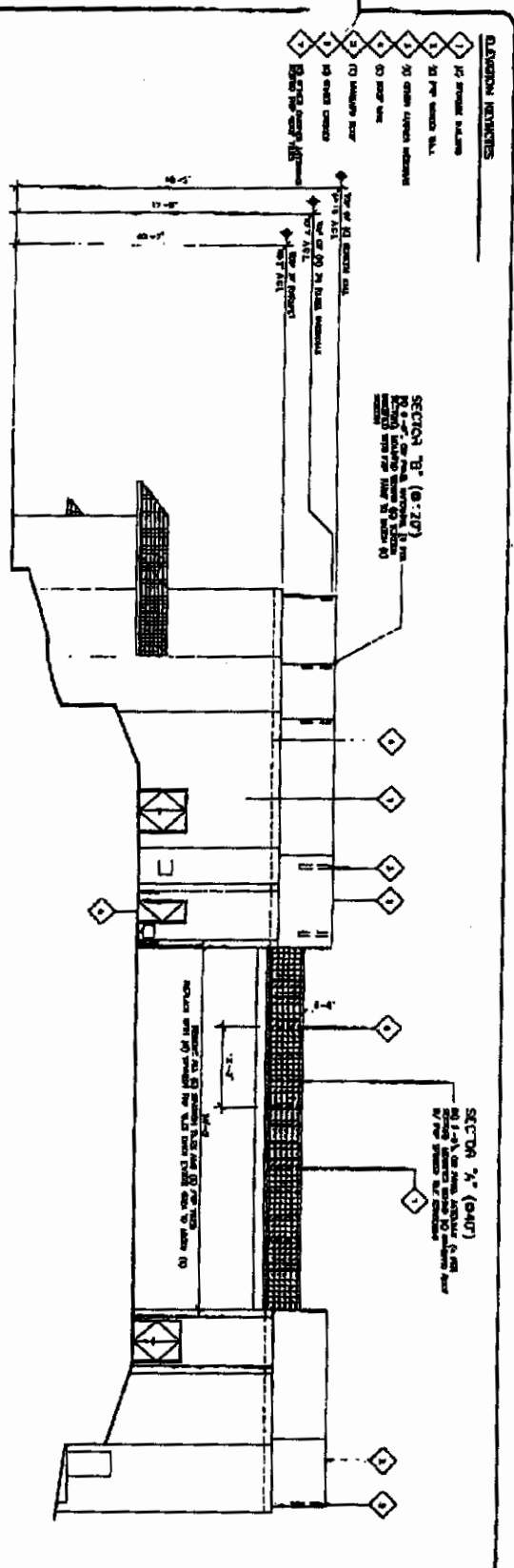
Sprint
 1800 S. COURT WALK
 OESBURN, CA 95066
 916 882-8244
 9/19/01
 ZONING
 RECEIVED
 SEP 20 2001
 Tetra Tech
 RECEIVED
 SEP 20 2001
 CS 4

RECEIVED
 MAY 21 2009
 CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST

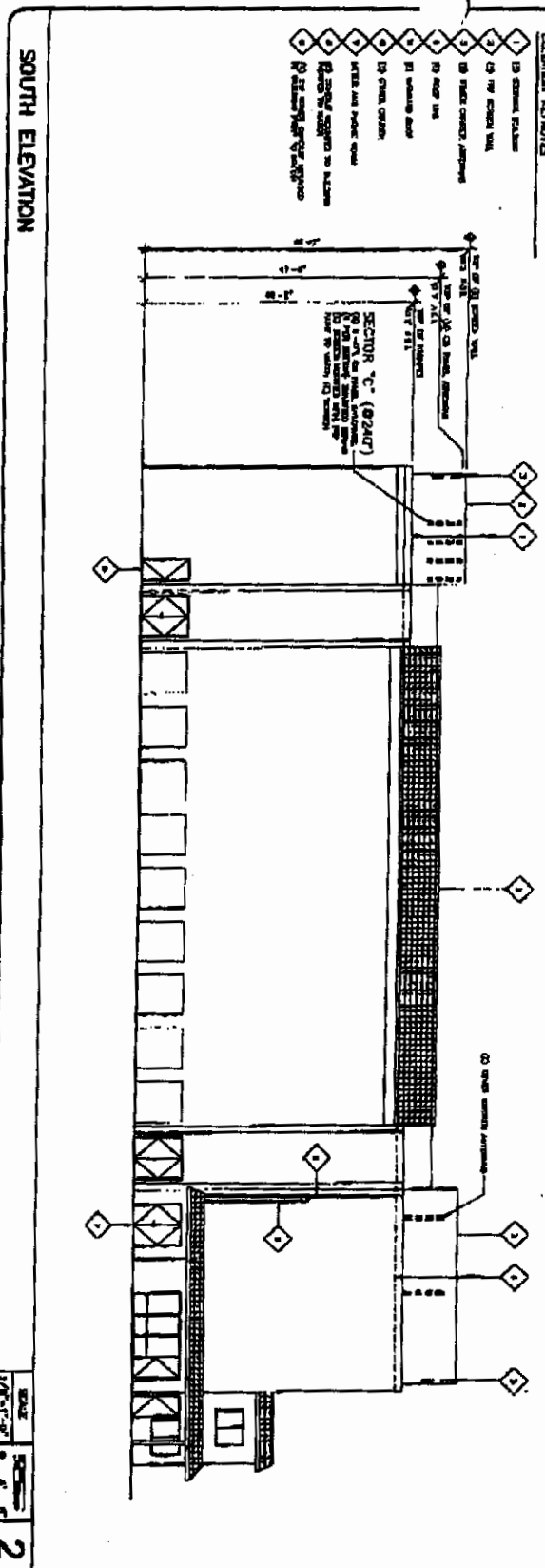
RECEIVED

MAY 26 2003

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



NORTH ELEVATION



SOUTH ELEVATION

JRA
JACOBS REALTY ASSOCIATES, INC.
ARCHITECTS



X cingular
PROJECT NAME
A-1 STRANDE
PROJECT NUMBER
NS-070-01-0712
DATE
JAN 11-03

A-2

ELEVATIONS

SCALE: 1/8" = 1'-0"