

**CALIFORNIA COASTAL COMMISSION**

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**F7a**

**Prepared April 27, 2010 (for May 14, 2010 hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Dan Carl, District Manager  
Mike Watson, Coastal Planner

**Subject: City of Pismo Beach LCP Major Amendment Number 1-09 (Permit Extensions).**  
Proposed major amendment to the City of Pismo Beach certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's May 14, 2010 meeting to take place at the Santa Cruz County Board of Supervisors Chambers at 701 Ocean Street in Santa Cruz.

## Summary

The City of Pismo Beach is proposing to amend its certified Local Coastal Program (LCP) Implementation Plan (IP, also known as the LCP zoning code) to modify the LCP's permit extension requirements to allow an automatic time extension (without the requirement for a public hearing) for any land use permit, including coastal development permits (CDPs), if that land use permit is extended by the State Legislature or any state agency. The City also proposes that any CDP that has to be secured ancillary to the land use permit automatically extended be automatically extended in the same way as well. The proposed amendment is the City's attempt to correlate City permit extensions with recent state law automatically extending certain vesting tentative maps and parcel maps valid on July 15, 2009, and CDPs for development included in same, for 24 months, as a tool to help with economic recovery. Although the Legislature acted to extend all such subdivision entitlements, the City believes that there is some question about whether this automatic extension extends to local government CDPs associated with vesting tentative maps and parcel maps. As such, the City proposes to insert language into the LCP's permit expiration section that would account for this issue, as well as account for any future legislation that similarly extends such permits. The City's proposal would also extend the automatic expiration extension to any CDPs related to any project for which a CDP had been extended through this provision (i.e., CDPs for other development ancillary to the CDP for the base development that has been automatically extended).

The City's submittal also raises questions with respect to the manner in which the existing LCP is meant to be understood in terms of how CDP extensions should be processed by the City. Specifically, the existing certified LCP currently allows CDPs to be valid for up to an initial 24 months, with the possibility of extending expiration dates up to an additional 24 months. The City has historically interpreted the extension portion of the LCP's expiration text to mean that CDPs may be granted a single 24-month extension and no more. The City indicates that 48 months, or four years, is inadequate time to exercise CDPs, particularly subdivisions and related development for which financing has been difficult to obtain during the downturn in the economy.



In staff's opinion, the existing LCP CDP expiration text is somewhat unclear in this respect. Although it is best interpreted as the City has historically, there is the possibility that it could be interpreted to allow for an unlimited number of 24-month extensions. In addition, in evaluating the proposed amendment, it has become apparent that other aspects of the LCP's permit extension procedures are not entirely clear, including in terms of the lack of explicit guidance with respect to notice, hearing, and appeal procedures for extensions.

Thus, the proposed amendment raises issues both with respect to conforming it with recent State law, and at the same time addressing lingering procedural issues with the LCP's permit expiration procedures and related issues.

The City's proposal in this regard is, in staff's opinion, too open-ended inasmuch as it allows CDPs to be extended based on unknown future actions by the State legislature or by any state agency to extend any land use permit, and then extends that concept to also apply to any CDPs that may somehow be ancillary to the first CDP automatically extended. Staff is cognizant of the issues identified by the City, and is sympathetic to an attempt to generically get ahead of future automatic extensions, such as the recent subdivision legislation, but such an approach is overly broad and could lead to unforeseen automatic CDP extensions based on the Legislature or any state agency extending any land use permit, even if it isn't related to or even supposed to be related to CDPs. In addition, the proposed LCP construct would then extend to undefined additional CDPs associated with the first CDP extended. More appropriately, such potential future automatic extension provisions are better understood on a case-by-case basis so as to assess their impact and to determine in what way they are meant to apply to CDPs, and the ways in which associated CDPs' expiration dates should or should not be extended. In sum, the proposed automatic extension provision could extend the life of CDPs in such a way as to not allow the City or the Commission to re-review them, as appropriate and necessary, to evaluate changes in circumstances and other factors that may affect their consistency with the LCP and the Coastal Act potentially many years after they have been initially approved. Thus, the proposed amendment cannot be found consistent with or adequate to carry out the certified Land Use Plan (LUP), the standard of review for this proposed amendment, because it cannot be assured that coastal resources will be protected as required by the LUP.

Fortunately, there are options that can address both the recent automatic permit extension legislation associated with subdivision, and the City's other concerns and issues with the LCP's permit expiration text. In terms of the former, specific LCP text can be added conforming to the recent state law to make clear that City CDPs for development included in a vesting tentative map or parcel map are extended 24 months as provided for by the Legislature.

With respect to the latter, staff believes that it is appropriate to both clarify the LCP language associated with CDP extensions, while also providing some timing relief for CDP permittees overall. Although there are a variety of time frames that could be considered in this latter regard, staff believes that allowing for up to three yearly CDP extensions (for a total CDP validity of up to five years) provides a reasonable time frame within which to exercise a CDP, and provides a year past what is currently



allowed under the LCP.<sup>1</sup>

Each one year time extension would be contingent upon a finding of no changed circumstances that would affect the original decision (e.g., such changed circumstances may include changes in the LCP or the Coastal Act, changes in the character of the subject development site or its surroundings, or changes in public service capacities),<sup>2</sup> and the same noticing, hearing, and appeal requirements as applied to the originally permitted development.<sup>3</sup> Past five years, a CDP approval is fairly “stale” and warrants an overall re-review, past just the changed circumstances threshold, to ensure LCP and Coastal Act consistency based on current and up to date evidence and other factors. In this way, the LCP can be made clear, CDP permittees are allowed up to an additional year to pursue their project, and coastal resources can be appropriately protected pursuant to the LCP and the Coastal Act.

**As so modified, staff recommends that the Commission approve the LCP amendment.** The necessary motions and resolutions can be found on page 4 below.

**LCP Amendment Action Deadline:** This proposed LCP amendment was filed as complete on March 26, 2009. It is an IP amendment only and the original 60-day action deadline was May 25, 2009. On May 7, 2009 the Commission extended the action deadline by one year to May 25, 2010. Thus, the Commission has until May 25, 2010 to take a final action on this LCP amendment (i.e., the Commission must act at the May 2010 meeting).

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<sup>1</sup> Recent LCP procedural updates on this issue that have been certified by the Commission have focused on the 5 year horizon as an appropriate time horizon for CDPs (e.g., San Luis Obispo County LCP).

<sup>2</sup> The changed circumstances criteria is the same as applies to Coastal Commission CDPs pursuant to the Commission’s regulations for CDP extensions.

<sup>3</sup> As is implicit in the current LCP, but with this change would be identified explicitly in the LCP’s CDP extension regulations.



## I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make two motions in order to act on this recommendation.

### 1. Denial of Implementation Plan Major Amendment Number 1-09 as Submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (1 of 2).** I move that the Commission **reject** Implementation Plan Major Amendment Number 1-09 as submitted by the City of Pismo Beach. I recommend a yes vote.

**Resolution to Deny.** The Commission hereby **denies** certification of Implementation Plan Major Amendment Number 1-09 as submitted by the City of Pismo Beach and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

### 2. Approval of Implementation Plan Major Amendment Number 1-09 if Modified

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (2 of 2).** I move that the Commission **certify** Implementation Plan Major Amendment Number 1-09 if it is modified as suggested in this staff report. I recommend a yes vote.

**Resolution to Certify with Suggested Modifications.** The Commission hereby **certifies** Implementation Plan Major Amendment Number 1-09 to the City of Pismo Beach Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan 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 plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.



## II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the City of Pismo Beach accepts each of the suggested modifications within six months of Commission action (i.e., by November 14, 2010), by formal resolution of the City Council, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added.

**Expiration of Permits.** Modify Section 17.121.160 of the Implementation Plan as follows:

- ~~1. Any of the above permits granted under the terms of this Ordinance shall, without further action, become null and void if not inaugurated within twenty four (24) months of the date of approval or within any shorter period of time if so designated by the approving authority.~~ Permit Expiration and Extension. Coastal development permits shall expire no more than two years from initial permit approval (where the expiration date shall be considered to be two years from initial permit approval if no expiration date is specified in the permit), and the permit expiration date may be extended as provided by this section. All extension requests shall be in writing and shall be submitted to the Community Development Department on or before the permit expiration date. If such extension request has been timely submitted, the permit expiration date shall be considered to be automatically extended until such time as the reviewing authority has acted upon the extension request, provided that no construction shall take place unless and until the permit expiration date has been extended. The reviewing authority shall be the Planning Commission, the City Council, or, if the extension request is appealed to the Coastal Commission, the Coastal Commission. All extension requests shall be subject to the same noticing, hearing, and appeal requirements as applied to the originally permitted development.
- ~~2. Upon application filed prior to the expiration date of the approved permit, the time at which the permit expires may be extended by the Planning Commission for a period or periods of time not exceeding an additional twenty four (24) months.~~ Extension Authorization Requirements. The reviewing authority may extend the permit expiration date up to three times, in one-year increments each time, only if there are no changed circumstances that may affect the consistency of the originally permitted development with the Local Coastal Program and, if the subject development is located between the first public road and the sea, with the public access and recreation policies of the Coastal Act. Among other circumstances, changed circumstances may include changes in the Local Coastal Program or the Coastal Act, changes in the character of the subject development site or its surroundings, and/or changes in public service capacities (including but not limited to water supply, sewer treatment or disposal facilities, roads or utility services).

If the reviewing authority determines that changed circumstances exist, then the extension request shall be denied and the subject development shall be set for a new hearing on the development as if



it were a new coastal development permit application. In such a case, the applicant shall not be required to submit a new permit application, but instead shall submit any information that the reviewing authority deems necessary to evaluate the effect of the changed circumstances.

In any case, permits shall not be extended beyond three years from the original permit expiration date.

3. One-Time Automatic Extension For Permit Expiration Associated With Certain Vesting Tentative Subdivision Maps/Parcel Maps. The permit expiration date for any coastal development permit that pertains to development included in a vesting tentative subdivision map or parcel map whose expiration date is extended due to California Government Code Section 66452.22(a) shall be extended by 24 months, provided the permit approval was valid on (and the permit had not expired by) July 15, 2009.

### III. Findings and Declarations

The Commission finds and declares as follows:

#### A. Description of Proposed LCP Amendment

The proposed amendment would modify Section 17.121.160 (“Expiration of Permits”) of the certified LCP’s zoning code in two ways.

First, it would amend LCP Section 17.121.160 to provide for an automatic extension of the expiration date for any land use permits, including CDPs, that are extended by the State Legislature or any state agency without the requirement for a public hearing.

Second, the amendment proposes to automatically extend the expiration date for any CDP that must be secured ancillary to the CDP automatically extended by the State Legislature or any state agency in the way referenced directly above. In other words, if the State Legislature or any state agency were to extend any land use permit, CDPs for the referenced development in the City would also be extended by that same time period, as would any other CDPs for development associated with that authorized by the first CDP.

See Exhibit A for the text of the proposed LCP changes in cross-through and underline format.

#### B. LUP Consistency Analysis

##### 1. Standard of Review

The standard of review for proposed amendments to the LCP’s IP is that such amendments must be



consistent with and adequate to carry out the LCP Land Use Plan (LUP).

## 2. Applicable Policies

Proposed procedural LCP amendments, such as this one, tend to raise overall questions about effectively implementing the LUP in a general way. In other words, LUP policies protecting coastal resources and governing the manner in which development must be sited and designed are all implicated by a procedural issue such as this. In some ways, that means that all of the LUP is applicable to the evaluation of the proposed LCP amendment as it is premised on the IP's ability to effectively carry out the resource protection objectives of the LUP. In that sense, such LUP provisions are too numerous to cite in this report. However, some of the key LUP provisions that are implemented, in part, through the permit review procedures affected by this amendment include:

### LUP Policy P-13: Natural Resource Preservation

*All land use proposals shall respect, preserve, and enhance the most important natural resources of Pismo Beach; those being the ocean and beaches, hills, valleys, canyons, and cliffs; and the Pismo and Meadow Creek streams, marsh and estuaries.*

### LUP Policy P-16: Historic Ambiance

*Pismo Beach contains the historic ambiance of the small California beach town. This is particularly evident in downtown and Shell Beach. Although hard to define, the preservation of this ambiance is important and the city shall encourage its preservation. ...*

### LUP Policy P-7 Visual Quality is Important

*The visual quality of the City's environment shall be preserved and enhanced for the aesthetic enjoyment of both residents and visitors and the economic well-being of the community. Development of neighborhoods, streets and individual properties should be pleasing to the eye, rich in variety, and harmonious with existing development. ...*

### LUP Access Component Background

*The City of Pismo Beach has a tradition of shoreline access. The purpose of this shoreline access component is to implement the state Coastal Act shoreline access policies, thus continuing to ensure the public's right to gain access to the shoreline.*

With respect to CDP process, the IP, while not the standard of review, includes relevant context for consideration of this LCP amendment, including with respect to the definition of development and CDP requirements. The LCP states:

*17.006.0365 Development: On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredge materials or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining or extraction of any materials; change in the density or intensity of use of land, including but not limited to: subdivision*



*pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes or kelp harvesting; and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).*

The LCP also includes a series of requirements associated with noticing, hearing, actions, and reporting of CDP matters, including requiring LCP consistency. The LCP states:

*17.24.030 Permits Required: Developments, as defined in Subsection 17.006.0365 of this Ordinance, require a Coastal Development Permit except as otherwise provided in this Chapter. Such permits are subject to the provisions of the certified Land Use Plan, certified Zoning Ordinance, Subdivision Regulations, Grading and Erosion control Ordinance, and the procedural requirements for coastal development permits described herein.*

*17.24.100 Public Hearing Requirements: At least one public hearing shall be held on each application for an appealable or non-appealable coastal development permit application for a project in the R-3, R-4, P-R, R-R, C-R, M-H, C-1, C-2, C-M, OS-1, OS-R, or G zones. At least one public hearing shall be held on each application for an appealable coastal development permit application for a project in the R-1 and R-2 zones. Non-appealable coastal developments in the R-1 and R-2 zones may be processed as administrative permits at a staff level pursuant to the noticing standards of this ordinance for non-appealable developments. Such hearings shall occur no earlier than ten (10) calendar days following the mailing of the notices required by this chapter. The public hearing shall be conducted in accordance with existing city procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.*

*17.24.210 Final Local Government Action –Notice: Notice after Final City Decision: Within seven (7) calendar days of a final City decision on an application for any Coastal Development Permit, the City shall provide notice of its action by first class mail to the Coastal Commission's South Central Coast District Office, and to any persons who specifically requested notice of such final action by submitting a self-addressed, stamped envelope to the City and a reasonable fee to process such notice. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission.*





## B. Analysis

The City of Pismo Beach coastal zone, though fairly narrow relatively speaking, includes almost seven miles of shoreline with an abundance of public recreational access opportunities and highly scenic areas, and includes a variety of other resources and habitats (e.g., dunes, wetlands, riparian corridors, oak woodlands, coastal terraces, marine intertidal areas, etc.). Primary issues raised with coastal development in the City historically have included those related to beach and shoreline erosion, wave attack, and bluff retreat, as well as recreational access, viewshed, and habitat protection, among other things. Like many central coast jurisdictions, there are also a finite amount of public services/resources available to serve development, including with respect to water supply, waste water treatment, solid waste disposal, traffic and circulation, and other utilities. In short, the City is a highly scenic and popular recreation destination for residents and visitors alike that includes a variety of habitats, and development there can raise significant issues regarding coastal resource protection, including in terms of use of limited public services. The proposed amendment raises concerns overall in terms of the IP's ability to adequately implement the LUP's resource protection policies because it extends CDP decisions outside of the normal LCP framework that currently allows for review of such CDPs to ensure they remain consistent with the LCP (and the Coastal Act's access and recreation policies as applicable), and that currently limits CDP validity to a maximum of 48 months.

The proposed amendment is the City's attempt to correlate City permit extensions with recent state law automatically extending certain vesting tentative maps and parcel maps valid on July 15, 2009, and CDPs for development included in same, for 24 months, as a tool to help with economic recovery.<sup>4</sup> The City proposes to insert LCP language into the permit expiration section that would include a similar extension for City-issued CDPs, as well as account for potential future State decisions also automatically extending such permits. The City's proposal would also apply this potential future state decision to any CDPs for development related to the development associated with the first CDP automatically extended.

The City's submittal also raises questions with respect to the manner in which the existing LCP is meant to be understood in terms of how CDP extensions should be processed by the City. Specifically, the existing certified LCP currently allows CDPs to be valid for up to an initial 24 months, with the possibility of extending expiration dates up to an additional 24 months (see Exhibit A). The City has historically interpreted the extension portion of the LCP's expiration text to mean that CDPs may be granted a single 24-month extension and no more. The City indicates that 48 months, or four years, is inadequate time to exercise CDPs, particularly subdivisions and related development for which financing has been difficult to obtain during the downturn in the economy.

The existing LCP expiration text is somewhat unclear in this respect. Although it is best interpreted as the City has historically, there is the possibility that it be suggested to allow for the possibility of an unlimited number of 24-month extensions. This ambiguity creates the potential to interpret the IP in a

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<sup>4</sup> California Government Code Section 66452.22(a).



manner inconsistent with the LUP protection policies. In addition, while the LCP includes clear direction on notice, hearing and appeal procedures for CDPs (see, for example, Section 17.124.100), the LCP's extension section lacks explicit direction in this respect. Although not a fatal LCP flaw as the CDP procedures apply to CDP extensions, whether explicitly stated in the extension section or not, there has historically been some implementation deficiencies in this respect with CDP extensions as a result of the lack of explicit direction directly within Section 17.121.160.

Thus, the proposed amendment raises issues both with respect to adding provisions similar to state law permit expiration extensions and addressing lingering procedural issues with the LCP's permit expiration procedures and related issues.

The City's proposal in this regard is too open-ended inasmuch as it allows CDPs to be extended based on unknown future actions by the State legislature or by any state agency to extend any land use permit, and then extends that concept to also apply to any CDPs that may somehow be ancillary associated with the first CDP automatically extended. The Commission is cognizant of the issues identified by the City, and is sympathetic to an attempt to generically get ahead of future automatic extensions such as the recent subdivision legislation, but such an approach is overly broad and could lead to unforeseen automatic CDP extensions based on the Legislature or any state agency extending any land use permit, even if it isn't related to or even supposed to be related to CDPs. In addition, the proposed LCP construct would then extend to undefined additional CDPs associated with the first CDP extended.

More appropriately, such potential future State automatic extension provisions are better understood on a case-by-case basis so as to be able to understand in what way they are meant to apply to CDPs or not, and the ways in which associated CDPs should or should not be considered in that exercise. In sum, the proposed LCP automatic extension provision could extend the life of CDPs in such a way as to not allow the City or the Commission to re-review them, as appropriate and necessary, to evaluate changes in circumstances and other factors that may affect their consistency with the LCP and the Coastal Act potentially many years after they have been initially approved. Thus, the proposed amendment cannot be found consistent with or adequate to carry out the certified LUP because it cannot be assured that coastal resources will be protected as required by the LUP.

Fortunately, there are options that can address both the recent automatic permit extension legislation associated with subdivision, and the City's concerns and issues with the LCP's permit expiration text otherwise. In terms of the former, specific LCP text can be added to allow CDP extensions to mirror recent state law to make clear that City CDPs pertaining to development included in a vesting tentative map or parcel map that were extended under Government Code section 66452.22 are extended for 24 months.

With respect to the latter, given that this IP amendment raises questions about the interpretation of LCP extension procedures, and given it has become apparent in reviewing the proposed amendment that certain aspects of the LCP's permit extension procedures are not entirely clear, it is appropriate to both clarify the LCP language associated with CDP extensions, while also providing some timing relief for



CDP permittees overall, as has been identified as a CDP extension issue by the City. Although there are a variety of time frames that could be considered in terms of this type of timing relief, allowing for up to three yearly CDP extensions (for a total CDP validity of up to five years) provides a reasonable time frame within which to exercise a CDP, and provides a year past what is currently allowed under the LCP.<sup>5</sup>

Each one year time extension would be contingent upon a finding of no changed circumstances that would affect the original CDP decision (e.g., such changed circumstances may include changes in the LCP or the Coastal Act, changes in the character of the subject development site or its surroundings, or changes in public service capacities),<sup>6</sup> and the same noticing, hearing, and appeal requirements as applied to the originally permitted development.<sup>7</sup> Past five years, a CDP approval is fairly “stale” and warrants an overall re-review, past just the changed circumstances threshold, to ensure LCP and Coastal Act consistency based on current and up to date evidence and other factors. In this way, the LCP can be made clear, CDP permittees are allowed up to an additional year to pursue their project, and coastal resources can be appropriately protected pursuant to the LCP and the Coastal Act.

As modified (see suggested modifications), the Commission finds the proposed LCP consistent with and adequate to carry out the LUP.

### C. California Environmental Quality Act (CEQA)

The Coastal Commission’s review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Local governments may, but are not required to, undertake environmental analysis of proposed LCP amendments, and the Commission can and does use any environmental information that the local government has developed.

In this case the City, acting as lead CEQA agency, found the proposed LCP amendment to be ministerially exempt from CEQA requirements pursuant to Section 15268 of the State CEQA Guidelines and Public Resources Code Section 21080.9.

This report has discussed the relevant coastal resource issues with the proposal, and has identified appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

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<sup>5</sup> Recent LCP procedural updates on this issue that have been certified by the Commission have focused on the 5 year horizon as an appropriate time horizon for CDPs (e.g., San Luis Obispo County LCP).

<sup>6</sup> The changed circumstances criteria is the same as applies to Coastal Commission CDPs pursuant to the Commission’s regulations for CDP extensions.

<sup>7</sup> As is implicit in the current LCP, but with this change would be identified explicitly in the LCP’s CDP extension regulations.



As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



## ORDINANCE O-2009-004

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH PROVIDING TIME EXTENSION OPPORTUNITIES TO LAND USE ENTITLEMENTS CONSISTENT WITH STATE LEGISLATIVE ACTION IN THE COASTAL ZONE BY AMENDING SECTION 17.121.160 OF THE 1983 ZONING CODE/LOCAL COASTAL PLAN LAND USE PROGRAM.

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The City Council of the City of Pismo Beach does hereby ordain as follows:

#### Section 1

Municipal Code section 17.121.160 of the 1983 Zoning/Local Coastal Plan land use plan regulations is hereby amended as follows:

#### 17.121.160 Expiration of Permits

1. Any of the above permits granted under the terms of this Ordinance shall, without further action, become null and void if not inaugurated within twenty-four (24) months of the date of approval or within any shorter period of time if so designated by the approving authority.
2. Upon application filed prior to the expiration date of the approved permit, the time at which the permit expires may be extended by the Planning Commission for a period or periods of time not exceeding an additional twenty-four (24) months; **except for additional time as noted in (3) and (4) below.**
3. **An automatic time extension for any land use permit (as identified in Chapter 17.121) will be granted for the same period of time a land use permit is extended by the state Legislature or any state agency, without the requirement for a public hearing, if the State Legislature or any state agency extends any land use permit beyond the time limits specified in (1) and (2) above.**
4. **Coastal permits that must be secured ancillary to any of the above permits shall be automatically extended as noted in (3) above.**

#### Section 2

The amendment of Municipal Code section 17.121.160 ministerial exemption pursuant to the California Code of Regulations section 15268.

#### Section 3

Staff is directed to forward the amendments to the Local Coastal Program (LCP) to the California Coastal Commission for certification following approval of the second reading. The LCP amendments shall take effect immediately upon Coastal Commission certification, consistent with Public Resources Code Sections 30512, 30513, and 30519.

Prior to the expiration of fifteen days from the passage thereof, this ordinance shall be published in full or in summary at least once a weekly newspaper of general circulation, published in the City of Pismo Beach.

**INTRODUCED** at a regular meeting of the City Council held this 2<sup>nd</sup> day of February, 2009, on motion of Councilmember Waage, seconded by Councilmember Vardas, and on the following roll call vote, to wit:

**AYES: 5 Councilmembers: Waage, Vardas, Ehring, Higginbotham, Reiss**

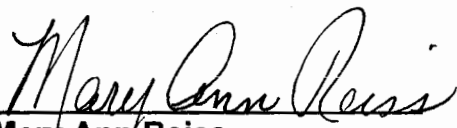
**NOES: 0**

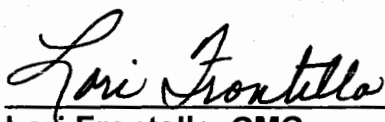
**ABSENT: 0**

**ABSTAIN: 0**

**Approved:**

**Attest:**

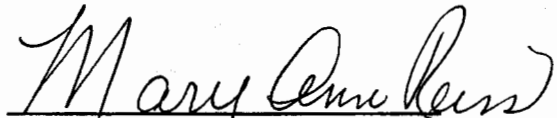
  
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**Mary Ann Reiss**  
**Mayor**

  
\_\_\_\_\_  
**Lori Frontella, CMC**  
**City Clerk**


**SECOND READING** at a regular meeting of the City Council held this 17<sup>th</sup> day of February, 2009, on motion of Councilmember Vardas, seconded by Councilmember Waage, and on the following roll call vote, to wit:

**AYES: 5 Councilmembers: Vardas, Waage, Ehring, Higginbotham, Reiss**  
**NOES: 0**  
**ABSENT: 0**  
**ABSTAIN: 0**

**Approved:**

  
\_\_\_\_\_  
**Mary Ann Reiss**  
Mayor


**Attest:**

  
\_\_\_\_\_  
**Emily Colborn, CMC**  
Deputy City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**David M. Fleishman, City Attorney**

**CERTIFICATION**  
I hereby certify the foregoing is a true and correct copy of the original document on file in the office of the City Clerk of the City of Pismo Beach

  
\_\_\_\_\_  
**City Clerk (Deputy)** **Dated:** 2/24/09