

CALIFORNIA COASTAL COMMISSION

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**W 10a**

DATE: April 29, 2010

TO: Commissioners and Interested Persons

FROM: John Ainsworth, Deputy Director
Steve Hudson, District Manager
James Johnson, Coastal Program Analyst

SUBJECT: City of Port Hueneme LOCAL COASTAL PROGRAM MAJOR AMENDMENT No. MAJ-1-10 (Flood Hazard Overlay Zone) Public Hearing and Action at the California Coastal Commission Hearing May 12, 2010 in Santa Cruz.

DESCRIPTION OF THE SUBMITTAL

The City of Port Hueneme is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to update the existing Flood Hazard (FH) Overlay Zone in compliance with the current requirements of the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program.

The LCP amendment was submitted to the Commission on January 11, 2010. On February 10, 2010, the Executive Director determined that the City's amendment submittal was in proper order and legally adequate to comply with the submittal requirements of Coastal Act Section 30510(b). The time limit to act upon this LCP Amendment was 60 days, unless extended pursuant to Section 30517 of the Coastal Act and California Code of Regulations Section 13535(c). The time limit for this amendment was extended for an additional year, at the March 10, 2010 Commission hearing. The extended deadline for Commission action is March 12, 2011.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission **Deny** the proposed LCP amendment as submitted and approve it only if modified so that the ordinance will be consistent with and adequate to carry out the certified Land Use Plan. The purpose of the proposed amendment is to update the existing Flood Hazard Overlay Zone in order to comply with current Federal Emergency Management Agency (FEMA) regulations including updated Flood Hazard Insurance Study and Flood Insurance Rate Maps for Ventura County, including the City of Port Hueneme that will become effective in 2010. The three suggested modifications are necessary to ensure that the proposed changes to the City's Coastal Zoning Ordinance/Implementation Plan will not only comply with current FEMA standards but also with all of the provisions and policies of the certified Land Use Plan.

The standard of review for the proposed amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) is that it must be in conformance with, and able to adequately carry out, the provisions of the Land Use Plan (LUP) portion of the City of Port Hueneme certified Local Coastal Program, which includes most of the Chapter Three policies of the Coastal Act and some of these other procedural requirements. In addition, part of that standard requires that the procedural provisions of implementation plans be consistent with the requirements in Article 17 of Subchapter 2 of Chapter 8 of the Commission’s regulations (California Code of Regulations, Title 14, sections 13560-13574) and other aspects of the Coastal Act and associated regulations that are essential to ensuring that a Local Coastal Program operate consistently with the Coastal Act.

As discussed in the findings set forth in this report, the proposed amendment would not be consistent with or adequate to carryout the provisions of LUP with respect to the protection of coastal resources unless modified as suggested. **The motions and resolutions for Commission action begin on pages 4 and 5.**

Additional Information: Please contact James Johnson, California Coastal Commission, South Central Coast District, 89 South California St., Second Floor, Ventura, CA 93001. Tel: (805) 585-1800

SUBSTANTIVE FILE DOCUMENTS

City of Port Hueneme City Council Ordinance No. 697 approving Local Coastal Program Amendment for Port Hueneme Municipal Code Article X, Chapter 4, Part K (“Flood Hazard Overlay Zone”) as to Floodplain Regulations. City of Port Hueneme Coastal Plan, certified in 1984, as amended; City of Port Hueneme Council Agenda Staff Report and Meeting Minutes, dated December 7, 2009 and January 4, 2010; Letter received January 11, 2010 from Greg Brown, Director of Community Development to Steve Hudson, California Coastal Commission.

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I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter.

...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)

The standard of review that the Commission uses in reviewing the proposed amendment to the Implementation Plan, pursuant to Section 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the City of Port Hueneme certified Local Coastal Program. In addition, the majority of the Coastal Act’s Chapter 3 policies have been incorporated as guiding policies in the certified City of Port Hueneme LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held a public hearing (City Council Hearing on December 7, 2009), received no public or written comments regarding the proposed

amendment from concerned parties and members of the public, and adopted Resolution No. 697. The hearing was noticed to the public by publishing the notice in the local newspaper and by mailing notice to interested parties, consistent with Section 13515 of Title 14 of the California Code of Regulations. Notice of the Coastal Commission hearing for LCP Amendment CPH-MAJ-1-10 has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. The City Council Resolution for this amendment states that the amendment will take effect on the 31st day following its passage and adoption and after approval by the California Coastal Commission and acceptance of the Coastal Commission's action by resolution of the City Council.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

Following public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to the resolution.

A. DENIAL OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED

MOTION: *I move that the Commission reject the City Port Hueneme Implementation Program Amendment CPH-MAJ-1-10 as submitted.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Local Implementation Program Amendment 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 PLAN AMENDMENT AS SUBMITTED:

The Commission hereby **denies** certification of Local Implementation Program Amendment CPH-MAJ-1-10 as submitted by the City of Port Hueneme 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 City of Port

Hueneme 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 Amendment Program as submitted.

B. CERTIFICATION OF THE LOCAL IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission certify City of Port Hueneme Local Implementation Plan Amendment CPH-MAJ-1-10 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 Plan 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 LOCAL IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the City of Port Hueneme Local Implementation Plan Amendment CPH-MAJ-1-10 if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan, as amended by the proposed Amendment with the suggested modifications, conforms with, and is adequate to carry out, the provisions of 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 Implementation Plan 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.

III. SUGGESTED MODIFICATIONS TO IMPLEMENTATION PLAN AMENDMENT

The staff recommends that the Commission certify the following, with 3 modifications as shown below. Language presently contained within the certified LCP or proposed as part of the City's current LCP amendment proposal is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~line-out~~. Language proposed by Commission staff to be inserted is shown **bold underlined**.

Modification 1: Intent and Relation to other Provisions of the LCP .

The following changes to Section 10590 of the LCP shall be made:

Part K. Flood Hazard (FH) Overlay Zone

10590 (a) Flood Hazard Overlay – Intent and Relation to other Provisions of the LCP

The Flood Hazard (FH) Overlay Zone is intended to provide additional provisions and requirements for new development within mapped flood hazard areas. The provisions and requirements of the Flood Hazard Overlay Zone shall be in addition to all other provisions of the certified Local Coastal Program. In the event that any requirement or definition of the Flood Hazard Overlay Zone conflicts with any other requirement or definition of the certified Local Coastal Plan, then the provisions of the certified Local Coastal Program shall apply.

10590 (b) Purpose.

...

Modification 2: Definitions

The following change to Section 10591, Paragraph AAA. “Development” of the LCP shall be made:

AAA. Development. **In addition to the definition of development in the City’s Local Coastal Program Zoning Ordinance Section 10356, within areas of the Flood Hazard Overlay, development shall also include** ~~Mean~~ any man-made change to improved or unimproved real estate, including without limitation, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Modification 3: Development Review

The following changes to Sections 10593 and 10594 of the LCP shall be made:

10593 Development Review.

Any new development, including repair and maintenance, within the flood zone overlay requires a coastal development permit pursuant to Section 10356 unless such development complies with the applicable exemption provisions of the certified LCP. All new development, in addition to any standards required pursuant to this Flood Hazard Overlay, must comply with all applicable policies and provisions of the Local Coastal Program.

All projects involving property situated within the FH zone are subject to the Development Review and Permit Procedures specified in Sections 10352, 10356, and 10357; provided, however, that the following classes of development shall be exempt **as follows**:

A. Improvements to Existing Developed Properties. Improvements to existing developed properties shall be exempt from the provisions of Sections 10352 and ~~40535~~ **10353** of this Article so long as such properties and improvements meet all of the following criteria: ...

10594 Development Standards

The Development Standards prescribed herein apply solely to properties located within the FH Zone, **though these development standards are not necessarily the sole standards applicable to properties in that location.** The development standards of the underlying districts within which the aforementioned properties are located are superseded by the standards prescribed herein and additional standards which may be imposed pursuant to Section 10352(F); provided, however, that the provisions of this Section in no way change or supersede the **coastal resource protection policies and provisions of the certified Land Use Plan and the Zoning Ordinance or the** uses permitted in the underlying zone district within which such properties are located nor do the provisions of this Section supersede Development Standards specified in Chapter 3, Part A, Use and Maintenance Standards specified in Chapter 2 Part, B, or Use Regulations specified in Chapter 2. ...

F. The City's Director of Community Development or his designated representative is hereby appointed to administer, implement, and enforce this Part K by granting or denying development permits (**but not including coastal development permits**) in accord with its provisions. The Director shall obtain and maintain the following records: (1) certification by a registered engineer or architect that a proposed structure complies with Section 10594; (2) the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement; and (3) that all other required **city**, state, and federal permits, **including coastal development permits,** have been obtained.

IV. FINDINGS FOR APPROVAL OF THE CITY OF PORT HUENEME LIP AMENDMENT, IF MODIFIED AS SUGGESTED

The proposed amendment affects the Local Implementation Plan (LIP) component of the certified City of Port Hueneme LCP. The standard of review for the proposed amendment to the LIP of the certified LCP, pursuant to Sections 30513 and 30514 of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the LUP portion of the certified City of Port Hueneme LCP. In addition, part of that standard requires that the procedural provisions of implementation plans be consistent with the requirements in Article 17 of Subchapter 2 of Chapter 8 of the Commission's regulations (California Code of Regulations, Title 14, sections 13560-13574) and other aspects of the Coastal Act and associated regulations that are essential to ensuring that a Local Coastal Program operate consistently with the Coastal Act.

The following findings support the Commission's approval of the LIP, if modified as suggested. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION AND BACKGROUND

1. AMENDMENT DESCRIPTION

The City of Port Hueneme is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to update the existing Flood Hazard (FH) Overlay Zone in compliance with the current requirements of the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program.

The primary purpose of the proposed amendment is to update the existing Flood Hazard Overlay Zone in order to comply with current Federal Emergency Management Agency (FEMA) regulations including updated Flood Hazard Insurance Study and Flood Insurance Rate Maps for Ventura County, including the City of Port Hueneme that will become effective in 2010. The proposed amendment generally includes the following changes:

- Add statutory authority language,
- Adds several new definitions,
- Replaces the old reference with the new 2010 Flood Insurance Study and Rate Maps,
- Adds an "Abrogation and Greater Restriction" section,
- Designates a floodplain administrator (Community Development Director),
- Adds requirement to submit future technical data if physical alterations occur to the base flood elevation,
- Adds a Variance section,
- Adds language that all other State and Federal permits be obtained as part of issuing future floodplain development permits,
- Adds a finding as part of future permit review that sites are reasonably safe from flooding,
- Adds a finding as part of future subdivision review that tract design minimizes flood damage,
- Requires identification of surrounding flood data for future subdivision proposals or other development greater than 50 lots or 5 acres,
- Requires when base flood elevation date is not available, that it be provided from other sources, and
- Requires notification of neighboring communities of watercourse alterations and assure that the flood carrying capacity is maintained.

2. Background

The City of Port Hueneme ("City") is located at the southwest portion of Ventura County between the Pacific Ocean and the Oxnard Plain. The City is surrounded by the City of Oxnard on the north and east, while the Oxnard Harbor District, Port of Hueneme and US Naval Construction Battalion Center are located on the west with the ocean to the south. (Exhibit 1)

The existing Flood Hazard Overlay Zone provisions were adopted with the original certification of the City's LCP in 1984. Since that time, FEMA has developed new criteria

for floodplain management as a condition of continued eligibility in the National Flood Insurance Program. FEMA is requesting that the City amend its Flood Hazard Overlay Zone to reflect the most current data shown on the latest Flood Insurance Rate Maps and to provide new definitions and provisions consistent with Sections 60.3(a) and (b) of the National Flood Insurance Program regulations. Communities that fail to amend the necessary floodplain management regulations to reflect the data shown on the latest Flood Insurance Rate Maps are subject to suspension from participation in the National Flood Insurance Program. Thus, to comply with these new FEMA regulations and provide up to date requirements for land uses and structures, the proposed amendment to the City's certified LCP is proposed (Exhibit 2). The currently proposed revisions were adopted by the City on January 4, 2010, after a public hearing on December 7, 2009, as Resolution No. 697 (Exhibit 3).

The LCP amendment was submitted to the Commission on January 11, 2010. On February 10, 2010, the Executive Director determined that the City's amendment submittal was in proper order and legally adequate to comply with the submittal requirements of Coastal Act Section 30510(b). The time limit to act upon this LCP Amendment was 60 days, unless extended pursuant to Section 30517 of the Coastal Act and California Code of Regulations, Title 14, Section 13535(c). Pursuant to those sections, the time limit for this amendment was extended for an additional year, at the March 10, 2010 Commission hearing. The extended deadline for Commission action on this amendment is March 12, 2011.

B. NEW DEVELOPMENT AND HAZARDS

Section 30250 of the Coastal Act, as incorporated into the certified LCP, states in relevant part:

(a) New development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30253 of the Coastal Act, as incorporated into the certified LCP states, in relevant part:

New development shall: (1) minimize risks to life and property in areas of high geologic, flood, and fire hazard; and, (2) assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The certified LUP contains policies and provisions for new development and the protection of new and existing development from flood hazards and other policies and provisions to protect coastal resources. In addition, most Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified City LUP as guiding policies, including Sections 30250 and 30253.

The proposed LCP Amendment which modifies the existing Flood Hazard Overlay Zone creates a new definition of development that is different, and more limited, than the current definition of development pursuant to Section 10356 of the City's certified LCP. The proposed LCP Amendment also creates different standards of review for any new development within the flood hazard overlay zone. The proposed new definition of development for the overlay zone is significantly less comprehensive than the current City's LCP definition. One example is that the current LCP definition of development includes any project which is a public works project or an energy facility; whereas, the new proposed definition does not. Therefore, the proposed amendment would result in reducing the types of developments that would require a coastal development permit. Thus, the amendment would not be adequate to ensure that coastal resources would be protected or adequately carry out the provisions of the LCP during the review of these future projects.

The proposed LCP Amendment would also result in substantial changes to the policies, ordinances, and standard of review for new development within the overlay zone. Moreover, the proposed changes would result in an internal inconsistency between the applicable policies and standards of review for new development, depending on whether such development would be located within or outside the Flood Hazard Overlay Zone. The proposed LCP Amendment also creates a conflict with the exemptions for repair, maintenance and improvements to existing developed property as compared to the LCP exemptions identified in Section 10356. As an example, the proposed LCP Amendment exempts improvements to existing developed property within the flood hazard zone for repair and maintenance so long as the repair, reconstruction, or improvement of a structure does not exceed 50% of the market value of the structure: (1) before the improvement or repair is started; or (2) if the structure has been damaged, and is being restored, before the damage occurred. The existing LCP does not provide for this type of exemption and as proposed in the amendment creates a conflict with the LCP. Lastly, the proposed amendment is not adequate to clarify that certain types of repair and maintenance activities that are not exempt under the existing provisions of the LCP would still require a coastal permit within the flood hazard zone overlay.

As a result, the proposed amendment does not adequately implement the City's Land Use Plan and Coastal Act policies with regard to protection of coastal resources. Therefore, **Modifications 1 and 3** have been suggested to clarify the proposed flood hazard overlay is intended to provide provisions and requirements for new development within mapped flood hazard areas in addition to all other provisions and requirements for new development pursuant to the certified Local Coastal Program. **Modifications 1 and 3** also clarify that in the event any requirement or definition of the flood hazard overlay zone conflicts with any other requirement or definition of the certified Local Coastal Plan, then the provisions of the certified Local Coastal Program shall apply. Moreover, **Modification 2** has been suggested to ensure that the definition of "development" in the flood hazard

overlay will meet the minimum requirements of the definition of “development” provided in the certified Local Coastal Program Zoning Ordinance. Lastly, **Modification 3** includes correcting an apparent typographic error proposed as Section ‘10535’ which does not exist in the Zoning Ordinance to Section ‘10353’ which includes Administrative Permits.

For the reasons above, the Commission finds that the proposed CZO/IP amendment is not consistent with or adequate to carry out the provision of the LUP policies with respect to new development and flood hazards unless modified as suggested.

V. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, 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 Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The City of Port Hueneme LCP Amendment CPH-MAJ-1-10 consists of an amendment to the Local Implementation Plan (IP) portions of the certified LCP. Feasible alternative and mitigation measures to substantially lessen any significant adverse impact, in addition to language clarifications have been incorporated into the suggested modifications.

For the reasons discussed in this report, the LCP amendment, if modified as suggested, is consistent with the certified Land Use Plan. Therefore, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts under the meaning of CEQA. Thus, the Commission certifies LCP Amendment CPH-MAJ-1-10 if modified as suggested.

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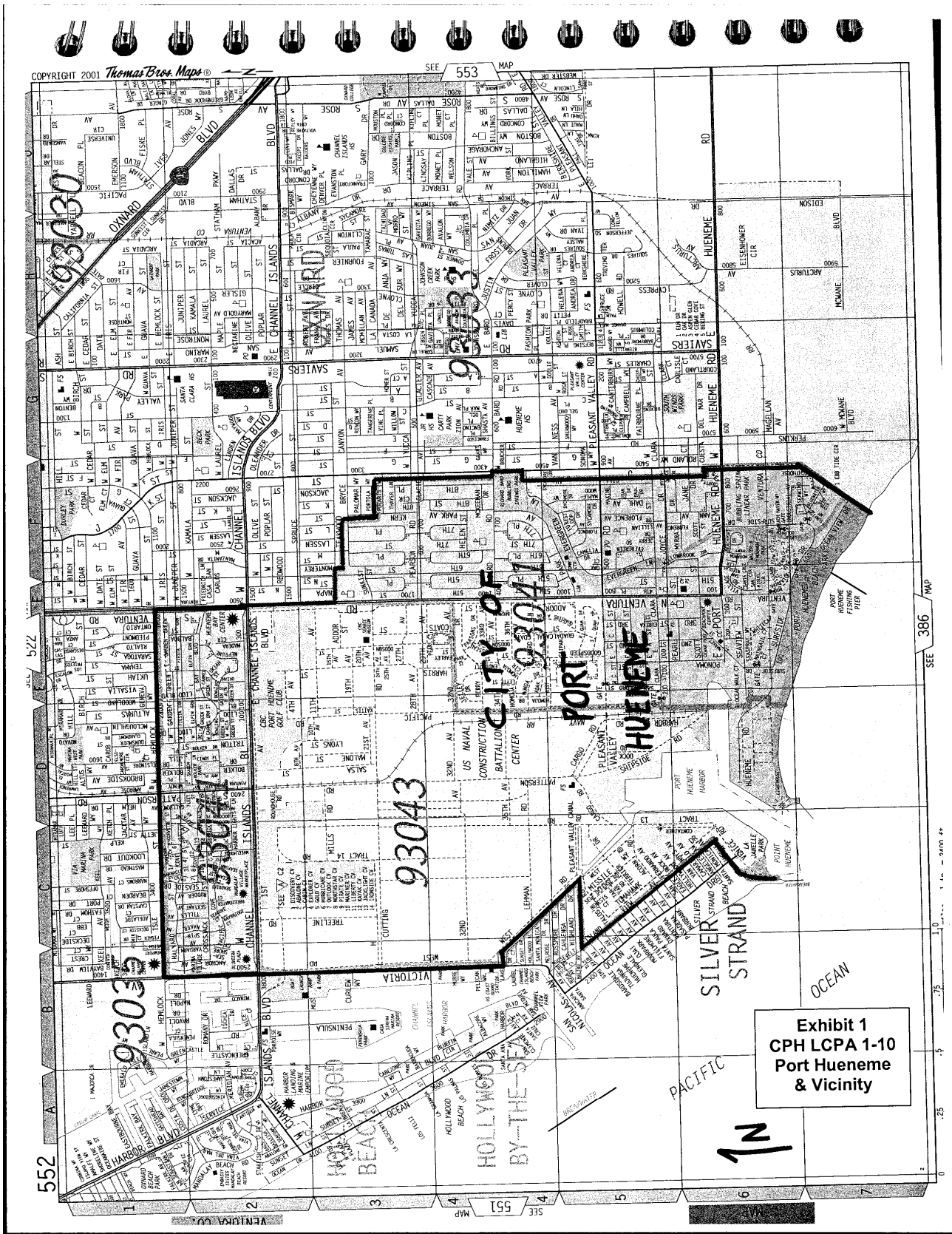


Exhibit 1
CPH LCPA 1-10
Port Hueneme
& Vicinity

Part K. Flood Hazard (FH) Overlay Zone

(Red Line Version)

10590 Purpose.

This Part is adopted in accordance with Government Code §§ 6530, 65560, and 65800 for the purpose of providing this Chapter is to provide minimum standards and criteria to safeguard life, health, property and public welfare by regulating land use in the areas of special flood hazards. The areas of special flood hazard, as indicated by the Federal Insurance Administration of the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for Ventura County, California and Incorporated Areas dated January 20, 2010 with accompanying on the Flood Insurance Rate Maps (FIRM's), and Flood Boundary and Floodway Maps (FBFM's) Community Panel 065051-0001B dated September 24, 1984 January 20, 2010, and all subsequent amendments and revisions are hereby adopted by reference and declared to be a part of this Chapter. The FIRM's and FBFM's are is on file with the City's Department of Community Development, as of the date of this Chapter.

10591 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Part: As used in this Chapter, the following terms shall have the following meanings:

A. Base Flood. The flood having a one percent chance of being equaled or exceed in any given year. For purposes of this Chapter, the Base Flood shall be the same as the 100-year flood.

AA. Basement. Means any area of the building having its floor subgrade – i.e. below ground level - on all sides.

AAA. Development. Means any man-made change to improved or unimproved real estate, including without limitation, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

B. Flood or Flooding. Means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the unusual or rapid accumulation or runoff of surface waters from any source, and/or (2) the collapse or subsidence of land along the shore of a body of water as a result of the erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated similarly unusual and unforeseeable event which results in flooding as defined in this Definition.

C. Flood Hazard (FH) Zone. An overlay zone whose boundaries are the same as the Special Flood Hazard Area as defined in Section 10591(H).

D. Flood Insurance Rate Map (FIRM). Means the official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated both the areas of special flood hazards and risk premium zones applicable to the community.

DD. Flood Insurance Study. Means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

<p>Exhibit 2 CPH LCPA 1-10 Existing and Proposed Revisions to Flood Hazard Overlav Zone</p>

E. Flood Proofing. Means any combination of structural and nonstructural additions, changes and adjustments to structures which reduce or eliminate potential flood damage to real estate or improved property.

EE. Floodway. Means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway".

F. Functionally Dependent Use. Means a use which cannot perform its intended purpose unless it is located or carried out close to the water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

FF. Highest Adjacent Grade. Means the highest natural elevation of the ground surface before construction next to the proposed walls of a structure.

FFF. Historic Structure. Means any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior;
or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

FFFF. Lowest Floor. Means the lowest floor of the lowest enclosed area, including Basement.

G. Mean Sea Level. Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of the 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

GG. New Construction. Means for floodplain management purposes, structures for which the "start of construction" commenced on or after September 24, 1984 (when the City entered the regular phase of the National Flood Insurance program), and includes any subsequent improvements to such structures.

GGG. Recreational Vehicle. Mean a vehicle that is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light-duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

H. Special Flood Hazard Area (SFHA). Means an area having special flood hazards as shown on the City Flood Insurance Rate Map (FIRM) as Zone "A".

HH. Start of Construction. Includes substantial improvement and other proposed new development and means the date the local government building permit was issued, provided the actual start date of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

HHH. Structure. Means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

HHHH. Substantial Damage. Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

I. Substantial Improvement. Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either: (1) before the improvement or repair is started; or (2) if the structure has been damaged, and is being restored, before the damage occurred.

J. Violation. Means the failure of a structure or other development to be fully compliant with this Part. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Part is presumed to be in violation until such time as that documentation is provided.

10592 Permitted uses.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. This Chapter shall apply to all areas of special flood hazards as identified in the latest Federal Insurance Rate Map as of the date of this Chapter. In addition, all property seaward of the reach of mean high tide is hereby placed in the FH (Flood Hazard) zone.

10593 Development review.

All projects involving property situated within the FH zone are subject to the Development Review and Permit Procedures specified in Section Chapter 10352; provided, however, that the following classes of development shall be exempt:

A. Improvements to Existing Developed Properties. Improvements to existing developed properties shall be exempt from the provisions of Sections 10352 and 10535 of

this Article so long as such properties and improvements meet all of the following criteria:

1. Qualification of Property. The property upon which improvements are proposed:
 - a. Has, as of the effective date that such property was zoned FH, been developed in accordance either with the development standards of the underlying zone district within which the property is situated or in accordance with those development standards prescribed in Section 10594 of this Chapter; and
 - b. Is not governed by a pre-existing development permit issued by the City which serves the same general function and purpose as that prescribed in Sections 10352 and 10353 of this Article.
2. Qualification of Improvements. The improvements proposed do not constitute a major modification as defined in Section 10353(H)(2).
 - B. Repair and Maintenance. Repair and maintenance of existing developed properties and unimproved vacant land shall be exempt from the provisions of Sections 10352 and 10353 of this Article so long as such repair, reconstruction, or improvement of a structure does not exceed 50% of the market value of the structure either: (1) before the improvement or repair is started; or (2) if the structure has been damaged, and is being restored, before the damage occurred.
 - C. Other base flood data. When base flood elevation data has not been provided in accordance with Section 10590, the Community Development Director must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source in order to administer Section 10594.
 - D. Alteration of a watercourse. The Community Development Director must notify the County Watershed Protection District and the California Department of Water Resources before physical ground alteration or relocation of a watercourse by the City and assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

10594 Development standards.

The Development Standards prescribed herein apply solely to properties located within the FH Zone. The development standards of the underlying districts within which the aforementioned properties are located are superseded by the standards prescribed herein and additional standards which may be imposed pursuant to Section 10352(F); provided, however, that the provisions of this Section in no way change or supersede the uses permitted in the underlying zone district within which such properties are located nor do the provisions of this Section supersede Development Standards specified in Chapter 3, Part A, Use and Maintenance Standards specified in Chapter 2 Part, B, or Use Regulations specified in Chapter 2.

- A. Anchoring.
 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. Construction Materials and Methods.
 1. All new construction and substantial improvements shall be constructed of materials and utility equipment resistant to flood damage.
 2. All new construction and substantial improvements shall use methods and practices that minimize flood damage.

3. All elements including mechanical equipment that function as part of the structure shall be elevated to the same elevation as the building.
- C. Elevation and Floodproofing.
 1. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.
 2. Nonresidential construction shall either be elevated in conformance with Section 10594(C)(1), or together attendant utility and sanitary facilities:
 - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 3. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit for flood waters.
 4. Manufactured homes shall also meet the standards in Section 10594(C)(3).
- D. Certification. A registered professional engineer or architect must certify that the standards of Section 10594 are satisfied.
- E. Utilities.
 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into systems.
 2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into the flood waters.
 3. On-site waste disposal systems shall not be permitted.
- F. The City's Director of Community Development or his designated representative is hereby appointed to administer, implement, and enforce this Part K by granting or denying development permits in accord with its provisions. The Director shall obtain and maintain the following records: (1) certification by a registered engineer or architect that a proposed structure complies with Section 10594; and (2) the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement; and (3) that all other required state and federal permits have been obtained.
- G. Base flood elevation changes.
Within 6 months of information becoming available for project completion, whichever comes first, the Community Development Director shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision.

10595 Subdivisions.

All new subdivision proposals and other proposed development greater than 50 lots or 5 acres in size, whichever is the lesser, must: (1) identify the Special Flood Hazard Areas and base Flood Elevations; (2) identify the elevations of lowest floors of all proposed structures and pads on the final plans; (3) If the site is filled above the base flood elevation, the following as-built information for each structure must be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map revisions based on fill to the Community Development Director with the following information: (a) lowest floor elevation; (b) pad elevation; and (c) lowest adjacent grade. All subdivision proposals and other proposed development must be consistent with the need to minimize flood damage including location and construction of proposed public utilities and facilities such as sewer, gas, electrical, and water systems to minimize flood damage and provision of adequate drainage to reduce exposure to flood hazards.

10596 Appeal procedures.

The Director of Community Development or his designated representative shall review applications described in Section 10393(A), and shall provide a determination, where needed, as to the exact location of the boundaries of the Flood Hazard (FH) Zone where there appears to be a conflict between a mapped boundary and actual field conditions. Upon receipt by the Director of Community Development of an appeal filed by a person aggrieved by a decision pursuant to Section 10596, the Director of Community Development shall promptly give written notice to the applicant and the appellate that an appeal has been taken and that the matter will be considered and heard by the City Council at a regular or adjourned regular meeting, the date of which shall be set forth in the Notice, but in no event to be more than thirty (30) days or less than ten (10) after such notice is mailed to the applicant and appellate. A copy of this notice shall be circulated at the time and manner as prescribed in Section 10352(F)(1). The City Council, at the time of such hearing, shall consider all matters appurtenant thereto, and by its next meeting after such hearing the City Council shall render its decision either upholding or reversing the determination of the Director of Community Development and/or modifying the Director of Community Development's determination. Written notice thereof, unless waived by the applicant and/or appellate at the time of the hearing, shall promptly be mailed to the applicant and appellate by the Director of Community Development. The decision of the City Council shall be deemed final and conclusive. (Ord. 579 § 6 (2 (part)), (29), 1992)

10597 Warning and disclaimer of liability.

The degree of flood protection required by this Chapter is considered for regulatory purposes and is based upon engineering and scientific considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Thus Chapter does not imply that the land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Port Hueneme, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

10598 Coastal development.

Nothing herein shall be construed as to limit or extend the Coastal Commission's jurisdiction with regard to Coastal Developments which are located in Flood Hazard (FH) zones and in an area within which the Coastal Commission retains original permit jurisdiction. All such coastal developments either initiated or approved by the City shall be conditioned as to require Coastal Commission approval prior to commencement of use or construction. Where building permits are required, no such permit shall be issued without evidence of Coastal Commission approval.

10599 Variance.

Issuing a variance under this Part is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and cannot be modified by the granting of a variance. Variances may be considered pursuant to the limitations set forth in Section 10005.

A. General.

A variance may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed work will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure. A variance cannot be issued within any mapped floodway if any increase in flood levels during the base flood discharge would result. A variance can only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief with a minimum of deviation from the requirements of this Part.

B. Administration.

Any applicant to whom a variance is granted must be given written notice by the Director of Community Development that: (1) issuing a variance to construct a structure below the base flood level will likely result in increased premium rates for flood insurance; and (2) such construction below the base flood level increase risks to life and property.

C. Record.

The Community Development Director must maintain a record of all variance actions, including justification for their issuance, and report such variances to FEMA.

10600 Abrogation and greater restrictions.

This Part is not intended to repeal, abrogate, or impair and existing easements, covenants, or deed restrictions. However, where this Part and another ordinance, easement, covenant, or deed restriction conflict or overlap, which ever imposes the more stringent restrictions prevail.

ORDINANCE NO. 697

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PORT HUENEME AMENDING PORT HUENEME MUNICIPAL
CODE ARTICLE X, CHAPTER 4, PART K ("FLOOD HAZARD
OVERLAY ZONE") AS TO FLOODPLAIN REGULATIONS**

The City Council of the city of Port Hueneme does hereby ordain as follows:

SECTION 1: The City Council finds and declares as follows:

A. Article XI, § 7 of the California Constitution and Article I, § 1.1 of the City Charter empowers the City to enact and enforce ordinances regulating conditions that may be public nuisances or health hazards, or that promote social, economic, or aesthetic considerations; and

B. The special flood hazard areas of Port Hueneme are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare; and

C. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses; and

D. In order for City residents to be eligible to purchase federally-subsidized flood insurance, cities must adopt floodplain management regulations which meet or exceed the requirements set forth in Title 44, Part 60 of the Code of Federal Regulations; and

E. Government Code Sections 65302, 65560, and 65800 confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

F. On December 7, 2009, the City Council held a public hearing regarding the Ordinance for Floodplain Management Regulations. Based on the evidence submitted during the public hearing, staff recommendations, and Council deliberations, the City Council found it is in the public interest to adopt this Ordinance; and

G. Adopting this Ordinance will allow residents of the City of Port Hueneme to remain eligible to purchase flood insurance through the National Flood Insurance Program. The Ordinance meets the minimum standards set forth in Title 44, Section 60.3 of the Code of Federal Regulations.

**Exhibit 3
CPH LCPA 1-10
City of Port
Hueneme
Resolution No. 697**

SECTION 2: PHMC § 10590 is amended to read as follows:

“10590 Purpose.

This Part is adopted in accordance with Government Code §§ 6530, 65560, and 65800 for the purpose of providing minimum standards and criteria to safeguard life, health, property and public welfare by regulating land use in the areas of special flood hazards. The areas of special flood hazard, as indicated by the Federal Insurance Administration of the Federal Emergency Management Agency (FEMA) in the “Flood Insurance Study (FIS) for Ventura County, California and Incorporated Areas,” dated January 20, 2010, with accompanying Flood Insurance Rate Maps (FIRM’s), and Flood Boundary and Floodway Maps (FBFM’s) dated January 20, 2010, and all subsequent amendments and revisions are hereby adopted by reference and declared to be a part of this Chapter. The FIRM’s and FBFM’s are on file with the Department of Community Development.”

SECTION 3: PHMC § 10591 is amended as indicated and new definitions are added to read as follows:

“10591 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Part:

AA. Basement. Means any area of the building having its floor subgrade, i.e., below ground level, on all sides.

AAA. Development. Means any man-made change to improved or unimproved real estate, including, without limitation, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DD. Flood Insurance Study. Means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

EE. Floodway. Means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “Regulatory Floodway.”

FF. Highest Adjacent Grade. Means the highest natural elevation of the ground surface before construction next to the proposed walls of a structure.

FFF. Historic Structure. Means any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior;
or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

FFFF. Lowest Floor. Means the lowest floor of the lowest enclosed area, including Basement.

GG. New Construction. Means for floodplain management purposes, structures for which the "start of construction" commenced on or after September 24, 1984 (when the City entered the regular phase of the National Flood Insurance program), and includes any subsequent improvements to such structures.

GGG. Recreational Vehicle. Mean a vehicle that is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light-duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

HH. Start of Construction. Includes substantial improvement and other proposed new development and means the date the local government building permit was issued, provided the actual start date of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction

means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

HHH. Structure. Means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

HHHH. Substantial Damage. Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

J. Violation. Means the failure of a structure or other development to be fully compliant with this Part. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Part is presumed to be in violation until such time as that documentation is provided.”

SECTION 4: PHMC § 10593 is amended by adding new subsections (C) and (D) to read as follows”

“10593 Development review.

All projects involving property situated within the FH zone are subject to the Development Review and Permit Procedures specified in Section 10352; provided, however, that the following classes of development shall be exempt:

C. Other base flood data. When base flood elevation data has not been provided in accordance with Section 10590, the Community Development Director must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source in order to administer Section 10594.

D. Alteration of a watercourse. The Community Development Director must notify the County Watershed Protection District and the California Department of Water Resources before physical ground alteration or relocation of a watercourse by the City and assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.”

SECTION 5: PHMC § 10594(F) is amended, and a new subsection G is added to § 10594, to read as follows:

“10594 Development standards.

F. The City’s Director of Community Development or his designated representative is hereby appointed to administer, implement, and enforce

this Part K by granting or denying development permits in accord with its provisions. The Director shall obtain and maintain the following records: (1) certification by a registered engineer or architect that a proposed structure complies with Section 10594; (2) the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement; and (3) that all other required state and federal permits have been obtained.

G. Base flood elevation changes. Within 6 months of information becoming available for project completion, whichever comes first, the Community Development Director shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision.”

SECTION 6: A new § 10595 is added to the PHMC to read as follows:

“10595 Subdivisions.

All new subdivision proposals and other proposed development greater than 50 lots or 5 acres in size, whichever is the lesser, must: (1) identify the Special Flood Hazard Areas and base Flood Elevations; (2) identify the elevations of lowest floors of all proposed structures and pads on the final plans; (3) if the site is filled above the base flood elevation, the following as-built information for each structure must be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map revisions based on fill to the Community Development Director with the following information: (a) lowest floor elevation; (b) pad elevation; and (c) lowest adjacent grade. All subdivision proposals and other proposed development must be consistent with the need to minimize flood damage including location and construction of proposed public utilities and facilities such as sewer, gas, electrical, and water systems to minimize flood damage and provision of adequate drainage to reduce exposure to flood hazards.”

SECTION 7: A new § 10599 is added to the PHMC to read as follows:

“10599 Variance.

Issuing a variance under this Part is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and cannot be modified by the granting of a variance. Variances may be considered pursuant to the limitations set forth in Section 10005.

A. General.

A variance may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed work will not preclude the structure’s continued designation as a Historic Structure and the

variance is the minimum necessary to preserve the historic character and design of the structure. A variance cannot be issued within any mapped floodway if any increase in flood levels during the base flood discharge would result. A variance can only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief with a minimum of deviation from the requirements of this Part.

B. Administration.

Any applicant to whom a variance is granted must be given written notice by the Director of Community Development that: (1) issuing a variance to construct a structure below the base flood level will likely result in increased premium rates for flood insurance; and (2) such construction below the base flood level increase risks to life and property.

C. Record.

The Community Development Director must maintain a record of all variance actions, including justification for their issuance, and report such variances to FEMA.”

SECTION 8: A new § 10599.1 is added to the PHMC to read as follows:

“10599.1 Abrogation and greater restrictions.

This Part is not intended to repeal, abrogate, or impair and existing easements, covenants, or deed restrictions. However, where this Part and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions prevails.”

SECTION 9: General Plan Consistency.

The Floodplain Management Ordinance is consistent with General Plan Goals, Objectives and Policies related to the Public Safety Element of the General Plan. Specifically, the amendment is consistent with Public Safety Element Goals, Objectives and Policies that include Goal 1 to protect Port Hueneme residents, workers, and visitors from flood hazards and Goal 9 to provide and maintain necessary storm drainage control facilities.

SECTION 10: Coastal Plan Consistency.

A. PHMC § 10006 provides that any amendment to adopted development and use standards or boundary change to land situated within the California Coastal Zone constitutes an amendment of the City's Local Coastal Plan (LCP) and cannot become final until approval or certification is granted by the California Coastal Commission. On December 7, 2009, the City Council conducted a public hearing to consider this Ordinance to amend the Implementing Component of the LCP (commonly referred to as “Zoning Ordinance”), which involves Chapter 4, Part K of the Flood Hazard Overlay Zone. The City Council considered all public testimony, both written and oral, received

in conjunction with the public hearing. The City's Planning Agency constitutes the City Council. Accordingly, the proposed LCP amendment is initiated by the City Council of the City of Port Hueneme acting for itself and as the planning agency.

B. Written notice of the availability of LCP public review draft documents pertaining to the proposed Ordinance amendment together with public hearing date before the City Council was mailed to all governmental agencies and persons known to be interested in LCP matters. In addition, copies of the review draft documents were made available for public perusal at the Port Hueneme Civic Center, Ray D. Prueter Library, and South Central Coast Area Office of the Coastal Commission. Both notice and draft documents were mailed or delivered on October 14, 2009, a minimum of forty-five (45) days before the City Council's action on the proposal. In addition, written notice of the proposal's public hearing before the City Council of the City of Port Hueneme was mailed to all governmental agencies and persons who were known to be interested in LCP matters and to all persons who have filed written request for such notice, which Notice was mailed not later than ten (10) calendar days before the date of said hearing and a 1/8 page display advertisement was published in a legal section of a newspaper of general circulation on November 26, 2009 a minimum of ten (10) calendar days before the date of said hearing with proposed response to comments supplied to commenting agencies a minimum of ten (10) calendar days prior to said Public Hearing .

C. The California Coastal Act is intended to protect natural and scenic resources; promote the public safety, health, and welfare; and protect public and private property, wildlife, marine fisheries, other ocean resources, and the natural environment and that California Coastal Commission Regulations establish the standards by which proposed land developments or other activities are evaluated to ensure consistency with the Act. Following are evaluations of the proposed Amendment with respect to relevant policies of Chapter 3 of the Coastal Act. On the basis of evidence presented below, the proposed Project is deemed fully consistent with and furthers the objectives of the California Coastal Act of 1976:

I. HAZARD AREAS

a.1. Coastal Act Section 30253: New development shall:

(i) minimize risks to life and property in areas of high geologic, flood, and fire hazard; and,

(ii) assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms alone bluffs and cliffs.

a.2. Consistency Statement: The Federal Emergency Management Agency (FEMA) has updated and published a new Flood Insurance Study and Flood Insurance Rate Maps for Ventura

County that will become effective on January 20, 2010. No significant changes have occurred for the City of Port Hueneme. However, FEMA has developed criteria for floodplain management and as a condition of continued eligibility in the National Flood Insurance Program, FEMA is seeking amendment of the City's existing floodplain management measures to reflect data shown on the latest Flood Insurance Rate Maps and to provide new definitions and provisions pursuant to Sections 60.3(a) and 60.3(b) of the National Flood Insurance Program regulations. Communities that fail to enact or amend the necessary floodplain management regulations to reflect the data shown on the latest Flood Insurance Rate Maps are subject to suspension from participation in the National Flood Insurance Program.

To comply with FEMA regulations and provide up-to-date requirements for land uses and structures, the ordinance revisions proposed to amend Part K, Chapter 4 of the City's Zoning Ordinance generally accomplishing the following:

- Adds statutory authority language,
- Adds several new definitions,
- Replaces the old reference to the new 2010 Flood Insurance Study and Rate Maps,
- Adds an "Abrogation and Greater Restriction" section,
- Designates a floodplain administrator (Community Development Director),
- Adds requirement to submit future technical data if physical alterations occur to the base flood elevation,
- Adds a Variance section,
- Adds language that all other State and Federal permits be obtained as part of issuing future floodplain development permits,
- Adds a finding as part of future permit review that sites are reasonably safe from flooding,
- Adds a finding as part of future subdivision review that tract design minimizes flood damage,
- Requires identification of surrounding flood data for future subdivision proposals or other development greater than 50 lots or 5 acres,
- Requires when base flood elevation data is not available, that it be provided from other sources, and
- Requires notification of neighboring communities of watercourse alterations and assure that the flood carrying capacity is maintained.

In the interest of the public health, safety, and welfare, it is deemed necessary to amend the City's development of standards and criteria regulating land use in Flood Hazard areas of the City designated on the official Flood Insurance Rate Maps on file with the City's Department of Community Development to mitigate against periodic inundation that may result in loss of life and property,

health and safety hazards, disruption of commerce and public services, extraordinary public expenditures for flood protection and relief, and adverse impairment of assessed value and tax base of the community. Concerns as to flood losses caused by the cumulative effects of obstructions in flood hazard areas that may increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Structures and utilities that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

D. APPROVAL.

1. The proposed ordinance is consistent with and furthers the objectives and policies of the City's General Plan, Zoning Ordinance, and Local Coastal Program and provides for the orderly growth, development, and use of properties and activities in the City of Port Hueneme.
2. Pursuant to Public Resources Code § 30510, the City Council of the City of Port Hueneme hereby reiterates its intent to implement the Local Coastal Program and amendments thereto in a manner fully consistent with the California Coastal Act and to issue coastal development permits for the total area included in the City's certified LCP.
3. The City's Director of Community Development is authorized to file documents with the California Coastal Commission and to provide such additional documents and information with appropriate governmental agencies as may be required to implement this ordinance and that the LCP amendment shall take effect after approval by the California Coastal Commission and acceptance by resolution of the City Council consistent with 14 California Code of Regulations Section 13551(b)(2).

SECTION 11: Environmental Assessment.

The City Council determines that this ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines") because it enacts regulations that are applicable to new or altered construction projects subject to project specific discretionary review. Therefore, it can be seen with certainty that there is no possibility that this ordinance will cause a direct physical change in the environment, and therefore the adoption of this ordinance is not considered a project pursuant to CEQA § 21065. In addition, this ordinance is an action being taken for enhanced protection of the environment that does not have the potential to cause significant effects on the environment. Consequently, it is categorically exempt in accordance with CEQA Guidelines §§ 15305 as a minor alteration in land use limitations which do not result in any changes in land use or density; and 15308 as an action taken by a regulatory

agency as authorized by California law to assure maintenance or protection of the environment.

SECTION 12: Severability.

If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end; the provisions of this Ordinance are severable.

SECTION 13: Limitations.

The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 14: Ongoing Prosecution.

Repeal or amendment of any provision of the PHMC will not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 15: Reversion.

If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the PHMC or other City Ordinance by this Ordinance will be rendered void and cause such PHMC provision or other the city ordinance to remain in full force and effect for all purposes.

SECTION 16: Recordation.

The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Port Hueneme's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 17: Effectiveness.

This Ordinance shall take effect the thirty-first (31st) day following its passage and adoption and after approval by the California Coastal Commission and acceptance of the Coastal Commission's action by resolution of the City Council.

PASSED, APPROVED, AND ADOPTED this 4th day of January, 2010.

Signature On File

NORMAN E. GRIFFAW
MAYOR

ATTEST:

Signature On File

MICHELLE ASCENCION, CMC
DEPUTY CITY CLERK

APPROVED AS TO FORM:

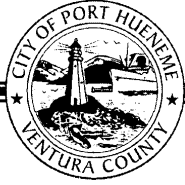
Signature On File

MARK D. HENSLEY
CITY ATTORNEY

APPROVED AS TO CONTENT:

Signature On File

DAVID J. NORMAN
CITY MANAGER



City of Port Hueneme

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF VENTURA) SS:
CITY OF PORT HUENEME)

I, MICHELLE ASCENCION, duly appointed and qualified Deputy City Clerk of the City of Port Hueneme, do hereby certify that the foregoing **Ordinance No. 697** is a true and correct copy passed and adopted at the Regular City Council Meeting of January 4, 2010 by the City Council of the City of Port Hueneme by the following vote:

AYES: Council Members Douglas A. Breeze, Maricela P. Morales,
Jonathan Sharkey, Mayor Pro Tem Sylvia Muñoz Schnopp,
Mayor Norman E. Griffaw

NOES: None

ABSTAINING: None

ABSENT: None

Signature On File

Michelle Ascencion, CMC, Deputy City
Clerk of the City of Port Hueneme and
ex-officio Clerk of the Council

Dated: January 5, 2010