

**CALIFORNIA COASTAL COMMISSION**

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October 20, 2011

**F9a**

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF ENCINITAS LCP  
AMENDMENT #2-10 A (DESP Historic Preservation Overlay) and B (Valet  
Parking) for Commission Meeting of November 2 – 4, 2011**

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**SYNOPSIS**

The subject LCP implementation plan amendment was submitted and filed as complete on September 29, 2010. A one year time extension was granted for the submittal on November 17, 2010. As such, the date by which the Commission must take action is the November 2011 hearing.

The amendment request includes two unrelated items but they each only involve revisions to the City's certified Implementation Plan. This report addresses both items.

**SUMMARY OF AMENDMENT REQUEST**

Part A of the amendment request involves changes to the certified Downtown Encinitas Specific Plan (DESP) to establish a Historic Preservation Overlay Zone for the specific plan area. The DESP was approved with suggested modifications with the original certification of the City's Land Use Plan and Implementation Plan in 1995 and it covers approximately 200 acres situated in the downtown core of the City of Encinitas, bounded roughly by Encinitas Blvd and Moonlight Beach Park on the north; Cornish Drive on the east; K Street to the south and the Pacific Ocean, beach and bluffs to the west. First Street/Old Highway 101 and the rail corridor run through the plan area. In this amendment, the City seeks to allow more flexibility in permitted uses for designated historic structures to encourage their retention and adaptive reuse. In order to implement these changes, the City would also establish a Historic Preservation Overlay Zone for the entire Specific Plan area with the exception of the residential districts located east of Vulcan Avenue.

Part B of the amendment request involves a revision to the Off-Street Parking regulations of the certified Municipal Code, specifically Section 30.54.020F, to allow valet parking, with or without a charge, upon issuance of a Minor Use Permit. As presently certified,

valet parking is allowed but only as a free service and signs must be posted indicating that there is no charge.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending that the Commission approve both of the proposed implementation plan amendments as submitted. Relative to the establishment of a Historic Preservation Overlay Zone (Part A), the inclusion of a broader range of permitted uses in order to preserve and adaptively re-use designated historic structures will serve to enhance and maintain the community character and pedestrian orientation of the City's downtown core, commonly referred to as its "Main Street". Priority uses under the Coastal Act for visitor-serving, commercial recreational and public recreational uses will still be protected by the development standards of the DESP's subdistrict which limit the amount of non-principal uses on a site, as well as specifying design and siting criteria for those ancillary uses. Relative to the valet parking revisions, the requirement to obtain a Minor Use Permit serves as an appropriate mechanism to assure that adequate off-street parking is maintained and there are no unintended spillover effects that could affect public access opportunities. In addition, from an equity perspective, the Commission has not typically restricted valet parking services or required that such services be provided free of any charge. Therefore, for both elements, staff is recommending the Commission certify the proposed revisions as submitted.

The appropriate resolutions and motions begin on Page 4. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 4.

### **BACKGROUND**

On November 17, 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (both land use plan and implementing ordinances) which included the Downtown Encinitas Specific Plan as part of the implementing ordinances. The City accepted the suggested modifications and, on May 15, 1995, began issuing coastal development permits for those areas of the City within the Coastal Zone.

### **ADDITIONAL INFORMATION**

Further information on the City of Encinitas LCP Amendment #2-10 A and B may be obtained from Deborah Lee, District Manager, at (619) 767-2370.

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## **PART I. OVERVIEW**

### **A. LCP HISTORY**

On November 17, 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (both land use plan and implementing ordinances) which included the Downtown Encinitas Specific Plan as part of the implementing ordinances. The City accepted the suggested modifications and, on May 15, 1995, began issuing coastal development permits for those areas of the City within the Coastal Zone.

In February 2010, the Commission approved, as submitted, LCP Amendment #3-08 which also involved the Downtown Encinitas Specific Plan. In that amendment, the City proposed, and the Commission endorsed, additional provisions on the ground floor uses along the First Street Corridor (Highway 101) to prioritize retail and pedestrian-oriented services in order to encourage a pedestrian-oriented environment. The approved amendment also included additional regulations to control accessory and non-conforming uses. Non-conforming uses would be abated if the use was discontinued for more than a year.

### **B. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

**PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS**

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

- I. **MOTION:** *I move that the Commission reject the Implementation Program Amendment for the City of Encinitas as submitted.*

**STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted 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 IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the City of Encinitas as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

**PART III. FINDINGS FOR APPROVAL OF THE CITY OF ENCINITAS LCP IMPLEMENTATION PLAN AMENDMENTS, AS SUBMITTED**

**A. LCP AMENDMENT #2-10A/DOWNTOWN ENCINITAS SPECIFIC PLAN HISTORIC PRESERVATION OVERLAY ZONE**

**1. AMENDMENT DESCRIPTION**

In this amendment, the City proposes to authorize additional permitted uses specific to the preservation of historic structures to supplement the uses already permitted in the underlying zone. The City would also allow the historic use of a resource (defined as the original historic use or the use for which the resource was designated) as a permitted use if that use is not typically permitted by the underlying zone. To encourage investment in the preservation of historic resources, varying uses would be permitted on lots with

designated historic structures to encourage their retention or adaptive re-use. The establishment of the Historic Preservation Overlay Zone would cover all the subdistricts, except for the residential subdistricts east of Vulcan Avenue. No changes are proposed to the Plan's development standards.

## **2. FINDINGS FOR APPROVAL**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

### **a) Purpose and Intent of the Ordinance.**

The purpose and intent of the Ordinance is to assist in the identification, preservation and restoration of those buildings, structures and places within the City that have historic significance.

### **b) Major Provisions of the Ordinance.**

The major provisions of Ordinance No. 2009-15 are as follows:

- Add a new provision to the Goals and Objectives that allows additional permitted uses specific to the preservation of historic structures to supplement the other uses already specified in the underlying zone;
- Add the establishment of a Historic Preservation Overlay Zone to the Uses and Development Regulations section;
- Specifies eligibility criteria for historic resources which requires, among other elements, a historical survey prepared by a qualified professional historian;
- Requires that existing, non-conforming uses may continue and expand, subject to approval of a Major Use Permit, as long as they are legal and have been continuously operating for at least fifty years;
- May require public access to a historically preserved or restored interior; and
- Establishes a review process, including obtaining a Major Use Permit, in order to utilize the special provisions of the Overlay Zone.

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

The following goals and policies are part of the certified LUP, which are the standard of review for this ordinance, and are particularly relevant to promoting visitor uses and coastal access by encouraging priority uses and pedestrian-oriented activities:

#### **Land Use Element**

**POLICY 1.13:** The visitor-serving commercial land use shall be located where it will not intrude into existing residential communities. This category applies in order to

reserve sufficient land in appropriate locations expressly for commercial recreation and visitor-serving uses such as: [...]

The above listed uses and other uses specifically intended to serve the needs of visitors shall be the principal uses allowed within the visitor-serving land use designation. All other permitted or conditionally permitted uses specified in the Zoning Code for areas zoned as visitor-serving commercial, shall be considered as ancillary uses to the allowable principal uses. Ancillary or non-principal uses and required off-street parking shall not occupy or utilize more than 30% of the ground floor area.

**POLICY 1.14:** The City will maintain and enhance the Highway 101 commercial corridor by providing appropriate community-serving tourist-related and pedestrian-oriented uses.

The overall intent of the Downtown Encinitas Specific Plan is to maintain and enhance pedestrian-activities and the economic viability of the City's downtown environment, as well as preserve the community character, including the community's historic resources, within the various subdistricts. As noted above, the Downtown Encinitas Specific Plan was certified with the original certification of the City's LCP in 1995. The DESP established nine subdistricts and provides for a broad mix of commercial uses, including general commercial, visitor commercial and office professional mixed use zones which also allow residential uses as a secondary use.

As originally certified, the Commission required modifications to the two visitor-serving commercial zones (D-VSC and D-VCM) in the Specific Plan to prioritize primary visitor uses, such as hotels/motels, restaurants, food and beverage retail sales, entertainment and other uses specifically intended to serve visitors, in those zones. All other permitted or conditionally permitted uses allowed in the DESP were classified as ancillary uses and they were restricted to no more than 30% of the ground floor area. The DESP also includes a development standard that limits residential uses in these mixed use zones to no more than 50% of the gross floor area and specifies that residential uses must be located behind or above the principal commercial use. As mentioned previously, in LCPA #3-08, the City and Commission further restricted ground floor uses along the First Street Corridor/Old Highway 101 to also emphasize pedestrian-oriented uses.

The principal issue raised by this amendment is the potential de-emphasis or loss of priority uses along the First Street Corridor/Old Highway 101. The amount of land within the City specifically designated and reserved for visitor-serving commercial is minimal. Given the continued population growth in North County, the visitor demands on its coastal communities, including Encinitas, is also expected to grow. Therefore, it is important to ensure that priority uses are maintained and promoted. As originally certified, the Commission accepted a mixed use commercial zone, including both residential and non-priority uses, in the two visitor commercial zones, as well as the First Street Corridor. The Commission found and continues to support the mixed use approach as long as the development standards restrict the amount and siting of the non-priority uses. The subject amendment serves to expand the permitted uses for designated

historic structures in order to encourage their preservation and/or adaptive re-use. The development standards of the DESP are not being amended with this request; therefore, while additional non-priority uses might be introduced along the First Street Corridor, those uses will be limited in scope and must adhere to the siting criteria already established in the specific plan. In addition, the goal of preserving historic resources also serves to enhance the community character of the downtown area that makes it attractive to visitors. Lastly, there are only a limited number of historic structures or places that could take advantage of this plan amendment and its application is not expected to materially change the use pattern of the downtown core. The Commission therefore finds the amendment request is consistent with and adequate to implement the certified LUP and can therefore be approved as submitted.

## **B. LCP AMENDMENT #2-10B/VALET PARKING**

### **1. AMENDMENT DESCRIPTION**

The proposed citywide code amendment revises one sub-section of the Off-Street Parking regulations in the Municipal Code, specifically Section 30.54.020F, to allow valet parking, with or without a charge. At present, the City's certified parking regulations allow valet parking services but only without a fee, and the municipal code specifically requires that signs be posted indicating that the service is free. The amendment also specifies that valet parking services be permitted upon issuance of a Minor Use Permit.

### **2. FINDINGS FOR APPROVAL**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

#### **a) Purpose and Intent of the Ordinance.**

The purpose and intent of the ordinance revision is to allow businesses to charge a fee for valet parking services.

#### **b) Major Provisions of the Ordinance.**

The major provisions of the ordinance are two-fold; the first is to allow valet parking subject to charging a fee for the service and the second is to require a Minor Use Permit for any valet parking operation.

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

The certified Land Use Plan contains the following provisions that are pertinent to the issue of valet parking. Policy 1.12 of the certified LUP addresses off-street parking; it states:

**POLICY 1.12:** [...] The City will require that all commercial, industrial and residential uses be designed and constructed with sufficient off-street parking and loading facilities to assure adequate parking is provided with new development such that no adverse impacts on coastal access are documented. Parking ratios shall be utilized as specified and detailed in the City's Zoning Code and in implementing Specific Plans which provide sufficient parking spaces so as not to require patrons/employees/residents to utilize parking which is necessary/required for other approved uses or street and other public parking that should otherwise be available for public use. (Coastal Act/30252)

Historically, the City prohibited charging a fee for valet parking services; the municipal code also included a specific requirement that signs be posted stating "no charge". Under the City's municipal code, existing businesses that had already been charging for valet parking were grandfathered. The City's restriction was unique in that most local governments do not place such limits on valet parking operations, and the Commission has not typically required such a restriction.

Valet parking operations, as long as they are not utilized to support reductions in otherwise required parking standards, can maximize the amount of on-site parking for an establishment, and many businesses find that their customers appreciate the service. A possible concern is raised by charging fees for valet parking in beachfront areas where businesses have deficient parking and such fees might cause patrons to park off-site rather than utilize the parking facilities at a particular business. One such location in the City of Encinitas is Restaurant Row in Cardiff. There are at least five restaurants situated on both sides of Highway 101 and they are bounded on the north and south by State Beaches and parking lots. The concern would be that patrons not wishing to pay for valet parking would choose to park on the street or in the State Beach lots and thus usurp parking facilities for beachgoers. However, some of the impetus for this code amendment originated from the Restaurant Row businesses who noted that the State Beach parking lots charge for parking and the State Beach charge is typically more than the restaurants would charge for valet parking, so they want to provide the service but recoup their costs. Given that most communities do not restrict fees for valet parking, the City sought this amendment and would require a business to obtain a Minor Use Permit before establishing a paid valet service. The minor use permit process is an appropriate review mechanism to ensure that the valet parking strategy, including fees, will function properly on a site and avoid any spillover impacts to adjoining uses. In this manner, off-street parking facilities can be managed and regulated so as to ensure required off-street parking is provided and no infringement on public parking supplies should occur. The Commission therefore finds that the amendment request can be approved as submitted.

**PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL  
QUALITY ACT (CEQA)**

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. For these amendments, the City found that there were no new significant environmental effects associated with the adoption of the DESP Historic Preservation Overlay Zone beyond those originally identified in the Specific Plan's EIR and addendum. Relative to the valet parking revisions, the City found the amendments were exempt from environmental review. The Commission concurs and finds there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan, as amended, conforms with CEQA provisions.

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**ORDINANCE 2009-15**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF ENCINITAS, CALIFORNIA AMENDING  
THE DOWNTOWN ENCINITAS SPECIFIC PLAN  
TO CREATE A HISTORIC PRESERVATION  
OVERLAY ZONE.  
(CASE NUMBER: 07-84 ZC/LCPA/SPA)**

**WHEREAS**, the Planning Commission conducted a Public Hearing on September 17, 2009 and considered public testimony and made a recommendation to approve the amendment to the City Council on September 17, 2009;

**WHEREAS**, the City Council conducted a Public Hearing on December 16, 2009 and considered public testimony and discussed the establishment of a Historic Preservation Overlay Zone;

**WHEREAS**, the City Council finds that the Downtown Encinitas Specific Plan should be amended to create a Historic Preservation Overlay Zone; and

**WHEREAS**, the City Council finds that the amendments are consistent with the adopted Local Coastal Plan in that the amendments assist in the identification, preservation, and restoration of those buildings, structures, and places within the City that have historic significance; and

**NOW, THEREFORE**, the City Council of the City of Encinitas hereby ordains as follows:

**SECTION 1. GOALS AND OBJECTIVES.** Section 2.3, Goals and Objectives of the Downtown Encinitas Specific Plan is hereby amended to read as follows:

**See Attachment "1"**

**SECTION 2. DEVELOPMENT STANDARDS.** Section 3.2.7, Special Purpose Overlay Zones of the Downtown Encinitas Specific Plan is hereby amended to read as follows:

**See Attachment "2"**

**SECTION 3. HISTORIC PRESERVATION PLAN.** Section 8.3, Historic Preservation Strategies of the Downtown Encinitas Specific Plan is hereby amended to read as follows:

**See Attachment "3"**

**SECTION 4. ENVIRONMENTAL FINDING.** The City of Encinitas previously prepared Environmental Impact Report No. 89-254 for the project. Based upon a review of the current project, it has been determined that:

*City of Encinitas  
LCPA # 2-10A  
(DESP Historic Preservation  
Overlay)*

- a. There are no new significant environmental impacts not considered in the previous Environmental Impact Report;
- b. No substantial changes have occurred with respect to the circumstances under which the project is undertaken; and
- c. There is no new information of substantial importance to the project.

Therefore, in accordance with Section 15164 of the State CEQA Guidelines an addendum has been prepared. No public review of the addendum is required.

**SECTION 6. PUBLIC NOTICE AND EFFECTIVE DATE.** The City Clerk is directed to prepare and have published a summary of this ordinance no less than five 5 days prior to consideration of its adoption and again within fifteen 15 days following adoption indicating the votes cast. This ordinance will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas.

PASSED AND ADOPTED this 27th day of January, 2010 by the following vote to wit:

AYES: Barth, Bond, Houlihan, Stocks.

NAYS: None.

ABSTAIN: None.

ABSENT: Dalager.

*Signature on file*

*[Handwritten signature]*

Dan Dalager, Mayor  
City of Encinitas

**ATTESTATION AND CERTIFICATION:**

I hereby certify that this is a true and correct copy of Ordinance No. 2009-15 which has been published pursuant to law.

*Signature on file*

*[Handwritten signature]*  
Deborah Cervone, City Clerk

Add a new provision:

- Establish a street tree master plan which includes preservation of mature trees, planting additional street trees, and a regular maintenance program. Provide for diversity of species along the same street as appropriate.
- Identify potential adaptive re-uses or restoration opportunities uses for historic structures that are either vacant or in danger of being demolished.
- Establish additional permitted uses specific to the preservation of historic structures in addition to the uses permitted in the underlying zone provided that the nature and the character of the use are such that it will be compatible with and not adversely impact the neighborhood or the historic resource.
- Establish the historic use of a resource (defined as the original resource use or the use for which the resource was designated) as a permitted use if that use is not typically permitted by the underlying zoning district.
- Coordinate historic preservation and restoration strategies with the existing Downtown Encinitas Mainstreet Program.
- Establish an enhanced, "historic walk" trail through the downtown area.

▪ **Preserve the city beaches which are important open space and recreational resources for the entire community.**

**Objective**

- Establish an aggressive citywide sand restoration program to protect Moonlight Beach and other beaches within the city.

▪ **Encourage use of solar energy and water conservation.**

**Objectives**

- Encourage use of solar energy and make allowances for solar access through development regulations.
- Provide public trash containers to accommodate recyclable material.
- Encourage use of drought tolerant landscaping.

**RECREATION/OPEN SPACE GOALS**

Special Purpose Overlay Zones

**3.2.7 Special Purpose Overlay Zones**

The provisions, restrictions and requirements of the following zoning overlays apply in addition to site-specific zoning established under this specific plan.

**A. Overlay Zone: Coastal Bluff (CBO)**

Coastal Bluff Overlay is intended to provide recognition of the bluff areas as dynamic land-ocean interfaces that are subject to change as a result of natural and man-made factors, and which must be considered as a constraint to development. Refer to Section 3.1, Residential West and Moonlight Beach Park Subdistricts.

The application of this overlay and development standards pursuant to Section 30.34.020 of Title 30 of the Encinitas Municipal Code shall apply.

**B. Overlay Zone: Scenic/Visual Corridor (SVC)**

Scenic/Visual Corridor Overlay is intended to identify those areas where significant aesthetic and visual resources are present (Ord.89-41). Refer to Section 3.1, First Street Corridor Subdistrict.

The application of this overlay and development standards per Section 30.34.080 of Title 30 of the Encinitas Municipal Code shall apply.

**C. Overlay Zone: Hillside/Inland Bluff (H/IBO)**

Hillside/Inland Bluff Overlay is intended to provide recognition of hillside and inland bluff areas as sensitive natural features which represent significant constraints to development. Refer to Section 3.1, Cozen's Site Subdistrict.

The application of this overlay and development standards per Section 30.34.030 of Title 30 of the Encinitas Municipal Code shall apply.

**D. Overlay Zone: Cultural/Natural Resources (C/NRO)**

Cultural/Natural Resources Overlay is intended to provide recognition of areas containing important man-made cultural and historic resources, and ecologically sensitive plant and animal habitats, as constraints to development. Refer to Section 3.1, Moonlight Beach Park Subdistrict and Chapter 8.0.

The application of this overlay and development standards per Section 30.34.050 of Title 30 of the Encinitas Municipal Code shall apply.

**E. Overlay Zone: Historic Preservation (HPO)**

The Historic Preservation Overlay is intended to protect, for the benefit of present and future generations, the historic integrity of certain historically significant properties and/or structures located within the Downtown Encinitas

Add a new provision:

Add a new provision:

Specific Plan. It is the further intent of this overlay zone to provide for the long-term continued preservation of such designated historic resources by providing flexibility in permitted uses more befitting to the economic viability of an historic resource than may otherwise exist under the permitted uses of the underlying zone.

Establishment of permitted uses beyond those permitted in the underlying zone shall be subject to the following provisions.

**1. Applicability:**

The following provisions apply to all properties within the Downtown Encinitas Specific Plan area, excluding, however, residentially zoned properties located on the east side of Vulcan Avenue due to limited on-street parking and the potential to create future land use conflicts.

**2. Eligibility Criteria for Historic Resources:**

To qualify as a historical resource for purposes of these provisions, a historical survey shall be prepared by a qualified professional historian, which demonstrates the historical significance by meeting one of the following requirements in this section and, additionally, shall be fifty (50) years of age or older.

- a. The historic resource exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, or architectural history; or
- b. The historic resource is identified with persons or events significant in local, state or national history; or
- c. It embodies distinctive characteristics of a style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or
- d. It is representative of the notable work of a builder, designer, or architect; or
- e. Its unique location or singular physical characteristic(s) represents an established and familiar visual feature or landmark of a neighborhood, community, or the City.

A resource less than fifty (50) years old may be considered if it can be demonstrated through a historical survey, prepared by a qualified professional historian, that sufficient time has passed to understand its historical importance.

Add a new provision:

**3. Review Process:**

- a. Uses which involve parcels containing historical sites and/or structures shall require a survey by a qualified professional historian<sup>1</sup> to be submitted by the applicant to determine the site/structure's historical significance.
- b. Specific uses may be permitted for historic resources within the Historic Preservation Overlay Zone pursuant to the provisions of this Section and upon approval of a Major Use Permit.
- c. **Residential Districts** - To encourage investment in the historic restoration of existing structures, limited small-scale businesses may be considered for historic resources located in residential districts. These businesses may operate out of a historic structure, provided that the following findings can be made:
  - i. The residential character of the neighborhood and the integrity of the historic structure is not substantially altered<sup>2</sup>;
  - ii. The nature of the use is such that it will be compatible with and will not adversely impact the neighborhood;
  - iii. The use is reasonably necessary for the continued preservation of the historically significant structure in which it is to be located, and is compatible with the historic character of the structure.

Small-scale businesses may include, but are not limited to, uses such as artist studios or offices for photographers, architects, attorneys, chiropractors. All proposed uses shall be subject to the Planning Commission making the necessary findings to allow such uses.

- d. **Existing and Previously Existing Uses** - The established historic use of a resource (defined as the original resource use or the use for which the resource was designated) or an existing use not otherwise permitted in the underlying zone shall be permitted and may continue provided that the following findings can be made:
  - i. For existing uses, the use has been legal and continues to operate. Expansion of existing uses would be subject to a Major Use Permit;

Special Purpose Overlay Zones

Add a new provision:

- ii. The nature of the use is such that it will be compatible with and will not adversely impact the neighborhood;
- iii. The character of the neighborhood and the integrity of the historic structure is not substantially altered;
- iv. The proposed use is reasonably necessary for the continued preservation of the historically significant structure in which it is to be located, and is compatible with the historic character of the structure.
- v. Removal of the use to another location would effectively end the significance of the historical designation on the property, if applicable; and
- vi. The use has been legally and continuously operating for at least fifty (50) years.

e. **Public Access to a Historically Preserved or Restored Interior.**  
Public access is defined as establishment of a museum of public display of a historic interior or a use in which the interior is generally accessible to the public during normal business hours. The Major Use Permit may specify areas which are to customarily remain open to the public for the approved use. Extraordinary access such as historic tours is not typically required unless extraordinary access is a required condition of the use permit approval.

<sup>1</sup> Qualified Professional. An individual meeting the Secretary of the Interior's Professional Qualifications Standards as stipulated in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.

<sup>2</sup> Substantially Altered. The demolition, destruction, relocation, new construction or alteration activities that would impair the significance of a historical resource.

town along the rail line between National City and Oceanside.

The availability of water in the San Dieguito area was the principal force driving real estate and agricultural development of the land. While vital to the early existence of Encinitas, Cottonwood Creek's limited water supply restricted population and the development of the area until the completion of Hodges Dam in 1918 and the formation of the San Dieguito Irrigation District four years later.

In recognition of its significance to the development of the Encinitas area, Cottonwood Creek was recently designated by California as a **State Point of Historical Interest**. It is also recognized in the Historic Resources Inventory that the Creek is eligible for local landmark designation. Preservation/restoration of the creek area is addressed in Section 3.1 of this plan under the Moonlight Beach Park Subdistrict.

### 8.3 Historic Preservation Strategies

#### A. Introduction

Any successful preservation program must include not only the identification of historic resources, but development of measures to protect them. Potential historic resources have been researched in the "Architectural and Historic Resources Inventory of the Downtown Encinitas Specific Plan Area" (Appendix C). This section of the Specific Plan outlines basic strategies that can be made available to assist in preserving the community's historic resources.

There are two broad approaches to historic preservation: regulatory, and incentive-based. Since most potential historic resources are under private ownership, and because there are real economic implications of preservation, a strictly regulatory approach is difficult to achieve. Furthermore, the Downtown Encinitas community has made clear that it desires a preservation program that is incentive-based and voluntary. With this in mind the following strategies for a preservation program were developed.

#### B. Regulatory Mechanisms

~~Beyond this specific plan,~~ There are existing City and State regulations that provide a level of protection for identified historic resources. These regulations provide both restrictions for preservation, a relaxing or restructuring of regulations (such as development and parking standards) and flexibility of allowable uses to achieve preservation.

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

Virtually all development projects are subject to the environmental review process established by the California Environmental Quality Act (CEQA). Projects that would destroy or substantially alter a known historic resource could be deemed to pose a significant effect on the environment. Under CEQA, significant effects must be minimized to the extent feasible. Mitigation measures will vary depending on the project, but can range from photo-

Modify the following provision:

## ATTACHMENT "3"

documentation or a narrative report recording the resource, to preservation by a variety of means: maintaining the basic structure while accommodating architecturally compatible additions, or granting a "facade easement" for the exterior appearance of the structure. Sometimes as a last resort, relocation of a historic structure is considered.

The City's General Plan establishes a Cultural Resources overlay that applies to historic resources. This overlay is implemented generally by the Municipal Code, which requires projects involving historical sites or structures to perform a site resource survey and impact analysis to determine a site's or structure's significance and the need for impact mitigation (Municipal Code Section 30.34.050 (A)(1)(b)). This Municipal Code requirement continues to apply in the specific plan area. The "Architectural and Historic Resources Inventory" is not to be used to determine when a site definitely has or does not have a significant architectural or historic resource; a site-specific resource survey per the Municipal Code shall be required.

ii. Specific Plan Provisions Affecting Historic Resources

There are features of the Downtown Encinitas Specific Plan that, when properly applied, will positively influence the continued viability of the area's historic resources and ~~These features do not apply to historic resources per se, and are not "triggered" based on historic significance; but indirectly, their application in the Specific Plan area should help achieve preservation.~~ The design recommendations and development standards were created to preserve and maintain the existing desirable character of the Downtown area. An important part of that character derives from the area's historic resources.

**Design Recommendations** - The Design Recommendations of this Specific Plan were developed to maintain and preserve the existing unique, beachy, small-town character of the Downtown area. Emphasis is placed on ensuring that new development is compatible in terms of bulk and scale to existing development. Choice of materials, colors, textures, etc., are also discussed.

The Design Recommendations provide some discussion of rehabilitation of historic structures. Rehabilitation of existing resources should be done in a manner that preserves the original character and integrity of the structure. Remodeling should be done so that non-historic materials or features are removed in favor of restoring original features and intended uses of properties. Removal or alteration of historic material should be avoided, while deteriorated architectural features should be repaired rather than replaced, whenever possible (See Section 4.5.9).

**Development Standards** - In addition to the Design Recommendations, the specific plan guides development through development standards. Citywide zoning and development regulations sometimes run counter to preservation of historic properties. Contemporary regulations generally require larger lot sizes and setbacks than were traditional for older urban areas. New development under City-wide regulations would be encouraged to depart from the traditional mainstreet, small-town character of Old Encinitas. Typically, newer development is found on large consolidated lots necessary to comply with

Modify the following provision:

town character found to be so desirable by the community.

The development standards in the Specific Plan provide for minimal lot sizes, setback and landscaping requirements. Designed to be more reflective of the existing development pattern, the development standards (primarily for First Street and Second Street corridors) provide for a more flexible building envelope that will enhance the viability of the area's historic structures. This may provide more incentive for rehabilitation and preservation, rather than encourage demolition of the Downtown's older structures.

The development standards for the commercial areas permit a mix of commercial and residential uses. The mixed-use zoning is well suited for the commercial developments along First and Second Streets. Many of the older structures (such as the **Broun Building** and **Encinitas Hotel**) were originally constructed for commercial and residential uses.

**Parking Standards** - Generally, the City-wide off-street parking requirements make development of the small lots in the Downtown area difficult. The parking standards provided in Section 3.3 of the Specific Plan are designed to encourage the vitality of the commercial district through the application of a variety of strategies including credit for on-street parking, revised parking ratios, and relaxed requirements for building additions and remodels.

Lesser parking requirements increase net usable lot area, thus discouraging the need for lot consolidations and large retail commercial developments. By restructuring off-street parking requirements, it will be easier for new businesses to occupy existing historic structures.

Add a new provision:

**Flexibility in Land Uses and Adaptive Reuse** – To encourage investment in the preservation of historic resources within the Downtown Encinitas Specific Plan, varying uses shall be permitted on lots with designated historic structures to encourage retention of historic resources. The Specific Plan shall permit a variety of uses in designated historic buildings while aiding in the preservation of their facades or characteristic profiles. With the same aim, the Specific Plan shall encourage and permit adaptive reuse of designated buildings.

**State Historic Building Code** - Certain projects affecting historic structures may utilize the State Historic Building Code. Adopted by the City of Encinitas, provisions of the code allow flexible building standards for eligible structures. Eligible structures include those listed on a national, state, or local register; or listed in an official inventory of historical or architecturally significant resources. This has two advantages: utilization of the code allows rehabilitations that respect and conform to older building methods, thus preserving the original architectural integrity; it also allows for continued use or adaptive re-use of old buildings that otherwise would not be allowed because of strict code requirements.

Projects eligible under this strategy include those affecting properties listed in the Historic Resources Inventory, and shall be implemented on a case-by-case basis. No other implementation action by the City is required.

Add a new provision:

Table 4

PRESERVATION STRATEGIES MATRIX

Applicable Program/Activity	National Landmark Eligible	Local Landmark Eligible	Structures of Merit	Of Contextual Value
CEQA Review/Muni. Code Section 30.34.050	!	!	!	
Design Guidelines	!	!	!	!
Development Standards	!	!	!	!
Parking Standards	!	!	!	!
<u>Flexibility in Land Uses and Adaptive Reuse</u>	! <sup>3</sup>	! <sup>3</sup>	! <sup>3</sup>	! <sup>3</sup>
State Historic Building Code	!	!	!	
Federal Tax Credits	! <sup>1</sup>	! <sup>2</sup>	! <sup>2</sup>	! <sup>2</sup>
Federal Tax Deduction for Charitable Easement	! <sup>1</sup>			
Mills Act Property Tax Adjustment	! <sup>3</sup>	! <sup>3</sup>		
CDBG Eligible Funding	!	!	!	
Facade Grant Program	!	!	!	!
Seismic Retro-fit Rebate Program	! <sup>4</sup>	! <sup>4</sup>	! <sup>4</sup>	
Fee Waivers	!	!	!	

<sup>1</sup> Must be listed on the National Register of Historic Places.  
<sup>2</sup> A 10% tax credit is available to commercial structures built before 1936.  
<sup>3</sup> Must be listed on a national, state, or local historic register.  
<sup>4</sup> For structures with identified un-reinforced masonry (URM) construction only

▪ Tax Credits

Perhaps the most common preservation incentive takes the form of income tax credits. The Federal Tax Reform Act of 1986 provides a tax credit equal to 20% of rehabilitation costs for commercial structures and rental residential buildings. To be eligible, the structure must be listed on the National Register of Historic Places or located within a certified historic district. For structures not on the National Register but which were placed in service before 1936, a 10% tax credit is available. Rehabilitation work must conform to the guidelines established by the Secretary of the Interior for historic structures. Certification

## ATTACHMENT "3"

*Historic Preservation*

- Fee Waivers

In order to encourage historic rehabilitations, the City should consider reductions or waivers of processing fees for building permits or design review. Fees may be paid from specially earmarked funds from the General Fund or other eligible sources. Implementation of this strategy requires that the City review which processing fees and which types of projects may be eligible for waivers and/or reductions.

D. Additional Measures

- Historic Preservation Ordinance and Commission

Modify the following provision:

In the future, the City may find it desirable to establish an ~~an additional~~ historic preservation measures such as an ordinance and/or commission in order to further coordinate and implement City-wide preservation strategies. A commission can have several advantages. It can seek various funding sources and develop additional preservation programs, as well as implement those programs outlined in this Plan. With members meeting certain qualifications, it can enable Encinitas to become part of the Certified Local Government (CLG) program. CLG status would enable the City to qualify for certain other grant funds from the federal government earmarked specifically for the CLG program. These funds can be used to finance a number of preservation programs. Participation in the Certified Local Government program gives preservationists access to technical support from the Office of Historic Preservation and other sources.

A commission would also have the expertise to review projects that affect historic properties. It could review historic resources to determine their historic significance; review National Register applications; make recommendations to the State Office of Historic Preservation; and play a key role in local landmark designation, should the City wish to consider such designation.

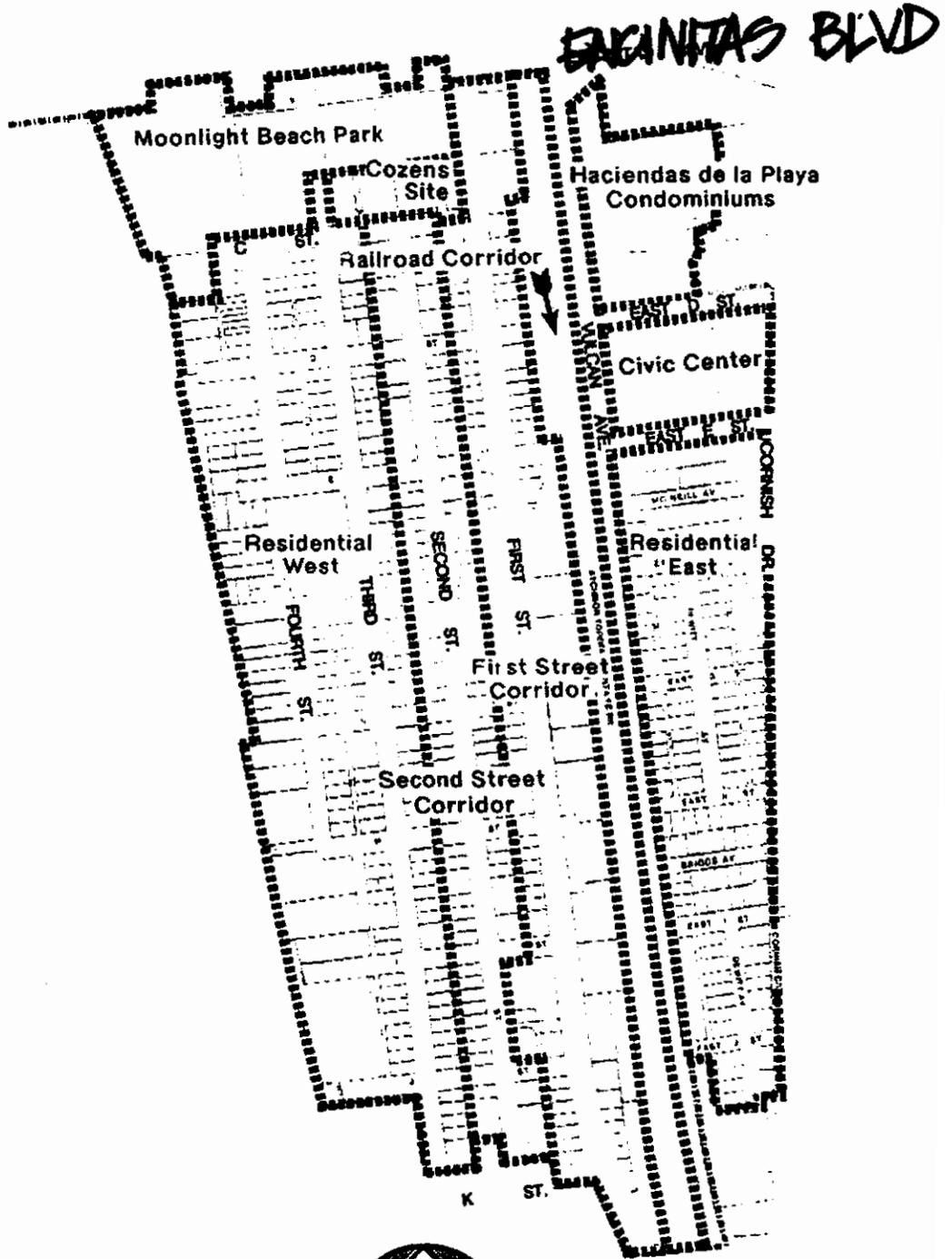
Establishment of an Historic Preservation Commission is not required by this specific plan, but would be consistent with the policies and programs of this plan.

- Education Programs

An historic preservation program may include activities to make the community aware of, and appreciate its historic resources. This function is being performed, in part, by private groups such as the Encinitas Historical Society, the San Dieguito Heritage Museum, the Cottonwood Creek Conservancy, and DEMA. To further awareness of our historic resources, the City supports the efforts of such groups. As mentioned previously, such local organizations are instrumental in promoting and carrying out certain preservation strategies.

F9a

# SUBDISTRICTS



## DOWNTOWN ENCINITAS SPECIFIC PLAN

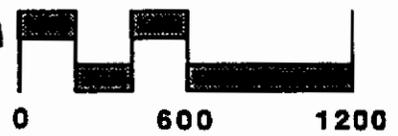


Figure 4



F9a

# Residentially Zoned Properties Excluded from the HPOZ



Residential Zone



Specific Plan Boundary

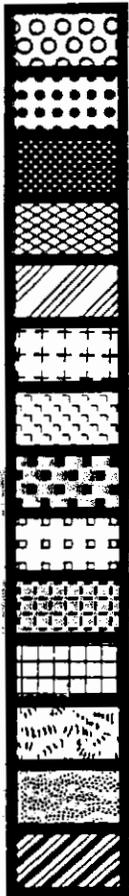
0 187.5375

750

Feet



# F9a ZONING



- Residential 11 (D-R11)
- Residential 15 (D-R15)
- Residential 25 (D-R25)
- Office Professional (D-OP)
- Office Mixed (D-OM)
- Public / Semi-Public (D-P/SP)
- Civic Center (D-CC)
- Commercial Mixed 1 (D-CM-1)  
*First Street / Enc. Blvd*
- Commercial Mixed 2 (D-CM-2)
- Visitor Commercial Mixed (D-VCM)  
*Cozens Site*
- Visitor-Serving Commercial (D-VSC)
- Neighborhood Park (D-NP)
- Moonlight Beach Park (D-MBP)  
*Bx / Enc. Blvd*
- Transportation Corridor (D-TC)



*D-VSC  
Cozens  
House*

## DOWNTOWN ENCINITAS SPECIFIC PLAN

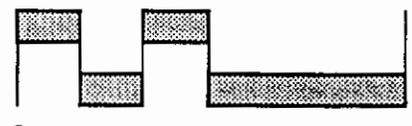
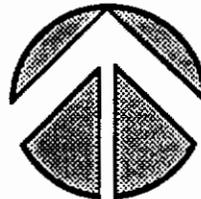


Figure 5



F9a

**ORDINANCE 2010-10**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF ENCINITAS, CALIFORNIA AMENDING  
SECTION 30.54.020F, OFF-STREET PARKING, OF  
THE MUNICIPAL CODE.  
CASE NUMBER: 07-200 ZCA/LCPA**

**WHEREAS**, the City Council conducted a Public Hearing on November 14, 2007 and authorized staff to pursue an amendment to 30.54.020F of the Municipal Code to allow valet parking through a Minor Use Permit with or without charge; and

**WHEREAS**, the Planning Commission conducted a Public Hearing, and considered public testimony and made a recommendation on February 18, 2010 to the City Council; and

**WHEREAS**, the City Council finds that the amendments are consistent with the adopted Local Coastal Plan in that the amendments allow for greater flexibility for local businesses in meeting parking demand without adversely impacting surrounding uses; and

**NOW, THEREFORE**, the City Council of the City of Encinitas hereby ordains as follows:

**SECTION ONE:**

Section 30.54.020F, Off-Street Parking, General Provisions, of the Municipal Code is hereby amended to read as follows:

**F** All required off-street parking spaces shall be designated, located, constructed, and maintained so as to be fully usable during workday periods or as needed by the use of the premises, and shall be permanently available without charge to all uses as intended under this title. Valet parking service, with or without charge, may be permitted upon the issuance of a Minor Use Permit.

**SECTION TWO:**

**ENVIRONMENTAL FINDING.** The City Council finds in its independent judgment, that the amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act, which exempts projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

**SECTION THREE:**

This ordinance was introduced on March 24, 2010.

City of Encinitas  
LCPA # 2-10B  
(Valet Parking)



**SECTION FOUR:**

**PUBLIC NOTICE AND EFFECTIVE DATE.** The City Clerk is directed to prepare and have published a summary of this ordinance no less than five 5 days prior to consideration of its adoption and again within fifteen 15 days following adoption indicating the votes cast. This ordinance will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas.

PASSED AND ADOPTED this 14<sup>th</sup> day of April, 2010, by the following vote to wit:

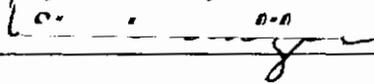
AYES: Barth, Bond, Dalager, Houlihan, Stocks.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

*Signature on file*



Dan Dalager, Mayor

**ATTESTATION AND CERTIFICATION:**

I hereby certify that this is a true and correct copy of Ordinance 2010-10 which has been published pursuant to law.

*Signature on file*



Deborah Cervone, City Clerk



F9a

Section 30.54.020F

- F. All required off-street parking spaces shall be designated, located, constructed, and maintained so as to be fully usable during workday periods or as needed by the use of the premises, and shall be permanently available without charge to all uses as intended under this title. Valet parking service, ~~may be used but signs must be posted to advise "NO CHARGE"~~ with or without charge, may be permitted upon the issuance of a Minor Use Permit.

City of Encinitas  
LCPA# 2-10B  
Strike-out version

