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City of Oceanside
Mini-dorms

CITY RESOLUTION NO. 09-R0844-1
CDC RESOLUTION NO. 09-R0845-3

RESOLUTION OF THE CITY COUNCIL/COMMUNITY
DEVELOPMENT COMMISSION OF THE CITY OF OCEANSIDE
MODIFYING THE LOCAL COASTAL PROGRAM WITH
AMENDMENTS TO VARIOUS SECTIONS OF THE OCEANSIDE
ZONING ORDINANCE TO REGULATE HIGH DENSITY
RESIDENTIAL OCCUPANCIES WITHIN A DWELLING UNIT
AND REQUESTING CALIFORNIA COASTAL COMMISSION
CERTIFICATION OF SAID AMENDMENT

(City of Oceanside –Applicant)
(LCPA-1-09)

WHEREAS, the California Coastal Act (Public Resources Code §30000, et seq.) (the
"Coastal Act") requires that the City adopt a Local Coastal Program (LCP) which meets the
requirements of the Coastal Act at the local level and implements its provisions and policies;

WHEREAS, on January 25, 1985, the California Coastal Commission ("Commission")
approved with suggested modifications, the City's Land Use Plan ("LUP") and, pursuant to
Public Resources Code §30512.2, found the City's LUP to be consistent with the policies and
requirements of Chapter 3 of the Coastal Act and to meet the basic stated goals specified in
Public Resources Code §30001.5;

WHEREAS, On May 18, 2009, the Planning Commission conducted a duly advertised
public hearing as prescribed by law to consider said application; and

WHEREAS, on August 19, 2009, the City Council/Community Development
Commission conducted a duly noticed public hearing as prescribed by law to amend the Local
Coastal Program (LCPA-1-09) through the adoption of zoning amendments applicable to the
Zoning Ordinance, as specified within Exhibit "A", and as attached hereto and incorporated
herein by reference; and,

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///

Corrected Exhibits

Exhibit # 2!
Ordinance of Approval
LCPA# 1-10 Mini-dorms

1 WHEREAS, on December 16, 2009, the City Council conducted a duly noticed public
2 hearing as prescribed by law to amend the Local Coastal Program (LCPA-1-09) through the
3 adoption of zoning amendments applicable to the Zoning Ordinance, as specified within Exhibit
4 "A", and as attached hereto and incorporated herein by reference;

5 WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of
6 Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the
7 State Guidelines thereto as amended to date and hereby approved by the Planning Commission
8 in conjunction with its recommendations on the application; and

9 WHEREAS, the City Council/Community Development Commission finds that the
10 Local Coastal Program Amendment (LCPA-1-09) conforms with and is adequate to carry out
11 the land use plan of the Local Coastal Program.

12 NOW, THEREFORE, the Oceanside City Council/Community Development
13 Commission of the City of Oceanside DOES RESOLVE as follows:

14 1. Pursuant to Public Resources Code §30510(a), the Oceanside City Council/
15 Community Development Commission hereby certifies that the Local Coastal Program
16 Amendment (LCPA-1-09) is intended to be carried out in a manner fully in conformity with the
17 Coastal Act.

18 2. Pursuant to the California Environmental Quality Act of 1970, and the State
19 Guidelines thereto amended to date, a Notice of Exemption has been issued for the project by
20 the Resource Officer for the City of Oceanside.

21 3. Pursuant to Coastal Commission Local Coastal Program Regulations §13551(b),
22 this amendment shall take effect upon Coastal Commission approval.

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City of Oceanside

Zoning Ordinance Suggested Text Changes

Article 10 States, "Single-family residential uses are permitted within all Residential Zone Districts as follows:

Current: (C) "Rooms in a dwelling unit may be rented for occupancy by not more than four persons who are not members of a single housekeeping unit, provided that not more than two bedrooms shall be rented in each unit."

Proposed: (C) "~~Rooms~~ **Bedrooms** in a dwelling unit may be rented for occupancy by not more than ~~four~~ **six** persons who are not members of a single housekeeping unit, provided that not more than two bedrooms shall be rented in each unit."

The Oceanside Zoning Ordinance (Article 30 Section 3012 Maximum Dwelling Unit Occupancy) also establishes the following land use regulation dealing with occupancies:

Current: **3012 Maximum Dwelling Unit Occupancy**

To ensure consistency with the density policies of the General Plan and with the rights of individuals living as a household but not related by blood or marriage, occupancy by persons living as a single household in a dwelling unit shall be limited as follows:

- A. *A dwelling unit shall have 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant to a maximum of 20. In no case shall a dwelling unit be occupied by more than 20 persons.*
- B. *A Use Permit, approved by the City Planner, shall be required for occupancy of a dwelling unit by more than 10 persons 18 years or older. The City Planner shall not issue a Use Permit unless evidence is presented that all vehicles used by occupants will be stored on the site in conformance with the provisions of this ordinance.*

Proposed: 3012 Maximum Dwelling Unit Occupancy

To ensure consistency with the density policies of the General Plan and with the rights of individuals living as a household but not related by blood or marriage, occupancy by persons living as a single household in a dwelling unit shall be limited as follows:

- A. A dwelling unit shall have 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant to a maximum of 20. In no case shall a dwelling unit be occupied by more than 20 persons.
- B. **a Residential High Occupancy Permit to be renewed on an annual basis and a Use Permit**, approved by the City Planner, shall be required for occupancy of a dwelling unit by more than ~~6~~ **10** persons 18 years or older. The City Planner shall not issue a **Residential High Occupancy Permit Use Permit** unless evidence is presented that all vehicles (**one space per adult**) ~~used by occupants~~ will be stored on the site in conformance with the provisions of this ordinance.

The Oceanside Zoning Ordinance (Article 3 Section 330 Definitions) defines Family for the purpose of dealing with occupancies as:

*Current: **Family:** Two or more persons living together as a single housekeeping unit in a dwelling unit, provided that this shall not exclude the renting of rooms in a dwelling unit as permitted by district regulations.*

Proposed: Rooming Houses/ Boarding Houses: A dwelling unit that is rented, leased, let, or hired under three or more separate oral or written leases, subleases, or any other contractual agreement designed to effectuate the same result, with or without meals, for compensation, as permanent guests pursuant to an arrangement for compensation for definite periods, by the month or greater term. Housing protected by federal or state law, including housing for persons protected under the Fair Housing Act (42USC section 3604 (f)) and the California Fair Housing Act (California Government Code section 12920 et seq.), shall not constitute a "rooming house".

The Oceanside Zoning Ordinance (Article 4 Section 420 and Redevelopment Areas Article 4(a) Section 420 Uses Not Classified) currently identifies existing uses not classified as follows:

5

Current: Any new use, or any use that cannot be clearly determined to be in an existing use classification, may be incorporated into the zoning regulations by a Zoning Ordinance text amendment, as provided in Article 45.

Proposed: Any new use, or any use that cannot be clearly determined to be in an existing use classification is prohibited. Provided, however, that any new use may be incorporated into the zoning regulations by a Zoning Ordinance text amendment, as provided in Article 45.

The Oceanside Zoning Ordinance (Article 4 Section 430 and Redevelopment Areas Article 4(a) Section 430 Residential Use Classifications) currently defines "Group Residential" as follows:

Current: B. Group Residential: Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes boardinghouse, dormitories, fraternities, sororities, and private residential clubs, but excludes residential hotels (see Single-Room Occupancy (SRO) Residential Hotels).

*Proposed: B. Group Residential: Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes **roominghouse**/boardinghouse, dormitories, fraternities, sororities, and private residential clubs, but excludes residential hotels (see Single-Room Occupancy (SRO) Residential Hotels).*

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1 CITY ORDINANCE NO. 10-OR0015-1
2 CDC ORDINANCE NO. 10-OR0016-3

3
4 AN ORDINANCE OF THE CITY COUNCIL/COMMUNITY
5 DEVELOPMENT COMMISSION OF THE CITY OF
6 OCEANSIDE FOR ZONE AMENDMENT (ZA-1-09) TO
7 MODIFY SECTIONS OF THE OCEANSIDE ZONING
8 ORDINANCE REGULATING HIGH DENSITY
9 RESIDENTIAL OCCUPANCIES "MINI-DORMS" WITHIN
10 A DWELLING UNIT (City of Oceanside - Applicant)

11 WHEREAS, Article 3 Section 330 definitions, Article 4 Section 420 and 4(a) Section
12 420 regarding uses not classified, Article 10 footnote (c) regarding "Single-family" residential
13 uses being permitted within all residential zone districts, and Article 30, Section 3012 (B)
14 regarding maximum dwelling unit occupancies of the Zoning Ordinance contain language that
15 regulate high density residential occupancies within a dwelling unit;

16 WHEREAS, the City has determined that the zoning regulations contained within these
17 Articles should be modified in order to ensure that the residents of Oceanside are protected
18 from the harmful effects of excessive noise, population density, and traffic congestion typically
19 associated with "Mini-Dorms";

20 WHEREAS, on May 18, 2009, the Planning Commission of the City of Oceanside, after
21 holding a duly advertised public hearing as required by law, adopted Resolution No. 2009-P28
22 recommending approval of Zone Amendment ZA-1-09, subject to the addition of a requirement
23 to obtain a business license associated with a High Density Residential Occupancy Permit and
24 deletion of the text: *provided no more than two bedrooms shall be rented in each unit*, of
25 Article 10 footnote (c), to the City Council for final action;

26 WHEREAS, on May 18, 2009 the Housing Commission of the City of Oceanside
27 reviewed the subject requested Zoning Ordinance text amendments regarding high density
28 residential occupancies within a dwelling unit, and upon due consideration took action on a 6-2
vote to forward a recommendation of approval to the City Council for final action;

EXHIBIT #3

Ordinance of Approval

LCPA #1-10 Min-Dorm Ordinance

 California Coastal Commission

1 WHEREAS, on August 19, 2009, the City Council of the City of Oceanside held a duly
2 advertised public hearing to consider said Zone Amendment application and the
3 recommendation of the Planning Commission thereon and heard and considered written
4 evidence and oral testimony by all persons regarding the proposed Zone Amendment;

5 WHEREAS, following the August 19, 2009 meeting staff met with disability advocates,
6 and in order to clarify that the definition of "rooming house" is not intended to include those
7 dwelling units protected by state and federal law Section 330 was further modified;

8 WHEREAS, on December 16, 2009, the City Council of the City of Oceanside held a
9 duly advertised public hearing to re-consider said Zone Amendment application with the
10 change noted above and the recommendation of the Planning Commission thereon and heard
11 and considered written evidence and oral testimony by all persons regarding the proposed Zone
12 Amendment;

13 WHEREAS, the City Council determined that it is appropriate to amend the zoning
14 regulations to regulate high density residential occupancies within a dwelling unit in order to
15 ensure that the residents of Oceanside are protected from the harmful effects of excessive noise,
16 population density, and traffic congestion typically associated with "Mini-Dorms";

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

20 WHEREAS, based upon such evidence, testimony and staff reports, this Council finds
21 as follows:

22
23 1. The Zoning Amendment conforms to the General Plan and Local Coastal
24 Program of the City of Oceanside.

25 NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

26 1. [REDACTED]

27 [REDACTED] and the City Planner is hereby
28 directed to amend the Zoning Ordinance text as specified by this Ordinance.

1 2. Interlineated provisions of Exhibit "A", as incorporated, have been included for
2 informational purposes and reflect the amended sections of the Zoning Ordinance, which have
3 been stricken, removed or otherwise modified by the enactment of this Ordinance.

4 3. Notice is hereby given that the time within which judicial review must be sought on
5 this decision is governed by Govt.C. Section 65009(c).

6 4. This Ordinance shall not be codified.

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

12 REINTRODUCED at a regular meeting of the City Council/Community Development
13 Commission of the City of Oceanside, California, held on the 16th day of December, 2009, and,
14 thereafter,

15 PASSED AND ADOPTED by the City Council/Community Development Commission
16 of the City of Oceanside, California, this 6th the day of January, 2010 by the following vote:

17 AYES: WOOD, FELLER, KERN, SANCHEZ

18 NAYS: NONE

19 ABSENT: NONE

20 ABSTAIN: NONE

21
22 *Signature on file*

23 Mayor/CDC Chair of the City of Oceanside

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26
27 ATTEST:

APPROVED AS TO FORM:

28 *Signature on file*

City Clerk/ CDC Secretary

Signature on file

City Attorney/ CDC General Counsel

City of Oceanside

Zoning Ordinance Suggested Text Changes

Article 10 States, "Single-family residential uses are permitted within all Residential Zone Districts as follows:

Current: (C) "Rooms in a dwelling unit may be rented for occupancy by not more than four persons who are not members of a single housekeeping unit, provided that not more than two bedrooms shall be rented in each unit."

Proposed: (C) "**Rooms Bedrooms** in a dwelling unit may be rented for occupancy by not more than **four six** persons who are not members of a single housekeeping unit, provided that not more than two bedrooms shall be rented in each unit."

The Oceanside Zoning Ordinance (Article 30 Section 3012 Maximum Dwelling Unit Occupancy) also establishes the following land use regulation dealing with occupancies:

Current: **3012 Maximum Dwelling Unit Occupancy**

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- A. *A dwelling unit shall have 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant to a maximum of 20. In no case shall a dwelling unit be occupied by more than 20 persons.*
- B. *A Use Permit, approved by the City Planner, shall be required for occupancy of a dwelling unit by more than 10 persons 18 years or older. The City Planner shall not issue a Use Permit unless evidence is presented that all vehicles used by occupants will be stored on the site in conformance with the provisions of this ordinance.*

Proposed: 3012 Maximum Dwelling Unit Occupancy

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- A. A dwelling unit shall have 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant to a maximum of 20. In no case shall a dwelling unit be occupied by more than 20 persons.
- B. **a Residential High Occupancy Permit to be renewed on an annual basis and a Use Permit**, approved by the City Planner, shall be required for occupancy of a dwelling unit by more than ~~6~~ **40** persons 18 years or older. The City Planner shall not issue a **Residential High Occupancy Permit Use Permit** unless evidence is presented that all vehicles (**one space per adult**) used by occupants will be stored on the site in conformance with the provisions of this ordinance.

The Oceanside Zoning Ordinance (Article 3 Section 330 Definitions) defines Family for the purpose of dealing with occupancies as:

Current: Family: Two or more persons living together as a single housekeeping unit in a dwelling unit, provided that this shall not exclude the renting of rooms in a dwelling unit as permitted by district regulations.

Proposed: Rooming Houses/ Boarding Houses: A dwelling unit that is rented, leased, let, or hired under three or more separate oral or written leases, subleases, or any other contractual agreement designed to effectuate the same result, with or without meals, for compensation, as permanent guests pursuant to an arrangement for compensation for definite periods, by the month or greater term. Housing protected by federal or state law, including housing for persons protected under the Fair Housing Act (42USC section 3604 (f)) and the California Fair Housing Act (California Government Code section 12920 et seq.), shall not constitute a "rooming house".

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Proposed: B. *Group Residential:* Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes **roominghouse**/boardinghouse, dormitories, fraternities, sororities, and private residential clubs, but excludes residential hotels (see Single-Room Occupancy (SRO) Residential Hotels).

CALIFORNIA COASTAL COMMISSION

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



June 30, 2011

Th12a

TO: COMMISSIONERS AND INTERESTED PERSONS

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

**SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE MAJOR LCP
AMENDMENT 1-10 (Mini-Dorm Ordinances) for Commission Meeting of July
13-14, 2011**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on July 1, 2010. The Coastal Act establishes a 60 day review period for implementation plan amendments; however, a one-year time extension was granted August 13, 2010. As such, the last date for Commission action on this item is August 30, 2011. This report addresses the City's entire submittal.

SUMMARY OF AMENDMENT REQUEST

The City of Oceanside is proposing to include, through an addendum to the City's Implementation Plan, a series of policies pertaining to the possible high occupancy of residential structures. A high occupancy residential structure can be defined as a dwelling unit occupied by multiple, and often unrelated, adults, and are commonly termed "mini-dorms". The City has indicated that currently there are single-family homes being operated as high occupancy residential units; and, because these structures are housing higher densities of occupants than that which they were designed to accommodate, a variety of disturbance issues are adversely affecting local neighborhoods. While the City's intent is not to prohibit these types of high-occupancy uses directly, it is proposing language to aid in the regulation of these types of uses in residential areas. Specifically, the City is proposing to 1) regulate the zones in which these high occupancy residential structures are permitted; 2) limit the number of renters; 3) require a conditional use permit titled, Residential High Occupancy Permit, for any home with more than six renters; 4) add a definition for Rooming Houses/Boarding Houses; and lastly, 5) modify the definition of Group Residential.

The intent of the proposed language changes is to develop a method by which high occupancy residential structures are reviewed and permitted by the City. The language will therefore, allow the rental of homes to fewer than six individuals within the lower density residential zones (Residential Estate, Single-Family Residential Districts). For higher density and tourist serving

residential zones (Medium Density Residential, High-Density Residential, and Residential Tourist Districts), renting a residential structure to more than six people will be possible through the review and approval of a Residential High Occupancy Permit, approved by the Planning Director. The Planning Director will determine at that time, whether there is adequate parking to accommodate the renters (one off-street space per adult). If parking is found to be adequate, the rental of a residential structure may be permitted on an annual basis.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the proposed implementation plan amendment, and subsequent approval including a series of suggested modifications. The primary concern associated with mini-dorms in coastal communities is that the existing parking is not sufficient to accommodate high-density tenancy. Thus, the residents usurp on-street parking that may otherwise be available to the public to gain access to the ocean. The City has created a Residential High Occupancy Permit, which, through review and approval requires that there be one off street parking space for every adult, thereby adequately protecting the parking available to the public. Thus, the LCPA as proposed does not create any direct coastal impact concerns. That being said, the method by which the LCPA was proposed will conflict with existing LCP policies, and therefore cannot be approved as submitted by the City.

Specifically, instead of updating/replacing the existing language within the City's implementation plan, certified as a component of its LCP, the City included the language changes as an attachment to the back of the implementation plan (IP), with no real direction as to how the addendum should be incorporated as the standard of review for mini-dorm proposals within the coastal zone. As a result, there are direct conflicts between the City's certified IP and the attached addendum. For example, the certified implementation plan limits the number of renters within a home to four persons, whereas the new language allows up to six renters. As such, it was unclear from the submitted materials what the standard of review for high-occupancy rentals would be and how they should be regulated. Staff is therefore recommending a series of suggested modifications. The intent of these suggested modifications is to incorporate the definitions, goals, and process by which the City approves high-occupancy residential uses into its certified IP. Through these suggested modifications, it will be clear to any interested party or to any Oceanside residents proposing to sublease their house to multiple renters, in which zones this type of use is allowable and what the process is to have that use permitted.

The appropriate resolutions and motions begin on Page 4. The suggested modifications begin on Page 5. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 9. The findings for approval of the plan, if modified, begin on Page 11.

BACKGROUND

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

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

Recently, through a joint review process between the City of Oceanside staff and Commission staff, it became apparent that, sometime between 1991 and 1992, the City of Oceanside significantly updated/replaced its zoning ordinance without benefit of review and/or approval by the Coastal Commission. This oversight was realized in 2008; and, in May 2009, the City began using the previously approved, and *Commission certified* version of its zoning document, dating back to 1986, to review developments within the coastal zone. As such, the City's certified implementation plan for projects located within the coastal zone is the original version approved by the Commission, and dated 1986. For clarification and consistency, the certified standard of review will be referred to as the "1986 version," and the recently revoked implementation plan will be referred to as the "1992 version," from hereafter.

ADDITIONAL INFORMATION

Further information on the City of Oceanside LCP Amendment 1-10 (Mini-Dorm Ordinances) may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. 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.

B. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION I:** *I move that the Commission reject Implementation Program Amendment for the City of Oceanside LCPA No. 1-10 as submitted.*

STAFF RECOMMENDATION OF REJECTION:

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

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Oceanside and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

II. MOTION II: *I move that the Commission certify Implementation Program Amendment for the City of Oceanside No. 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 Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of Oceanside if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carryout the certified Land Use Plan as amended. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Modify Article 5 - R-1 Single Family Residential Zone, Section 502 as follows:

Section 502: PERMITTED USES. In an R-1 zone, the following uses only are permitted, and as hereinafter specifically provided and allowed by the Article subject to the provisions of Article 27 governing off-street parking requirements.

- (1) One-family dwellings.
- (2) Accessory buildings and structures, including private garages, to accommodate not more than four cars.
- (3) Fruit trees, nut trees, vines and other horticultural stock.
- (4) Agricultural crops.

- ~~(5) The renting of not more than two (2) rooms to not more than four (4) persons, or providing of table board to not more than four boarders, or both, but not to exceed a total of four (4) in any combination thereof.~~
- (5) Room House/Boarding Houses under the following conditions:

- (a) Bedrooms in a dwelling unit may be rented for occupancy by not more than six persons 18 years of age and older.

2. Modify Article 7 - R-3 Medium Density Residential Zone, Section 702 as follows:

Section 702: Permitted Uses. In the R-3 zone only the following uses are permitted as hereinafter specifically provided and allowed by this Article, subject to the off-street parking provisions of Article 27 governing these requirements:

- (1) Any use permitted in the R-2 zone.
- (2) Group houses
- (3) Apartment projects up to 19 units
- (4) Rest homes
- (5) A public parking area when developed under appropriate provisions of Article 27 where the lot on which it is located abuts upon lots zoned for commercial or industrial purposes.
- (6) Additional uses may be permitted as contained in Article 15 subject to the issuance of a conditional use permit
- (7) Rooming House/Boarding House under the following conditions:

Maximum Dwelling Unit Occupancy.

To ensure consistency with the density policies of the General Plan and with rights of individuals living as a household but not related by blood or marriage, occupancy by persons living as a single household in a dwelling unit shall be limited as follows:

- a. A dwelling unit shall have 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant to a maximum of 20. In no case shall a dwelling unit be occupied by more than 20 persons.
- b. A Residential High Occupancy Permit to be renewed on an annual basis, and approved by the City Planner, shall be required for occupancy of a dwelling unit by more than 6 persons 18 years or older. The City Planner shall not issue a Residential High Occupancy Permit unless evidence is presented that all vehicles (one space per adult) will be stored on the site in conformance with the provisions of this ordinance.

3. Modify Article 32 - R-T Residential Tourist Zone, Section 3202 as follows:

Section 702: Permitted Uses. Only the following uses are permitted in the R-T zone subject to the provisions of Article 27 governing off-street parking requirements:

- (1) Single-family, subject to R-1 standards.
- (2) Multiple-family residences.
- (3) Condominiums and stock cooperatives.
- (4) Tourist cottages and summer rentals.
- (5) Public and semi-public uses.
- (6) Mobile Home Parks with Conditional Use Permit.
- (7) Certain other uses with a Conditional Use Permit (as allowed in Article 15).
- (8) Rooming House/Boarding House under the following conditions:

Maximum Dwelling Unit Occupancy.

To ensure consistency with the density policies of the General Plan and with rights of individuals living as a household but not related by blood or marriage, occupancy by persons living as a single household in a dwelling unit shall be limited as follows:

- a. A dwelling unit shall have 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant to a maximum of 20. In no case shall a dwelling unit be occupied by more than 20 persons.
- b. A Residential High Occupancy Permit to be renewed on an annual basis, and approved by the City Planner, shall be required for occupancy of a dwelling unit by more than 6 persons 18 years or older. The City Planner shall not issue a Residential High Occupancy Permit unless evidence is presented that all vehicles (one space per adult) will be stored on the site in conformance with the provisions of this ordinance.

4. Delete Article 2 – Definitions, Section 209 as follows:

Section 209: ~~Boarding House. “Boarding house” means a building where lodging and meals are provided for compensation for not more than five persons, in any combination thereof, but shall not include rest homes or convalescent homes.~~

5. Replace the definition of “Family” with “Rooming Houses/Boarding Houses within Article 2 – Definitions, Section 231 as follows:

Section 231: Rooming Houses/Boarding Houses: A dwelling unit that is rented, leased, let, or hired under three or more separate oral or written leases, sublease, or any other contractual agreement designed to effectuate the same result, with or without meals, for compensation, as permanent guests pursuant to an arrangement for compensation for definite periods, by the month or greater term. *Housing protected be federal or state law, including housing for persons protected under the Fair Housing Act (42USC section 3604 (f) and the California Fair Housing Act (California Government Code section 12920 et. Seq.), shall not constitute a rooming house.*

~~Family: “Family” means an individual, or two or more persons related by blood or marriage, or a group of not more than five persons, excluding servants, living together as a single housekeeping unit in a dwelling unit.~~

6. Modify Article 2 – Definitions, Section 285 as follows:

Section 285: USE. “Use” means the purpose for which land or building is arranged, designed or intended, or for which either is or may be occupied or maintained. Any new use, or any use that cannot be clearly determined to be in an existing use classification is prohibited. Provided, however, that any new use may be incorporated into the zoning regulations by a Zoning Ordinance text amendment, as provided in Article 20.

7. Modify Article 27 – Off Street Parking, Table regulating parking space requirements, as follows:

Use	Parking Spaces Required
Rooming Houses/ <u>Boarding Houses</u> , lodging houses, clubs and fraternity houses having sleeping rooms	1 space for each <u>2 per every adult 18 years</u> <u>of age and older sleeping rooms</u>

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

A. AMENDMENT DESCRIPTION

The City of Oceanside is proposing to include, through an addendum to the City’s Implementation Plan, a series of policies pertaining to the possible high occupancy of residential structures. A high occupancy residential structure can be defined as a dwelling unit occupied by multiple, and often unrelated, adults, and are commonly termed “mini-dorms”. The City has indicated that currently there are single-family homes being operated as high occupancy residential units; and, because these structures are housing higher densities of occupants than that which they were designed to accommodate, a variety of disturbance issues are adversely affecting local neighborhoods. While the City’s intent is not to prohibit these types of high-occupancy uses directly, it is proposing language to aid in the regulation of these types of uses in residential areas. Specifically, the City is proposing to 1) regulate the zones in which these high occupancy residential structures are permitted; 2) limit the number of renters; 3) require a conditional use permit titled, Residential High Occupancy Permit, for any home with more than six renters; 4) add a definition for Rooming Houses/Boarding Houses; and lastly, 5) modify the definition of Group Residential.

The intent of the proposed language changes is to develop a method by which high occupancy residential structures are reviewed and permitted by the City. The language will therefore, allow the rental of homes to fewer than six individuals within the lower density residential zones (Residential Estate, Single-Family Residential Districts). For higher density and tourist serving

residential zones (Medium Density Residential, High-Density Residential, and Residential Tourist Districts), renting a residential structure to more than six people will be possible through the review and approval of a Residential High Occupancy Permit, approved by the Planning Director. The Planning Director will determine at that time, whether there is adequate parking to accommodate the renters (one off-street space per adult). If parking is found to be adequate, the rental of a residential structure may be permitted on an annual basis.

B. SPECIFIC FINDINGS FOR REJECTION

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 of the ordinance is to govern the use and regulation of residential structures (single and multiple family homes) being used to accommodate numerous individual renters, termed by the City as High Density Residential Occupancies within a dwelling unit.

b) Major Provisions of the Ordinance.

While the current implementation plan does not have any specific policies pertaining to High Density Residential Occupancies, it does have various policies that limit the number of rooms to be rented within a single dwelling unit. Within lower density residential zoning designations, renting is limited to not more than two (2) rooms and not more than four (4) persons per dwelling unit. For higher density residential districts, the certified ordinance permits the renting of additional rooms through a conditional use permit review and approval process.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The LCP amendment, as proposed, is not adequate to implement the City's certified Land Use Plan (LUP). The following listed policies are applicable and state:

Section II. Recreational and Visitor Serving Facilities

12. If existing beach parking is removed for any reason, one-to-one replacement parking shall be provided...

17. The City shall require that all new residential development provides adequate on-site parking. In areas where beach parking demand is critical, parking requirements for new residential development shall be strictly enforced. Curb cuts for new development shall be held to a minimum to preserve existing on-street parking.

22. The City shall continue to monitor beach usage and parking availability and adjust policies as needed.

Again the primary issue under the Coastal Act would be to assure that adequate public parking is provided in nearshore residential areas without residents usurping street parking reservoirs. The LCP amendment, as proposed, is not adequate to implement the City's certified Land Use Plan (LUP). Specifically, the City made the proposed changes within a zoning ordinance document that is not a certified component of the City's LCP. The City first began working on the subject amendment in 2007. At that time, the City was using a version of its zoning ordinance dated 1992. However, as described above, since 2007, it has been determined that this version was never reviewed and/or approved by the Coastal Commission, and it is therefore not part of the City's certified LCP. This oversight was recognized by the Commission in December 2008; and, in May 2009, the City began using the previously approved, and Commission certified, version of its zoning document dating back to 1986.

At the time the City started this amendment process, it had concerns about high occupancy rentals because numerous citizens were renting out individual rooms within homes, often in areas that were not developed to accommodate these kinds of densities. The City has defined this use, similar to many other California communities as "Mini-Dorms". Through direction from the City Council, City staff created a working group whose specific goal was to develop the best way to address the use of these "mini-dorms." The working group finalized its recommendations to modify and add additional policies to incorporate into the zoning ordinance and presented its findings to the City Council on December 10, 2008, when the City was still using the 1992 zoning document as its standard of review. As such, the suggested modifications were crafted to update language contained within the 1992 zoning ordinance. However, in the midst of this process, the City became aware that the proposed modifications were now approved within an *uncertified* zoning document. Because the effort had already been completed, and was considered time sensitive, staff determined that the most expeditious way to include the changes proposed within the 1992 version was to add them as an addendum at the end of the 1986 version of the City's implementation plan (ref. Exhibit #2). Specifically, the proposed LCP amendment included seven changes to specific policies contained within Articles 3, 4, 10, 27, and 30 of the 1992 zoning document. The City then extracted the policies from the 1992 version, showing the changes in strike-out and underline, and included them as an addendum, to be included in the back of the 1986 zoning document. This solution, however, created additional problems because many of the Articles do not exist in the 1986 version, and thus are not consistent with the existing certified LCP policies. As such, the resulting amendment has the potential to conflict with definitions, policies, and standards already certified into the zoning ordinance.

Commission staff reviewed the addendum against the applicable policies of the *certified* zoning document and determined that the 1986 version did in fact contain policies and definitions that could be interpreted to address high-occupancy residential dwelling units; thereby creating multiple standards. Additionally, in four cases, Commission staff identified sections where the proposed modifications incorporated through the addendum were in *direct conflict* with the certified zoning policies.

As an example, the parking standards associated with the proposed “mini-dorm” amendment are in direct conflict with the certified Implementation Plan (IP). In the 1986 version, when residential dwelling units are rented out to multiple individuals, parking must be provided as one space per every bedroom. Thus, regardless of the number of people sleeping in one room, one parking space is required. The addendum requires that parking shall be required at one space per adult. Thus, if there are multiple people renting out one room, every adult renting that room must be provided an off-street parking space.

In conclusion, the amendment as proposed would result in duplicate and conflicting definitions, permitted uses, and parking standards. Consequently, it is unclear in which residential zones mini-dorms would be permitted and what the standards associated with the use would be. As such, the amendment must be denied as proposed and suggested modifications must be incorporated to provide one set of standards into the certified zoning document that reflect the City’s desired regulations pertaining to the permitting and regulation of mini-dorms proposals; consistent with the City’s certified Land Use Plan.

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

The primary concern associated with mini-dorms in coastal communities is that the existing off-street parking is not sufficient to accommodate high-density tenancy. In such circumstances, the residents usurp on-street parking that may otherwise be available to the public to gain access to the ocean. The City has created a Residential High Occupancy Permit, which, through its review and approval, requires that there be one off street parking space for every adult, thereby adequately protecting the parking available to the public. Thus, the substantive changes proposed in the LCPA amendment do not create any direct LUP inconsistencies pertaining to the protection of coastal resources.

Instead, the primary concern resulting from the City’s proposal is ensuring that it is internally consistent, as discussed in Part IV of these findings. For example, as discussed above, the parking standards for these residential high occupancy dwelling units or Rooming Houses/Boarding Houses conflict with the existing standards. The certified zoning ordinance requires that parking be provided at a ratio of one off-street parking space for every two rented rooms. Whereas the proposed addendum requires that parking be provided at a ratio of one off-street parking space for every adult 18 years of age and older. As such, a Suggested Modification #7 increases the parking requirements for Rooming House/Boarding Houses within the zoning ordinance from one space for two

rooms rented, to one space for every adult 18 years of age and older thereby making the two documents internally consistent. An additional six suggested modifications have also been included to address similar conflicts between the zoning ordinance and the City's proposed addendum. These suggested modifications include modifying two definitions, limiting the number of renters in the lower density residential areas; and incorporating the Residential High Occupancy Permit process into the higher density residential zones within the certified zoning ordinance. It is only through the inclusion of these suggested modifications that the zoning ordinance and the proposed addendum can be found internally consistent, and therefore consistent with the City's certified land use plan.

In conclusion, while the permitted use, permitting process, and parking standards associated with the subject amendment do not create concerns regarding coastal resource impacts, they do create direct internal inconsistencies with the City's existing implementation plan. Again, by attaching the changes to the back of the zoning ordinance, instead of within the applicable sections of the zoning ordinance, the City created an implementation plan with conflicting policies. Without an internally consistent implementation plan, the proposed amendment cannot be found adequate to carry out the provisions of the certified land use plan, and must be denied as submitted. Again, it is only with the inclusion of the above listed suggested modifications that the proposed language and the certified implementation plan can be found internally consistent, and therefore can be found to carry out the provisions of the City's LUP.

PART VI. 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 a LCP submittal or, as in this case, a LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, conforms to CEQA provisions, 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 alternative 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. §§ 13542(a), 13540(f), and 13555(b)). The Commission finds that approval of the proposed LCP amendment, as submitted, would result in significant impacts under the meaning of the California Environmental Quality Act. Specifically, the proposed LCP amendment as proposed would result in conflicting implementation plan policies, inconsistent with the City's Land Use Plan. However, with the inclusion of the suggested modifications, the revised zoning ordinance would not result in significant

impacts to the environment within the meaning of the California Environmental Quality Act. Therefore, the Commission finds that approval of the LCP amendment, as modified, will not result in any significant adverse environmental impacts.

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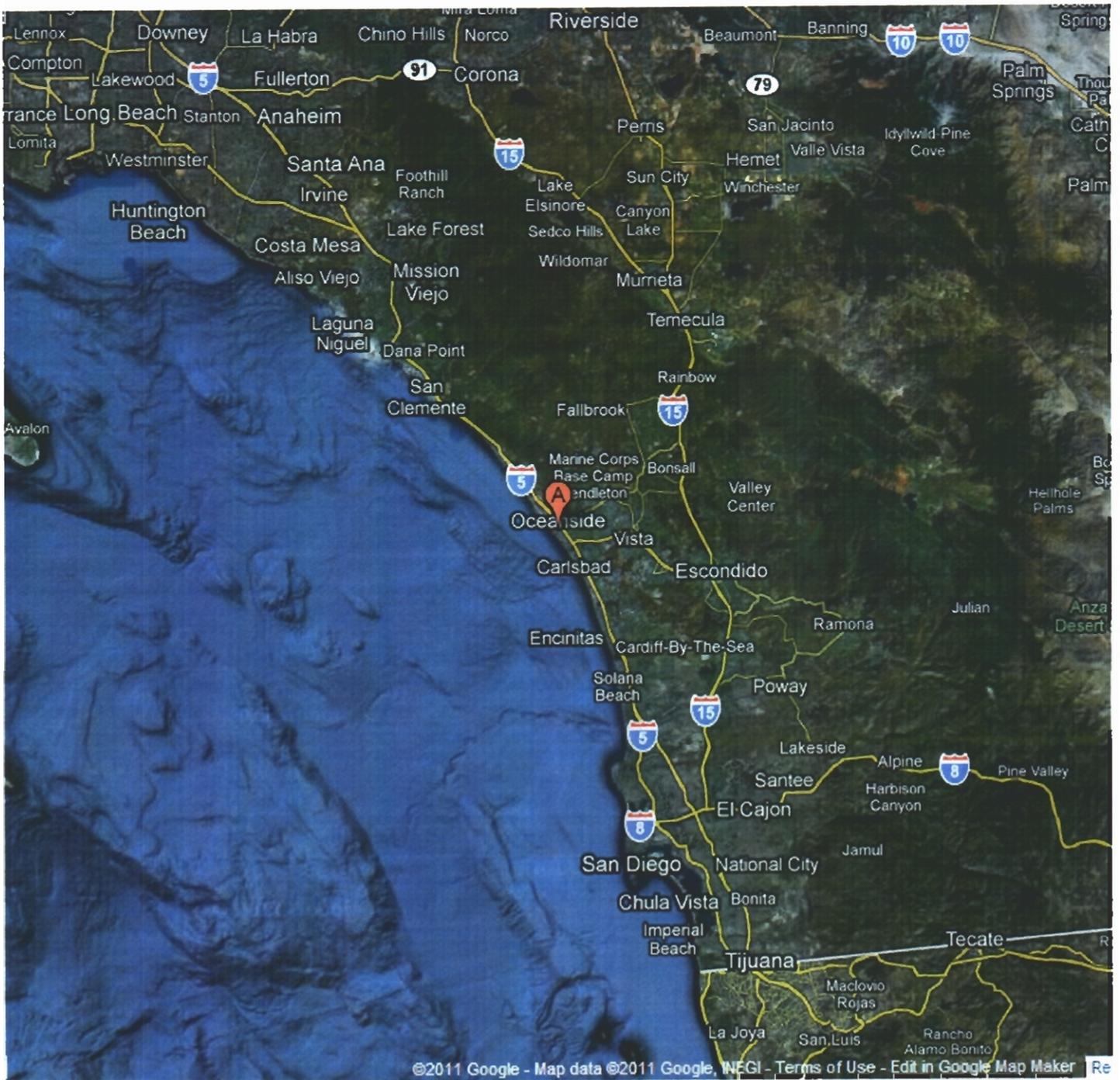
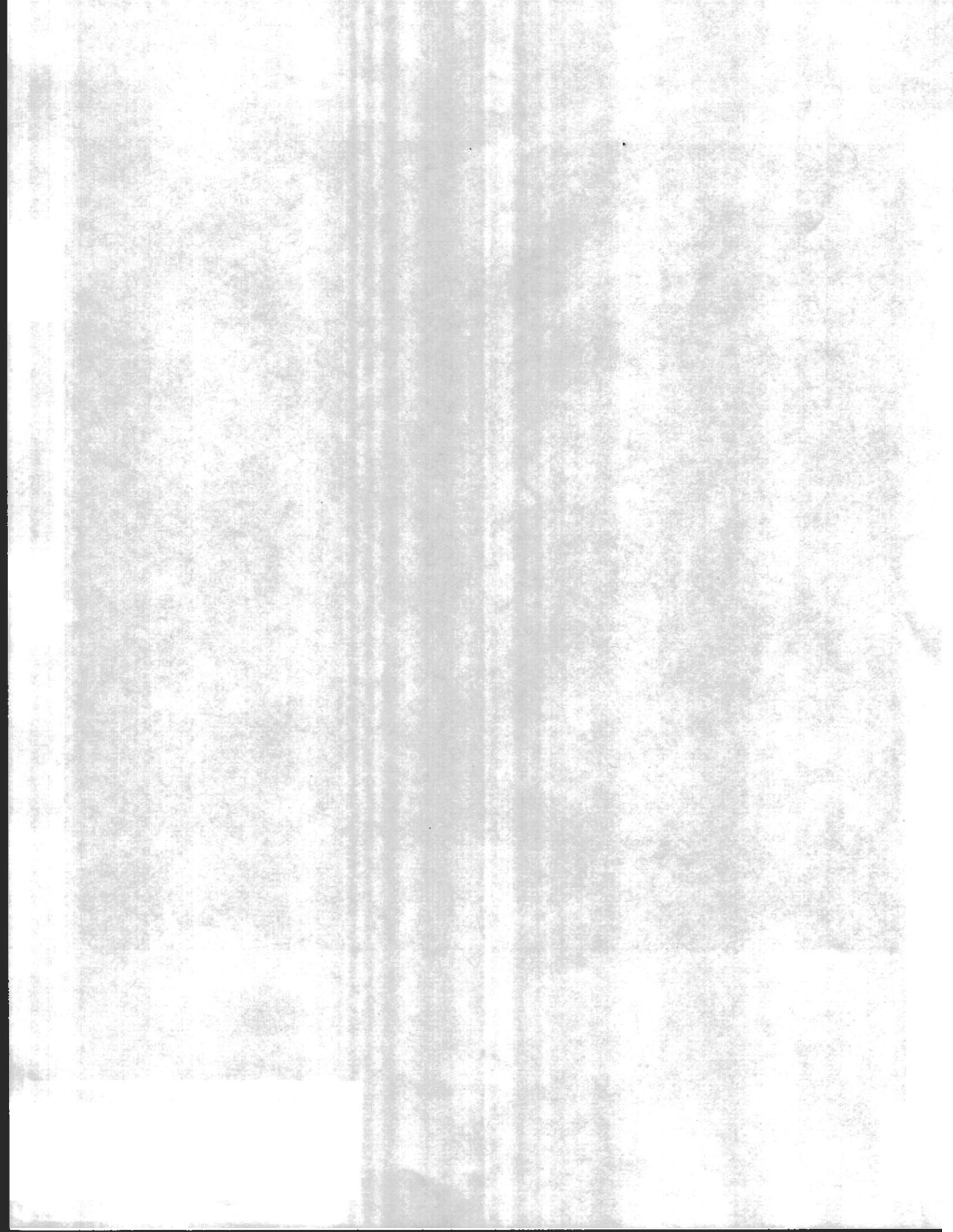


EXHIBIT #1
Location
LCPA #1-10 Min-Dorm Ordinance
 California Coastal Commission



1 4. Notice is hereby given that the time within which judicial review must be sought
2 on the decision is governed by Public Resources Code §30801.

3 PASSED AND ADOPTED by the Oceanside City Council/Community Development
4 Commission this 16th day of December, 2009, by the following vote:

5 AYES: WOOD, CHAVEZ, FELLER, KERN, SANCHEZ

6 NAYS: NONE

7 ABSENT: NONE

8 ABSTAIN: NONE

9 *Signature on file*

10 _____
Mayor / CDC Chairman

11
12 ATTEST:

13 *Signature on file*

14 _____
City Clerk / CDC Secretary

11
12 APPROVED AS TO FORM:

13 *Signature on file*

14 _____
City Attorney / CDC General Counsel

Proposed: 3012 Maximum Dwelling Unit Occupancy

To ensure consistency with the density policies of the General Plan and with the rights of individuals living as a household but not related by blood or marriage, occupancy by persons living as a single household in a dwelling unit shall be limited as follows:

- A. A dwelling unit shall have 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant to a maximum of 20. In no case shall a dwelling unit be occupied by more than 20 persons.
- B. **a Residential High Occupancy Permit to be renewed on an annual basis and a Use Permit**, approved by the City Planner, shall be required for occupancy of a dwelling unit by more than ~~6~~ **10** persons 18 years or older. The City Planner shall not issue a **Residential High Occupancy Permit Use Permit** unless evidence is presented that all vehicles (**one space per adult**) ~~used by occupants~~ will be stored on the site in conformance with the provisions of this ordinance.

The Oceanside Zoning Ordinance (Article 3 Section 330 Definitions) defines Family for the purpose of dealing with occupancies as:

Current: Family: Two or more persons living together as a single housekeeping unit in a dwelling unit, provided that this shall not exclude the renting of rooms in a dwelling unit as permitted by district regulations.

Proposed: Rooming Houses/ Boarding Houses: A dwelling unit that is rented, leased, let, or hired under three or more separate oral or written leases, subleases, or any other contractual agreement designed to effectuate the same result, with or without meals, for compensation, as permanent guests pursuant to an arrangement for compensation for definite periods, by the month or greater term. Housing protected by federal or state law, including housing for persons protected under the Fair Housing Act (42USC section 3604 (f)) and the California Fair Housing Act (California Government Code section 12920 et seq.), shall not constitute a "rooming house".

The Oceanside Zoning Ordinance (Article 4 Section 420 and Redevelopment Areas Article 4(a) Section 420 Uses Not Classified) currently identifies existing uses not classified as follows:

1 CITY ORDINANCE NO. 10-OR0015-1
2 CDC ORDINANCE NO. 10-OR0016-3

3 AN ORDINANCE OF THE CITY COUNCIL/COMMUNITY
4 DEVELOPMENT COMMISSION OF THE CITY OF
5 OCEANSIDE FOR ZONE AMENDMENT (ZA-1-09) TO
6 MODIFY SECTIONS OF THE OCEANSIDE ZONING
7 ORDINANCE REGULATING HIGH DENSITY
8 RESIDENTIAL OCCUPANCIES "MINI-DORMS" WITHIN
9 A DWELLING UNIT (City of Oceanside - Applicant)

10 WHEREAS, Article 3 Section 330 definitions, Article 4 Section 420 and 4(a) Section
11 420 regarding uses not classified, Article 10 footnote (c) regarding "Single-family" residential
12 uses being permitted within all residential zone districts, and Article 30, Section 3012 (B)
13 regarding maximum dwelling unit occupancies of the Zoning Ordinance contain language that
14 regulate high density residential occupancies within a dwelling unit;

15 WHEREAS, the City has determined that the zoning regulations contained within these
16 Articles should be modified in order to ensure that the residents of Oceanside are protected
17 from the harmful effects of excessive noise, population density, and traffic congestion typically
18 associated with "Mini-Dorms";

19 WHEREAS, on May 18, 2009, the Planning Commission of the City of Oceanside, after
20 holding a duly advertised public hearing as required by law, adopted Resolution No. 2009-P28
21 recommending approval of Zone Amendment ZA-1-09, subject to the addition of a requirement
22 to obtain a business license associated with a High Density Residential Occupancy Permit and
23 deletion of the text: *provided no more than two bedrooms shall be rented in each unit*, of
24 Article 10 footnote (c), to the City Council for final action;

25 WHEREAS, on May 18, 2009 the Housing Commission of the City of Oceanside
26 reviewed the subject requested Zoning Ordinance text amendments regarding high density
27 residential occupancies within a dwelling unit, and upon due consideration took action on a 6-2
28 vote to forward a recommendation of approval to the City Council for final action;

EXHIBIT #3

Ordinance of Approval

LCPA #1-10 Min-Dorm Ordinance

 California Coastal Commission

1 2. Interlineated provisions of Exhibit "A", as incorporated, have been included for
2 informational purposes and reflect the amended sections of the Zoning Ordinance, which have
3 been stricken, removed or otherwise modified by the enactment of this Ordinance.

4 3. Notice is hereby given that the time within which judicial review must be sought on
5 this decision is governed by Govt.C. Section 65009(c).

6 4. This Ordinance shall not be codified.

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

12 REINTRODUCED at a regular meeting of the City Council/Community Development
13 Commission of the City of Oceanside, California, held on the 16th day of December, 2009, and,
14 thereafter,

15 PASSED AND ADOPTED by the City Council/Community Development Commission
16 of the City of Oceanside, California, this 6th the day of January, 2010 by the following vote:

17 AYES: WOOD, FELLER, KERN, SANCHEZ

18 NAYS: NONE

19 ABSENT: NONE

20 ABSTAIN: NONE

21
22 *Signature on file*

23 Mayor/CDC Chair of the City of Oceanside

24
25
26
27 ATTEST:

APPROVED AS TO FORM:

28 *Signature on file*

City Clerk/ CDC Secretary

Signature on file

City Attorney/ CDC General Counsel



Proposed: 3012 Maximum Dwelling Unit Occupancy

To ensure consistency with the density policies of the General Plan and with the rights of individuals living as a household but not related by blood or marriage, occupancy by persons living as a single household in a dwelling unit shall be limited as follows:

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