

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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**W17a**

December 22, 2011

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, South Coast Deputy Director (Orange County)
Teresa Henry, District Manager
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Meg Vaughn, Coastal Program Analyst

SUBJECT: Major Amendment Request No. 3-10 to the City of Laguna Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the January 11-13, 2012 meeting in Santa Monica).

SUMMARY OF LCP AMENDMENT REQUEST NO. 3-10

Request by the City of Laguna Beach to make changes to the City's certified Local Coastal Program (LCP) Implementation Plan (IP). The amendment proposes changes to the certified LCP Implementation Plan by modifying subsection 25.05.035 *Temporary Use Permits* within Chapter 25.05 *Administration*. The amendment is intended to streamline the Temporary Use Permit approval process for minor, short-term (five days or fewer) events. The amendment would make three changes to subsection 25.05.035 at subsections (E), (F), and (I). In Subsection (E) the City proposes to add language that, in addition to public notice required for temporary use permits, for any project that also requires a coastal development permit, the public notice requirements for coastal development permits shall also apply. Subsection (F) introduces new language that would allow some temporary use permits to be issued by the Director of Community Development when the event is both five days or less and minor in nature. Subsection (I) changes the effective date of an approved temporary use permit from ten business days to fourteen calendar days (unless appealed). The proposed changes are reflected in Ordinance No. 1534. The amendment request was submitted for Coastal Commission action pursuant to City Council Resolution No. 10.102.

The issue raised by the proposed amendment involves that language of the change proposed to subsection (F). As proposed it is not clear whether the streamlined temporary use permit procedure would also apply to development subject to a coastal development permit. Staff is recommending one suggested modification in order to clarify that the proposed streamlined temporary use permit process does not apply to development that is also subject to approval of a coastal development permit, consistent with the City's intent for the proposed change.

The other two changes proposed to subsection (E) and (I) raise no issue with regard to consistency with the City's certified Land Use Plan portion of the LCP. The Local Coastal Program Amendment affects only the Implementation Plan portion of the certified LCP. No changes are proposed to the Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

Deny the amendment request to the Implementation Plan **as submitted**, and;
Approve the amendment request to the Implementation Plan **if modified as recommended**.

The proposed amendment, if modified as recommended, would be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motions to accomplish this recommendation are found on page 3.**

STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementation Plan is conformance with and adequacy to carry out the provisions of the certified Laguna Beach Land Use Plan.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states: During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

The City of Laguna Beach held one Planning Commission and two City Council public hearings on proposed LCP Amendment 3-10. Because zoning ordinance amendments are of citywide effect, 1/8th page public hearing notices were published in the local newspaper (Coastline Pilot) on August 6, 2010. No written comments were received and no one spoke at any of the local public hearings.

ADDITIONAL INFORMATION

Copies of the staff report are available on the Commission's website at www.coastal.ca.gov. For additional information, contact *Meg Vaughn* in the Long Beach office at (562) 590-5071. The City of Laguna Beach contact for this amendment request is Ann Larson (949) 497-0320.

I. STAFF RECOMMENDATION

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

A. Denial of the IP Amendment as Submitted

MOTION: *I move that the Commission reject Implementation Plan Amendment No. 3-10 for the City of Laguna Beach as submitted.*

STAFF RECOMMENDATION OF REJECTION:

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

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PLAN AS SUBMITTED:

The Commission hereby denies certification of Implementation Plan Amendment No. 3-10 submitted for the City of Laguna Beach and adopts the findings set forth below on grounds that the Implementation Plan amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan 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 Plan as submitted.

B. Approval of the IP Amendment with Suggested Modifications

MOTION: *I move that the Commission certify Implementation Plan Amendment No. 3-10 for the City of Laguna Beach if it is modified as suggested by staff.*

STAFF RECOMMENDATION:

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

RESOLUTION TO CERTIFY THE IMPLEMENTATION PLAN WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies Implementation Plan Amendment No. 3-10 for the City of Laguna Beach if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan 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.

II. SUGGESTED MODIFICATIONS

Certification of City of Laguna Beach LCP Amendment Request No. 3-10 is subject to the following modifications.

The Commission's suggested additions are shown in **bold, italic, double-underlined text**.

The Commission's suggested deletions are shown in **bold, italic, double-underlined, strike out text**.

The City's proposed additions are shown in underline.

The City's proposed deletions are shown in ~~strike-out~~.

1. Suggested Modification No. 1

Within Section 25.05 *Administration*, subsection 25.05.035 *Temporary Use Permits*, subsection (F) *Approvals*:

Modify the proposed Section 25.05.035(F)(1) below:

(1) The Director of Community Development shall approve, approve in part, conditionally approve or deny applications for temporary use permits in the R-1 zone and for short-term events (five days or less) deemed minor by the Director of Community Development in any zone. ~~excluding a~~ Applications for temporary parking lots or for uses requiring a Coastal Development Permit are excluded. At the discretion of the Director of Community Development, ~~such~~ temporary use permit applications may be referred to the Planning Commission. Determination shall be made within twenty business days of receipt of the application unless the matter is referred to public hearing.

Such that it reads as follows:

(1) The Director of Community Development shall approve, approve in part, conditionally approve or deny applications for temporary use permits in the R-1 zone and for short-term events (five days or less) deemed minor by the Director of Community Development in any zone. ~~excluding a~~ Applications for temporary parking lots **or for uses requiring a Coastal Development Permit** are excluded. At the discretion of the Director of Community Development, ~~such~~ temporary use permit applications may be referred to the Planning Commission. Determination shall be made within twenty business days of receipt of the application unless the matter is referred to public hearing.
(2) In addition to a temporary use permit, a coastal development permit must be obtained for those temporary uses that involve development that requires a coastal development permit as described in Chapter 25.07 Coastal Development Permits. The procedure to obtain a coastal development permit shall be as described in Chapter 25.07.

[Change remaining numbering in subsection (F) as appropriate.]

III. FINDINGS

The following findings support the Commission's denial as submitted and approval of the proposed LCP Implementation Plan amendment if modified. The Commission hereby finds and declares as follows:

A. Amendment Description

The City of Laguna Beach has requested an amendment to the Implementation Plan (IP) portion of the City's certified Local Coastal Program (LCP). The amendment proposes changes to the certified LCP Implementation Plan by modifying subsection 25.05.035 *Temporary Use Permits* within Chapter 25.05 *Administration*. The amendment is intended to streamline the Temporary Use Permit approval process for minor, short-term (five days or fewer) events. The amendment would make three changes to subsection 25.05.035 at subsections (E), (F), and (I). Changes to subsection (F) are described below. In subsection (E) the City proposes to add language to clarify that, in addition to public notice required for temporary use permits, for any project that also requires a coastal development permit, the public notice requirements for coastal development permits shall also apply. Subsection (I) changes the effective date of an approved temporary use permit from ten business days to fourteen calendar days (unless appealed). The proposed changes are reflected in Ordinance No. 1534 (see exhibit B). The amendment request was submitted for Coastal Commission action pursuant to City Council Resolution No. 10.102 (see exhibit A).

The proposed amendment would modify Section 25.05.035 *Temporary Use Permits*. Chapter 25.05 is titled *Administration* and its intent and purpose states: "*It is the intent and purpose of this chapter to establish procedures necessary for the efficient processing of planning and development applications and requests.*" Chapter 25.05 includes the standards and requirements for temporary use permits as well as for administrative use permits, variances, conditional use permits and design review. Chapter 25.07 of the certified IP, titled *Coastal Development Permits*, establishes the standards and requirements for coastal development permit procedures, including uses that are exempt from the need to obtain a coastal development permit (Section 25.07.008 *Exemptions* and 25.07.010 *Categorical Exclusions*).

The change proposed by the amendment to subsection (F) includes the introduction of new language that would allow some temporary use permits to be issued by the Director of Community Development without a public hearing or public notice when the event is both five days or fewer and when deemed minor in nature by the Director. Currently, temporary use permits require a public notice mailing to property owners within 300 feet, a public hearing, approval by the Director of Community Development or Planning Commission, and are subject to appeal a to the City Council.

The origin and intent of the proposed amendment is explained in the City Council staff report dated 8/18/10, as follows:

"On June 1, 2010, the City Council adopted a number of recommendations from the Business Assistance Task Force to attract new businesses, maintain and support existing businesses, and improve the City's business environment and services to new and existing

businesses. One of the adopted recommendations was to streamline the Temporary Use Permit approval process.”

Consequently the City has submitted the proposed amendment, intended to streamline the Temporary Use Permit approval process for minor, short-term (five days or fewer) events. This is proposed to be accomplished with the following three changes to Section 25.05.035 *Temporary Use Permits* (the City’s proposed additions are shown in underline text; the City’s proposed deletions are shown in ~~strike-through text~~):

Section 25.05.035(E):

(E) Public Notice. All temporary use permit applications referred to the Planning Commission shall be subject to the public notice provisions of Section 25.05.065(B) and (C) whereby public notice is mailed to property owners within three hundred feet of the subject property; except that newspaper advertising shall not be required. If a Coastal Development Permit is required pursuant to Chapter 25.07, the public notice provisions of Section 25.07.014 shall also be required.

Section 25.05.035(F):

(F) Approvals.

- (1) The Director of Community Development shall approve, approve in part, conditionally approve or deny applications for temporary use permits in the R-1 zone and for short-term events (five days or less) deemed minor by the Director of Community Development in any zone. ~~excluding a~~ Applications for temporary parking lots or for uses requiring a Coastal Development Permit are excluded. At the discretion of the Director of Community Development, ~~such~~ temporary use permit applications may be referred to the Planning Commission. Determination shall be made within twenty business days of receipt of the application unless the matter is referred to public hearing.

Section 25.05.035(I):

(I) Effective Date/Expiration Date: ~~Decisions~~ Planning Commission decisions on temporary use permit applications shall become effective ~~ten business~~ fourteen calendar days after the date of the decision, unless appealed to the City Council. Temporary use permits may be authorized for a maximum three year time period.

Of the proposed changes, the changes proposed to subsections 25.05.035 (E) and (I) raise no issue with regard to consistency with the City’s certified Land Use Plan. However, as described below, changes proposed to subsection 25.05.035(F) do raise issue with regard to conformance with and adequacy to carry out the policies of the City’s certified Land Use Plan.

The Commission adopted *Guidelines for the Exclusion of Temporary Events from Coastal Commission Permit Requirements* on May 12, 1993. These guidelines were not incorporated into the proposed amendment. Commission staff inquired as to whether the City would want to incorporate these guidelines into their LCP amendment and the City staff declined. City staff indicated that large beach events (such as volleyball tournaments) do not historically occur on the City’s beaches. If such events are proposed in the future, the City expressed a preference to process a regular coastal development permit, rather than a temporary use permit for such events.

B. Findings for Denial of Implementation Plan Amendment 3-10 as Submitted

The standard of review for amendments to the Implementation Plan of a certified LCP is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP).

1. Resource Protection

Below are relevant LUP policies:

The City's certified Land Use Plan (LUP) includes the City's Land Use Element (LUE), the Open Space/Conservation Element (OS/C Element), and the Coastal Land Use Plan Technical Appendix. Following are the applicable policies from the certified LUP:

Open Space/Conservation Element

Public Beaches and Shoreline Access

3-A Retain and improve existing public beach accessways in the City, and protect and enhance the public rights to use the dry sand beaches of the City.

Parks

5-B Support the recreational use and development of surrounding open space lands, where environmentally feasible, to relieve demand for parklands within the City. Encourage preservation of Laguna Greenbelt in the natural state, with recreational access limited to passive activities such as nature trails and wildlife observation areas.

Visual Resources

7-A Preserve to the maximum extent feasible the quality of the public views from the hillsides and along the city's shoreline.

Vegetation and Wildlife Resources

8-A Preserve the canyon wilderness throughout the city for its multiple benefits to the community, protecting critical areas adjacent to canyon wilderness, particularly stream beds whose loss would destroy valuable resources.

8-C Identify and maintain wildlife habitat areas in their natural state as necessary for the preservation of species.

8-K As a condition of new development in South Laguna, require the identification of environmentally sensitive areas, including chaparral and coastal sage scrub. Intrusion into these areas for wildlands fuel modification programs should not be permitted.

8-L Preserve and protect fish and/or wildlife species for future generations.

8-M Preserve a continuous open space corridor within the hillsides in order to maintain animal migration opportunities.

Ridgelines

13-A Preserve the function of ridgelines, hillsides and canyons as a link between adjoining open space areas.

13-C Discourage ridgeline development in order to protect highly visible and exposed portions of the ridgeline, including outstanding physical features, such as rock outcroppings, vertical slopes, caves, and study the feasibility of prohibiting development on the prominent ridgelines.

13-H Preserve public views of coastal and canyon areas from ridgelines.

The Coastal Land Use Plan Technical Appendix incorporates the following Coastal Act policies regarding visitor serving uses:

Section 30210

In carrying out the requirement of Section 2 of Article XV of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general commercial development, but not over agriculture or coastal-dependent industry.

The LUP policies cited above require that public access and recreation be maximized. Regarding public access the City's certified LUP states:

Laguna Beach is a major visitor destination, attracting nearly three million tourists annually [1984 figure]. The popularity of the City imposes significant demand on the community's shoreline recreational facilities with summer beach attendance sometimes exceeding 30,000 people daily [1984 figure].

In addition, LUP policies require that public views be protected. Regarding public views, the City's certified LUP Open Space/Conservation Element states:

The scenic value of the hillside and coastal areas is especially important, because they are so visible to residents and visitors alike. More than any other function of the City's open space, it is its scenic aspect that most greatly contributes to Laguna's unique community identity. Preservation of the City's natural open space on the basis of its scenic quality, therefore, is an issue of special importance to the community.

and

The scenic value of even large natural areas can be diminished when its visual continuity is disrupted by "islands" or "peninsulas" of manmade intrusions.

In addition, the certified LUP policies require that wetlands and environmentally sensitive habitat areas be protected and that only limited, specific uses be allowed within them. Regarding vegetation and wildlife resources within the City, the City's certified LUP Open Space/Conservation Element states:

Vegetation and wildlife within previously undeveloped areas are particularly vulnerable to human intrusion which disrupts or destroys native plant communities and wildlife corridors. Increased awareness of this vulnerability has made the protection of natural vegetation and wildlife habitats a major component of this element.

Clearly the City's certified LUP places high value on the protection of coastal resources which include maximizing public access and recreation, protecting and enhancing public views, and protecting natural habitats and wildlife. As proposed, revisions to subsection 25.05.035(F) would not assure that these resources would remain adequately protected.

The proposed revisions to subsection 25.05.035(F) are intended to streamline the temporary permit process for events that, in addition to being temporary are also minor in nature. Whether a proposed temporary event is minor in nature is left to the discretion of the City's Director of Community Development.

The change proposed to subsection (F) is (proposed addition shown in underline text; proposed deletions shown in ~~strike-through~~ text):

(F) Approvals.

- (2) The Director of Community Development shall approve, approve in part, conditionally approve or deny applications for temporary use permits in the R-1 zone and for short-term events (five days or less) deemed minor by the Director of Community Development in any zone. ~~excluding a~~ Applications for temporary parking lots or for uses requiring a Coastal Development Permit are excluded. At the discretion of the Director of Community Development, ~~such~~ temporary use permit applications may be referred to the Planning Commission. Determination shall be made within twenty business days of receipt of the application unless the matter is referred to public hearing.

As proposed, a Temporary Use Permit issued by the Director of Community Development would not be subject to a public hearing, public notice, or an appeals procedure. As such, if there were any disagreement or concern as to whether the proposed event would result in adverse impacts to coastal resources, there would be no recourse once the Director made his/her determination. Thus, it would be possible that a temporary event may be allowed even though impacts to public recreation and access, public views and/or natural habitats and wildlife may result. This could not be found to be consistent with the above cited policies of the certified LUP.

The City has indicated that the intent of the insertion of the reference to coastal development permits is to make clear that any proposed development that requires approval of a coastal development permit pursuant to Section 25.07 *Coastal Development Permit*, would not be eligible for the proposed streamlined temporary use permit procedure. Rather, all such development would need to be processed according to the standards and requirements contained in Chapter

25.07, and no temporary use permit could be granted by the City without also conducting a public hearing with public notice and an appeal period. Although the language proposed to be added (shown above) regarding uses requiring a Coastal Development Permit is intended to assure that temporary events that could potentially adversely impact coastal resources would not be eligible for the proposed streamlined temporary use permit process, that does not appear to be achieved by the proposed language.

It is not clear that the City's intent would be achieved with the proposed changes to subsection 25.05.035(F). It is not clear what "uses requiring a Coastal Development Permit" would be excluded from. The proposed language may be interpreted in a number of different ways. Would uses requiring a Coastal Development Permit be excluded from the requirement to obtain a Temporary Use Permit? Would both a Coastal Development Permit and a Temporary Use Permit be required? Or is the intent of the proposed language to preclude approval of a Temporary Use Permit pursuant to the proposed streamlined process for all development that requires approval of a coastal development permit?

Based on information provided by City staff, it appears the latter is the intended effect of the proposed change. The City's intent is consistent with protection of coastal resources. However, in order to make that clear, the proposed language would need to be modified. The proposed language does not make clear that all development that requires a coastal development permit would not be eligible for a temporary use permit processed in the proposed streamlined manner. As proposed, the language does not adequately reflect the City's intent to make the revised subsection most protective of coastal resources. The proposed amendment would not assure that all coastal resources are protected and therefore is inconsistent with and inadequate to carry out the policies of the certified LUP. Therefore, the amendment must be denied as submitted.

C. Findings for Approval of Implementation Plan Amendment 3-10 if Modified as Recommended

1. Incorporation of Findings for Denial of Implementation Plan Amendment 3-10 as Submitted

The findings for denial of the Implementation Plan amendment as submitted are incorporated as though fully set forth herein.

2. Resource Protection

As proposed, the amendment would not make clear that uses that require approval of a coastal development permit cannot be eligible for the streamlined temporary use permit process. As proposed, the amendment is not most protective of coastal resources. Coastal resources include but are not limited to public access and recreation, public views, and sensitive habitats including wetlands. As proposed, the language may allow development that creates adverse impacts on coastal resources. However, if the proposed language were modified to clarify that any development that requires approval of a coastal development permit is not eligible for the streamlined temporary use permit process, then there would be an assurance that coastal resources would be protected and the changes proposed to subsection 25.05.035(F), if modified, could be found to be consistent with the coastal resource protection policies of the certified Land Use Plan. Therefore, only if modified as suggested can the proposed amendment be found to be consistent with and adequate to carry out the policies of the certified Land Use Plan.

3. **Changes Proposed to Subsections 25.05.035(E) and (I)**

The remaining changes of the proposed LCP amendment, changes to subsection 25.05.035 (E) and (I) do not raise any issues of conformity with and adequacy to carry out the policies of the certified LUP. Changes proposed to subsection (E) make clear, that when both a Temporary Use Permit and a Coastal Development Permit are required, the public notice provisions of **both** Chapters 25.50 *Administration* and 25.07 *Coastal Development Permit* apply. This assures all public notice requirements of Chapter 25.07 are required in addition to any other public notice requirements. The changes proposed to subsection (I) would change the date of effectiveness for Planning Commission decisions on Temporary Use Permits from ten business days to fourteen calendar days (unless the decision is appealed to the City Council). These proposed changes raise no issue of conformity with the certified Land Use Plan and are consistent as proposed. No modifications are suggested for these proposed changes.

4. **Conclusion**

The certified LUP requires that coastal resources such as public access and recreation, public views, and sensitive habitats including wetlands be protected. For the reasons described above, only if modified as suggested can the proposed Implementation Plan amendment be found to be consistent with and adequate to carry out the public access and recreation, public view, and habitat protection policies of the City's certified Land Use Plan. Therefore, the Commission finds that, only if modified as suggested is the proposed Implementation Plan amendment consistent with and adequate to carry out the provisions of the certified Land Use Plan.

IV. **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The City of Laguna Beach found that the proposed amendment was without significant adverse environmental impacts, and that the amendment qualified for a Categorical Exemption from CEQA.

As outlined in this staff report, the proposed the IP amendment is inconsistent with the public access and recreation, public views, and habitat protection policies of the certified Land Use Plan. However, if modified as suggested, the IP amendment will be consistent with the policies of the Land Use Plan. Thus, the Commission finds that the IP amendment, if modified as suggested, is in conformity with and adequate to carry out the land use policies of the certified LUP. Therefore, the Commission finds that approval of the LCP amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP amendment request 3-10 if modified as suggested herein.

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EXHIBIT # A

RESOLUTION NO. 10.102

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT 2010-05 AND REQUESTING ITS CERTIFICATION BY THE COASTAL COMMISSION.

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held public hearings to consider the adoption of Laguna Beach Local Coastal Program Amendment No. 2010-05, and such amendment was recommended to the City Council for adoption; and

WHEREAS, the City Council after giving notice as described by law, held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment No. 2010-05, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES RESOLVE AND ORDER as follows:

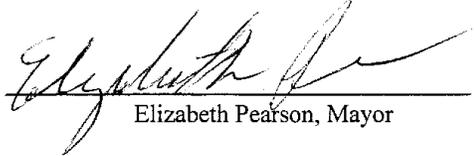
SECTION 1. That Laguna Beach Local Coastal Program Amendment No. 2010-05 is hereby approved, consisting of Ordinance Number 1534 pertaining to the Temporary Use Permit approval process. A copy of the aforesaid Ordinance is attached hereto as Exhibit "A" and are incorporated by those references as though fully set forth herein.

SECTION 2. That the California Coastal Commission is hereby requested to consider, approve and certify Local Coastal Program Amendment 2010-05.

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SECTION 3. That pursuant to Section 13551(b) of the Coastal Commission Regulations, Laguna Beach Local Coastal Program Amendment No. 2010-05 will take effect automatically upon Coastal Commission approval, as provided in Public Resources Code Sections 30512, 30513 and 30519.

ADOPTED this 5th day of October, 2010.


Elizabeth Pearson, Mayor

ATTEST:

City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Resolution No. 10.102 was duly adopted at a Regular Meeting of the City Council of said City held on October 5, 2010 by the following vote:

AYES: COUNCILMEMBER(S): Egly, Boyd, Rollinger, Iseman, Pearson
NOES COUNCILMEMBER(S): None
ABSENT COUNCILMEMBER(S): None


City Clerk of the City of Laguna Beach, CA

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EXHIBIT # A
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ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH
AMENDING SECTION 25.05.035 OF THE LAGUNA BEACH
MUNICIPAL CODE; RELATING TO TEMPORARY USE
PERMITS**

The City Council of the City of Laguna Beach does hereby ORDAIN as follows:

SECTION 1: Section 25.05.035 ("Temporary Use Permits") of the Laguna Beach Municipal Code is hereby amended to read in their entirety as follows:

25.05.035 Temporary use permits.

- (A) Intent and Purpose. The intent of this section is to accommodate reasonable requests for interim or temporary uses when such activities are desirable for the community, or are temporarily required in the process of establishing a permitted use or constructing a public facility. Temporary uses allowed under this section shall be consistent with the health, safety and general welfare of persons residing and working in the community, shall be conducted so as not to cause any detrimental effects on surrounding properties and the community, and shall not violate any other ordinance or regulation of the City.
- (B) Uses Permitted Subject to Temporary Use Permit.
- (1) The following uses may be permitted in residential zones:
 - (a) Construction. Temporary structures, garages or sheds;
 - (b) Parking and storage of earthmoving or construction equipment, when that parking or storage is incidental to an ongoing construction activity;
 - (c) Storage of materials incidental to a public works project, subdivision or construction activity;
 - (d) Tract home or lot sales office;
 - (e) Events which require closure of public streets to traffic;
 - (f) Temporary parking lots other than existing lots;
 - (g) Such other uses as the Planning Commission may by resolution deem to be within the intent and purpose of this section.
 - (2) The following uses may be permitted in nonresidential zones. Uses permitted in the industrial zones shall require special consideration to assure that those uses are compatible with the intent of those zones.
 - (a) Art and handicraft shows (out of doors);
 - (b) Carnivals;
 - (c) Christmas tree sales;
 - (d) Concerts;
 - (e) Farmers market;
 - (f) Horse shows and animal exhibitions;

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EXHIBIT # B
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Temporary Events
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- (g) Outdoor merchandise and display stands;
 - (h) Sporting events;
 - (i) Street vendors, temporary sales booths, sidewalk sales or enterprises of a similar nature;
 - (j) Tents or canvas/plastic enclosures;
 - (k) Those temporary uses permitted in Section 25.05.035(B)(1);
 - (l) Such other uses as the Planning Commission may by resolution deem to be within the intent and purpose of this section.
- (C) Applications. Applications for a temporary use permit shall be made by the property owner or an authorized agent. Applications shall contain such information as prescribed by the Director of Community Development.
- (D) Filing Fee. Prior to accepting an application for a temporary use permit, the Department of Community Development shall collect a filing fee, as determined by resolution of the City Council.
- (E) Public Notice. All temporary use permit applications referred to the Planning Commission shall be subject to the public notice provisions of Section 25.05.065(B) and (C) whereby public notice is mailed to property owners within three hundred feet of the subject property; except that newspaper advertising shall not be required. If a Coastal Development Permit is required pursuant to Chapter 25.07, the public notice provisions of Section 25.07.014 shall also be required.
- (F) Approvals.
- (1) The Director of Community Development shall approve, approve in part, conditionally approve or deny applications for temporary use permits in the R-1 zone and for short-term events (five days or less) deemed minor by the Director of Community Development in any zone. ~~excluding a~~ Applications for temporary parking lots or for uses requiring a Coastal Development Permit are excluded. At the discretion of the Director of Community Development, such temporary use permit applications may be referred to the Planning Commission. Determination shall be made within twenty business days of receipt of the application unless the matter is referred to public hearing.
 - (2) The Planning Commission shall approve, approve in part, conditionally approve or deny all other applications for temporary use permits. The Commission shall make written findings that the project is consistent with applicable general plan policies. Public hearing for temporary use permits shall be scheduled not more than twenty business days following acceptance of a complete application.
 - (3) Written notice of determination shall be mailed to the applicant or authorized agent within ten business days of the decision of the Director of Community Development or the Planning Commission.
- (G) Conditions of Approval. Conditions of approval may include but are not limited to:
- (1) Regulations of hours;
 - (2) Requirement of bonds or other guarantees for cleanup or removal of structures or equipment;

- (3) Return of temporary use site to its original state within a specified period of time;
 - (4) Regulation of permit duration;
 - (5) Regulation of signs and advertising;
 - (6) Regulation of lighting;
 - (7) Regulation of public-address or sound system;
 - (8) Regulation of gas, smoke, noise, fumes, vibrations or other nuisances;
 - (9) Referral to design review;
 - (10) Such other conditions as are deemed necessary to protect the health, safety and welfare of the community and to assure compliance with the intent and purpose of this section.
- (H) Appeals. Appeals are subject to the provisions of Section 25.05.070.
- (I) Effective Date/Expiration Date. ~~Decisions-Planning Commission decisions~~ on temporary use permit applications shall become effective ~~ten business~~ fourteen calendar days after the date of the decision, unless appealed to the City Council. Temporary use permits may be authorized for a maximum three year time period.
- (J) Revocation. Revocations are subject to the provisions of Section 25.05.075.

SECTION 2: This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

SECTION 3: The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective on the expiration of thirty (30) days from and after the date of its adoption.

ADOPTED this ____ day of _____, 2010.

Elizabeth Pearson, Mayor

ATTEST:

City Clerk

Exhibit B₃

I, Martha Anderson, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. ____ was introduced at a regular meeting of the City Council on _____, 2010 and was finally adopted at a regular meeting of the City Council of said City held on _____, 2010 by the following vote: