

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA

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SAN DIEGO, CA 92108-1725

(619) 521-8036



June 18, 1997

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TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: CHUCK DAMM, SOUTH COAST DEPUTY DIRECTOR
DEBORAH N. LEE, DISTRICT MANAGER
LAURINDA R. OWENS, COASTAL PLANNER

SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT 1-96 TO THE CITY OF
IMPERIAL BEACH'S LOCAL COASTAL PROGRAM (For Public Hearing and
Possible Action at the Meeting of July 8-11, 1997)

SYNOPSISSUMMARY OF AMENDMENT REQUEST

The City is requesting an amendment to its municipal code by adding a new definition for "legal non-conforming" uses and adopting related revisions to the chapter addressing non-conforming lots, structures and uses. Specifically, revisions are proposed to the section addressing such structures which are damaged or destroyed by fire or other natural disasters. The revisions would allow for the issuance of reconstruction permits under specific conditions.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that, following a public hearing, the Commission approve the proposed revisions to the City of Imperial Beach's Implementation Plan (LCPA/ZCA 95-01), as submitted. The motion and resolution for this action begin on Page 4. The findings for certification of the revisions to the Implementation Plan begin on Page 5.

AMENDMENT HISTORY

The LCP amendment was originally scheduled for Commission review at its September, 1996 hearing. As originally proposed, the amendment would have eliminated the above-described reference for the majority of properties within the City limits which promotes compliance with the current development standards of the underlying zone as a goal. Due to Commission staff concerns regarding potential impacts of reconstruction of structures adjacent to wetlands without appropriate buffers and structures with deficient off-street parking, the staff was recommending denial of the amendment request. The City thus requested a continuance before the September 1996 hearing which the

Commission granted. Since that time, the City met with staff to discuss the concerns and subsequently amended its submittal which re-instates language requiring that development conform with the existing zoning requirements and standards wherever possible for those properties south of Imperial Beach Boulevard on the east side of Seacoast Drive adjacent to the Tijuana River Estuary. In addition, the City has submitted a parking study which documents the availability of existing on-street parking supplies for purposes of addressing reconstruction of non-conforming structures which currently may be deficient in on-site parking.

BACKGROUND

On September 15, 1981, the Commission denied the initial submittal of the City of Imperial Beach's Land Use Plan and then approved it with suggested modifications. A land use plan resubmittal was made in early 1982; and, on March 16, 1982, the Commission certified the City of Imperial Beach Land Use Plan (LUP) portion of the local coastal program. One amendment to the certified LUP (Major 1-83) was approved in 1983 prior to certification of the Implementation Plan.

The City began issuing coastal development permits pursuant to Section 30600.5 (Hannigan provisions) of the California Coastal Act on August 15, 1983. On September 26, 1984, the Commission approved the LCP Zoning/Implementation Plan as submitted. As of February 13, 1985, the City has been issuing coastal development permits under a certified local coastal program.

There have been 11 amendments to the Implementation Plan and four proposed amendments to the Land Use Plan since certification. The most recent major amendment is reviewed under the LCP History in the report. The City is also processing another LCP amendment (No. 1-97 A and B for Expansion of Nonconforming Residential Structures and Waiver of Public Hearings for Certain Appealable Minor Developments) simultaneously with this item for the subject meeting agenda.

ADDITIONAL INFORMATION

Further information on the City of Imperial Beach LCP amendment may be obtained from Laurinda R. Owens at the San Diego Area Office of the Coastal Commission located at 3111 Camino del Rio North, Suite 200, San Diego, CA 92108-1725 or by calling (619) 521-8036.

PART I. OVERVIEW

A. LCP HISTORY

On June 30, 1981, the City of Imperial Beach formally submitted its Land Use Plan (LUP) for Commission approval. The plan, as originally submitted, comprised the City's entire General Plan (10 elements and a policy plan). Since the plan contained a large volume of material that was not coastal-related and policies addressing coastal issues were found throughout many of the elements, staff summarized the coastal policies into one document. This policy summary along with the Land Use Element was submitted to the Commission as the LCP Land Use Plan.

On September 15, 1981, the Commission found substantial issue with the LUP, as submitted, denied and then conditionally approved the LUP with recommended policy changes for all policy groups. The City resubmitted the LCP Land Use Plan in early 1982, incorporating most of the Commission's suggested policy modifications. This included modification language related to the preservation and protection of the Oneonta Slough/Tijuana River Estuary and South San Diego Bay, preservation and enhancement of coastal access and the provision for visitor-serving commercial uses in the Seacoast District. On March 16, 1982, the Commission certified the City of Imperial Beach LCP Land Use Plan as submitted. The land use plan was effectively certified by the Commission on November 18, 1982. In 1983, prior to certification of the Implementation Plan, the Commission approved an amendment to the LUP to correct a mapping error.

On August 15, 1983, the City began issuing coastal development permits pursuant to Section 30600.5 (Hannigan provisions) of the Coastal Act based on project compliance with their certified LUP. The City then submitted its entire Zoning Ordinance in order to implement the provisions of the certified Land Use Plan. The zoning ordinance was completely rewritten in order to implement the LUP. On September 26, 1984, the Commission approved the LCP Zoning/Implementation Plan as submitted. As of February 13, 1985, the City has been issuing coastal development permits under a certified local coastal program. Subsequent to the Commission's actions on the land use plan and implementation plan, there have been four amendments to the certified land use plan and 11 amendments to the approved implementation plan.

The most recent major amendment to the City's LCP (Major 2-94) involved an amendment to both the LUP and Implementation Plan which essentially consisted of a new General Plan/Coastal Plan and Zoning Ordinance which superseded the Seacoast District Specific Plan. In part, that LCP amendment incorporated many of the changes that were part of "Proposition P", which was passed by the local electorate in Imperial Beach on November 3, 1992. In general, the proposed changes to the Land Use Plan and Zoning Ordinance created new residential, commercial, and mixed-use zone classifications with new residential densities that established overall lower density and height limitations throughout the City. Building heights were reduced to 30 feet where previously, they varied from 26 to 40 feet, inclusive of the Seacoast District.

B. STANDARD OF REVIEW

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

C. PUBLIC PARTICIPATION

As noted previously, the City has amended its original LCP amendment for this item. Notice requirements have been satisfied by publishing notice in the local newspaper, The Imperial Beach Times and notice of this amendment has been sent to all interested parties. The City held two hearings on the matter -- a Planning Commission public hearing on November 9, 1995 and a City Council public hearing on February 7, 1996. The City Council public hearing of February 7, 1996 was continued to February 21, 1996 and to March 6, 1996 and then to April 3, 1996. Adoption of the original ordinance occurred on April 17, 1996. Due to the amended submittal, the City held subsequent hearings on 2/27/97 and 3/19/97. Adoption of the new ordinance occurred on April 2, 1997. Adequate public review and opportunities for local input was therefore provided.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS.

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

- A. RESOLUTION I. (Resolution to approve certification of the City of Imperial Beach Implementation Plan Amendment 1-96 (LCPA/ZCA 95-01), as submitted)

MOTION I

I move that the Commission reject the City of Imperial Beach Implementation Plan Amendment #1-96, as submitted.

Staff Recommendation

Staff recommends a **NO** vote and the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution I

The Commission hereby approves certification of the amendment to the City of Imperial Beach's Local Coastal Program on the grounds that the

amendment conforms with, and is adequate to carry out, the provisions of the certified land use plan. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

PART III. FINDINGS FOR APPROVAL OF THE CITY OF IMPERIAL BEACH'S IMPLEMENTATION PLAN AMENDMENT 1-96

A. AMENDMENT DESCRIPTION

The City proposes to amend its implementation plan by revising the municipal code with the addition of a new section which defines "legal non-conforming" uses and adopting revisions to the chapter which addresses legal non-conforming lots, structures and uses with respect to reconstruction of such uses which are damaged or destroyed by natural disaster. Specifically, as the code is currently certified, it is stated:

"Upon the granting of a Reconstruction Permit, a legal, non-conforming building that has been or may be in the future destroyed by fire, explosion or other casualty or Act of God, or the public, may be reconstructed to its original density, size, height, design, configuration or condition and the use or occupancy of such building or part thereof which existed at the time of such destruction may be continued provided such legal non-conformities are not increased in density or intensity, and there is no reduction in the amount of off-street parking and landscaping that existed on site prior to such destruction. Compliance with the current development standards of the underlying zone is required wherever possible.

The Community Development Department shall grant a Reconstruction Permit if it can be found, from the facts contained in the application, from information obtained by the Community Development Director, and from the evidence presented that:

- a. The building is a legal, non-conforming building and such legal nonconformity did not result from any action by any owner after the effective date of any zoning regulation in which the building is not in conformity; and,
- b. The reconstruction will comply with the current development standards of the underlying zone wherever possible.

At the time the application is filed, the applicant shall pay a Reconstruction Permit fee in such an amount as the City Council shall from time to time establish by Resolution."

The City believes that, as currently written, the existing code language is contradictory in that it provides that non-conforming structures damaged or destroyed by natural disaster may be constructed to their pre-existing

condition (i.e., with regard to density, size, height, design, configuration, etc.), but also states that such structures shall meet current development standards wherever possible. [Emphasis added] The City's opinion is that although it may be possible to conform to current zoning requirements, it is not practical or economically feasible in all cases.

Therefore, through the proposed amendment request, the City proposes to strike the language which states "Compliance with the current development standards of the underlying zone is required wherever possible" for most properties within the City limits. As such, replacement structures would only be required to conform to the requirements of the Uniform Building Code. The currently revised submittal, however, adds language which provides for one exception to this provision. For any developed properties located on the east side of Seacoast Drive, south of Imperial Beach Boulevard, replacement structures would still need to comply with current development standards and land use policies, wherever possible. The proposed ordinance change is shown in the attached adopted ordinances.

B. CONFORMITY WITH THE CERTIFIED LAND USE PLAN

1. Chapter 19.76 Nonconforming Lots, Structures, Uses

a) Purpose and Intent of the Ordinance. The purpose and intent of this chapter is to establish the conditions under which existing structures and land uses may be permitted to continue despite their apparent legal non-compliance with the code. It is the intent of this chapter that legal nonconforming uses shall, except as provided in the code, be eliminated as soon as is economically and practically feasible to do so.

b) Major Provisions of the Ordinance. The major provisions of the ordinance establish the regulations pertaining to non-conforming structures which are damaged or destroyed, as well as other development regulations related to repairs, additions, changes of use and discontinuance of such non-conforming structures, etc.

c) Adequacy to Implement the Certified Land Use Plan. The land use plan contains various policies for protection of wetlands, environmentally-sensitive habitat areas, public access, visual resources, etc. The zoning ordinances implement these policies. As noted earlier in this report, the originally proposed LCP amendment would have eliminated a reference that required reconstruction of structures damaged or destroyed by natural disaster to comply with the current development standards of the underlying zone, wherever possible. Due to Commission staff concerns regarding potential impacts of reconstruction of structures adjacent to wetlands without appropriate buffers and structures with deficient off-street parking, the City requested a continuance. The current submittal has been revised to address staff concerns with regard to wetland buffers and parking.

The proposed revisions to the implementation plan include language which specifically addresses properties that are in close proximity to wetlands and the Tijuana Estuary. The language states:

"Developed properties located on the east side of Seacoast Drive, south of Imperial Beach Boulevard, adjacent to the Tijuana River National Estuarine Research Reserve (TRNERR) will comply with the current development standards of the underlying zone and land use policies wherever possible."

The properties referenced which are adjacent to the wetlands consist of a large apartment/condominium complex in three separate buildings at the southeast intersection of Imperial Beach Boulevard and Seacoast Drive. A second property is along the east side of Seacoast Drive, adjacent to the Tijuana Estuary, approximately 1/4 of a mile south of the aforementioned site. This latter property is developed with two multi-family residential buildings. The non-conforming structures on both of these developed parcels do not presently meet the required 100-foot buffer requirements. A third parcel, known as "Parcel A"/Napolitano, further south on the east side of Seacoast Boulevard, is undeveloped and would not be affected by the amendment as such, but nevertheless is mentioned here for the record. The property is a highly constrained lot which is presently being proposed for a subdivision and has raised significant concerns, through environmental review, with regard to wetland impacts as a result of inability to meet required buffers.

The LUP contains policies addressing the protection of environmentally sensitive resource areas. Specifically, Policy CO-5 (Estuary) of the certified LCP states, in part:

...A buffer area will be established for each development adjacent to wetlands. The width of a buffer area will vary depending upon an analysis. The buffer area should be a minimum of 100 feet unless the applicant can demonstrate to the satisfaction of the State Department of Fish and Game and U.S. Fish and Wildlife that 100 feet is unnecessary to protect the resources of the habitat area. If the project involves substantial improvements or increased human impacts, such as a subdivision, a wider buffer area may be required. For a wetland, the buffer area should be measured from the landward edge of the wetland."

Other properties in Imperial Beach on the west side of Seventh Street which is adjacent to the San Diego Bay which also contains wetlands. However, a site inspection of the area revealed that there appeared to be sufficient buffer area between the rear lots of the homes along this street and the adjacent wetlands. Also, most of the residences have fences along their rear property line which also serves as a barrier between the environmentally sensitive resource areas and the existing development in this area. Therefore, this area does not pose serious concerns with regard to wetland buffers. Thus, the proposed amendment is consistent with the policies of the certified land use plan in that the rebuilding of any non-conforming structures in the geographic areas of concern identified above, will comply with current zoning standards and policies of the LUP which call for the provision of adequate wetland buffers.

Another issue which was a concern in the original submittal of the subject implementation plan amendment was with regard to the adequate provision of off-street parking. The City contains numerous older, legally non-conforming structures, many of which consist of 100% lot coverage and are absent of any on-site parking. If such structures were to be damaged or destroyed, the proposed revisions to the zoning ordinance would permit the structures to be reconstructed to their former condition, absent the provision of off-street parking which is required pursuant to the zoning ordinance. In the community's nearshore area, this raises the potential for cumulative parking problems and public access concerns in terms of adequacy of parking for beach visitors. Absent the provisions for necessary on-site parking in redevelopment of buildings destroyed by fire or other disasters, there was a concern about the usurption of parking for beach visitors which could occur on a cumulative basis. As noted previously, the City has since then conducted a parking study for the nearshore area in order to respond to Commission staff's initial concerns as to how the non-conforming structures and/or uses which presently exist may be affected by the proposed LCP amendment.

The findings of the parking study reveal that there is no serious public parking shortage for the nearshore areas at present. The parking study was conducted in August of 1996 and it was determined that there were a total of 979 on-street spaces, 119 public off-street spaces, 837 residential private parking spaces and 497 commercial off-street spaces. Discounting the residential and commercial parking which is reserved for residents, customers and employees, the net available parking to the general public is 1,098 parking spaces. The parking study also revealed that occupancy rates for public parking spaces ranged between 47% and 63% on Saturdays and 36% on weekdays. The highest occupancy rates were along Seacoast Drive close to the beach. It was also noted that parking occupancy rates did not vary significantly during the weekdays (Thursdays) which reflects the relative stability of the area (at least presently) on weekdays for parking demand during a peak summer month.

In any event, it is not expected that there will be many structures damaged or destroyed by natural disaster which will necessitate the granting or issuance of a reconstruction permit. Given that this provision will be used in few instances, there should not be very many non-conforming structures deficient in on-site parking which would be rebuilt to their former siting on the property. It is important to note that, even in such cases, the language of the ordinance provides that the non-conformities may not be increased in density or intensity and that there is no reduction in off-street parking that existed prior to the destruction. As such, the granting of a reconstruction permit would not worsen the existing parking conditions since existing on-site parking cannot be reduced. The Commission finds it can support the City's amendment as it would essentially maintain the status quo of the current development pattern. However, it should be noted that the parking study should not be accepted as a rationale for decreasing the parking standards for any new or more intensive development. Commission staff still has concerns relative to the adequacy of parking for new development or more intensive redevelopment in the future in the nearshore area.

On a related note, upon review of the LCP submittal, it came to Commission staff's attention that there is no natural disaster exemption for replacement structures in the currently certified LCP, consistent with Section 30610(g) of the Coastal Act, as is typical in most zoning ordinances for various cities. Specifically, this Coastal Act section provides that no coastal development permit shall be required for the replacement of any structure destroyed by a disaster as long as the replacement structure conforms to applicable existing zoning requirements, is the same use, does not exceed the floor area, height, bulk of the destroyed structure by more than 10% and is in the same location as the destroyed structure. Therefore, absent similar language in the City's existing zoning ordinance to this effect, at this time, an applicant would need to obtain a coastal development permit when seeking to utilize a reconstruction permit. The City's existing zoning ordinance addressing nonconforming lots, structures and uses is phrased in a manner which would actually allow applicants to apply for a reconstruction permit prior to the natural disaster occurring. In the past, it has been acknowledged that the wording may seem awkward, but lenders and insurance companies want additional assurance that if a legal non-conforming structure were destroyed, it could be rebuilt to the same density or intensity as prior to the natural disaster. The City may want to process an exemption for replacement structures consistent with Section 30610(g) of the Coastal Act in the future.

Aside from the issues of wetland buffers and parking, the only other potential problem assessed was the need to abate non-conforming structures that extended too far seaward along the shoreline. However, upon further review, it has been determined that the proposed changes to the zoning ordinance would not raise any siting issues related to the development of structures along the shoreline. South of Palm Avenue, there is an established stringline of development which includes both rip rap and vertical seawalls seaward of existing homes/condominium buildings. Any reconstruction of structures in this area would not create any siting concerns. North of Palm Avenue, any proposed reconstruction of structures in this area would remain within the stringline and would not adversely affect redevelopment in terms of siting of structures on these lots. In conclusion, since the proposed revisions conform with the certified land use plan, the proposed ordinance can be found in conformance with and adequate to, implement the certified LUP.

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

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

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended,

does conform with CEQA provisions. In the case of the subject LCP amendment request, the Commission finds that approval of the subject LCP amendment, as submitted, would not result in any significant environmental impacts under the meaning of the California Environmental Quality Act.

All of the portions of the proposed amendment to the City of Imperial Beach's Implementing Ordinances have been found consistent with and adequate to carry out the policies of the certified land use plan. The proposed amendment will assure that, through a reconstruction permit, property owners will be able to rebuild legal nonconforming structures when destroyed by natural disaster, pursuant to the subject LCP amendment request, and will provide adequate wetlands buffers for those properties adjacent to the Tijuana Estuary. Also, given that there is no present deficiency in public parking near the shoreline, the re-building of legal nonconforming structures will not result in any significant adverse effects on public access opportunities or environmental impacts.

Any specific impacts associated with individual development projects would be assessed through the environmental review process; and, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that no significant, unmitigable environmental impacts under the meaning of CEQA will result from the approval of the proposed LCP amendment.

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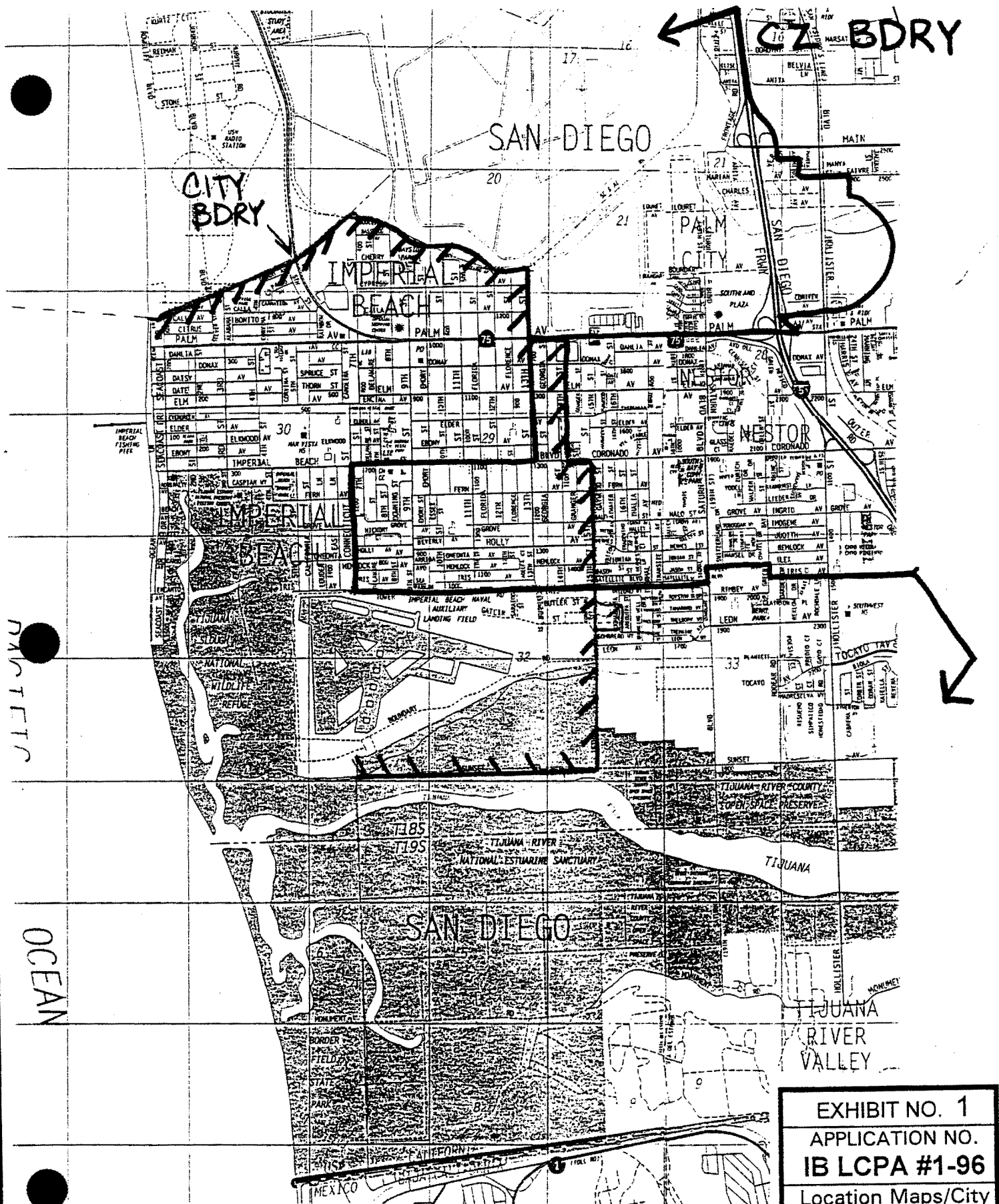


EXHIBIT NO. 1
APPLICATION NO.
IB LCPA #1-96
Location Maps/City
of IB/CZ Boundary

ORDINANCE NO. 97-911

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AMENDING TITLE 19, ZONING, CHAPTER 19.76, OF THE CITY OF IMPERIAL BEACH MUNICIPAL CODE ENTITLED "NONCONFORMING LOTS, STRUCTURES AND USES" BY ADDING SECTION 19.76.050.D PERTAINING TO THE RECONSTRUCTION OF DEVELOPED PROPERTIES LOCATED ON THE EAST SIDE OF SEACOAST DRIVE AND SOUTH OF IMPERIAL BEACH BOULEVARD, ADJACENT TO THE TIJUANA RIVER NATIONAL ESTUARINE RESEARCH RESERVE.

(LOCAL COASTAL PLAN/ZONE CODE AMENDMENT LCPA/ZCA 95-01)


WHEREAS, on February 27, 1997, the Planning Commission conducted a public hearing to consider an amendment to the City's Zoning Code and Local Coastal Plan (LCPA/ZCA 95-01) and recommended to the City Council an amendment to Section 19.76.050 by adding subsection D pertaining to the reconstruction of three developed parcels located on the east side of Seacoast Drive, south of Imperial Beach Boulevard, and adjacent to the Tijuana River National Estuarine Research Reserve; and,

WHEREAS, on March 19 1997, the City Council of the City of Imperial Beach conducted a public hearing to consider the Planning Commission's recommendation to amend Section 19.76.050; and,

WHEREAS, the proposed amendment is categorically exempt from CEQA (California Environmental Quality Act), Section 15302, entitled "Replacement of Reconstruction", Class 2. The proposed amendment will reinstate current General Plan and zoning requirements for the reconstruction of developed properties adjacent to the TRNERR in conformance with Section 15300.2(c) of CEQA which otherwise exempts from a categorical exemption those projects or activities where there is a reasonable possibility that the activity will have a significant effect on the environment; and,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Imperial Beach does hereby adopt Ordinance No. 97-911, Local Coastal Plan/Zone Code Amendment (LCPA/ZCA 95-01) to amend Title 19, Zoning, Chapter 19.76 of the City of Imperial Beach Municipal Code entitled "Nonconforming Lots, Structures and Uses" by adding Section 19.76.050.D, as set forth in Exhibit A.

SECTION 1. This Ordinance shall be codified.

EXHIBIT NO. 2
APPLICATION NO.
IB LCPA #1-96
Adopted Ordinance
LCPA/ZCA 95-01
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 California Coastal Commission

SECTION 2. The City Clerk of the City of Imperial Beach shall certify the adoption of this Ordinance and cause the same to be published in a manner required by law.

SECTION 3. This Ordinance shall take effect on the date of adoption by the California Coastal Commission, but no sooner than thirty (30) days after its passage by the City Council.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, held the 19th day of March, 1997; and thereafter **PASSED AND ADOPTED** at a regular meeting of said City Council held this 2nd day of April, 1997, by the following roll call vote:

AYES:	COUNCILMEMBERS: WINTER, ROSE, HALL, BIXLER
NOES:	COUNCILMEMBERS: NONE
ABSENT:	COUNCILMEMBERS: BENDA



MICHAEL B. BIXLER, MAYOR

ATTEST



LINDA TROYAN, CITY CLERK

Ordinance 97-911

Exhibit A

Section 19.76.050 entitled "Structures - Damaged or destroyed"

19.76.050

- D. Developed properties located on the east side of Seacoast Drive, south of Imperial Beach Boulevard, adjacent to the Tijuana River National Estuarine Research Reserve (TRNERR) will comply with the current development standards of the underlying zone and land use policies wherever possible.**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AMENDING THE IMPERIAL BEACH MUNICIPAL CODE BY ADDING SECTION 19.04.448 DEFINING "LEGAL NON-CONFORMING" AND ADOPTING REVISIONS TO CHAPTER 19.76., SPECIFICALLY 19.76.050., ENTITLED "BUILDINGS - DAMAGED OR DESTROYED"

WHEREAS, the City Council desires to amend Section 19.76.050 of the Imperial Beach Municipal Code relating to Buildings - Damaged or Destroyed.

NOW, THEREFORE, the City Council of the City of Imperial Beach does hereby ordain as follows:

SECTION 1. A new section 19.04.448 is hereby adopted as follows:

Legal Non-Conforming: A legal non-conforming structure is one which was in compliance with zoning and building codes in force at the time of initiation of the construction of the structure as evidenced by such governmental permits and/or approvals as were required at the time of the construction, and due to subsequent changes in zoning no longer complies with the current zoning requirements.

SECTION 2. Section 19.76.050 of the Imperial Beach Municipal Code is hereby repealed.

SECTION 3. A new section 19.76.050 is hereby adopted as follows:

A legal non-conforming building that has been or may in the future be damaged or destroyed by fire, explosion, or other casualty or act of nature, or public calamity or riot, may be reconstructed to its original density, size, height, design, configuration or condition and the use or occupancy of such building or part thereof which existed at the time of such destruction may be continued provided such legal nonconformities are not increased in density or intensity, and there is no reduction in the amount of off-street parking and landscaping that existed on-site prior to such destruction.

The Community Development Department shall grant a Reconstruction Permit if it can be found, from the facts contained in the application, from information obtained by the Community Development Director, and from the evidence presented, that:

A. The building is a legal, non-conforming building and such legal nonconformity did not result from any action by any owner after the effective date of any zoning regulation with which the building is not in conformity; and,

B. The legal, non-conforming building can be rebuilt on the previous footprint but must meet current building codes.

C. At the time the application is filed, the applicant shall pay a Reconstruction Permit fee in such an amount as the City Council shall from time to time establish by resolution.

EXHIBIT NO. 3
APPLICATION NO.
IB LCPA #1-96
Adopted Ordinance
LCPA/ZCA 95-01
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California Coastal Commission

SECTION 4. This Ordinance shall be codified.

SECTION 5. The City Clerk of the City of Imperial Beach shall certify to the adoption of this Ordinance and cause the same to be published in the manner required by laws.

SECTION 6. This modification constitutes an amendment to the Zoning Code of the City of Imperial Beach, a component of the Local Coastal Program and requires certification by the California Coastal Commission. Therefore, the City Clerk is hereby directed to transmit this Ordinance to the California Coastal Commission for approval.

SECTION 7. This Ordinance shall take effect thirty (30) days after its passage, or until certification by the California Coastal Commission whichever comes later.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California held this 3rd day of April, 1996; and thereafter **PASSED AND ADOPTED** at a regular meeting of said City Council held this 17th day of April, 1996, by the following roll call vote:

AYES:	COUNCILMEMBERS:	BENDA, HASKINS, ROSE, HALL, BIXLER
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE



MICHAEL B. BIXLER, MAYOR

ATTEST:



LORI ANNE PEOPLES, CITY CLERK

