

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036

June 17, 1997



TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: CHUCK DAMM, SOUTH COAST DEPUTY DIRECTOR
DEBORAH N. LEE, DISTRICT MANAGER, SAN DIEGO DISTRICT OFFICE
LAURINDA R. OWENS, COASTAL PROGRAM ANALYST, SAN DIEGO DISTRICT OFFICE

SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT 1-97 A and B TO THE CITY OF IMPERIAL BEACH'S LOCAL COASTAL PROGRAM (For Public Hearing and Possible Final Action at the Coastal Commission Hearing of July 8-11, 1997)

Th 9c

SYNOPSISSUMMARY OF AMENDMENT REQUEST

The City is requesting to amend the certified LCP by making revisions to its implementing ordinances. The proposed amendment revises the City of Imperial Beach's Municipal Code and the certified LCP to incorporate changes to the zoning code. The proposed changes address the expansion of nonconforming residential structures and provisions for the waiver of public hearings for certain appealable minor developments.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval, as submitted, of the City's Local Coastal Program Amendment (LCPA/ZCA 97-01) for expansion of nonconforming residential structures. Staff recommends denial, as submitted, of the City's Local Coastal Program Amendment (LCPA/ZCA 96-01) for the waiver of public hearings for certain appealable minor developments and then approval, with suggested modifications. The appropriate resolutions and motions may be found beginning on Page 3. The findings for certification of the revisions to the chapters addressing expansion of nonconforming residential structures, as submitted, begin on Page 6 and the findings for rejection of the potential public hearing waivers begin on Page 9.

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. 1-96 for Reconstruction Permits) simultaneously with this item for the subject meeting agenda.

The subject amendment request was received and filed on April 29, 1997 and includes three distinct items. Amendments to certified implementation plans must be heard within 60 days of their filing. Because of the Commission's production and meeting schedules, it was not possible to complete the staff analysis on the amendment package for June. Therefore, the City supported a time extension for the amendment package which was endorsed by the Commission last month. Part C of the amendment request, addressing permitted uses in the Seacoast District, will be agendized at a later date as the City has requested it be continued again to allow for additional coordination. The already granted time extension by the Commission allows this deferral.

ADDITIONAL INFORMATION

Further information on the City of Imperial Beach LCP amendment may be obtained from Laurinda R. Owens at the San Diego District 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

The City has held both Planning Commission and City Council meetings with regard to the subject amendment request. All of these 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 the resolution.

RESOLUTION I (Resolution to approve certification of the City of Imperial Beach LCP Implementation Plan Amendment 1-97A (LCPA/ZCA 97-01) as submitted)

MOTION I

I move that the Commission reject the City of Imperial Beach's LCP Amendment #1-97A, 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.

RESOLUTION II (Resolution to reject the City of Imperial Beach LCP Implementation Plan Amendment #1-97B (LCPA/ZCA 96-01), as submitted)

MOTION II

I move that the Commission reject the City of Imperial Beach's LCP Amendment #1-97B, as submitted.

Staff Recommendation

Staff recommends YES vote and the adoption of the following resolution and findings. A affirmative vote of a majority of the Commissioners present is needed to pass the motion.

Resolution II

The Commission hereby rejects the implementation plan amendment to the City of Imperial Beach LCP on the grounds that it does not conform with, and is inadequate to carry out, the provisions of the certified land use plan. There are feasible alternatives or feasible mitigation measures which would substantially lessen any significant adverse impacts which the approval would have on the environment.

RESOLUTION III (Resolution to approve certification of the City of Imperial Beach LCP Implementation Plan Amendment #1-97 (LCPA/ZCA 96-01), if modified)

MOTION III

I move that the Commission approve the City of Imperial Beach's LCP Amendment #1-97B, if it is modified in conformity with the suggested modifications set forth in this staff report.

Staff Recommendation

Staff recommends a YES vote and the adoption of the following resolution. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

Resolution III

The Commission hereby approves certification of the implementation plan amendment to the City of Imperial Beach LCP, based on the modifications and findings set forth below, on the grounds that it 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 impact which approval of the Implementation Plan would have on the environment.

PART III. SUGGESTED MODIFICATIONS

The following suggested modifications are proposed to the City of Imperial Beach's amendment request. Language to be deleted is struck-out; language to be added is underlined; and, entirely new policy language is as noted.

1. Section 19.87.090.D of the Zoning Code shall be revised to read as follows:

19.87.090.D. Waiver of public hearing requirements for appealable "minor developments".

~~1. Minor Development constitutes any development within the Coastal Zone which only requires a Regular Coastal Development Permit.~~

21. In accordance with Sections 30624.7 and 30624.9 of the Coastal Act (1996), the public hearing may be waived for certain appealable minor developments which require Regular Coastal Development Permits, subject to compliance with all of the following requirements and conditions.

- a. The minor development conforms to the certified Local Coastal Plan including coastal land use policies, as defined in Section 30108.6 of the Coastal Act (1996);
- b. The minor development requires no discretionary approvals other than a Regular Coastal Development Permit;
- c. The minor development ~~has meets the standards for public access and recreation of Chapter 3 of the 1996 Coastal Act, and regulations promulgated thereunder, thereby ensuring that there will be~~ no adverse effect, either individually or cumulatively, on coastal resources or public access to the shoreline or along the coast.
- d. No written request for a public hearing is received by the City of Imperial Beach within 15 working days from the date of sending the public notice pursuant to subdivision 32.a.

32. Notice of Intent to Issue a Regular Coastal Development Permit for minor appealable development, shall be in accordance with the following:

- a. Notice of the project shall include a description, location and a statement that a public hearing will be held upon written request by any person who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice.
- b. The notice provided pursuant to subdivision 32.a. shall include a statement that failure by a person to request in writing a public hearing may result in the loss of that person's ability to appeal to the California Coastal Commission any action taken by

the legislative body on a Regular Coastal Development Permit application.

- c. Should a written request for a public hearing be received within 15 working days from the date the Notice of Intent is sent, then the item will be placed on the next available Planning Commission agenda and noticed for a public hearing in accordance with the requirements established in Section 19.87.090 of the City of Imperial Beach Municipal Code.

- 43. If a Regular Coastal Development Permit is approved by staff without a public hearing and the project is appealed by members of the Coastal Commission, notice of the Coastal Commissioner's appeal shall be transmitted to the City Council for a decision on the merits of the appeal. The final action of the Coastal Commission appeal shall be suspended until a decision by the City Council is provided. If the decision by the City Council modifies or reverses the previous staff decision and the Coastal Commission wishes to review the project, members of the Coastal Commission shall be required to file a new appeal.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF IMPERIAL BEACH IMPLEMENTATION PLAN AMENDMENT 1-97A - EXPANSION OF NONCONFORMING RESIDENTIAL STRUCTURES

A. AMENDMENT DESCRIPTION.

The amendment request will modify the chapter of the zoning code which addresses Nonconforming Lots, Structures and Uses. Specifically, Chapter 19.76.070 addresses enlargements and additions to nonconforming structures. The proposed amendment will clarify the zoning code in a manner which will allow expansions and upgrading to nonconforming residential structures and also clarifies what types of improvements, in terms of expansions, would not be permitted to such structures.

B. FINDINGS FOR CERTIFICATION

1. Expansion of Nonconforming Residential Structures (Chapter 19.76.070)

a) Purpose and Intent of the Ordinance. The purpose and intent of the existing ordinance related to legal nonconforming uses is to establish the conditions under which existing structures and land uses may be permitted to continue despite the general direction in the zoning ordinances to eliminate nonconforming uses and buildings as soon as it is economically and practically feasible to do so.

b) Major Provisions of the Ordinance. The major provisions of the ordinance include under what conditions a nonconforming structure that is damaged or destroyed may be rebuilt, repaired, enlarged or moved. Other provisions also include under what parameters a variance may be issued to such

structures and when a nuisance can be declared for nonconforming signs, billboards or structures. The ordinance also provides for when nonconforming structures may be changed to another use as well as discontinuance of such use.

c) Adequacy of the Ordinance to Implement the Certified LUP. The proposed revision to this chapter of the zoning code will essentially allow existing legally nonconforming residential structures to be improved under specified conditions. According to the City staff report regarding this item, a number of properties have been made legally nonconforming structures as a result of re-zonings that occurred in 1994 pursuant to IB LCPA #2-94 which resulted in numerous changes throughout the City (see LCP History on pp. 2-3 of this staff report). Specifically, a number of properties that were previously residential uses were put into the new commercial zones. The City has indicated that property owners who own homes within the old residentially zoned areas would like the option of being able to have their structures remain entirely residential or become entirely commercial, based on what the market demands. For example, south of the Imperial Beach Pier to Imperial Beach Boulevard, there are several apartment buildings in the commercial zone. These buildings have not been able to be upgraded as residential structures or demolished and replaced with newer or improved development because, at present, there is no commercial demand. At this time, to convert such structures to commercial uses would not be prudent given the large number of commercial/retail vacancies that presently exist in the Seacoast Drive area of the community. Historically, the City has not been very successful in attracting new businesses to the commercial nearshore areas and has implemented a number of revisions to its implementing ordinances to relieve parking requirements, etc. as an incentive to generate new development.

The present language in the zoning ordinance pertaining to expansion of nonconforming uses states the following:

19.76.070 - Structures - Additions and enlargements.

A nonconforming structure may not be added to or enlarged in any manner unless the additions or enlargements conform to all of the regulations of the zone in which the structure is located.

Because of this existing code language, since a residential use is not a permitted use in a presently existing commercial zone, no expansions or additions of any kind can be permitted because such structures cannot meet all of the "regulations of the zone" which includes use restrictions, as well. Thus, the purpose of the amendment is to allow such structures to be improved and expanded, even though the use is not consistent with current zoning. The proposed amendment will add language which states:

Increasing the square footage of a nonconforming residential structure does not constitute adding to or enlarging for purposes of this section provided that no additional dwelling unit is created and such increase otherwise conforms to applicable development standards.

It is important to note that the LCP amendment specifies that such additions cannot create additional units and that any addition or enlargement must otherwise conform with applicable development standards which includes building setbacks, height restrictions, parking requirements, etc. As stated in the City's staff report, it is anticipated that these legally nonconforming residential uses will eventually be transformed into commercial uses and that residential uses will gradually be phased out. However, it is difficult to determine when this transition will occur and when there will be adequate demand for more commercial uses, particularly in the City's nearshore commercial zones. Even though permitting renovations to such structures would result in an added financial investment to such structures, thus, prolonging their economic life, it is anticipated that such uses will be converted over time. In addition, the re-use of residential structures as commercial properties in the future would be consistent with the policies of the certified LUP which call for promotion of visitor-serving uses in the beachfront area since such structures could be redesigned for visitor-oriented shops, restaurants, etc., consistent with this goal. In addition, since the proposed amendment will permit improvements to legally nonconforming residential structures, including those which are in a state of disrepair or in a visually degraded area, the visual quality in the coastal areas will be enhanced consistent with visual resource policies of the certified LUP. Therefore, since the proposed revision conforms with the general land use principles outlined in the LUP, the proposed ordinance can be found in conformance with, and adequate to, implement the certified LUP.

PART V. FINDINGS FOR REJECTION OF THE CITY OF IMPERIAL BEACH IMPLEMENTATION PLAN AMENDMENT #1-97B, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The amendment request will modify the chapter of the zoning code which addresses coastal development permits and hearing and notice procedures. Specifically, the subsection of this chapter which will be modified is with regard to required notices for regular coastal development permits and when a public hearing is required. The proposed amendment will add language to the zoning code which will allow for the waiver of public hearing requirements for certain minor appealable developments and will include the definition of what constitutes "minor development".

B. FINDINGS FOR REJECTION

1. Waiver of Public Hearing Requirements for Certain Appealable Minor Developments

a) Purpose and Intent of the Ordinance. The proposed chapter to be revised by the subject amendment request is Chapter 19.87 which addresses Coastal Development Permits - Hearing and Notice Procedures. Specifically, the subsection to be amended is Chapter 19.87.090 which addresses notices required, notice of Regular Coastal Development permits and public hearings required. The main purpose of this chapter is to outline the public hearing

requirements for regular coastal development permits.

b) Major Provisions of the Ordinance. The major provisions of the ordinance define what constitutes a coastal development permit, requirements for permit fees, application procedures, definition of exempt projects, criteria for granting coastal development permits and establishes public notice and hearing requirements for coastal development permits including a description of the contents of the public hearing notice. The ordinance also includes the provisions for public hearings before the Planning Commission and City Council including procedures for noticing for appealable coastal development permits, etc.

c) Adequacy to Implement the Certified Land Use Plan. The proposed changes to this ordinance will incorporate provisions for the waiver of public hearings for certain types of minor development, consistent with Sections 30624.7 and 30624.9 of the Coastal Act. Prior to January 1, 1996, regulations required that coastal cities and counties with certified LCPs conduct a public hearing on any coastal development permit application which was appealable to the Commission. As a result of permit streamlining procedures, the Commission initiated legislation amending the Coastal Act to allow the waiver of public hearing requirements for certain minor developments. The amendment took effect on January 1, 1996.

However, there are some concerns with regard to the phrasing of the proposed language to the municipal code. Specifically, the proposed ordinance language states "Minor Development constitutes any development within the Coastal Zone which only requires a Regular Coastal Permit." The City's coastal development permit ordinance contains two types of permits--Regular and Administrative. By definition of the City's ordinance, appealable developments must be processed as Regular Coastal Development Permits--they cannot be processed as Administrative Coastal Permits because they are appealable. The phrasing of this section could be interpreted to read that any type of development which only requires a Regular Coastal Permit would be deemed "minor" which is inaccurate. Although the City was attempting to clarify what constitutes "minor development", there is the possibility that in the future there may be a project which only requires a Regular Coastal Permit but still cannot be found consistent with the certified LCP or has an adverse effect on coastal resources or public access to the shoreline or along the coast. Although the subsequent section of the ordinance specifies the criteria for waiving the public hearing, it still creates a potential problem in its application.

A second concern is with the proposed language which states that minor development must meet the standards for public access and recreation of Chapter 3 of the Coastal Act, thereby ensuring that there will be no adverse effect on coastal resources or public access to the shoreline or along the coast. However, this phrasing is also misleading because, even though a project may be consistent with the public access and recreation policies, it could still pose adverse impacts to coastal resources (such as impacts to environmentally sensitive habitats or shoreline processes etc.). A finding of consistency with the public access and recreation policies of Chapter 3 does not ensure there will be no adverse effects, either individually or

cumulatively, on coastal resources. Absent clarification to these citations, the proposed additions to the ordinance cannot be found in conformance with or adequate to implement the certified Land Use Plan and LCP.

PART VI. FINDINGS FOR APPROVAL OF THE IMPLEMENTATION PLAN AMENDMENT
#1-97B, IF MODIFIED

The Commission finds that, if the City of Imperial Beach incorporates the above stated suggested modifications into the City's proposed ordinance regarding procedures for waiver of public hearing requirements for appealable minor developments, the implementation plan would be in a certifiable form. The proposed revisions are fully consistent with new Coastal Act provisions (Sections 30624.7 and 30624.9). The suggested modifications to the ordinance will clarify what constitutes minor development and the criteria for waiving certain appealable minor development which require Regular Coastal Development Permits. Therefore, the revised ordinance can be found consistent with and adequate to carry out the policies of the certified LCP.

PART VII. 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 and modified, would not result in 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. With respect to expansion of residential nonconforming uses, the proposed amendment will assure that property owners will be able to improve legally nonconforming residential structures as long as no additional dwelling units are created and the development meets the applicable development standards, pursuant to the subject LCP amendment request, and will not result in any significant environmental impacts. Also, allowing existing legally nonconforming residential structures to be improved will also result in enhancing the visual quality in those areas located near the shoreline. With regard to the potential waiver of public hearing requirements, the proposed additions to the zoning ordinance will appropriately define minor development and the criteria

for waiving public hearings for certain appealable developments which includes, in part, that such development, must have no adverse effect, either individually or cumulatively, on coastal resources or public access to the shoreline or along the coast, consistent with Coastal Act policies.

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.

(1783A)

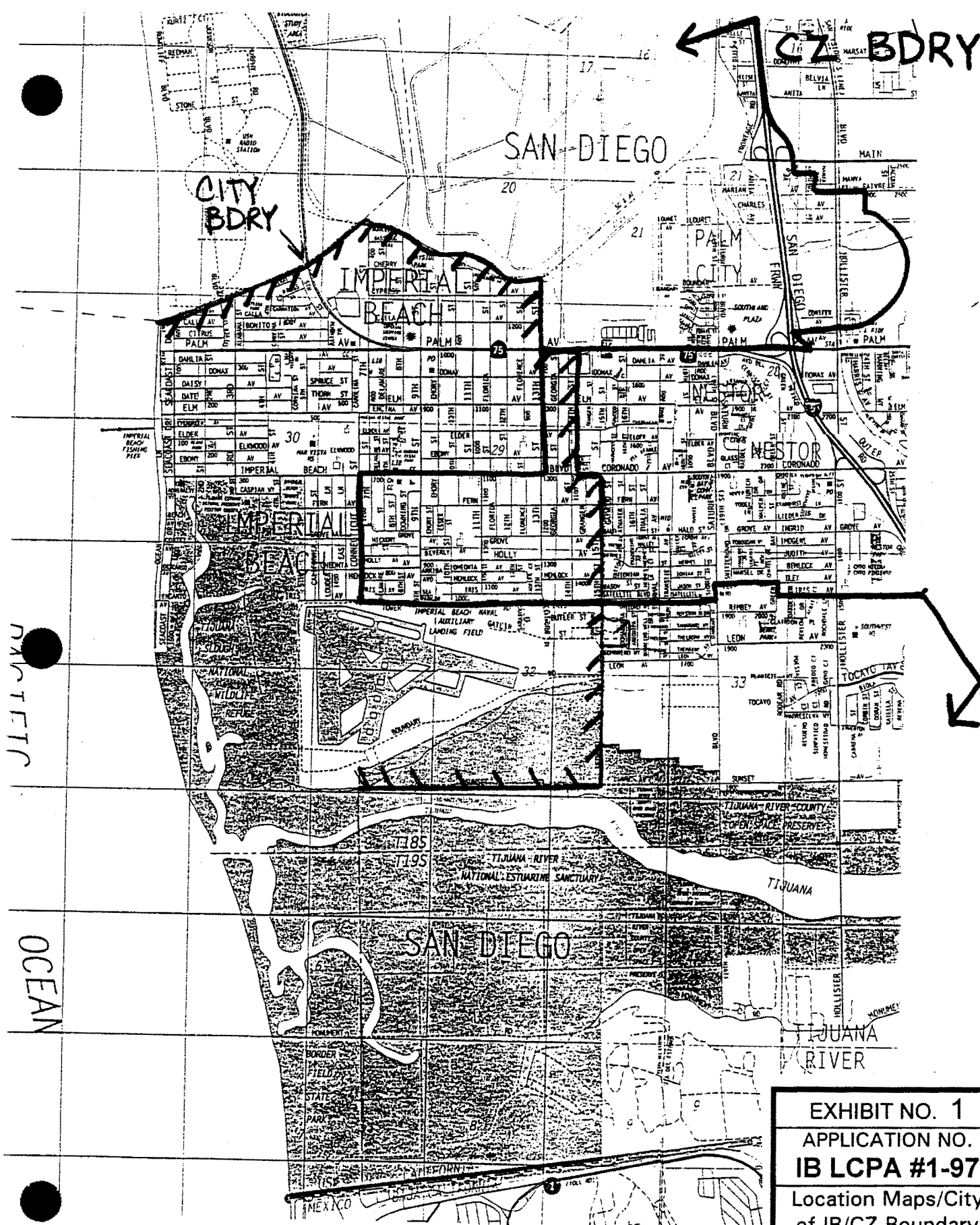


EXHIBIT NO. 1
APPLICATION NO.
IB LCPA #1-97
Location Maps/City
of IB/CZ Boundary

California Coastal Commission

ORDINANCE NO. 97-909

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, USES", BY AMENDING SECTION 19.76.070, RELATING TO THE EXPANSION OF NONCONFORMING RESIDENTIAL STRUCTURES.

(LOCAL COASTAL PLAN/ZONE CODE AMENDMENT LCPA/ZCA 97-01).

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 97-01), and recommended to the City Council an amendment to Section 19.76.070, relating to the expansion of nonconforming residential structures; 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 19.76.070; and,


WHEREAS, the proposed amendment is Categorically Exempt from environmental review based on Section 15303 (Class 3) of the California Environmental Quality Act, as it would not have a significant effect on the environment since the amendment would only allow additions to existing nonconforming residential structures.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Imperial Beach does hereby adopt Ordinance No. 97-909, Local Coastal Plan/Zone Code Amendment (LCPA/ZCA 97-01) to amend Title 19, Zoning, Chapter 19.76, of the City of Imperial Beach Municipal Code entitled "Nonconforming Lots, Structures, Uses", by amending Section 19.76.070, which allows for the additions and enlargements of nonconforming residential structures as identified below:

SECTION 1. Section 19.76.070 of the Imperial Beach Municipal Beach shall be amended as follows:

19.76.070 Structures—Additions and enlargements.

A nonconforming structure may not be added to or enlarged in any manner unless the additions or enlargements conform to all the regulations of the zone in which the structure is located. (Ord. 601 Sec. 1(part), 1983)

EXHIBIT NO. 2
APPLICATION NO.
IB LCPA #1-97
Adopted Ordinance/ LCPA/ZCA 97-01
Page 1 of 2
 California Coastal Commission

Increasing the square footage of a nonconforming residential structure does not constitute adding to or enlarging for purposes of this section provided that no additional dwelling unit is created and such increase otherwise conforms to applicable development standards.

SECTION 2. This Ordinance shall be codified.

SECTION 3. 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 4. 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 NO. 97-908

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AMENDING TITLE 19, ZONING, CHAPTER 19.87., OF THE CITY OF IMPERIAL BEACH MUNICIPAL CODE ENTITLED "COASTAL DEVELOPMENT PERMIT - HEARING AND NOTICE PROCEDURES", BY ADDING SECTION 19.87.090.D., WHICH PROVIDES FOR A WAIVER OF THE PUBLIC HEARING REQUIREMENT FOR MINOR DEVELOPMENTS WHICH ARE APPEALABLE TO THE CALIFORNIA COASTAL COMMISSION. (GENERAL PLAN/LOCAL COASTAL PLAN/ZONE CODE AMENDMENT LCPA/ZCA 96-01).


WHEREAS, on January 2, 1997, the City Council of the City of Imperial Beach considered General Plan/Local Coastal Plan/Zone Code Amendment (LCPA/ZCA 96-01), to amend Title 19, Zoning, Chapter 19.87., of the City of Imperial Beach Municipal Code entitled "Coastal Development Permit- Hearing and Notice Procedures", by adding Section 19.87.090.D., which provides for a waiver of the public hearing requirement under specific circumstances for minor developments which are appealable to the California Coastal Commission; and,

WHEREAS, on November 14, 1996, the Planning Commission did consider General Plan/Local Coastal Plan/Zone Code Amendment (LCPA/ZCA 96-01), and adopted Resolution No. 96-1169, recommending adoption by the City Council; and,

WHEREAS, General Plan/Local Coastal Plan/Zone Code Amendment (LCPA/ZCA 96-01) is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), as it would not, and could not have a significant effect on the environment; and,

WHEREAS, General Plan/Local Coastal Plan/Zone Code Amendment (LCPA/ZCA 96-01) is entirely consistent with Section 30624.9, of the California Coastal Act of 1976, as amended 1996, which provides for the waiver of the public hearing requirements under specific circumstances which have been incorporated in new Section 19.87.090.D., of the City of Imperial Beach Municipal Code, as set forth in Exhibit "A" attached herewith; and,

WHEREAS, the waiver of the public hearing requirement for appealable minor developments will not affect the findings of approval necessary for the issuance of a Regular Coastal Development Permit.

EXHIBIT NO. 3
APPLICATION NO.
IB LCPA #1-97
Adopted Ordinance
LCPA/ZCA 96-01
Page 1 of 4
 California Coastal Commission

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Imperial Beach does hereby adopt Ordinance No. 97-907, General Plan/Local Coastal Plan/Zone Code Amendment (LCPA/ZCA 96-01) to amend Title 19, Zoning, Chapter 19.87., of the City of Imperial Beach Municipal Code entitled "Coastal Development Permit- Hearing and Notice Procedures", by adding Section 19.87.090.D., which provides for a waiver of the public hearing requirement under specific circumstances for minor developments which are appealable to the California Coastal Commission, as set forth in Exhibit "A".

SECTION 1. This Ordinance shall be codified.

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 2nd day of January, 1997; and thereafter **PASSED AND ADOPTED** at a regular meeting of said City Council held the 15th day of January, 1997, by the following roll call vote:

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



MICHAEL B. BIXLER, MAYOR

ATTEST


LORI ANNE PEOPLES, CITY CLERK

ORDINANCE 97-908: EXHIBIT A

Chapter 19.87.090.D. WAIVER OF PUBLIC HEARING REQUIREMENTS FOR APPEALABLE "MINOR DEVELOPMENTS"

19.87.090.D. Waiver of public hearing requirements for appealable "minor developments".

1. Minor Development constitutes any development within the Coastal Zone which only requires a Regular Coastal Development Permit.
2. In accordance with Sections 30624.7 and 30624.9 of the Coastal Act (1996), the public hearing may be waived for certain appealable minor developments which require Regular Coastal Development Permits, subject to compliance with all of the following requirements and conditions:
 - a. The minor development conforms to the certified Local Coastal Plan including coastal land use policies, as defined in Section 30108.6 of the Coastal Act (1996);
 - b. The minor development requires no discretionary approvals other than a Regular Coastal Development Permit;
 - c. The minor development meets the standards for public access and recreation of Chapter 3 of the 1996 Coastal Act, and regulations promulgated thereunder, thereby ensuring that there will be no adverse effect, either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
 - d. No written request for a public hearing is received by the City of Imperial Beach within 15 working days from the date of sending the public notice pursuant to subdivision 3.a.
3. Notice of Intent to Issue a Regular Coastal Development Permit for minor, appealable development, shall be in accordance with the following:
 - a. Notice of the project shall include a description, location and a statement that a public hearing will be held upon written request by any person who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice.

- b. The notice provided pursuant to subdivision 3.a shall include a statement that failure by a person to request in writing a public hearing may result in the loss of that person's ability to appeal to the California Coastal Commission any action taken by the legislative body on a Regular Coastal Development Permit application.
 - c. Should a written request for a public hearing be received within 15 working days from the date the Notice of Intent is sent, then the item will be placed on the next available Planning Commission agenda and noticed for a public hearing in accordance with the requirements established in Section 19.87.090., of the City of Imperial Beach Municipal Code.
4. If a Regular Coastal Development Permit is approved by staff without a public hearing and the project is appealed by members of the Coastal Commission, notice of the Coastal Commissioner's appeal shall be transmitted to the City Council for a decision on the merits of the appeal. The final action of the Coastal Commission appeal shall be suspended until a decision by the City Council is provided. If the decision by the City Council modifies or reverses the previous staff decision and the Coastal Commission wishes to review the project, members of the Coastal Commission shall be required to file a new appeal.

