

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

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**WED 10a****June 17, 1998**

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: CHUCK DAMM, SENIOR DEPUTY DIRECTOR  
DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR  
LEE MCEACHERN, COASTAL PLANNER, SAN DIEGO OFFICE**

**SUBJECT: REVISED FINDINGS ON MAJOR AMENDMENT 2-97 (TIME-SHARES, ET AL) TO THE CITY OF ENCINITAS LOCAL COASTAL PROGRAM (For Public Hearing and Possible Adoption at the Coastal Commission Hearing of July 7-10, 1998)**

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**SYNOPSIS****SUMMARY OF COMMISSION ACTION**

At the Commission meeting of February 6, 1998, the Commission reviewed the City of Encinitas LCP Amendment #2-97 pertaining to a number of revisions to various components of the City's certified Implementation Plan. In its action, the Commission approved, as submitted, portions of the implementation plan amendment. The Commission also denied, as submitted, then approved with suggested modifications, portions of the implementation plan amendment pertaining to time-share projects and temporary uses; the Commission modified the staff's recommendation to allow time-share projects as a conditionally-permitted use within the City's visitor-serving commercial zoned areas by adding a provision which requires that at least 25% of the units be made available for the general public at all times. The suggested modifications pertaining to temporary uses, which clarified that temporary seasonal sales lots must meet the definition of a temporary use in order to be exempt from coastal development permit requirements, were acceptable to the City.

**COMMISSION VOTES**

1. City of Encinitas Implementation Plan Amendment #2-97 portions, approval as submitted:

Commissioners Voting "YES": Herron, Flemming, Kehoe, Staffel, Tuttle and Vice Chairman Wan

Commissioners Voting "NO": none

2. City of Encinitas Implementation Plan Amendment #2-97 pertaining to time-share projects and temporary uses, reject as submitted:

Commissioners Voting "YES": Herron, Flemming, Kehoe, Staffel, Tuttle and Vice Chairman Wan

Commissioners Voting "NO": none

3. City of Encinitas Implementation Plan Amendment #2-97 pertaining to time-share projects and temporary uses, approval with suggested modifications:

Commissioners Voting "YES": Herron, Flemming, Kehoe, Staffel, Tuttle and Vice Chairman Wan

Commissioners Voting "NO": none

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### **SUMMARY OF AMENDMENT REQUEST**

The subject amendment submittal includes revisions to the City of Encinitas certified Implementing Ordinances only; no changes are proposed to the certified Land Use Plan. The amendment request includes a proposal to allow time-share projects as a conditionally-permitted use within the various visitor-serving commercial zoned areas, authorization of seasonal sales lots as temporary uses, revisions to various development standards within the Downtown Encinitas Specific Plan, deletion of all references to Community Advisory Boards and various other zoning code revisions pertaining to definitions, permitted uses, development standards, accessory structures and parking and sign standards.

### **ADDITIONAL INFORMATION**

Further information on the City of Encinitas LCP Amendment #2-97 may be obtained from Lee McEachern, Coastal Planner, at the San Diego District Office, 3111 Camino Del Rio North, Suite 200, San Diego (619) 521-8036.

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## **PART I. OVERVIEW**

### **A. LCP HISTORY**

The City of Encinitas is within the area that was previously part of the County of San Diego Local Coastal Program. The County's LCP covered the north-central coast of San Diego County that included the areas of Leucadia, Encinitas, Cardiff, Solana Beach and other unincorporated communities.

On July 1, 1986 and October 1, 1986, the Cities of Solana Beach and Encinitas incorporated, reducing the remaining unincorporated area of the County within the coastal zone to less than 2,000 acres. At that time, the County had both approved land use plan and implementation plans. Because of the incorporations, the County indicated that it did not plan to assume coastal development permit-issuing authority for the remaining acreage and the County LCP never became "effectively certified".

On June 2, 1994, the City of Encinitas completed the submittal for its local coastal program Land Use Plan (LUP) and Implementation Plan. On November 17, 1994, the Commission certified the City's entire LCP, with suggested modifications. Subsequently, the City accepted the suggested modifications and, on May 15, 1995, began issuing coastal development permits.

On August 9, 1995, the Commission approved, with suggested modifications, one portion of the City's first LCP Amendment, Part A, pertaining to the adoption of the Encinitas Ranch Specific Plan and the Planned Commercial Development Regulations. Subsequently, on October 10, 1995, the Commission approved, with suggested modifications, Part B of the City's LCPA 1-95 pertaining to several General Plan amendments and zoning code revisions.

Then, on January 12, 1996, the Commission approved the City's second LCP Amendment request, as a minor amendment, pertaining to additional time for completion of a comprehensive plan for the City's shoreline. On February 8, 1996, the Commission approved, as submitted, the City's third LCP Amendment to apply zoning and land use designations to 3.3 acres of land that was being annexed to the City to accommodate the alignment of Leucadia Boulevard. On October 9, 1996, the Commission approved, with suggested modifications, the City's fourth LCP Amendment pertaining to various revisions to the Encinitas Ranch Specific Plan. On August 13, 1997, the Commission approved, with suggested modifications, the City's fifth amendment to the certified LCP pertaining to adoption of the North Highway 101 Specific Plan as the implementing ordinances for the City's North Highway 101 corridor. The current submittal will thus be the City's sixth amendment request.

**B. STANDARD OF REVIEW**

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

**C. PUBLIC PARTICIPATION**

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

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

The Commission adopted the following resolutions and findings following the public hearing.

- A. **RESOLUTION I** (Resolution to approve certification of portions of the City of Encinitas LCP Implementation Plan Amendment #2-97, as submitted)

**Resolution I**

The Commission hereby approves certification of the amendment request to the Implementation Plan of City of Encinitas LCP 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.

- B. **RESOLUTION II** (Resolution to deny certification of portions (time-share projects and temporary uses) of the City of Encinitas Implementation Plan Amendment #2-97, as submitted)

Resolution II

The Commission hereby denies the amendment request to the Implementation Plan of the City of Encinitas 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.

- C. **RESOLUTION III** (Resolution to approve certification of portions (time-share projects and temporary uses) of the City of Encinitas Implementation Amendment #2-97, if modified)

Resolution III

The Commission hereby approves certification of the amendment request to the Implementation Plan of the City of Encinitas LCP, if modified, 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. SUGGESTED MODIFICATIONS**

The following are the suggested revisions to the City's Implementation Plan. The underlined sections represent language that the Commission suggests be added, and the ~~struck out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Section 30.20.020(B)(1)(c), Time-Share Projects, shall be revised to read as follows:

B. TIME-SHARE PROJECTS. Time-share projects as defined in Section 30.04 of this Code shall be subject to the following regulations in addition to the development standards and design criteria of the Commercial Zone as established by this chapter:

1. All time-share projects shall require a Major-Use Permit. In addition to the mandatory findings required for the issuance of a Conditional Use Permit under Chapter 30.74 (Use Permits), the authorized agency shall also find:

[...]

c. For proposals in the Coastal Zone, the Management and Maintenance Plan shall also demonstrate how a reasonable number of units within the time-share resort project will be made available to the general public for reasonably priced transient overnight accommodations during the course of each calendar year. The Plan shall include an aggressive marketing program to maximize exposure of rental possibilities to a broad spectrum of the public. For properties located in all visitor serving commercial zones within the coastal zone, the specific criteria for the aggressive marketing program would be related to the specific project and would be reviewed and conditioned as part of the Coastal Development Permit application to ensure 25% of the units are made available for the general public at all times. The marketing strategy would include a specific program to make sure that all vacant units are made available to the general public.

[...]

2. Section 30.46.130(C), Seasonal Sales Lot, titled "Coastal Development Permit", shall be revised to read as follows:

C. Coastal Development Permit. The temporary sales of holiday products is exempt from Coastal Development Permit requirements if it meets the definition of a "temporary event/use" under this Chapter, unless it meets any of the criteria in Section 30.46.035 of this Chapter requiring such permit.

#### **PART IV. FINDINGS FOR APPROVAL, AS SUBMITTED, OF PORTIONS OF THE CITY OF ENCINITAS LCP IMPLEMENTATION PLAN AMENDMENT #2-97**

##### **A. AMENDMENT DESCRIPTION**

The amendment request addresses various elements of the City of Encinitas' Implementation Plan. Included are:

- Deletion of all references to Community Advisory Boards;
- Revisions to various Municipal Code definitions and permitted uses to, among other things, allow time-share projects as a permitted use in the VSC and LVSC Zones;

- Revisions to the Residential, Commercial and Special Purpose Overlay Zones relative to accessory structures, time-share projects and wetland buffers;
- Revisions to the Off-Street Parking and Sign Ordinances; and
- Revisions to the Downtown Encinitas Specific Plan to add, delete and amend permitted uses.

The rejection of the amendments to add development standards for time-share projects and allow seasonal sales lots as a city-wide temporary use will be addressed in separate findings, since a different action is proposed. All other proposed amendments to the City's Implementation Plan are recommended for adoption as submitted.

## **B. FINDINGS FOR CERTIFICATION**

Since there are several different ordinances affected by the subject LCP amendment request, each ordinance will be addressed separately below, under applicable subheadings.

### **1. Dissolution of Community Advisory Boards.**

The subject amendment involves numerous changes to Chapters 23, 24 and 30 of the City's Municipal Code (Implementation Plan) to delete all references to Community Advisory Boards. These changes have already been implemented by the City under an urgency ordinance adopted on April 24, 1996 and re-introduced as a properly noticed LCP amendment as part of this submittal.

When the City of Encinitas LCP was certified by the Commission, the City's planning/land use decision-making process included the use of five Community Advisory Boards (CABs). These CABs, which were comprised of local citizen volunteers from each of the City's five communities, reviewed various land-use projects and, depending on the type of project/review, either rendered a decision on a project or made a recommendation to the City's Planning Commission. The idea behind the formation of CABs was to provide for local input into land-use decisions to help preserve the distinct character of the various communities.

Since that time, the City has determined that CABs are no longer needed to facilitate the public's input into the land use decision-making process for a couple of reasons. First, due to a lack of citizens volunteering to participate on the CABs, the City was unable to fill vacancies on the CABs. This resulted in delays in the planning process for some projects, causing confusion and misunderstanding for applicants and extensive management by City staff. The second reason presented for eliminating the CABs is that

the City has indicated its citizens have come to see the Planning Commission, City Council and City staff as being more accessible and responsive to local concerns. As such, the need for CABs to address local community concerns is not as great.

While the Coastal Act does call for maximum public participation and input into planning decisions within the Coastal Zone, the proposed amendment to eliminate CABs does not conflict with any of the LCP administrative requirements specified in the Coastal Act or its regulations. The public will continue to be noticed of pending LCP amendments and projects and provided the opportunity to provide written or oral testimony consistent with those public hearing and noticing specifications. Notwithstanding the above cited reasons why elimination of the CABs does not conflict with any Coastal Act administrative requirements, the standard of review for implementation plan amendments is consistency with and adequacy to carry out the certified Land Use Plan (LUP). In this particular case, the LUP does not contain any references to Community Advisory Boards or the need for any formal local citizen land use advisory group. Therefore, the Commission finds that the proposed amendment to eliminate all references to CABs in the Implementation Plan is acceptable as it is consistent with and adequate to carry out the certified land use plan.

## **2. Definitions.**

a) Purpose and Intent of the Ordinance. The purpose of this section is to provide definitions of terms utilized within the City's Zoning Ordinance such that the terms are applied consistently throughout the City.

b) Major Provisions of the Ordinance. The proposed amendment involves revisions to several definitions, deletion of others and the addition of several new definitions.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed changes are intended to clarify existing definitions or delete obsolete definitions relative to building height, congregate care facilities, rest homes, accessory living quarters, dwelling units, net lot area and net acreage. None of the proposed changes raise any inconsistency concerns relative to the certified LUP.

In addition, the proposed amendment to this ordinance adds several new definitions pertaining to time-share projects. These new definitions are proposed to define time-share projects and uses, which previously were not defined in the City's Code. Again, these new definitions do not raise any LUP consistency concerns and therefore have been found acceptable by the Commission.



### 3. Residential Zones.

a) Purpose and Intent of the Ordinance. The purpose of this ordinance is to provide development standards for construction and alteration of residential development within the City.

b) Major Provisions of the Ordinance. The Residential Zones Ordinance contains several significant elements and provides the following:

- establishes development standards such as density, minimum lot size, parking requirements, setbacks, maximum building height, etc.;
- outlines special development programs and approval procedures for Lot Area Averaging, Planned Residential Developments and Density Bonuses; and
- includes regulations for mobile home development, accessory uses and legal non-conforming structures in residentially zoned areas.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed changes to this Ordinance relate primarily to minor clarifications to development standards related to accessory structures and swimming pools and do not raise any LUP inconsistency issues. Specifically, three changes are proposed to this ordinance. The first two relate to accessory structures in residentially zoned areas of the City and simply clarify the maximum square footage permitted for a minor accessory structure and refer to another chapter of the municipal code for additional standards related to accessory structures. The third proposed change clarifies the permitted location relative to setbacks for swimming pools and their associated equipment needs. Again, the proposed changes to the Residential Zone Ordinance only provide for further clarification of existing regulations; and, therefore, the Commission finds the changes are consistent with and adequate to carry out the certified LUP.

### 4. Zones.

a) Purpose and Intent of the Ordinance. The purpose of the Zones Ordinance is to identify and describe each of the City's established zone categories.

b) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed change to this ordinance relates to time-share projects. Specifically, the proposed amendment revises the description of the Limited Visitor-Serving Commercial (LVSC) Zones to add time-share projects as a permitted use within this zone. Currently, the LVSC Zone only permits hotels and motels as the principally permitted uses. With the proposed amendment, time-share projects will also be allowed; however, subject to approval of a major use permit and application of specific requirements for time-share

projects outlined in the Commercial Zones Ordinance of the City's certified Implementation Plan. As approved by the Commission, the requirements in the Commercial Zones Ordinance will include the need to provide a management, maintenance and sales plan for any time-share project that includes a requirement that within visitor-serving commercial areas of the City's Coastal Zone, at least 25% of the units be made available for overnight accommodations at all times and that an aggressive marketing strategy be provided to assure the general public is aware of the overnight accommodations. With this provision, the Commission is assured that accessible and affordable overnight visitor accommodations will be provided in conjunction with time-share projects. Given these requirements, the proposed amendment to the Zones Ordinance is acceptable as submitted. Therefore, the Commission finds the proposed amendment to the Zones Ordinance is consistent with and adequate to carry out the certified LUP.

#### **5. Floodplain Overlay Zone.**

a) Purpose and Intent of the Ordinance. The purpose of the ordinance is to apply specific development standards to areas of the City where site-specific analysis of the characteristics of a parcel of land indicate the presence of a flood channel, floodplain or wetland. The intent is to provide identification of major drainage courses as important constraints to development requiring special consideration.

b) Major Provisions of the Ordinance. This ordinance contains several significant provisions and provides the following:

- details permitted uses within floodways, floodplains and wetlands; and
- establishes development standards that include buffer and setback requirements.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. As stated above, this overlay zone applies specific development standards to floodplain and wetland areas within the City. Relative to wetlands, this overlay zone details permitted uses within a wetland and under what circumstances wetland impacts may occur. The zone also includes buffer requirements surrounding wetlands. However, as currently written, this zone only details buffer requirements for coastal lagoon wetland areas and does not address riparian habitat areas. As such, the proposed amendment to this overlay zone states that a buffer of a minimum 50 feet wide shall be maintained around riparian wetland areas. The proposed language further states that, based on consultation with the California Department of Fish and Game and U.S. Fish and Wildlife Service, a buffer of lesser width may be permitted if it is demonstrated that the resources will still be protected.

The proposed amendment to the Floodplain Overlay Zone specifically implements Resource Management Policies 10.6 and 10.10 of the certified LUP. Both these LUP policies include requirements for a buffer of a minimum of 50 feet surrounding riparian habitat areas. In addition, Resource Management Policy 10.10 of the certified LUP includes a provision which allows the buffer to be reduced if it can be demonstrated that the resource will still be protected and the Department of Fish and Game have been consulted. As such, the proposed amendment adds these provisions to the zoning regulations regarding wetlands. Therefore, the Commission finds the proposed amendment to the Floodplain Overlay Zone, as submitted, is consistent with and adequate to carry out the certified LUP.

**6. Off-Street Parking.**

a) Purpose and Intent of the Ordinance. The purpose of this ordinance is to provide convenient off-street parking for vehicles in conjunction with development. The intent of this ordinance is to provide adequate designated parking areas with sufficient capacity and adequate circulation to minimize traffic congestion and promote public safety.

b) Major Provisions of the Ordinance. The Off-Street Parking Ordinance contains several significant elements and provides the following:

- specifies the minimum number of parking spaces required for the various uses allowed within the City;
- details provisions for joint-use parking; and
- establishes landscape requirements.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed changes to this Ordinance relate to the addition of parking requirements for time-share developments and a revision to the handicapped parking requirements. Both the proposed changes are acceptable. Specifically, the proposed revision to the handicapped parking requirements increases the number of handicapped parking spaces required in conjunction with new development and requires that one of the spaces must be "van accessible". This proposed change is consistent with Land Use Policy 1.15 and Circulation Policy 1.12 of the certified LUP. These policies call for the provision of adequate and accessible parking facilities and access for automobiles, pedestrians and the handicapped, consistent with the proposed amendment language.

The other proposed change to this ordinance adds off-street parking requirements for time-share projects. As stated in a previous section of this report, the City is proposing to add time-share projects as a permitted use within the commercial zoned areas of the City with this amendment package and time-share projects are already a permitted use within

the general commercial zoned areas of the North Highway 101 Corridor Specific Plan. As such, the proposed change will add the necessary parking requirements. As proposed, time-share projects will have to provide 1.25 parking spaces per unit for one-bedroom units and 1.00 parking space per bedroom for two or more bedroom units. In addition, all accessory uses to time-share projects, such as restaurants, will have to provide parking at a ratio established through the Major Use Permit process. The proposed parking requirements are acceptable as they are similar to the time-share parking requirements contained in other certified LCPs in north San Diego County and exceed the hotel/motel parking standard certified in the City's LCP. In addition, the proposed amendment implements Circulation Policy 1.12 of the certified LUP which requires that commercial development provide sufficient off-street parking such that no impacts on coastal access will result. Based on the above review, the Commission finds the proposed amendment to the Off-Street Parking Ordinance consistent with and adequate to carry out the certified LUP.

## 7. Signs.

a) Purpose and Intent of the Ordinance. The purpose of this ordinance is to reduce visual clutter, preserve the character and quality of the environment, achieve an aesthetically pleasing appearance for the City and provide adequate opportunity to erect signs. The intent is to enhance the visual environment of the City, to eliminate traffic hazards caused by improper signs and to ensure that information is presented safely and effectively.

b) Major Provisions of the Ordinance. The Sign Ordinance provides the following:

- defines pertinent terms;
- establishes general sign regulations related to the number, location, size and height of signs for various uses; and
- outlines procedures to deal with non-conforming signs, abatement and removal of illegal signs.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The City is requesting with this amendment to make several revisions to the Sign Ordinance. The proposed changes relate to lighting and design standards for signs and clarification of the regulations pertaining to temporary signs. The proposed changes are consistent with LUP policies related to the protection of visual resources and, in particular, Land Use Policy 1.10 of the certified LUP which calls for the reasonable regulation of signs so as to preserve community character and property values. This policy also states that detailed sign regulations shall be further specified in the City's zoning regulations. Therefore, the

Commission finds the proposed amendments to the Sign Ordinance are consistent with and adequate to carry out the certified LUP.

**8. Accessory Use Regulations.**

a) Purpose and Intent of the Ordinance. The purpose of this ordinance is establish the relationship among principal accessory uses and the standards and conditions for regulating them.

b) Major Provisions of the Ordinance. The Accessory Use Regulations provide the following:

- details permitted accessory uses within residential, agricultural, commercial and industrial zoned areas; and
- establishes general regulations and standards for various accessory uses.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed changes to this ordinance pertain to accessory units. "Accessory units" are defined as units which have a floor area of no greater than 750 sq. ft. or 30 percent of the area of the principal residence, whichever is less. Specifically, the proposed amendment language adds provisions addressing caretaker's units and a minor clarification to the accessory units regulations relating to the provision of kitchen facilities. The proposed changes are proposed to implement the certified LUP which contains provisions addressing the need for accessory units. The changes, as proposed, require that all accessory units provide kitchens (so as not to be confused with a guest house or caretaker's unit), clarify existing provisions and add new provisions to better regulate caretaker's units within the City. The Commission finds the proposed changes to the Accessory Use Regulations will not adversely affect any coastal resources and is consistent with and adequate to carry out the certified LUP.

**9. Zoning Use Matrix.**

a) Purpose and Intent of the Ordinance. The purpose of this matrix is to provide a listing of the various land uses which are allowed by right or major/minor use permits and those which are prohibited within each of the City's zoning categories.

b) Adequacy of the Ordinance to Implement the Certified LUP Segments. Rather than list out all the individual uses permitted within each particular zone, the City of Encinitas Zoning Code utilizes a zoning use matrix. The proposed amendment to the use matrix adds two new uses: Congregate Care Facilities and Time-Share Projects. In addition, it amends several permitted and conditionally permitted uses pertaining to

Convalescent Home Facilities, Caretaker Units, Group Care Homes and Restaurants. All the proposed changes to this section are acceptable as submitted.

With the proposed amendment, time-share projects will be a conditionally-permitted use within the General Commercial, Visitor-Serving Commercial and Limited Visitor-Serving Commercial Zones; however, subject to approval of a major use permit and application of specific requirements for time-share projects outlined in the Commercial Zones Ordinance of the City's certified Implementation Plan. As approved by the Commission, the requirements in the Commercial Zones Ordinance will include the need to provide a management, maintenance and sales plan for any time-share project that includes a requirement that at least 25% of the units be made available for overnight accommodations at all times and that an aggressive marketing strategy be provided to assure the general public is aware of the overnight accommodations. With this provision, the Commission is assured that accessible and affordable overnight visitor accommodations will be provided in conjunction with time-share projects.

Again, the proposed changes to the Zoning Use Matrix do not raise any LUP inconsistencies. All the proposed or conditionally allowed uses are consistent with the certified land use categories and/or designations. No inappropriate uses are permitted or conditionally permitted which would result in adverse impacts on coastal resources. Therefore, the Commission finds the proposed amendments to the Zoning Use Matrix are consistent with and adequate to carry out the certified LUP.

#### **10. Downtown Encinitas Specific Plan.**

a) Purpose and Intent of the Ordinance. The purpose of the Downtown Encinitas Specific Plan is to address the unique aspects, problems and opportunities of the old downtown Encinitas area and to maintain its identity, community character and scale, while fostering rehabilitation and successful economic restructuring.

b) Major Provisions of the Ordinance. The Specific Plan provides the following:

- specifies development standards including parking requirements;
- details specific uses within various subdistricts; and
- contains design standards, street tree requirements, a circulation plan and implementing strategies.

c) Adequacy of the Ordinance to Implement the Certified LUP. The Downtown Encinitas Specific Plan includes detailed design review standards which promote pedestrian access, parking requirements and allowable uses for the old downtown area of the City of Encinitas. The specific plan area, which covers approximately 200 acres,

encompasses the area south of B Street and north of K Street and west of Cornish Drive to the Pacific Ocean. The majority of the specific plan area is zoned for residential and commercial development.

The proposed changes to the specific plan involve revisions to permitted and conditionally permitted uses within the specific plan area. The proposed changes all relate to Congregate Care Facilities, Group Care Homes, Rest Homes and Time-Share Projects. All the proposed changes to the Specific Plan are acceptable as submitted. With the proposed amendment, time-share projects will be a conditionally-permitted use within the Commercial Mixed, Visitor-Serving Commercial and Visitor-Serving Commercial Mixed Zones; however, subject to approval of a major use permit and application of specific requirements for time-share projects outlined in the Commercial Zones Ordinance of the City's certified Implementation Plan. As approved by the Commission, the requirements in the Commercial Zones Ordinance will include the need to provide a management, maintenance and sales plan for any time-share project that includes a requirement that at least 25% of the units be made available for overnight accommodations at all times and that an aggressive marketing strategy be provided to assure the general public is aware of the overnight accommodations. With this provision, the Commission is assured that accessible and affordable overnight visitor accommodations will be provided in conjunction with time-share projects.

Again, the proposed changes to the specific plan do not raise any LUP inconsistencies; all of the newly specified permitted uses are consistent with the certified land use designations. No inappropriate uses are permitted or conditionally permitted which would result in adverse impacts on coastal resources. Therefore, the Commission finds the proposed amendment to the Downtown Encinitas Specific Plan to be consistent with and adequate to carry out the certified LUP.

#### **PART V. FINDINGS FOR DENIAL OF THE DEVELOPMENT STANDARDS FOR TIME-SHARE PROJECTS AND TEMPORARY USE REVISIONS**

The findings for denial of the amendments related to adding development standards for time-share projects when proposed within the City's visitor-serving commercial areas and authorizing seasonal sales lots on a citywide basis relate to two specific sections of the City's Implementation Plan.

##### **1. Commercial Zones.**

a) Purpose and Intent of the Ordinance. The purpose of this ordinance is to provide development standards for construction and alteration of commercial development within the City.

b) Major Provisions of the Ordinance. The Commercial Zones Ordinance establishes development standards that include minimum lot size, setbacks, lot coverages, maximum building height, floor area ratio, off-street parking and landscape requirements.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The City is proposing two revisions to this ordinance. The first is to correct a reference to another chapter of the Municipal Code that was incorrectly stated. The second is to add specific development standards and findings that must be made when approving time-share projects within the City.

Currently, time-share projects are conditionally-permitted within the general commercial area of the City's North Highway 101 Specific Plan. With the subject amendment request, time-share projects will also be permitted within all other commercial areas of the City, including visitor-serving commercial zoned areas (as discussed in a previous section of this report). As such, the proposed change to the Commercial Zones Ordinance to incorporate development standards for time-share projects is appropriate.

The proposed changes related to time-share projects do several things. First, they stipulate that all time-share projects shall only be approved subject to a Major Use Permit. Second, the proposed changes stipulate that, for proposals in the Coastal Zone, the applicant must demonstrate how a reasonable number of units will be made available for reasonably priced overnight accommodations and that an aggressive marketing program be developed to assure the general public is aware of the overnight accommodations. Third, the proposed amendment language requires that the applicant provide and have approved a management and maintenance plan for the development, as well as a sales plan, that addresses the time, location and methods that will be used to sell the units. Fourth, the amendment language states that the maximum occupancy of a unit shall be no more than 30 consecutive days by the same occupant or a total of 60 days in any 12 month period. Lastly, the proposed changes require the City to make findings when approving a time-share project that the project is located in close proximity to a public recreation area and that it not be disruptive to uses in the surrounding neighborhood.

While the proposed changes to the Commercial Zones Ordinance to incorporate development standards for time-share projects is necessary and it makes sense to have regulations in place to assure they are developed in an appropriate manner, the proposal does raise LUP consistency concerns. Specifically, relative to visitor-serving commercial zoned areas of the City, the proposed amendment does not provide sufficiently detailed standards or minimum specifications to achieve the proposed requirements and assure the provision of accessible and affordable overnight accommodations within these critical areas.



When the City's LCP was certified in 1994, the Commission was at that time concerned with the minimal area of the City devoted to exclusive visitor-serving uses. This concern dates back to the original County of San Diego LCP planning efforts as well. The Commission found that because of the minimal area of the City's Coastal Zone devoted to visitor-serving commercial zoning, only the highest priority visitor-serving uses should be principally permitted within the City's visitor commercial areas. While time-share projects were not a proposed use or an issue at that time, the Commission did make revisions to Land Use Policy 1.13 to address permitted uses within visitor-serving commercial areas. The proposed changes, which were subsequently adopted by the City, detailed the principally permitted uses within visitor-serving commercial areas as tourist lodging, eating and drinking establishments, specialty shops, food and beverage retail sales, recreation and entertainment. The Commission required all other permitted or conditionally permitted uses within visitor commercial areas to be ancillary to the principal use and specified they could not occupy or use more than 30% of the ground floor area.

The Coastal Act promotes and preserves a full range of public access opportunities along the coast, including the provision of accessible and affordable visitor-serving commercial recreational facilities which serve and support coastal visitors. These Coastal Act mandates are addressed in the City's certified LUP under three Land Use policies which state as follows:

**POLICY 1.6:** Provide freeway-oriented commercial areas only when a demonstrated need exists, for the convenience of the traveler, and locate these activities at or near freeway interchanges with easy on-off access.

**POLICY 1.13:** The visitor-serving commercial land use shall be located where it will not intrude into existing residential communities. This category applies in order to reserve sufficient land in appropriate locations expressly for commercial recreation and visitor-serving uses such as:

- tourist lodging, including campgrounds (bed and breakfast facilities may be compatible in residential areas)
- eating and drinking establishments
- specialty shops and personal services
- food and beverage retail sales (convenience)
- participant sports and recreation
- entertainment

The above listed uses and other uses specifically intended to serve the needs of visitors shall be the principal uses allowed within the visitor-serving land use designation. [...]

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

The same concerns raised by the Commission in reviewing the original LCP still remain. While the Commission did approve an LCP amendment last year which added approximately 2.2 acres of visitor-serving commercially zoned area to the overall inventory, very minimal area within the City's Coastal Zone is designated for such high priority uses. In addition, the few areas of the City that are so designated are the "prime" location areas which are in close proximity to the beach and/or major coastal access routes. Attached to this report are two exhibits that graphically depict this concern. Exhibit #1 depicts the location of all the visitor-serving commercial zoned areas of the City. Exhibit #2 lists each of the sites and describes the existing land use, zoning and acreage of each. As shown in these exhibits, there is very minimal area exclusively reserved for visitor-serving uses and several of the sites are very constrained (relative to prospective development) and others are currently developed with non-conforming uses.

The allowance of time-share projects in nearshore areas designated for visitor-serving commercial uses raises concerns because such units do not typically offer the same accessibility as a traditional hotel or motel operation. Time-share units tend to be more exclusive because they are pre-booked and may invoke a greater financial commitment. While the Commission agrees that time-share projects should be considered a visitor-serving use, they are considered a very low priority among the broader range of traditional visitor uses available to the general public.

In addition, in 1996, City staff submitted a study documenting the number of existing hotel and motel units within the City. The purpose of the study was to address Commission staff concerns relative to time-share projects within the City's visitor-serving commercial areas. City staff asserted that the Commission staff's concerns were unfounded because the City already provided a large number of existing overnight accommodations. The study indicates that, as of 1996 (when the study was completed), 941 transient units were available in the City of Encinitas (hotel/motel/bed and breakfast/trailer park and campground). While this number of units may represent a good number of existing overnight accommodations, compared with other coastal communities, the total number of available units was relatively low (as can be seen from the study, just in the southern portion of the City of Carlsbad, 1,041 hotel/motel and campground units were available in 1996). In addition, the majority of the units in the City of Encinitas are not located within visitor-serving or limited visitor-serving commercially zoned sites. Arguably, it is good that the visitor accommodations are present; however, given their location in a non-visitor use zone, they would not be protected as a priority use.

While the proposed amendment language does require that a management and maintenance plan for any time-share project within the Coastal Zone demonstrate how a reasonable number of units will be made available to the general public for reasonably priced transient accommodations, it does not include sufficiently detailed standards or minimum specifications to achieve the proposed requirements. Without such standards, the Commission can not be assured that an adequate number of accessible and affordable overnight accommodations will be provided. As discussed above, given the minimal area of the City devoted to visitor-serving commercial zoning, absent a requirement that a specified number of units be made available at all times to the general public for overnight accommodations in conjunction with time-share projects, the proposed amendment is not consistent with LUP policies. Thus, the Commission finds that the proposed amendment to the Commercial Zones Ordinance related to development standards for time-share projects is inconsistent with and inadequate to carry out the certified LUP and, therefore, must be rejected.

## **2. Temporary Use Regulations (Chapter 30.46).**

a) Purpose and Intent of the Ordinance. The purpose of this ordinance is to establish permitted temporary uses and standards and conditions for regulating them.

b) Major Provisions of the Ordinance. The Temporary Use Regulations provide the following:

- defines pertinent terms;
- details permitted uses and uses exempt from permit requirements; and
- establishes general regulations and standards for various temporary uses.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed revisions to this ordinance pertain specifically to adding new ordinance language to address the regulation of temporary seasonal sales lots (pumpkins, Christmas trees, etc.). Currently, the City's Implementation Plan does not contain specific provisions regulating seasonal sales lots. Because such temporary uses are becoming more common, specific provisions have been drafted.

The proposed language includes provisions related to location, duration (no more than 45 days prior to a specific holiday), signage, building code requirements and temporary trailers associated with the use. In addition, the proposed amendment language includes a provision, relative to coastal development permits, which states that the temporary sales of holiday products is exempt from coastal development permit review, unless it meets the criteria set forth in Section 30.46.035 of the Municipal Code which addresses "temporary events" in the Coastal Zone (this section contains the Commission adopted

Temporary Events Guidelines which were approved as part of the City's original LCP certification).

Although the City is to be credited as one of the first communities to incorporate the Commission's "Temporary Events Guidelines", there is a concern about the language of the proposed amendment and its potential application. While, in most cases, seasonal sales lots are not expected to pose any serious problems; there is the potential, nonetheless, that public access or resource impacts could result if inappropriate sites are utilized or insufficient oversight is provided. Specifically, the proposed amendment provides for seasonal sales lots to be allowed up to 45 days prior to a specific holiday and then references a possible coastal development permit exemption based on the seasonal lots being characterized as "temporary events or uses". Based on the manner in which the City integrated the "temporary events guidelines" into its temporary use regulations, this could be acceptable. However, in this instance, unlike how other temporary uses are regulated, the proposed amendment language does not include that, in order to be subject to the temporary events provisions and receive a possible exemption, the seasonal sales lot must meet the definition of a temporary event, including an event being of "limited duration" or no more than two weeks.

Given that seasonal sales lots are potentially authorized for up to 45 days and, in some cases, would not even qualify as a temporary event/use, they would otherwise constitute a development requiring a coastal development permit. Therefore, the definitions applicable to temporary events/uses need to be incorporated into the proposed seasonal sales lots regulations in order to provide appropriate oversight. Alternatively, should the City or any other local government desire to reduce permitting requirements for such uses, it should be drafted as a potential categorical exclusion request. As submitted, the proposed temporary use revisions addressing seasonal sales lots are inadequate and must therefore be rejected.

## **PART VI. FINDINGS FOR CERTIFICATION OF THE TIME-SHARE PROJECTS AND TEMPORARY USE AMENDMENTS, IF MODIFIED**

### **1. Commercial Zones.**

As stated in the findings for denial of these sections, the proposed amendment to add specific development standards pertaining to time-share projects within the various commercial areas of the City is inconsistent with the certified land use plan. The proposed suggested modification will bring this section into conformance with the policies of the certified land use plan. Suggested Modification #1 requires that for any time-share project proposed within any of the visitor-serving commercial zoned areas of

the City's Coastal Zone, at least 25% of the units must be made available to the general public for overnight accommodations at all times.

With this modification, the Commission can be assured that if time-share projects are developed within any of the City's visitor-serving commercial zoned areas, adequate overnight accommodations within close proximity to the shoreline and along the critical coastal access corridors will be made available to the visiting public. Therefore, as modified, the Commercial Zones Ordinance can be found to be consistent with and adequate to carry out the certified land use plan.

## **2. Seasonal Sales Lots/Temporary Uses.**

The Commission finds the proposed amendment to be acceptable if it is modified as provided herein. The proposed amendment is primarily needed to better address the ever increasing demand for temporary holiday sales lots and will not result in any adverse impacts on coastal resources or public access opportunities, as modified to provide suitable regulation of such uses. Suggested Modification #2 clarifies the authorization for seasonal sales lots as temporary uses, recognizing that they must conform both with the definitions and applicable criteria of the "temporary events/uses" provisions in the City's code in order to be exempted from coastal development permit review. Therefore, the proposed amendment, as modified, to the Temporary Use Regulations allowing seasonal sales lots can be found consistent with and adequate to carry out the certified LUP.

## **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 amendment, incorporating the suggested modifications listed above, would not result in significant environmental impacts under the meaning of the California Environmental Quality Act. Absent incorporation of these suggested modifications to effectively mitigate potential adverse impacts to coastal resources, such a finding could not be made.

Specifically, most of the proposed Implementation Plan revisions have been found acceptable, as submitted, as they are consistent with and adequate to carry out the certified LUP. These changes delete all references to Community Advisory Boards and address a number of clarifications and additions to various existing provisions. However, two elements of the proposed amendment package, pertaining to development standards for time-share projects proposed within the City's visitor commercial areas and seasonal sales lots, are not acceptable. As such, several modifications are proposed. These modifications address the protection and provision of high priority visitor-serving uses and require that time-share projects make available at all times at least 25% of the units for overnight accommodations when proposed within the various visitor-serving commercial areas of the City. In addition, as modified, adequate regulation of seasonal sales lots as temporary uses will be provided.

Given the proposed mitigation measures, the Commission finds the proposed local coastal program amendment, as modified, will not result in significant environmental impacts under the meaning of the California Environmental Quality Act. Furthermore, future individual projects would require coastal development permits from the City of Encinitas. Throughout the City's Coastal Zone, the specific impacts associated with individual development projects would be assessed through the environmental review process; and, the individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for such impacts which have not been explored and the LCP amendment, as modified, can be supported.

# PACIFIC OCEAN

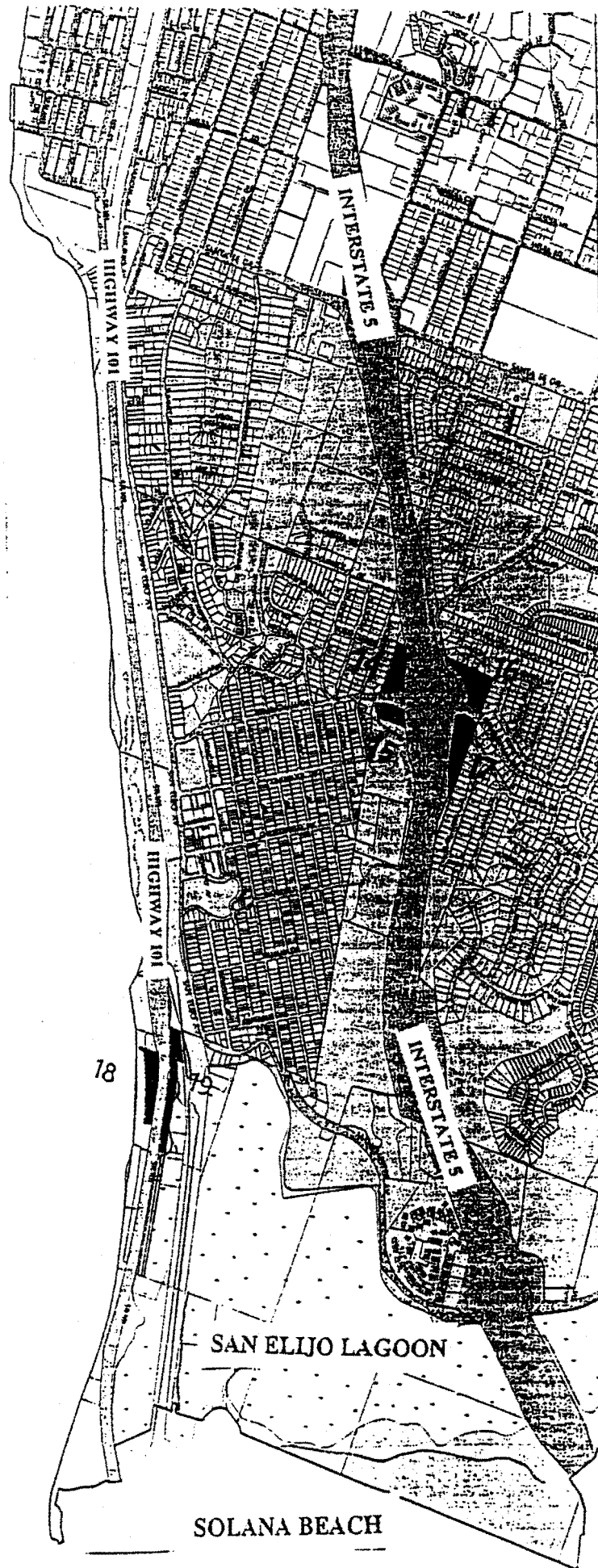


EXHIBIT NO. 1  
APPLICATION NO.  
**ENCINITAS**  
**LCPA 2-97 RF**  
Visitor-Serving  
Commercial Sites

1 of 2

 California Coastal Commission

# PACIFIC OCEAN



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**City of Encinitas Visitor Serving Commercial Zones  
(VSC, LVSC, D-VSC AND D-VCM)**

Site Number	Existing Land Uses	Zoning	Site Acreage (Approx.)
1	Vacant - Approved For Hotel/Resort (131 Units)	LVSC	4.3
2	Vacant- Constrained	VSC	1.93
3	Restaurant	VSC	2.9
4	Office	VSC	.42
5	Single-Family Dwelling	VSC	.45
6	Chevron Station	VSC	2.60
7	Texaco Station	VSC	.61
8	Shell Station	VSC	.91
9	Holiday Inn Express	LVSC	1.43
10	Cozen's Site (4 Single- family dwellings, 2 Warehouse buildings and an Auto Repair Shop)	D-VCM	1.90
11	Radisson Inn and Ciao Luna Restaurant	VSC	3.57
12	Budget Motel and Denny's Restaurant	VSC	4.18
13	Derby House Site (3-4 Dwelling Units)	D-VSC	.44
14	Vacant - Constrained	LVSC	2.39
15	Thrifty Station	VSC	1.33
16	Country Inn and Texaco Station/Car Wash	LVSC	2.76
17	Chevron Station, Pancake House and Encinitas Self- Storage	VSC	3.21
18	Charlie's Restaurant, Beach House and Chart House	VSC	2.53
19	Kraken Bar, Plastino Office Building, former Nectar Surf Shop, Ki's, Waterfront Office Building, Jay's Seafood and Las Olas Restaurant	VSC	3.40
<b>Totals</b>			41.26

**EXHIBIT NO. 2**

**APPLICATION NO.**

**ENCINITAS LCPA**

**2-97 RF**

**Visitor-Serving Commercial  
Site Descriptions**

