

CALIFORNIA COASTAL COMMISSION

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July 20, 2000

**RECORD PACKET COPY****TO:** Commissioners and Interested Persons**Tu20a****FROM:** Deborah Lee, Deputy Director
Pam Emerson, Los Angeles County Area Supervisor
Charles Posner, Coastal Program Analyst**SUBJECT:** Major Amendment Request No. 3-99 to the City of Long Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the August 8, 2000 meeting in Huntington Beach).**SUMMARY OF LCP AMENDMENT REQUEST NO. 3-99**

The City of Long Beach Local Coastal Program (LCP) was certified by the Coastal Commission on July 22, 1980. The current proposal, submitted in three ordinances (**Parts A, B & C**), is the City's third and final major LCP amendment request for 1999. Only the Implementing Ordinances (LIP) portion of the certified LCP is affected by this amendment.

Part A of LCP Amendment Request No. 3-99, contained in City Council Ordinance No. C-7639, would insert into the zoning ordinance a new "reasonable accommodation" hearing process in order to bring the City's zoning regulations into compliance with the Federal Fair Housing Act of 1988. **Part B** of LCP Amendment Request No. 3-99, contained in City Council Ordinance No. C-7607, would make several corrections and clarifications to existing sections of the zoning ordinance, including one change that would affect the current threshold for obtaining a coastal development permit for projects on City land. **Part C**, contained in City Council Ordinance No. C-7629, includes only minor changes that are necessary to correct four typographical errors that exist in the zoning ordinance (Exhibits).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

1. Deny **Part A** of the amendment request to the LIP as submitted;
2. Approve, only if modified, **Part A** of the amendment request to the LIP;
3. Deny **Part B** of the amendment request to the LIP as submitted;
4. Approve, only if modified, **Part B** of the amendment request to the LIP; and,
5. Approve **Part C** of the amendment request to the LIP as submitted.

The motions to accomplish this recommendation begin on page 3. The suggested modifications to Parts A and B, found on page 6, are necessary to ensure that development in the coastal zone is reviewed for consistency with the certified LCP. The first suggested modification would require that reasonable accommodations granted for housing in the coastal zone be consistent with the LCP to the maximum extent feasible. The second modification would maintain the current project threshold for Site Plan Review

(and local coastal permits) for projects on City Land in the coastal zone. Only if modified as suggested will Parts A and B of the LIP amendment request be adequate to carry out the provisions of the certified Land Use Plan (LUP).

STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementing Ordinances, pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP).

CONTENTS OF LCP AMENDMENT REQUEST

Local Coastal Program Amendment Request No. 3-99 affects only the implementing ordinances (LIP) portion of the City's certified LCP. Part A, the proposed new "reasonable accommodation" hearing process, is contained in City Council Ordinance No. C-7639 (Exhibit #2). City Council Resolution No. C-27559 submits the "reasonable accommodation" portion of this LCP amendment request for certification by the Commission. The City Planning Commission held public hearings for the proposed "reasonable accommodation" hearing process on May 7, 1998, October 15, 1998, February 18, 1999, and April 1, 1999. The City Council held public hearings for the proposed "reasonable accommodation" hearing process on May 18, and June 22, 1999.

Part B of the LCP amendment request is contained in City Council Ordinance No. C-7607 (Exhibits #3&4). City Council Resolution No. C-27502 submits Ordinance No. C-7607 for certification by the Commission. Part C of the LCP amendment request is contained in City Council Ordinance No. C-7629 (Exhibit #5). City Council Resolution No. C-27541 submits Ordinance No. C-7629 for certification by the Commission. The City Planning Commission held public hearings for the proposed "zoning clean-up" amendments (Parts B and C) on May 7, 1998, October 15, 1998, November 19, 1998, and February 18, 1999. The City Council held public hearings for the proposed "zoning clean-up" amendments (Parts B and C) on April 13, 1999, and June 22, 1999.

This LCP amendment request is consistent with the submittal requirements of the Coastal Act and the regulations which govern such proposals (Sections 30501, 30510, 30514 and 30605 of the Coastal Act, and Sections 13551, 13552 and 13553 of the California Code of Regulations).

ADDITIONAL INFORMATION

Copies of the staff report are available at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact *Charles Posner* in the Long Beach office at (562) 590-5071.

I. STAFF RECOMMENDATION

Staff recommends adoption of the following motions and resolutions:

A. Deny Part A of the amendment to the LCP Implementing Actions as submitted

MOTION

"I move that the Commission reject Amendment Request No. 3-99A to the City of Long Beach LCP Implementing Actions as submitted."

Staff recommends a **YES** vote which would result in the rejection of the amendment as submitted 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 to reject Part A of the amendment to LCP Implementing Actions as submitted

The Commission hereby rejects Amendment Request No. 3-99A to the Implementing Actions of the City of Long Beach certified Local Coastal Program, as submitted, for the reasons discussed below on the grounds that it does not conform with, or is inadequate to carry out, the provisions of the Land Use Plan as certified. Approval of the Implementing Actions would not meet the requirements of Section 21080.5(d)(2)(A) of the California Environmental Quality Act in that there are alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the approval of the amendment to the Implementing Actions would have on the environment.

B. Approve Part A of the amendment to the LCP Implementing Actions if modified

MOTION

"I move that the Commission certify Amendment Request No. 3-99A to the City of Long Beach LCP Implementing Ordinances if it is modified in conformity with the modifications set forth in this staff report."

Staff recommends a **YES** vote which would result in certification of the amendment with suggested modifications 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 to certify Part A of amendment to the LCP Implementing Actions if modified

The Commission hereby certifies Amendment Request No. 3-99A to the Implementing Actions of the City of Long Beach Local Coastal Program, for the reasons discussed below

on the grounds that the amended ordinances, maps, and other implementing actions are consistent with, and adequate to carry out, the provisions of the certified Land Use Plan, as provided in Section 30513 of the Coastal Act, if amended according to the suggested modifications stated in Section II of this report. Approval of the Implementing Actions meets the requirements of Section 21080.5(d)(2)(A) of the California Environmental Quality Act in that there are no further feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact that the approval of the Implementing Actions would have on the environment. The Commission further finds that if the local government adopts and transmits its revisions to the amendment to the Implementing Actions in conformity with the suggested modifications, then the Executive Director shall so notify the Commission.

C. Deny Part B of the amendment to the LCP Implementing Actions as submitted

MOTION

"I move that the Commission reject Amendment Request No. 3-99B to the City of Long Beach LCP Implementing Actions as submitted."

Staff recommends a **YES** vote which would result in the rejection of the amendment as submitted 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 to reject Part B of the amendment to LCP Implementing Actions as submitted

The Commission hereby rejects Amendment Request No. 3-99B to the Implementing Actions of the City of Long Beach certified Local Coastal Program, as submitted, for the reasons discussed below on the grounds that it does not conform with, or is inadequate to carry out, the provisions of the Land Use Plan as certified. Approval of the Implementing Actions would not meet the requirements of Section 21080.5(d)(2)(A) of the California Environmental Quality Act in that there are alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the approval of the amendment to the Implementing Actions would have on the environment.

D. Approve Part B of the amendment to the LCP Implementing Actions if modified

MOTION

"I move that the Commission certify Amendment Request No. 3-99B to the City of Long Beach LCP Implementing Ordinances if it is modified in conformity with the modifications set forth in this staff report."

Staff recommends a **YES** vote which would result in certification of the amendment with suggested modifications 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 to certify Part B of the amendment to LCP Implementing Actions if modified

The Commission hereby certifies Amendment Request No. 3-99B to the Implementing Actions of the City of Long Beach Local Coastal Program, for the reasons discussed below on the grounds that the amended ordinances, maps, and other implementing actions are consistent with, and adequate to carry out, the provisions of the certified Land Use Plan, as provided in Section 30513 of the Coastal Act, if amended according to the suggested modifications stated in Section II of this report. Approval of the Implementing Actions meets the requirements of Section 21080.5(d)(2)(A) of the California Environmental Quality Act in that there are no further feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact that the approval of the Implementing Actions would have on the environment. The Commission further finds that if the local government adopts and transmits its revisions to the amendment to the Implementing Actions in conformity with the suggested modifications, then the Executive Director shall so notify the Commission.

E. Approve Part C of the amendment to the LCP Implementing Actions as submitted

MOTION

"I move that the Commission reject Amendment Request No. 3-99C to the City of Long Beach LCP Implementing Actions as submitted."

Staff recommends a **NO** vote which would result in certification of the amendment as submitted 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 to approve Part C of the amendment to LCP Implementing Actions as submitted

The Commission hereby certifies Amendment Request No. 3-99C to the Implementing Actions of the City of Long Beach Local Coastal Program, for the reasons discussed below on the grounds that the amended ordinances, maps, and other implementing actions are consistent with, and adequate to carry out, the provisions of the certified Land Use Plan, as provided in Section 30513 of the Coastal Act. Approval of the Implementing Actions meets the requirements of Section 21080.5(d)(2)(A) of the California Environmental Quality Act in that there are no further feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact that the approval of the Implementing Actions would have on the environment.

II. SUGGESTED MODIFICATIONS

Certification of City of Long Beach LCP Amendment Request No. 3-99 is subject to the following modifications.

The existing certified LCP policies and standards are shown in regular text.
The City's proposed changes are identified by underlined text.
The suggested modifications are shown in bold italics.

A. Modification to Part A of LIP Amendment No. 3-99 (Reasonable Accommodation)

Section 21.25.1311 Required Findings.

The following findings must be analyzed, made and adopted before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record of the proceeding relating to such approval or denial:

- A. The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Act.
- B. The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Act.
- C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
- D. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City.
- E. *For housing located in the coastal zone, a request for reasonable accommodation under this section may be approved if it is consistent with the certified Local Coastal Program; or it may be approved and the City may waive compliance with an otherwise applicable provision of the Local Coastal Program if the City finds the following:*
 - 1. *The requested reasonable accommodation is consistent, to the maximum extent feasible, with the certified Local Coastal Program; and,*
 - 2. *There are no feasible alternative means for providing an accommodation at the property that would provide greater consistency with the certified Local Coastal Program.*

B. Modification to Part B of LIP Amendment Request No. 3-99 (Projects on City Land)

Section 21.25.502 of the Long Beach Municipal Code shall be amended as follows:

Division V. Site Plan Review

Section 21.25.502 Applicability.

A. Standard. The following projects shall require site plan review:

1. Residential. [....].
2. Commercial. [....].
3. Industrial or Public Assembly Use. [....].
4. Project on City Land. All new construction projects with building floor area of five hundred (500) square feet ~~in size~~ or greater except roadway and utility maintenance or improvement.
5. ***Project on City Land in the Coastal Zone. All projects involving five hundred (500) square feet or more of land or water area, except roadway and utility maintenance or improvement.***

III. FINDINGS

The following findings support the Commission's denial of Parts A and B of the LIP amendment as submitted, and approval of Parts A and B of the LIP amendment if modified as indicated in Section II (SUGGESTED MODIFICATIONS) of this report. The following findings also support the Commission's approval of Part C of the LCP amendment as submitted.

The Commission hereby finds and declares as follows:

A. LCP Amendment Request No. 3-99A - Reasonable Accommodation

City Council Ordinance No. C-7639 would insert into the implementing ordinances (LIP) portion of the City's certified LCP a new "reasonable accommodation" hearing process (Exhibit #2). Ordinance No. C-7639 comprises Part A of LCP Amendment Request No. 3-99.

1. Description of Ordinance No. C-7639 - Reasonable Accommodation

The City of Long Beach has adopted the proposed reasonable accommodation hearing process into its zoning ordinance in order to comply with the Federal Fair Housing Act of 1988. The Federal Fair Housing Act of 1988 requires that cities have a process in place that allows people with disabilities to request relief from the rules, policies, practices and procedures of building and zoning codes in order to ensure equal access to housing.

City Ordinance No. C-7639 creates a new section in the City's zoning ordinance to accommodate special requests by disabled persons in regards to equal access to housing: *Chapter 21.25 Division XIII Reasonable Accommodation* (Exhibit #2). The proposed reasonable accommodation hearing process would provide people with disabilities a process to request relief from land use, zoning and building ordinances. The reasonable accommodation hearing process can be used only to ensure equal access to housing for disabled persons.

Division XIII of the City's zoning ordinance (Section 21.25.1303) defines "disabled person" as follows:

Disabled Person. Any person who has a physical or mental impairment that substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment. People who are currently using illegal substances are not covered under the Act or this Division unless they have a separate disability.

The City states that the proposed reasonable accommodation process would allow a person with a disability to request a minor deviation from the zoning ordinance in regards to housing. For example, the City could authorize the construction of a handicap ramp that encroaches into a required setback under the reasonable accommodation process. Other examples of reasonable accommodations are over height fences, handicap parking spaces that do not fully meet the dimensional requirements, and additional dwelling units in excess of the density limit. The reasonable accommodation process would be utilized by disabled persons in lieu of the standards variance process which involves application fees ranging from \$350 to \$800.

The reasonable accommodation process involves the filing of an application by a disabled person or their representative, and an appealable decision by the City Zoning Administrator or Planning Commission. There is no fee for a reasonable accommodation request unless the request is to increase the occupancy of a group home. Pursuant to 21.25.903 (Local Coastal Development Permits) of the City of Long Beach zoning ordinance, use of the reasonable accommodation process for projects in the coastal zone must include a local coastal development permit action because the reasonable

accommodation process is a discretionary action¹ (Exhibit #6). The proposed reasonable accommodation hearing process would not exempt any development from the local coastal development permit process (Section 21.25.903.B.2 of the Long Beach zoning ordinance requires that a local coastal development permit be required for discretionary actions for projects located in the coastal zone).

In order to approve a request for reasonable accommodation, the City Zoning Administrator or Planning Commission would have to make the following findings:

- The housing, which is the subject of the request for reasonable accommodation, will be used by an individual protected under the Federal Fair Housing Act.
- The request for reasonable accommodation is necessary to make specific housing available to an individual protected under the Federal Fair Housing Act.
- The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
- The requested reasonable accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City.

The proposed ordinance, however, does not require that a City action on a request for reasonable accommodation include an analysis for consistency with the standards of the certified LCP. However, the approval of a local coastal development permit to grant a reasonable accommodation request in the coastal zone would require a finding that the proposed project conforms to the certified LCP and the public access and recreation policies of the Coastal Act (Exhibit #6).

The decision of the City Zoning Administrator or Planning Commission regarding a request for reasonable accommodation may be appealed within thirty days of the issuance of a written determination. An appeal of a Zoning Administrator's decision would be heard by the Planning Commission. An appeal of a Planning Commission's decision would be heard by the City Council. The local coastal development permit associated with an approved request for reasonable accommodation would be appealable to the Commission only if it is approved within the appealable area of the City's coastal zone.

2. Analysis of Ordinance No. C-7639 - Reasonable Accommodation

The City's stated purpose of the proposed reasonable accommodation hearing process is to provide persons with disabilities a procedure to request relief from land use, zoning and

¹ Section 21.25.903.B.2 of the Long Beach zoning ordinance requires that in addition to other City permits, a local coastal development permit must be obtained for all development projects which require additional discretionary review such as a conditional use permit, subdivision map or standards variance (Exhibit #6).

building ordinances in order to provide equal housing opportunities. It is the City's land use, zoning and building ordinances that comprise the implementing ordinances (LIP) of the certified LCP. The LIP implements and carries out the policies of the certified LUP.

Pursuant to Sections 30513 and 30514 of the Coastal Act, the proposed LIP amendment must be adequate to carry out the provisions of the certified LUP. Any process which allows flexibility or waiver of the LCP implementing ordinances must include an analysis of the affects of such an action on coastal resources in order to comply with Sections 30513 and 30514 of the Coastal Act. A process that lacks such an analysis would not be able to adequately carry out the provisions of the certified LUP.

As previously stated, the proposed reasonable accommodation hearing process does not include an analysis to determine whether an approved reasonable accommodation would comply with the standards of the certified LCP or negatively impact coastal resources. The proposed reasonable accommodation hearing process does require a finding that an approved reasonable accommodation would not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City.

The effects of the proposed reasonable accommodation hearing process on coastal resources, if any, are not known. The following LUP policies are examples of those which could possibly be waived by the City in order to approve a request for reasonable accommodation:

LUP Parking Policy: "All new construction should be required to provide adequate on-site parking." (LCP p.II-4).

Building Density Limits: Residential densities for specific neighborhoods in the City's coastal zone are limited by the certified LUP map and are implemented through zoning designations of the LIP.

Preservation of Historic and Architecturally Distinctive Buildings: "Measures shall be taken to preserve those buildings designated as historic and architecturally distinctive by the City's Cultural Heritage Committee (the Villa Riviera and the Pacific Coast Club), and others which may be so designated." (LCP p. III-A-11).

Visual Resources: The certified LCP considers visual resources to be an important coastal resource that shall be protected. The certified LCP protects visual resources by protecting specific views and view corridors, and by requiring specific design and landscaping standards that improve the visual quality of the coastal zone. The certified LCP contains numerous policies that call for the protection of visual resources, for instance:

- "No windbreaks shall be constructed which would block or inhibit seaward views". [LCP p.II-19].

- "The visual resources enumerated in the Description section of this chapter will be protected and enhanced by the design criteria stated in Locating and Planning New Development and Implementation." [LCP p.DS-38].
- "All buildings shall be arranged on their sites so as to provide views between the buildings, so as to avoid the impression of a wall of buildings, so as to minimize blocking shoreline views of other buildings, so as to entice pedestrians into the shoreline area." [LCP, PD-6].

As proposed, the City's reasonable accommodation hearing process does not include a provision to review requests for reasonable accommodation against the standards of the certified LCP, nor does it include a clear procedure for waiving LCP standards that may be necessary for a reasonable accommodation under the Federal Fair Housing Act of 1988. Therefore, as currently proposed, Part A of the proposed LIP amendment cannot be found to be adequate to carry out the provisions of the certified LUP as required by Sections 30513 and 30514 of the Coastal Act.

A modification to the proposed LIP amendment is necessary to ensure that the City's reasonable accommodation process is in conformance with, and adequate to carry out, the provisions of the certified LUP. The suggested modification would require the City to analyze a request for reasonable accommodation in the coastal zone for consistency with the certified LCP and to make a specific LCP finding. The suggested modification to the proposed ordinance would allow a request for reasonable accommodation to be granted in the coastal zone if: a) it is consistent with the certified LCP, or b) it is not consistent with the certified LCP but it is consistent to the maximum extent possible and there are no feasible alternative means for providing an accommodation that would provide greater consistency with the certified LCP. Only if modified as follows can the proposed reasonable accommodation process adequately carry out the provisions of the certified LUP as required by Sections 30513 and 30514 of the Coastal Act.

Suggested modification to Ordinance No. 7639 (Municipal Code Section 21.25.1311):

E. For housing located in the coastal zone, a request for reasonable accommodation under this section may be approved if it is consistent with the certified Local Coastal Program; or it may be approved and the City may waive compliance with an otherwise applicable provision of the Local Coastal Program if the City finds the following:

- 1. The requested reasonable accommodation is consistent, to the maximum extent feasible, with the certified Local Coastal Program; and,***

2. ***There are no feasible alternative means for providing an accommodation at the property that would provide greater consistency with the certified Local Coastal Program.***

If modified as suggested, the Commission will certify the reasonable accommodation hearing process as part of the LCP implementing ordinances, and find that the proposed LCP amendment is in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP). If modified as suggested, the proposed reasonable accommodation hearing process will carry out the provisions of the certified LUP by establishing an orderly and fair process for disabled persons to request reasonable accommodations to ensure equal access to housing without authorizing deviations from the certified LCP unless there are no feasible alternative means for providing an accommodation that would provide greater consistency with the certified LCP.

B. LCP Amendment Request No. 3-99B – Zoning Clean-Up

City Council Ordinance No. C-7607 contains several proposed “zoning clean-up” amendments that would clarify the current zoning ordinance, including one change that would affect the current threshold for obtaining a coastal development permit for projects on City land (Exhibits #3&4). Ordinance No. C-7607 comprises Part B of LCP Amendment Request No. 3-99.

1. Description of Ordinance No. C-7607 – Zoning Clean-Up

City Council Ordinance No. C-7607 contains several proposed zoning clean-up amendments that correct and clarify the current zoning ordinance (Exhibits #3&4). The proposed corrections and clarifications to existing sections of the zoning ordinance, as highlighted in Exhibit #4, include the following:

- Clarification of the term “*Projects on City Land*” for which a Site Plan Review is required (Exhibit #4, p.2). This proposed change to the Site Plan Review requirements (Municipal Code Section 21.25.502) would affect the current threshold for obtaining a coastal development permit for projects on City land in the coastal zone. Pursuant to the currently certified LCP, all projects in the coastal zone that are required to obtain a Site Plan Review must also obtain a coastal development permit. The certified LCP does not require that a local coastal development permit be obtained for development that is not required to obtain a Site Plan Review or other discretionary action. (See analysis below).
- Clarification of the approval process (Site Plan Review) for over-height fences (Exhibit #4, p.3).

- Correction of the Planned Development District list in order to update the list to reflect past combinations of districts, deleted districts, and new district names (Exhibit #4, ps.4&5). There are no changes proposed to the Planned Development Districts located within the City's coastal zone.
- Correction of the subsection reference currently contained in Section 21.41.233.B (Tandem Parking – Residential Uses) of the zoning ordinance (Exhibit #4, p.4).
- Clarification of the existing queuing space length requirements and diagram (Figure 45-1) for drive-up windows to include drug store, bank and ATM land uses (100' min.) in addition to restaurant uses (150' min.) (Exhibit #4, ps.1&2).
- Replace current City zoning ordinance requirements for swimming pools and spas at single family residences with the State of California Health and Safety Code requirements for swimming pools and spas at single family residences by reference (Exhibit #4, p.3).
- Clarification to replace the term "*Itinerant Vendor*" with the term and definition of "*Mobile Food Truck*" with no change to the current standards of the zoning ordinance for such a use (Exhibit #4, ps.9&10).
- Clarification of Figure 15-2 of the zoning ordinance to include the correct definition of "*Lot Width*" as currently defined in Section 21.15.1710 of the zoning ordinance (Exhibit #4, p.4).
- Clarification of the notes for Table 31-2A of the zoning ordinance in order to refer to the existing setback requirements for residential garages (Exhibit #4, p.6).
- Clarification of Table 32-1B (Commercial Uses - Financial Services) of the zoning ordinance to designate three distinct types of ATM's: *walk-up ATM*, *freestanding exterior ATM*, and *drive-up ATM* (Exhibit #4, ps.6&7).
- Clarification of Table 32-1B (Commercial Uses – Retail Sales) of the zoning ordinance to group *flower carts*, *newspaper stands*, and *mobile food carts* under the single heading of *Outdoor Sales*, and to add *Used Clothing* to the basic retail sales land use type (Exhibit #4, ps.8&97).

- Correction to Table 51-2 (Home Occupation Uses) of the zoning ordinance to eliminate a typographical error. *Jewelry making* is allowed. *Knife sharpening* is not allowed (Exhibit #4, p.10).
- Deletion of Division X of Chapter 21.25 (Sections 21.25.1001 through 21.25.1008: Bonus Density – General Plan).

2. Analysis of Ordinance No. C-7607 - Zoning Clean-Up

The proposed change in the term "*Projects on City Land*" in the LIP section (Municipal Code Section 21.25.502) that describes the types of projects that are required to obtain a Site Plan Review would affect the current threshold for obtaining a coastal development permit for projects on City land in the coastal zone. A Site Plan Review is a City discretionary action conducted for specified types of development projects by a Site Plan Review Committee, the Planning Commission, or the Director of Planning and Building. A Site Plan Review can be approved, conditionally approved, or denied in order to ensure that the highest quality of land planning and design are incorporated into development projects and to ensure that new projects are compatible with existing neighborhoods and the environment (Division V - Section 21.25.501).

The certified LIP currently states:

Division V. Site Plan Review

Section 21.25.502 Applicability.

A. Standard. The following projects shall require site plan review:

1. Residential. [...].
2. Commercial. [...].
3. Industrial or Public Assembly Use. [...].
4. **Project on City Land. All projects five hundred (500) square feet or greater except roadway and utility maintenance or improvement.**

The proposed LIP amendment would alter part A.4 the above-stated LIP section as follows:

4. Project on City Land. All new construction projects with building floor area of five hundred (500) square feet ~~in-size~~ or greater except roadway and utility maintenance or improvement.

Pursuant to the currently certified LCP, any project proposed in the coastal zone that is required to obtain a Site Plan Review must also obtain a coastal development permit. Section 21.25.903.B.2 of the Long Beach zoning ordinance requires that in addition to other City permits, a local coastal development permit must be obtained for all development projects which require additional discretionary review such as a conditional use permit, subdivision map or standards variance (Exhibit #6). The requirement for a coastal development permit in addition to any other required discretionary review is the trigger for reviewing projects for compliance with the certified LCP.

The certified LCP does not require that a local coastal development permit be obtained for development that is not required to obtain a Site Plan Review or other discretionary action. Section 21.25.903 of the Municipal Code, part of the certified LIP, excludes most development from obtaining a local coastal development permit if such a development complies with all zoning regulations and is not required to obtain any other discretionary approval from the City (Exhibit #6). Many development projects that are not required to go through the Site Plan Review process can be excluded by the City from obtaining a local coastal development permit because the certified LIP requires local coastal development permits only for:

1. Development on the first lot abutting the sea or sand, except for minor additions to single family residences.
2. **All development which requires additional discretionary review (such as a conditional use permit, subdivision map, or standards variance)**
3. Traffic improvements that do not qualify for a categorical exclusion.
4. Public works projects with an estimated cost of \$50,000 or more.

The City's proposed change to the Site Plan Review requirements for projects on City land (i.e. City Parks and beaches) would raise the threshold for obtaining a Site Plan Review and would therefore also raise the threshold for obtaining a coastal development permit. Therefore, the proposed change to the threshold for projects on City land to obtain a Site Plan Review would have the result of excluding some developments on City land from local coastal development permit review.

The difference between the currently certified LIP and the City's proposed LIP amendment is the difference between the term "project" and the term "new construction projects." Neither term is defined in the City's zoning ordinance, but there is a clear difference between new construction projects (i.e. new buildings, new parking lots, new parks or facilities, etc.) and all projects (i.e. building remodels, grading, landscaping, attachments to existing docks, etc.). A change in intensity of use of an existing structure would also be a "project" but not a "new construction project."

Another difference between the currently certified LIP and the proposed LIP amendment is the difference between all projects "five hundred (500) square feet in size or greater" and new construction projects with "*building floor area* of five hundred (500) square feet or greater."

4. Project on City Land. All projects five hundred (500) square feet or greater except roadway and utility maintenance or improvement.

or

4. Project on City Land. All new construction projects with building floor area of five hundred (500) square feet ~~in size~~ or greater except roadway and utility maintenance or improvement.

The City's proposed amendment to the Site Plan Review section of the LIP would require only that new *buildings* on City land with floor areas of 500 square feet or greater be required to go through the Site Plan Review process and the associated local coastal development permit. Whereas the current zoning ordinance requires all projects on City land, whether the project includes a building or not, to go through the Site Plan Review process and the associated local coastal development permit if the project area occupies 500 or more square feet in the coastal zone (except roadway and utility maintenance or improvement).

For example, a new parking lot with zero square feet of building floor area would be required to go through the Site Plan Review process and the associated local coastal development permit under the currently certified zoning ordinance, while the proposed amendment would eliminate the Site Plan Review process and therefore possibly allow the City to issue an coastal development permit exclusion for the paving of City land. Projects that involve only grading, fences, gates, and landscaping could possibly be issued coastal development permit exclusions by the City if such projects include less than 500 square feet of building floor area and do not require any other discretionary review.

As previously stated, the current LCP requirement for projects on City land (i.e. City Parks and beaches) in the coastal zone to obtain a Site Plan Review (discretionary review) is often the only trigger for a project to obtain a local coastal development permit. Therefore, by proposing to raise the threshold for projects on City land that must obtain a Site Plan Review, the City is also proposing to raise the coastal development permit threshold for projects on City land in the coastal zone. Such a change would result in the exclusion of some development on City parks and beaches from local coastal development permit review. The coastal resources enumerated in the City of Long Beach certified LCP area are protected through the local coastal development permit process.

The coastal development permit process is the method for carrying out the following LUP policies:

LCP Visual Resource Policies

The certified LCP considers visual resources to be an important coastal resource that shall be protected. The certified LCP protects visual resources by protecting specific views and view corridors, and by requiring specific design and landscaping standards that improve the visual quality of the coastal zone. The certified LCP contains numerous policies that call for the protection of visual resources, for instance:

- "No windbreaks shall be constructed which would block or inhibit seaward views". [LCP p.II-19].
- "Increased landscaping of all beach parking lots shall be provided." [LCP p.II-20].
- "It is further recommended that appropriate planting be placed on the bluff both for aesthetic purpose and to contribute to bluff stability." [LCP p.II-26].
- Marina Green Park "provides a foreground for the marina which helps to mitigate the negative visual effects of the marina parking lot". [LCP p.DS-26].
- "The visual resources enumerated in the Description section of this chapter will be protected and enhanced by the design criteria stated in Locating and Planning New Development and Implementation." [LCP p.DS-38].
- "Viewing promontory Bays shall articulate the terminus of the north/south access(es) from Ocean Boulevard." [LCP, PD-6].
- "All buildings shall be arranged on their sites so as to provide views between the buildings, so as to avoid the impression of a wall of buildings, so as to minimize blocking shoreline views of other buildings, so as to entice pedestrians into the shoreline area." [LCP, PD-6].
- "The visual edges of all parking structures shall be visually attractive through choice of material, landscaping, terracing and/or facing these edges with other uses." [LCP, PD-6].
- "All open areas shall be landscaped in a park-like setting...". [LCP, PD-6].
- "North/south public walkways and/or view corridors shall be provided...". [LCP, PD-6].

- "The north/south connections to the east/west walk shall terminate in viewing platforms." [LCP, PD-6].
- "The Master Site Plan shall be designed so as to provide views to the pedestrian areas beyond the Ocean Boulevard frontage to invite and attract pedestrians into the Shoreline area." [LCP, PD-6].

LCP Access Policies

The certified LCP also considers public access to be an important coastal resource that shall be protected. Stated succinctly, the Long Beach LCP transportation and access policies [LCP p.II-2] are:

1. Increase reliance on public transit.
2. Decrease reliance on automobiles.
3. Provide slightly more parking.
4. Increase pedestrian and bicycle access opportunities.

And, for the Downtown Shoreline area (PD-6): "pedestrian access shall be provided along the edge of all water features".

LCP Recreation Policies

The certified LCP also considers public recreation to be an important coastal resource that shall be protected. The following LCP policies protect recreational uses near the coast:

- "Only beach dependent recreational facilities such as sand volleyball courts, should be located on the beach, i.e., no handball, basketball, or tennis courts except as provided herein." [LCP p.II-19].
- "No commercial establishments and no additional parking should be permitted on the beaches except as otherwise provided in this LCP." [LCP p.II-19].
- "Private motor vehicles should be prohibited from using the strand area except for beach maintenance or concession service." [LCP p.II-21].
- "Lessees of food and beverage dispensing establishments on the beach and in public parks shall be responsible for keeping all public property within one hundred feet of the establishment clear of all trash and garbage, regardless of the origin of such materials. Lease agreements with the City should incorporate this requirement." [LCP p.II-21].

- "Bluff Park between the Art Museum and 36th Place should be maintained in its present configuration." [LCP p.II-23].
- "No changes in Bayshore Playground shall be allowed other than recreational facility uses." [LCP p.II-24].

Suggested Modification

Because the proposed revision to the types of projects of City land (i.e. City Parks and beaches) that require Site Plan Review would result in the exclusion of some development from local coastal development permit review, Part B of the proposed LIP amendment cannot be found to be adequate to carry out the provisions of the certified LUP as required by Sections 30513 and 30514 of the Coastal Act.

A modification to the proposed LIP amendment is necessary to maintain the current LIP threshold for requiring discretionary review of projects on City Land in the coastal zone (i.e. City Parks and beaches) to ensure conformance with the provisions of the certified LUP. Certification of City of Long Beach LCP Amendment Request No. 3-99B is subject to the following modification to add Section 21.25.502.A.5 to the zoning ordinance in order to maintain the current LCP threshold for projects on City land in the coastal zone which must obtain a Site Plan Review:

5. Project on City Land in the Coastal Zone. All projects involving five hundred (500) square feet or more of land or water area, except roadway and utility maintenance or improvement.

The suggested modification would require discretionary review of all projects on City land over 500 square feet in the coastal zone, except roadway and utility maintenance or improvement, in order to ensure conformance with the provisions of the certified LUP. As modified, the LIP requirements for Site Plan Review would be adequate to continue to carry out the provisions of the certified LUP.

Therefore, only if modified can Part B of the LIP amendment request adequately carry out the provisions of the certified LUP as required by Sections 30513 and 30514 of the Coastal Act. If modified as suggested, the commission staff recommends that the Commission certify the proposed zoning clean-up amendments to the LCP implementing ordinances, and find that the proposed LCP amendment is in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP).

Other Part B Changes

The other changes proposed by Part B of the LIP amendment are in conformance with certified LUP and can carry out the LUP because there are no substantial changes proposed to the currently certified LCP.

Over-Height Fences (Exhibit #3, p.10): Approval of over-height fences through the Site Plan Review process will ensure that the provisions of the certified LUP will be carried out because the requirements for discretionary review (Site Plan Review) would trigger the requirement for a coastal development permit and the required finding for consistency with the certified LCP.

Planned Development District List (Exhibit #3, p.2): The proposed updating of the Planned Development District list would reflect past combinations of districts, deleted districts, and new district names (Exhibit #4, ps.4&5). There are no changes proposed to the Planned Development Districts located within the City's coastal zone.

Tandem Parking (Exhibit #3, p.3): The proposed subsection reference currently contained in Section 21.41.233.B (Tandem Parking – Residential Uses) of the zoning ordinance is merely a correction with no change to the standards for tandem parking (Exhibit #4, p.4).

Queuing Space (Exhibit #3, p.3): The proposed change to the existing queuing space length requirements and diagram (Figure 45-1) for drive-up windows would reduce the queuing space length requirements for drug store, bank and ATM land uses to 100 feet instead of 150 feet, while maintaining the currently certified requirement of 150 feet minimum for restaurant uses (Exhibit #4, ps.1&2). The City has found that drug store, bank and ATM uses are adequately served by 100-foot long drive-up queuing areas. One hundred-foot drive-up queuing areas allow for four cars to wait. This proposed change does not conflict with any policy of the certified LUP.

Swimming Pools and Spas (Exhibit #3, p.4): The proposed amendment would replace current City zoning ordinance requirements for swimming pools and spas at single family residences with the State of California Health and Safety Code requirements for swimming pools and spas at single family residences by reference (Exhibit #4, p.3). This proposed change does not conflict with any policy of the certified LUP.

Itinerant Vendor/Mobile Food Truck (Exhibit #3, p.4): Clarification to replace the term "*Itinerant Vendor*" with the term and definition of "*Mobile Food Truck*" with no change to the current standards of the zoning ordinance for such a use (Exhibit #4, ps.9&10).

Lot Width (Exhibit #3, p.4): Clarification of Figure 15-2 of the zoning ordinance to include the correct definition of "*Lot Width*" as currently defined in Section 21.15.1710 of the zoning ordinance (Exhibit #4, p.4).

Garage Setbacks (Exhibit #3, p.5): This proposed change merely inserts notes into relevant section of the zoning ordinance in order to refer readers to the existing setback requirements for residential garages (Exhibit #4, p.6).

Financial Services (Exhibit #3, p.6): Proposed change to the permitted use Table 32-1B (Commercial Uses - Financial Services) of the zoning ordinance to designate three distinct

types of ATM's: *walk-up ATM, freestanding exterior ATM, and drive-up ATM* (Exhibit #4, ps.6&7). All interior ATM's and walk-up ATM's on the exterior of building would be allowed by right in all commercial zones. Freestanding exterior ATM's would be allowed in all commercial zones with an approved Administrative Use Permit. The existing restrictions and requirements for Drive-up ATM's would not be changed. The proposed clarification to Table 32-1B does not conflict with any policy of the certified LUP.

Basic Retail Sales (Exhibit #3, p.8): Another proposed change to Table 32-1B (Commercial Uses – Retail Sales) of the zoning ordinance to group *flower carts, newspaper stands, and mobile food carts* under the single heading of *Outdoor Vending*, and to add *Used Clothing* to the basic retail sales land use type (Exhibit #4, ps.8&9). Basic retail sales are allowed by right in all commercial zones. This amendment would make create *Outdoor Vending* as a new category of commercial uses. Flower carts and news carts are outdoor vending uses that would continue to be allowed by right on private property in all commercial zones. Other outdoor vending uses would be permitted on private property in all commercial zones but would be subject to special development standards. This proposed change to Table 32-1B does not conflict with any policy of the certified LUP.

Home Occupation Uses (Exhibit #3, p.10): Correction to Table 51-2 (Home Occupation Uses) of the zoning ordinance to eliminate a typographical error. *Jewelry making* is allowed. *Knife sharpening* is not allowed (Exhibit #4, p.10).

Bonus Density (Exhibit #3, p.10): The City proposes to repeal Division X of Chapter 21.25 (Sections 21.25.1001 through 21.25.1008). This section of the zoning ordinance provided a procedure to allow the City to approve housing developments that exceed the normal density limits of a zoning district if the development was located in a designated bonus density area and met specific development standards. This amendment would not affect the existing affordable housing incentives allowed pursuant to Chapter 21.63 of the zoning ordinance. This proposed change to Table 32-1B does not conflict with any policy of the certified LUP.

As stated above, Part B of the LIP amendment request can adequately carry out the provisions of the certified LUP only if modified can as suggested in Part II of this report (See Page 6). If modified as suggested, the commission staff recommends that the Commission certify the proposed zoning clean-up amendments to the LCP implementing ordinances, and find that the proposed LCP amendment is in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP).

C. LCP Amendment Request No. 3-99C – Zoning Corrections

City Council Ordinance No. C-7629 would correct four minor numerical and grammatical errors that currently exist in the zoning ordinance (Exhibit #5). Ordinance No. C-7629 comprises Part C of LCP Amendment Request No. 3-99.

1. Description of Ordinance No. C-7629 – Zoning Corrections

City Council Ordinance No. C-7629 contains four corrections to typographical errors that exist in Sections 21.44.310.C, D and G (Promotional Activity Signs) and 21.45.010 (Special Development Standards) of the zoning ordinance (Exhibit #5, ps.1&4). A fifth proposed change consists of an added reference to Table 31-1 in order to clarify the standards for Community Gardens under Interim Parks uses (Exhibit #5, ps.1&4).

2. Analysis of Ordinance No. C-7629 - Zoning Corrections

The commission staff recommends that the Commission certify the Part C of the proposed LIP amendment as submitted and find that the proposed LIP amendment is in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP). Four of the five changes proposed by Part C are corrections to typographical errors, and the fifth proposed change would add a note to reference an existing section of the zoning ordinance. Therefore, Part C of the proposed LCP amendment is in conformance with certified LUP because it proposes no substantial changes to the currently certified LCP.

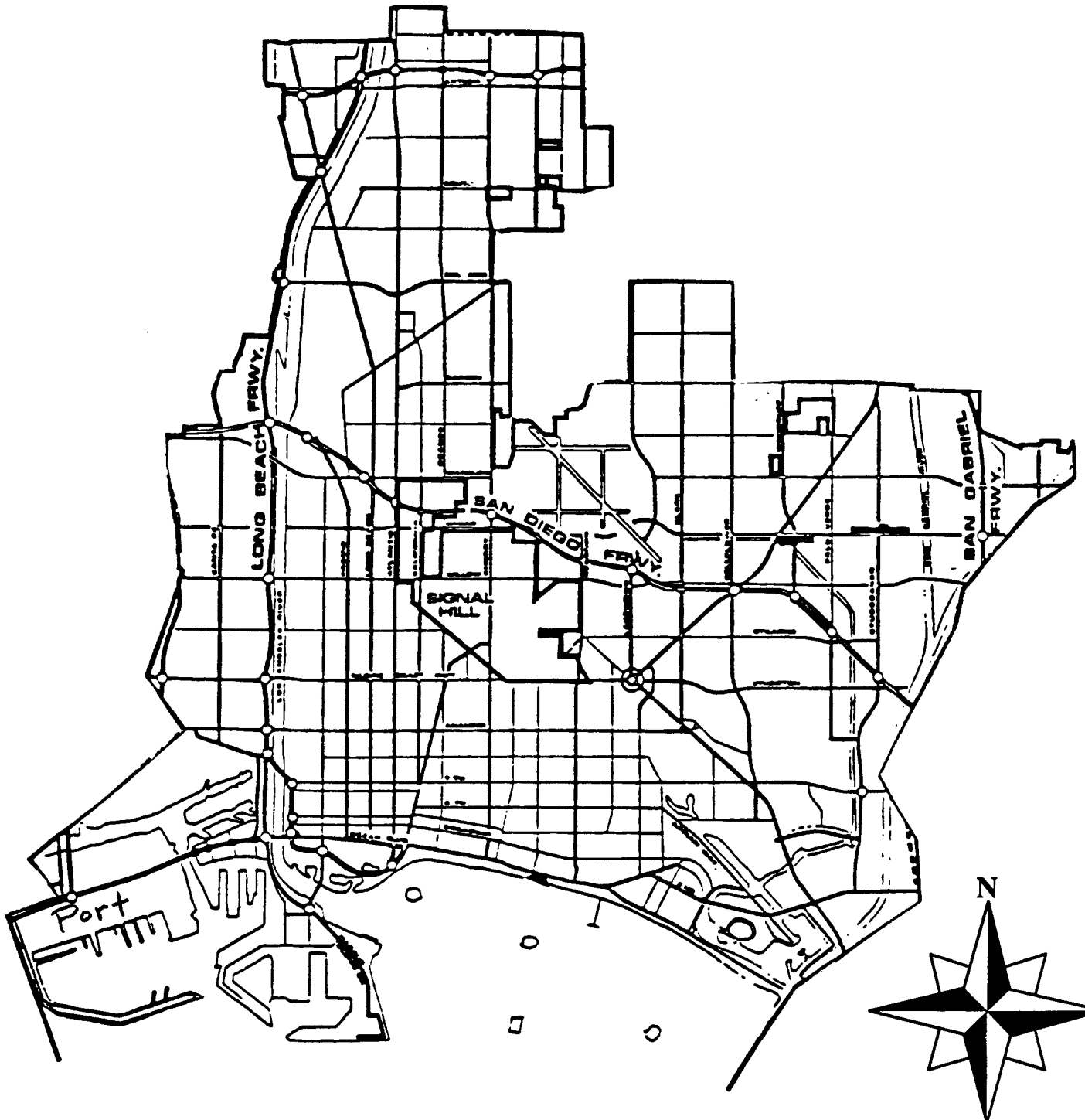
D. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (CEQA) and the California Code of Regulations [Title 14, Sections 13540(f), 13542(a), 13555(b)] the Commission's certification of this LCP amendment must be based in part on a finding that it is consistent with CEQA Section 21080.5(d)(2)(A). That section of the Public Resources Code requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that for the reasons discussed in this report, if the LCP amendment is modified as suggested, there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any adverse environmental impacts. The Commission further finds that the proposed LCP amendment is consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

City of Long Beach



COASTAL COMMISSION
LCP 3-99

EXHIBIT # /
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ORDINANCE NO. C- 7639

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING TITLE 21 BY ADDING
DIVISION XIII, SECTIONS 21.25.1301 THROUGH
21.25.1317, RELATING TO REASONABLE
ACCOMMODATION

The City Council of the City of Long Beach ordains as follows:

Section 1. Title 21 of the Long Beach Municipal Code is amended by
adding Division XIII, Sections 21.25.1301 through 21.25.1317, to read as follows:

DIVISION XIII

REASONABLE ACCOMMODATION

21.25.1301 Purpose.

It is the policy of the City, pursuant to the Federal Fair Housing
Amendments Act of 1988, to provide people with disabilities reasonable
accommodation in rules, policies, practices and procedures that may be
necessary to ensure equal access to housing. The purpose of this
Division is to provide a process for individuals with disabilities to make
requests for reasonable accommodation in regard to relief from the
various land use, zoning, or building laws, rules, policies, practices and/or
procedures of the City.

21.25.1303 Definitions.

A. Act. The Fair Housing Amendments Act of 1988.

B. Applicant. An individual making a request for reasonable
accommodation pursuant to this Division.

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C. Code. The Long Beach Municipal Code.

D. Department. The Department of Planning and Building of the City of Long Beach.

E. Disabled person. Any person who has a physical or mental impairment that substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment. People who are currently using illegal substances are not covered under the Act or this Division unless they have a separate disability.

F. Group home. Refers to any and all facilities which are regulated by the provisions of the California Community Care Facilities Act (Health & Safety Code Section 1500 et seq.), the California Residential Care Facilities for the Elderly Act (Health & Safety Code Section 1569) or any alcoholism or drug abuse recovery or treatment facility as defined by Health & Safety Code Section 11834.02 or any successor statutes.

G. Increased occupancy. Refers to a request to increase the number of individuals permitted or licensed by state or local law to occupy a group home.

21.25.1305 Notice to the public of availability of accommodation process.

The Department of Planning and Building shall prominently display in both the Development Services Center and the Planning Bureau a notice advising those with disabilities or their representatives that they may request a reasonable accommodation hearing in accordance with the procedures established in this Division.

21.25.1307 Requesting reasonable accommodation.

A. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable

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1 accommodation relating to the various land use, zoning, or building laws,
2 rules, policies, practices and/or procedures of the City.

3 B. If an individual needs assistance in making the request for
4 reasonable accommodation, or appealing a determination regarding
5 reasonable accommodation, the Department will endeavor to provide the
6 assistance necessary to ensure that the process is accessible to the
7 applicant or representative. The applicant shall be entitled to be
8 represented at all stages of the proceeding by a person designated by the
9 applicant.

10 C. A request for reasonable accommodation in laws, rules,
11 policies, practices and/or procedures may be filed on an application form
12 provided by the Department at any time that the accommodation may be
13 necessary to ensure equal access to housing.

14 21.25.1309 Jurisdiction.

15 A. Zoning Officer/Building Official. The Zoning Officer, or Building
16 Official, as appropriate, shall have the authority to consider and act on
17 requests for reasonable accommodation. When a request for reasonable
18 accommodation is filed with the Department, it will be referred to the
19 Zoning Officer or Building Official for review and consideration. The
20 Zoning Officer or Building Official shall issue a written determination within
21 thirty (30) days of the date of receipt of a completed application and may
22 (1) grant the accommodation request, (2) grant the accommodation
23 request subject to specified non-discriminatory conditions, or (3) deny the
24 request. All written determinations shall give notice of the right to appeal
25 and the right to request reasonable accommodation on the appeals
26 process, if necessary. The notice of determination shall be sent to the
27 applicant by certified mail, return receipt requested.

28 B. If necessary to reach a determination on the request for

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1 reasonable accommodation, the Zoning Officer or Building Official may
2 request further information from the applicant consistent with this Division,
3 specifying in detail what information is required. In the event a request for
4 further information is made, the thirty (30) day period to issue a written
5 determination shall be stayed until the applicant responds to the request.
6 21.25.1311 Required findings.

7 The following findings must be analyzed, made and adopted before
8 any action is taken to approve or deny a request for reasonable
9 accommodation and must be incorporated into the record of the
10 proceeding relating to such approval or denial:

11 A. The housing, which is the subject of the request for reasonable
12 accommodation, will be used by an individual protected under the Act.

13 B. The request for reasonable accommodation is necessary to
14 make specific housing available to an individual protected under the Act.

15 C. The requested reasonable accommodation will not impose an
16 undue financial or administrative burden on the City.

17 D. The requested accommodation will not require a fundamental
18 alteration of the zoning or building laws, policies and/or procedures of the
19 City.

20 21.25.1313 Appeals.

21 A. Within thirty (30) days of the date the Zoning Officer or Building
22 Official issues a written determination, the applicant requesting the
23 accommodation may appeal an adverse determination or any conditions
24 or limitations imposed in the written determination.

25 B. All appeals shall contain a statement of the grounds for the
26 appeal.

27 C. Appeals shall be to the Planning Commission who shall hear
28 the matter and render a determination as soon as reasonably practicable,

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but in no event later than sixty (60) days after an appeal has been filed.
All determinations on appeal shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.

D. An applicant may request reasonable accommodation in the procedure by which an appeal will be conducted.

21.25.1315 Reasonable accommodation relating to requests for increased occupancy of group homes.

A. All requests for reasonable accommodation relating to increased occupancy of a group home shall be filed first with the City's Zoning Officer.

B. The Zoning Officer may hold a hearing on a request for reasonable accommodation relating to the increased occupancy of a group home, or may instead, at his/her sole discretion, refer the application to the Planning Commission for hearing. If the Zoning Officer acts on a request for reasonable accommodation pursuant to this Section, the Zoning Officer shall hear the matter and issue a written determination within thirty (30) days of the date of receipt of a completed application. If the Planning Commission acts on a request for reasonable accommodation pursuant to this Section, the Planning Commission shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than sixty (60) days of receipt of a completed application.

C. Notice of hearing pursuant to this Section shall be provided not less than fourteen (14) days prior to the hearing and shall be mailed or delivered to all owners of real property as shown on the latest equalized assessment role within three hundred feet (300') of the real property that

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1 is the subject of the hearing. In all cases under this section, the applicant
2 shall bear the cost of the radius mailing.

3 D. The Zoning Officer or Planning Commission acting pursuant to
4 this Section, shall (1) grant the accommodation request, (2) grant the
5 accommodation request subject to specified nondiscriminatory conditions,
6 including, but not limited to, a condition requiring the applicant to show
7 proof of any required state license for the activity or occupancy
8 contemplated, or (3) deny the request.

9 E. The Zoning Officer or Planning Commission, as appropriate,
10 shall explain, in writing, the basis of the determination including the
11 Zoning Officer's or Planning Commissioner's findings on the criteria set
12 forth in Section 21.25.1311. All written determinations shall give notice of
13 the right to appeal and the right to request reasonable accommodation on
14 the appeals process, if necessary. The notice of the determination shall
15 be sent to the applicant by certified mail, return receipt requested.

16 F. Within thirty (30) days of the issuance of a written determination
17 on the hearing conducted pursuant to this Section, any aggrieved party
18 within the meaning of this Code, may file an appeal from the
19 determination of the Zoning Officer or Planning Commission. Appeals
20 from a determination of the Zoning Officer shall be to the Planning
21 Commission, appeals from a determination of the Planning Commission
22 shall be to the City Council. All appeals shall contain a statement of the
23 grounds for the appeal.

24 G. Appeals to the Planning Commission or City Council pursuant
25 to this Section shall be heard as soon as reasonably practicable, but in no
26 event later than sixty (60) days after an appeal has been filed. All
27 determinations on appeal shall address and be based upon the same
28 findings required to be made in the original determination from which the

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appeal is taken.

21.25.1317 Fee.

There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this Division, except that a fee equivalent to the fee imposed for an administrative use permit shall be required if the application for reasonable accommodation relates to an increase in the occupancy of a group home.

Sec. 2. The City Clerk shall certify to the passage of this ordinance by the City Council of the City of Long Beach and cause the same to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of August 10, 1999, by the following vote:

Ayes: Councilmembers: Oropeza, Baker, Colonna, Roosevelt, Kell,
Topsy-Elvord, Grabinski, Kellogg, Shultz.

Noes: Councilmembers: None.

Absent: Councilmembers: None.

Shelba Powell
City Clerk

Steve Merrill
Mayor

Approved: 8-13-99
(Date)

MJM:kjm, 7/22/99, #66255;
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9812-24

ORDINANCE NO. C-7607

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTIONS 21.25.502.A.4, 21.37.020, 21.41.233.B, 21.45.130, 21.46.070, 21.53.106, FIGURES 15-2 AND 45-1, TABLES 31-2A, 32-1B, 43-1 AND 51-2; BY ADDING SECTION 21.15.1765 AND FOOTNOTE (g) TO TABLE 43-1; AND BY REPEALING SECTION 21.15.1495, AND DIVISION X OF CHAPTER 21.25 (SECTIONS 21.25.1001 THROUGH 21.25.1008), AND 21.41.233.A.3, ALL RELATING TO THE ZONING CODE

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 21.25.502.A.4 of the Long Beach Municipal Code is amended to read as follows:

4. Project on City land. All new construction projects with building floor area of five hundred (500) square feet or greater except roadway and utility maintenance or improvements.

Sec. 2. Section 21.37.020 of the Long Beach Municipal Code is amended to read as follows:

21.37.020 Districts established.

On and after September 1, 1988, all planned development districts shall be indicated by the PD designation, a number and a common name. Planned development districts are as follows:

COASTAL COMMISSION*
LCP 3-99

EXHIBIT # 3
PAGE 1 OF 11

* Underlined text designates changes
See also Exhibit # 4.

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1. PD-1 - Southeast Area Development and Improvement Plan (SEADIP)
2. PD-2 - Belmont Pier
3. PD-3 - Reserved
4. PD-4 - Long Beach Marina
5. PD-5 - Ocean Boulevard
6. PD-6 - Downtown Shoreline
7. PD-7 - Long Beach Business Center
8. PD-8 - Reserved
9. PD-9 - Long Beach Airport Business Park
10. PD-10 - Willmore City
11. PD-11 - Rancho Estates
12. PD-12 - Long Beach Airport Terminal Ordinance
13. PD-13 - Atlantic Aviation Center
14. PD-14 - Reserved
15. PD-15 - Redondo Avenue
16. PD-16 - Reserved
17. PD-17 - Alamitos Land
18. PD-18 - Kilroy Airport Center
19. PD-19 - Douglas Aircraft
20. PD-20 - All Souls
21. PD-21 - Queensway Bay
22. PD-22 - Pacific Railway
23. PD-23 - Douglas Center
24. PD-24 - Reserved
25. PD-25 - Atlantic Avenue
26. PD-26 - West Long Beach Business Park
27. PD-27 - Willow Street Center
28. PD-28 - Pacific Theaters

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- 29. PD-29 - Long Beach Boulevard
- 30. PD-30 - Downtown Long Beach

- 31. PD-31 - California State University and Technology Center/Villages at Cabrillo Long Beach Vets

Sec. 3. Section 21.41.233.B of the Long Beach Municipal Code is amended to read as follows:

B. For tandem parking allowed in Subsection 21.41.233.A.2, the following standards shall be complied with:

- 1. Not more than two (2) spaces shall be involved in the tandem arrangement;
- 2. Both spaces in the tandem arrangement shall be assigned to the same dwelling unit;
- 3. Handicapped and guest parking shall not be in tandem;
- 4. Tandem parking shall not be allowed in a parking garage of less than ten (10) parking spaces or when the full turning radius for the tandem parking is not within the garage.

Sec. 4. Section 21.45.130.A of the Long Beach Municipal Code is amended to read as follows:

A. Queuing space length.

1. Restaurants. A minimum queuing distance of one hundred and fifty feet (150') shall be provided from the forwardmost drive-up window to the entrance to the queuing space. The queuing space shall be located completely clear of any adjacent public right-of-way and all circulation aisles provided on a site as illustrated in Figure 45-1.

2. Drug stores, ATM's, and banks. A minimum queuing distance of one hundred feet (100') shall be provided from the forwardmost drive-up

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1 window to the entrance to the queuing space. The queuing space shall be
2 located completely clear of any adjacent public right-of-way and all circulation
3 aisles provided on a site as illustrated in Figure 45-1.
4

5 Sec. 5. Section 21.46.070 of the Long Beach Municipal Code is
6 amended to read as follows:

7 21.46.070 Swimming pools and spas.

8 A. A swimming pool or spa may be placed anywhere on a lot except
9 within the front yard setback.

10 B. A swimming pool or spa at a single family home shall be isolated
11 from the home pursuant to Article 2.5 (commencing with Section 115920) of
12 Chapter 5 of Part 10 of Division 104 of the Health and Safety Code of the State
13 of California.
14

15 Sec. 6. Section 21.53.106 of the Long Beach Municipal Code is
16 amended to read as follows:

17 21.53.106 Mobile food truck.

18 A mobile food truck may be permitted as a temporary business,
19 provided:

20 A. The vendor shall sell food only.

21 B. The temporary business shall be permitted only at construction sites
22 at the time when construction workers are on the site.

23
24 Sec. 7. Figure 15-2 of the Long Beach Municipal Code is amended to
25 read as follows:

26 Lot width - The horizontal distance between mid-points of the side lot
27 lines, measured at right angles to the line measuring lot depth.
28

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Sec. 8. Figure 45-1 of the Long Beach Municipal Code is amended to read as follows:

Restaurants: Queuing space entrance to drive-up window - minimum distance = one hundred fifty feet (150');

Drug stores, ATM's, and banks: Queuing space entrance to drive-up window - minimum distance = one hundred feet (100')

Sec. 9. Table 31-2A, Notes L and P, of the Long Beach Municipal Code is amended to read as follows:

(l) If the garage takes direct access from the street, the garage shall be set back pursuant to Section 21.31.245.

(p) Square foot per unit. See Sections 21.31.230 (Usable Open Space) and 21.31.215(D) (Privacy Standards) for detailed standards.

Sec. 10. Table 31-2A, caption, "Minimum Yard Setbacks (Ft.)(l)", of the Long Beach Municipal Code is amended to read as follows:

Minimum Yard Setbacks (Ft.)(j, l)

Sec. 11. Table 32-1B under Financial Services, of the Long Beach Municipal Code is amended to read as follows:

//
//

FINANCIAL SERVICES	C N P	C N A	C N R	C C A	C C P	C C R	C C N	C H W	C A C	
ATM <u>1. Walk-up or freestanding machine on interior of building; walk-up machine on exterior of building</u> <u>2. Freestanding machine, exterior</u> <u>3. Drive-thru machine</u>	Y	Y	Y	Y	Y	Y	Y	Y	**	1., 2. Requires 2 (5 minute) parking spaces for each ATM machine. Spaces must be located within 100 feet. Such spaces may be existing required parking. 3. For drive-thru machine see standards for drive-thru lane in Section 21.45.130. Financial institutions are prohibited in Local Coastal Planning Area D (2nd Street, between Livingston and Bayshore).
Bank, credit union, savings and loan	AP	Y	AP	Y	Y	Y	Y	Y	**	
Check cashing	AP	AP	AP	AP	AP	AP	AP	Y	**	
Escrow, stocks and bonds broker	Y	Y	Y	Y	Y	Y	Y	Y	**	
All financial services not listed	AP	AP	AP	AP	AP	AP	AP	AP	**	

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Sec. 12. Table 32-1B, under Retail Sales, of the Long Beach Municipal Code is amended to read as follows:

//
//

RETAIL SALES	C N P	C N A	C N R	C C A	C C P	C C R	C C N	C H W	C A C	
Basic Retail sales (except uses listed below)	Y	Y	Y	Y	Y	Y	Y	Y	**	<u>Used clothing, antiques, art, books (new and used), coins, collectibles, jewelry, and trading cards are included in "Basic Retail".</u>
Building supply or hardware store with lumber, drywall, or masonry	N	N	N	Y	Y	Y	Y	Y	**	For hardware store without lumber, drywall, or masonry, see "Basic Retail Sales"
Gun shop	AP	AP	AP	AP	AP	AP	AP	Y	**	
Major household appliances (refrig./stove/etc.)	N	N	N	Y	Y	Y	Y	Y	**	
Manufacture of products sold on site	A	A	A	A	A	A	A	A	**	See Section 21.51.240
Merchandise mall, indoor swap meet	N	N	N	C	C	C	C	C	**	
Outdoor sales events (flea mkts./swap meet)	N	N	N	C	C	C	C	C	**	

Outdoor vending 1. Flower, plant, fruit, or vegetables in conjunction with sale of related products from a retail store 2. Food carts 3. Flower cart or news cart 4. Mobile food truck at construction sites	<u>A</u> <u>AP</u>	<u>A</u> <u>AP</u>	<u>A</u> <u>AP</u>	<u>A</u> <u>AP</u>	<u>A</u> <u>AP</u>	<u>A</u> <u>AP</u>	<u>A</u> <u>AP</u>	<u>A</u> <u>AP</u>	<u>A</u> <u>AP</u>	**	1. See Section 21.51.255. 2. See Section 21.45.170 3. See Section 21.45.135 4. See Section 21.53.106
Pawn shop	N	N	N	C	C	C	C	C	C	**	
Thrift store, used merchandise	AP	AP	AP	AP	AP	AP	AP	AP	Y	**	Also see note under "Basic Retail"
Vending machines	A	A	A	A	A	A	A	A	A	**	Accessory to existing retail sales. See Section 21.51.295.

FRAPPSACT; aw32; WPD005; 0001; P001; 00000672; WPD
#99-00592

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Sec. 13. Table 43-1, 4. Park, of the Long Beach Municipal Code is amended to read as follows:

4. Park

- Within ten foot (10') yard area abutting a public street 6 ft.(g)
- Other yard 12 ft.(g)

Sec. 14. Table 51-2, Use 34 and 35, of the Long Beach Municipal Code is amended to read as follows:

- 34. Knife sharpening N
- 35. Jewelry making, jeweler Y

Sec. 15. Section 21.15.1765 is added to the Long Beach Municipal Code to read as follows:

"Mobil food truck" means a food truck selling prepared foods and is permitted only at construction sites at the time when construction workers are on the site.

Sec. 16. Footnote (g) is added to Table 43-1 of the Long Beach Municipal Code to read as follows:

(g) Fences that exceed these height limits may be approved pursuant to site plan review, Section 21.25.501.

Sec. 17. Sections 21.15.1495 and Division X of Chapter 21.25 (Sections 21.25.1001 through 21.25.1008), and 21.41.233A.3, are hereby repealed.

Sec. 18. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved

SEP 10 1999

CALIFORNIA
COASTAL COMMISSION

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by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of
the City of Long Beach at its meeting of April 20, 1999, by the
following vote:

Ayes: Councilmembers: Oropeza, Baker, Roosevelt, Kell,
Topsy-Elvord, Grabinski, Shultz.

Noes: Councilmembers: None.

Absent: Councilmembers: Colonna, Kellogg.

Helba Powell
City Clerk

Approved: 4-21-99
(Date)

Donny Neil
Mayor

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MJM:kjm
3/1/99;3/30/99;4/1/99; 4/14/99 #99-00592
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CITY OF LONG BEACH

DEPARTMENT OF PLANNING & BUILDING

333 W. OCEAN BLVD. □ LONG BEACH, CA 90802 □ (562) 570-6194 FAX (562) 570-8068

ZONING DIVISION

February 18, 1999

RECEIVED
South Coast Region

SEP 10 1999

CALIFORNIA
COASTAL COMMISSION

CHAIRMAN AND PLANNING COMMISSIONERS
City of Long Beach
California

SUBJECT: 1999 Zoning Amendment No. 1

LOCATION: Citywide

APPLICANT: Eugene J. Zeller
Director of Planning and Building
333 W. Ocean Boulevard, 4th Floor
Long Beach, CA 90802

RECOMMENDATION

1. Recommend City Council adopt 1999 Zoning Amendment No. 1.

BACKGROUND

The following amendments to the Zoning Code are proposed by staff and are requested for several reasons. Two of the amendments, affecting drive-thru lanes and ATM's, reflect changing development trends. The popularity and proliferation of ATM's resulted in a need reevaluate the zoning review processes required for different ATM installations. Similarly, the growing use of drive-thru lanes for pharmacies and other non-fast-food uses caused staff to reconsider existing development standards. The remainder of the proposed amendments either replace vague language with more specific language, correct errors, update outmoded sections, or eliminate conflicts with other regulatory documents. These changes, for the most part, do not alter current policy or practice but facilitate administration and thus enhance customer service.

1. VEHICLE QUEUING LENGTH FOR DRIVE-THRU LANES.

The existing standard of 150 feet of queuing length for vehicles waiting for service has proven to be unnecessary for drive-thru windows for banks, ATM's, and drug stores that generate less customer traffic than fast-food restaurants. A reduced queuing length of 100 feet would provide enough space for approximately 4 vehicles, and should be adequate for

*Exhibit #4 shows
changes proposed by
Ordinance No. C-7607.*

COASTAL COMMISSION

LCR 3-99

EXHIBIT # *4*

PAGE *1* OF *11*

these types of uses. Subsection A of Section 21.45.130 shall be amended to read as follows:

A. Queuing Space Length.

1. **Restaurants.** A minimum queuing distance of one hundred and fifty feet (150') shall be provided from the forwardmost drive-up window to the entrance to the queuing space. The queuing space shall be located completely clear of any adjacent public right-of-way and all circulation aisles provided on a site as illustrated in Figure 45-1.
2. **Drug stores, ATM's, and Banks.** A minimum queuing distance of one hundred feet (100') shall be provided from the forwardmost drive-up window to the entrance to the queuing space. The queuing space shall be located completely clear of any adjacent public right-of-way and all circulation aisles provided on a site as illustrated in Figure 45-1.

Figure 45-1 shall be amended to include the following:

Restaurants: Queuing Space Entrance to Drive-up Window - Minimum Distance = 150'

Drug stores, ATM's, and Banks: Queuing Space Entrance to Drive-up Window - Minimum Distance = 100'

2. **SITE PLAN REVIEW FOR PUBLIC PROJECTS.**

Whether or not a proposed project is subject to Site Plan Review is based on its size. Current language that establishes a threshold for Site Plan Review and Conceptual Site Plan Review for public projects is unclear. Due to the variety of public projects that occur, particularly in public parks, it is important that the language be more specific so that the review process for a given project can be easily and quickly identified and promptly undertaken. Subsection (A) 4. of Section 21.25.502 shall be amended to read as follows:

4. **Project on City Land.** All **new construction** projects with **building floor area** of five hundred (500) square feet or greater except roadway and utility maintenance or improvements.

The current threshold of 1,000 square feet for Conceptual Site Plan Review is too low and causes unnecessary delay because of the additional review process. Subsection (B) 3. Of Section 21.25.502 shall be amended to read as follows:

COASTAL COMMISSION

EXHIBIT # 4
PAGE 2 OF 11

3. Project on City Land. All new construction projects with building floor area of five thousand (5,000) square feet or greater.

In order to further clarify the public fence installations subject to Site Plan Review, Table 43-1 shall be amended as follows:

4. Park

-Within 10' yard area abutting a public street	6 ft.(g)
-Other yard	12 ft.(g)

An additional footnote shall be added to Table 43-1 as follows:

(g) Fences that exceed these height limits may be approved pursuant to Site Plan Review, Section 21.25 501.

3. SWIMMING POOL AND SPA FENCE REQUIREMENTS.

A new section was added to the California Health and Safety Code in 1996 (Effective January, 1998) that requires that a fence or other security measure be installed in order to restrict access between a swimming pool and a single family home. These new regulations, along with other existing regulations in the Uniform Building Code, are administered by the Building Bureau. The standards now contained in the Zoning Code are duplicative. A reference to this new requirement will be inserted in the Zoning Code and all other requirements now in the Zoning Code will be deleted, including Subsections A through D regarding fencing, fence openings, latches, and emergency access. Section 21.46.070 shall be amended as follows:

21.46.070 Swimming pools and spas.

A. A swimming pool or spa may be placed anywhere on a lot except within the front yard setback.

B. A swimming pool or spa at a single family home shall be isolated from the home pursuant to Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104, of the Health and Safety Code of the State of California.

COASTAL COMMISSION

EXHIBIT # 4
PAGE 3 OF 11

4. DEFINITION OF LOT WIDTH.

The method of determining lot width illustrated on a diagram contained in the Code does not match the definition. Figure 15-2 shall be revised so that it is consistent with the definition of lot width in Section 21.15.1710. Figure 15-2 shall be amended to read as follows:

Lot Width - The horizontal distance between ~~the mid-points of the~~ side lot lines, measured at right angles to the line measuring lot depth.

5. POST PD-30 AMENDMENTS.

The adoption of PD-30, the Downtown Planned Development District, makes Code sections regarding bonus density in the downtown area superfluous. Sections 21.25.1001, 21.25.1003, 21.25.1005, and 21.25.1008 shall be repealed.

The tandem parking standards in Section 21.41.233 need to be amended inasmuch as PD-30 contains similar provisions. Subsection A.(3.) of Section 21.41.233 shall be repealed, deleting the geographic area now identified as PD 30. Subsection B. of Section 21.41.233 shall be amended to delete the reference to Subsection A.(3)., and shall read as follows:

B. For tandem parking allowed in ~~Subsection 21.41.233 (A)2~~, the following standards shall be complied with:

1. Not more than two spaces shall be involved in the tandem arrangement;
2. Both spaces in the tandem arrangement shall be assigned to the same dwelling unit;
3. Handicapped and guest parking shall not be in tandem.
4. Tandem parking shall not be allowed in a parking garage of less than ten parking spaces or when the full turning radius for the tandem parking is not within the garage.

6. LIST OF PLANNED DEVELOPMENTS.

A number of Planned Development's have been deleted (due to rezoning or combining with other Planned Development's) and/or renamed. Section 21.37.020 shall be amended to read as follows:

COASTAL COMMISSION

EXHIBIT # 4
PAGE 4 OF 11

21.37.020 Districts established.

On and after September 1, 1988, all planned development districts shall be indicated by the PD designation, a number and a common name. Planned development districts are as follows:

1. PD-1 - Southeast Area Development and Improvement Plan (SEADIP)
2. PD-2 - Belmont Pier
3. ~~PD-3 - Reserved~~
4. PD-4 - Long Beach Marina
5. PD-5 - Ocean Boulevard
6. PD-6 - Downtown Shoreline
7. PD-7 - Long Beach Business Center
8. ~~PD-8 - Reserved~~
9. PD-9 - Long Beach Airport Business Park
10. PD-10 - Willmore City
11. PD-11 - Rancho Estates
12. PD-12 - Long Beach Airport Terminal Ordinance
13. PD-13 - Atlantic Aviation Center
14. ~~PD-14 - Reserved~~
15. PD-15 - Redondo Avenue
16. ~~PD-16 - Reserved~~
17. PD-17 - Alamitos Land
18. PD-18 - Kilroy Airport Center
19. PD-19 - Douglas Aircraft
20. PD-20 - All Souls
21. PD-21 - Queensway Bay
22. PD-22 - Pacific Railway
23. PD-23 - Douglas Center
24. ~~PD-24 - Reserved~~
25. PD-25 - Atlantic Avenue
26. PD-26 - West Long Beach Business Park
27. PD-27 - Willow Street Center
28. PD-28 - Pacific Theaters
29. PD-29 - Long Beach Boulevard
30. ~~PD-30 - Downtown Long Beach~~
31. PD-31 - California State University and Technology Center/Villages at Cabrillo Long Beach Vets

COASTAL COMMISSION

7. GARAGE SETBACK IN RESIDENTIAL ZONES.

The Residential Development Standards Table 31-2A lists building setbacks for principal structures in residential zones. As a result of occasional confusion as to the required setback for garages facing the street in residential zones, there needs to be a reference on the Table for garage setbacks. Note L of Table 31-2A shall be amended to read as follows:

(l) If the garage takes direct access from the street, the garage shall be set back pursuant to Section 21.31.245.

Note P of Table 31-2A shall be amended to incorporate the language previously contained in (l), and shall read as follows:

(p) Square foot per unit. See Sections 21.31.230 (Usable open space) and 21.31.215 (D) (Privacy standards) for detailed standards.

The caption at the top of the Table, Minimum Yard Setbacks (Ft.)(l) shall be amended to read as follows:

Minimum Yard Setbacks (Ft.)(l)

8. ATM MACHINES.

The Commercial Uses Table is not clear with regard to the various types of ATM's that are being installed throughout the City. Financial Services on Table 32-1B shall be amended to read as follows:

COASTAL COMMISSION

EXHIBIT # 4
PAGE 6 OF 11

FINANCIAL SERVICES	C N P	C N A	C N R	C C A	C C P	C C R	C C N	C H W	C A C	
ATM 1. Walk-up or freestanding machine on interior of building; walk-up machine on exterior of building 2. Freestanding machine, exterior 3. Drive-thru machine	Y	Y	Y	Y	Y	Y	Y	Y	**	1., 2. Requires 2 (5 minute) parking spaces for each ATM machine. Spaces must be located within 100 feet. Such spaces may be existing required parking. 3. For drive-thru machine see standards for drive-thru lane in Section 21.45.130.
Bank, credit union, savings and loan	AP	Y	AP	Y	Y	Y	Y	Y	**	All financial uses are prohibited in Local Coastal Planning Area D (2nd Street, between Livingston and Bayshore).
Check cashing	AP	AP	AP	AP	AP	AP	AP	Y	**	
Escrow, stocks and bonds broker	Y	Y	Y	Y	Y	Y	Y	Y	**	
All financial services not listed	AP	AP	AP	AP	AP	AP	AP	AP	**	

COASTAL COMMISSION

9. OUTDOOR VENDING.

The Commercial Uses Table is not clear with regard to the various types of outdoor sales that are regulated by zoning, such as flower carts, newspaper stands, food vendors, etc. The Table has been reorganized as shown below to group these uses under a single heading, Outdoor Vending. At the same time, Used Clothing has been added to the list of basic retail sales. This reflects our current practice of categorizing as thrift stores those retail establishments that also sell used furniture and appliances along with used clothing.

Retail Sales on Table 32-1B shall be amended to read as follows:

RETAIL SALES	C N P	C N A	C N R	C C A	C C P	C C R	C C N	C H W	C A C	
Basic Retail sales (except uses listed below)	Y	Y	Y	Y	Y	Y	Y	Y	**	Used clothing, antiques, art, books (new and used), coins, collectibles, jewelry, and trading cards are included in "Basic Retail".
Building supply or hardware store with lumber, drywall, or masonry	N	N	N	Y	Y	Y	Y	Y	**	For hardware store without lumber, drywall, or masonry, see "Basic Retail Sales"
Gun shop	AP	AP	AP	AP	AP	AP	AP	Y	**	
Major household appliances (refrig./stove/etc.)	N	N	N	Y	Y	Y	Y	Y	**	
Manufacture of products sold on site	A	A	A	A	A	A	A	A	**	See Section 21.51.240

COASTAL COMMISSION

Merchandise mall, indoor swap meet	N	N	N	C	C	C	C	C	**	
Outdoor sales events (flea mkts./swap meet)	N	N	N	C	C	C	C	C	**	
Outdoor vending 1. Flower, plant, fruit, or vegetables in conjunction with sale of related products from a retail store 2. Food carts 3. Flower cart or news cart 4. Mobile food truck at construction sites	A AP	A AP	A AP	A AP	A AP	A AP	A AP	A AP	**	1. See Section 21.51.255. 2. See Section 21.45.170 3. See Section 21.45.135 4. See Section 21.53.106
Pawn shop	N	N	N	C	C	C	C	C	**	
Thrift store, used merchandise	AP	AP	AP	AP	AP	AP	AP	Y	**	Also see note under "Basic Retail"
Vending machines	A	A	A	A	A	A	A	A	**	Accessory to existing retail sales. See Section 21.51.295.

Section 21.15.1495, which defines Itinerant Vendor, shall be deleted. Section 21.15.1765 shall be added to create the new definition of Mobile Food Truck, as follows:

21.15.1765 Mobile food truck

"Mobile food truck" means a food truck selling prepared foods and is permitted only at construction sites at the time when construction workers are on the site.

COASTAL COMMISSION

Section 21.53.106 shall be amended to delete the term "Itinerant Vendor" and instead read as follows:

21.53.106 ~~Mobile food truck.~~

~~A mobile food truck~~ may be permitted as a temporary business, provided:

- A. The vendor shall sell food only.
- B. The temporary business shall be permitted only at construction sites at the time when construction workers are on the site.

10. LIST OF HOME OCCUPATIONS.

A typographical error was made in the list of allowable home occupations. Jewelry making is allowed; knife sharpening is not allowed. Use 34 and 35 in Table 51-2 shall be amended to read as follows:

- 34. Knife sharpening **N**
- 35. Jewelry making, jeweler **Y**

CURRENT ACTION REQUESTED

The Planning Commission is requested to take public testimony and recommend that the City Council adopt the 1999 Zoning Amendment No. 1.

PUBLIC HEARING NOTICE

As per the requirements of Division III - Noticing Requirements of the Zoning Ordinance, a legal notice appeared in the Press Telegram newspaper on February 4, 1999. Notices were also sent to each of the elected representatives of the nine City Council districts, to all public libraries, and to those who have requested such notice. Notices were also posted at City Hall.

ENVIRONMENTAL REVIEW

According to the Guidelines for Implementation of the California Environmental Quality Act, the proposed amendments are Categorically Exempt by the Guidelines for Implementation of the California Environmental Quality Act and Categorical Exemption No. 63-99 has been prepared.

COASTAL COMMISSION

EXHIBIT # 4
PAGE 10 OF 11


IT IS RECOMMENDED THAT THE PLANNING COMMISSION

1. Recommend City Council adopt the 1999 Zoning Amendment No. 1.

Respectfully submitted,

EUGENE J. ZELLER
DIRECTOR OF PLANNING AND BUILDING

By: 
CAROLYNE BIHN
PLANNER II

Approved: 
ROBERT BENARD
ZONING ADMINISTRATOR

COASTAL COMMISSION

EXHIBIT # 4
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ORDINANCE NO. C- 7629

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING SECTIONS 21.44.310C,
D, and G, 21.45.010, AND TABLE 31-1 RELATING TO
ZONING

The City Council of the City of Long Beach ordains as follows:

Section 1. Sections 21.44.310.C, D and G of the Long Beach Municipal
Code are amended to read as follows:

C. A sign permit for a promotional activity banner sign used as a real
estate sign shall be allowed during the period the property is offered for sale
or rent. Such signs shall not be established unless the property shall be
available within not less than thirty (30) days. Promotional activity banner
signs used as real estate signs shall comply with the applicable provisions
of Table 44-1 of Section 21.44.070.

D. Street banners and banners hung across a public street should
be approved by the City Manager as provided in Section 18.56.050 of the
Municipal Code.

G. A sign for grand opening promotional activities shall be allowed for
ninety (90) days, and the permit is not renewable. The promotional activity
banner sign permitted in Section 21.44.310 shall not be affected by the
issuance of a grand opening sign permit during the same calendar year. The
size of a grand opening banner shall not exceed the size specified in
Subsection 21.44.310.A.

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COASTAL COMMISSION*

LCP 3-99

EXHIBIT # 5

PAGE 1 OF 6

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* Underlined text denotes changes.

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Sec. 2. Section 21.45.010 of the Long Beach Municipal Code is amended to read as follows:

21.45.010 Purpose.

The City recognizes that certain types of land use, due to the nature of the use, require additional development standards beyond those specified for the applicable zone district. The additional standards are required to ensure that the use does not adversely impact adjacent uses. This Chapter establishes special development standards for permitted principal uses indicated in Tables 31-1, 32-1, 33-2, 34-1, 35-1 and 36-1 with a "Y" and an asterisk (Y*).

Sec. 3. Table 31-1 of the Long Beach Municipal Code is amended by adding the following language after subsection a. "Community Gardens" under "Interim Parks":

(see Section 21.52.260)

Sec. 4. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor.

//
//

COASTAL COMMISSION

1 I hereby certify that the foregoing ordinance was adopted by the City Council of the
2 City of Long Beach at its meeting of June 29, 1999, by the
3 following vote:

4 Ayes: Councilmembers: Oropeza, Baker, Colonna, Roosevelt, Kell,
5 Grabinski, Kellogg, Shultz.

7 Noes: Councilmembers: None.

9 Absent: Councilmembers: Topsy-Elvord.

12 Shelby Powell
City Clerk

15 Approved: 7-1-99
(Date)

Benj Meel
Mayor

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COASTAL COMMISSION

44.1

Promotional activity banner signs used as real estate signs shall comply with the applicable provisions of Table ~~44-2~~ of Section 21.44.070.

- D. Street banners and banners hung across a public street shall be approved by the City Manager as provided in Section ~~18.56.220~~ of the Municipal Code.
- E. A sign permit for a pennant or pennants shall be limited to ninety (90) days and shall not be renewable. Pennants shall be limited to not more than one square foot for each pennant. *18.56.050*
- F. A sign permit for a balloon or balloons shall be limited to ninety (90) days and shall not be renewable. Balloons shall be limited to not more than one square foot of balloon area, measured as a longitudinal section of the balloon, for each linear foot of building street frontage, and to not more than one hundred (100) square feet, whichever is less. Balloons shall not be displayed at a height in excess of the height of the building to which they are attached or for which they serve as advertising.
- G. *NOT* A sign for grand opening promotional activities shall be allowed for ninety (90) days, and the permit is not renewable. The promotional activity banner sign permitted in Section 21.44.310 shall be affected by the issuance of a grand opening sign permit during the same calendar year. The size of a grand opening banner shall not exceed the size specified in Subsection 21.44.310.A.
- H. Promotional signs shall not be in a condition of disrepair. Disrepair shall include torn, faded or sagging signs.
- I. Vehicle sales businesses shall be exempt from these limitations on promotional activity signs but shall comply with special standards to be adopted by the Planning Commission.

(Ord. C-6533 § 1 (part), 1988)

21.44.320 Political signs.

Political signs, other than those that qualify as exempt signs, shall be permitted according to the applicable provisions for wall, projecting, freestanding, or backdrop wall signs except:

- A. Political signs may be made of paper or cloth;
- B. Only one standard sign permit shall be required for all non-exempt political signs;
- C. Political signs must be removed not more than five (5) days after the election for which they were placed; and
- D. The candidate or authorized representative shall sign an affidavit assuring the removal of the sign.

*Changes proposed
by Ordinance C-7629*
COASTAL COMMISSION

Chapter 21.45

SPECIAL DEVELOPMENT STANDARDS

Sections:

21.45.010	Purpose.
21.45.100	Special development standards.
21.45.110	Adult entertainment businesses.
21.45.115	Attached/roof mounted cellular and personal communication services.
21.45.120	Commercial storage.
21.45.130	Drive-thru facilities.
21.45.135	Outdoor sale of flowers and newspapers.
21.45.140	Outdoor display for sale or rent (vehicles, equipment, garden supply, or building materials).
21.45.150	Outdoor service and repair of vehicles and equipment.
21.45.155	Interim passive parks.
21.45.160	Retail office commercial uses and parking structures in the R-4-E zone.
21.45.170	Vending carts.
21.45.300	Amortization of nonconforming open storage and uses.

21.45.010 Purpose.

The City recognizes that certain types of land use, due to the nature of the use, require additional development standards beyond those specified for the applicable zone district. The additional standards are required to ensure that the use does not adversely impact adjacent uses. This Chapter establishes special development standards for permitted principal uses indicated in Tables 31-1, 32-1, ~~33-1~~, 34-1, 35-1 and 36-1 with a "Y" and an asterisk (*).

(Ord. C-5533 § 1 (part), 1988). 33-2

21.45.100 Special development standards.

Special development standards shall be required for the use and activities noted as set forth in Sections 21.45.110 et seq.

(Ord. C-7378 § 19, 1995; Ord. C-5533 § 1 (part), 1988).

21.45.110 Adult entertainment businesses.

The following special development standards shall apply to adult entertainment businesses, as defined in Chapter 21.15 (Definitions) of this Title:

A. Location.

1. Adult entertainment businesses may not be located:

a. Within three hundred feet (300') of any residential zoning district or residential

Table 31-1
Uses in Residential Zones
(Continued)

Residential Zone District Land Use	R-1-S	R-1-M	R-1-L	R-1-N	R-1-T	R-2-S	R-2-T	R-2-E	R-2-I	R-2-N	R-2-A	R-3-S	R-3-T	R-3-F	R-4-N	R-4-M	R-4-T	R-4-F	R-4-I	R-4-E	
Initiation Parks	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
a. Community Openness (see Section 21.52.260)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Passive Parks (see Section 21.45.155)	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP	IP
c. Playgrounds (see Section 21.52.260)	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP
d. Recreational Parks (see Section 21.52.260)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Private school (elementary) (see Section 21.52.263)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Recreational vehicles - parking and storage (see Section 21.41.276)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Room rentals (see Section 21.51.270)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Sandwiched lot development (see Section 21.52.270)	N	N	N	C	N	N	N	N	C	C	C	C	C	C	N	N	N	N	N	N	N
Storage of boats (see Section 21.51.290)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Trailer or dwelling unit used as home sales office	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T
Vehicle parking and storage (see Sections 21.41.281 and 21.41.283)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

Section 21.52.260
Section 21.52.260

Abbreviations:
 Y = Yes (permitted use).
 N = Not permitted.
 C = Conditional use permit required. Refer to provisions in Chapter 21.52.
 A = Accessory use. Permitted subject to provisions contained in Chapter 21.51.
 T = Temporary Use. Permitted subject to provisions contained in Chapter 21.51.
 IP = Initiation park use permit required. Refer to provisions in Chapter 21.52.
 AP = Accessory use permit required. Refer to provisions in Chapter 21.52.
 (a) Retail and office commercial uses are subject to the development standards specified in Section 21.45.160.
 (b) Unless the site can provide 4 independently accessible parking spaces, one unit is limited to 450 sq ft, as a zero lot-cost unit.
 (c) One unit shall not exceed 800 sq ft, or 12 percent of lot area, whichever is greater. The 800 sq ft limit shall apply to the rear unit if both units exceed 800 sq ft, the rear unit, or lotious unit in a stacked duplex, shall be considered the legal nonconforming unit.
 (d) For commercial uses permitted in the R-4-11 zone see Section 21.45.160.

Ord. C-7990 § 3, 1990; Ord. C-7378 §§ 3, 4, 1995.

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21.25.807 Variance.

Once a special setback line is established by ordinance, a variance to permit a structure to project into the special setback area may be granted in accordance with and subject to the findings of fact required for a variance as set forth in Division III of this chapter. However, no variance shall be granted if the encroachment is within a setback established for the protection and preservation of rights-of-way.

(Ord. C-6533 § 1 (part), 1988).

21.25.808 Exception for fences.

A replacement fence within the special setback area shall not be considered a nonconformity and shall be permitted provided such fence is located in a side or rear yard and provided the fence height does not exceed six feet, six inches.

(Ord. C-6533 § 1 (part), 1988).

Division IX. Local Coastal Development Permits

21.25.901 Purpose.

Coastal development procedures are established to ensure that all public and private development in the Long Beach coastal zone is developed consistent with the city's certified local coastal program.

(Ord. C-6533 § 1 (part), 1988).

21.25.902 Applicability.

All properties in the coastal zone are subject to the procedures outlined in this section. The coastal zone boundaries are indicated on the official zoning map.

(Ord. C-6533 § 1 (part), 1988).

21.25.903 Permit required.

All development in the coastal zone shall be required to obtain either a coastal permit pursuant to Section 21.25.904 or a coastal permit categorical exclusion pursuant to Section 21.25.906. Such approval must be issued prior to the start of development and shall be required in addition to any other permits or approvals required by the city.

- A. **Coastal Permit Issued by the Coastal Commission.** Developments on tidelands and submerged lands require a permit issued by the California Coastal Commission in accordance with the procedure as specified by the California Coastal Commission.
- B. **Coastal Permits Issued by the City.** The following categories of projects require coastal permits in accordance with the procedures set forth in this division:



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1. Development on the first lot located on, adjacent to, across the street from, or abutting the beach, bay, ocean or tidelands, except minor addition to a single-family residence as specified in Subsection 21.25.903C (categorical exclusion).
 2. All development projects which require additional discretionary review (such as a conditional use permit, subdivision map or standards variance).
 3. Traffic improvements which do not qualify for categorical exclusion.
 4. Public works projects, excluding traffic improvement projects, with an estimated cost of fifty thousand dollars or more.
- C. **Exemptions.** The following categories of projects are exempt from the coastal permit requirement. However, a coastal permit categorical exclusion (CPCE) shall be obtained pursuant to the procedures indicated in Section 21.25.906.
1. Minor additions on existing single-family residences for the first lot located on, adjacent to, across the street from, or abutting the beach, bay ocean or tidelands. Such addition must be less than ten percent of the existing floor area and shall not create an additional story or loft.
 2. All projects (excluding the above) which are consistent with the Zoning Regulations and which do not require any discretionary review (e.g., conditional use permit, subdivision map).
 3. Traffic improvements which do not:
 - a. Alter roadway or intersection capacity by more than ten percent (except stop signs and stop lights); or
 - b. Decrease parking (except by establishing a red curb next to a corner); or
 - c. Impair access to the coast.
 4. Public works projects (excluding traffic improvements) with an estimated cost of forty-nine thousand nine hundred ninety-nine dollars or less.

(Ord. C-6533 § 1 (part), 1988).

21.25.904 Procedures—Coastal permit.

This section outlines the procedures for issuing coastal permits. Coastal permits may be considered concurrently with or subsequent to any other procedures required by this title or the city's subdivision regulations.

A. Jurisdiction.

1. **Planning Commission.** The planning commission shall consider all local coastal development permits for developments requiring a tract map, a parcel map, conditional use permit or planned development permit.
2. **Coastal Commission.** The Coastal Commission shall consider all coastal permits for projects located below the mean high tide.
3. **Zoning Administrator.** The zoning administrator shall consider all other local coastal development permits.

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- B. Hearing Required.** A public hearing shall be required prior to the approval of a local coastal development permit.
- C. Findings Required.** Prior to approving a local coastal development permit, the responsible hearing body must find:
1. The proposed development conforms to the certified local coastal program including but not limited to all requirements for replacement of low and moderate-income housing; and
 2. The proposed development conforms to the public access and recreation policies of Chapter 3 of the Coastal Act. This second finding applies only to development located seaward of the nearest public highway to the shoreline.
- D. Date of Final Local Action.** The date of final local action is:
1. The date when the appeal period on all local actions has expired without local appeal;
 2. The date of action on the local appeal(s); or
 3. The date the city is notified by the applicant that the application is approved by operation of law pursuant to Sections 65950 through 65957.1 of the Government Code.
- E. Notice of Final Action.** Within seven calendar days of the date of the final local action on a local coastal development permit, a notice shall be sent to the Coastal Commission and to any persons who specifically request such notice by submitting a self-addressed, stamped envelope. The notice shall include the written findings of fact required to approve the local coastal development permit and the conditions imposed on the approval, if the permit is approved. Any notice of final local action shall include the procedures for appeal of the action to the Coastal Commission and an indication as to whether the development is in an appealable area.
- F. Appeals to Coastal Commission.** All actions on local coastal development permits located seaward of the appealable area boundary, as determined under Section 21.25.908, may be appealed by an aggrieved person to the Coastal Commission according to the procedures of the Coastal Commission, provided that:
1. All local appeals of city actions provided for by this title have been exhausted and no fee was charged the appellant for the appeal; and
 2. The Coastal Commission has not appealed the local action.
- G. Effective Date.** A local coastal development permit shall be effective as follows:
1. **Outside Appealable Area.** On date of final local action;
 2. **Within Appealable Area.** At the conclusion of the twenty-first day after final local action, unless:
 - a. **Appeal.** If a permit is appealed, it shall become effective after action on the appeal by the Coastal Commission.

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(Long Beach 11-88)

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- b. **Failure to Give Notice.** If notice to the Coastal Commission is not mailed by the city within seven days after final local action, then the permit shall become effective at the conclusion of the fourteenth day after a complete notice is mailed but no sooner than at the conclusion of the twenty-first day after final local action.
- c. **Inadequate Filing.** If the Coastal Commission notifies the city and the applicant that notice was not received or distributed in a timely manner or that the notice was not complete or does not adequately describe the development, then the permit becomes effective at the conclusion of the fourteenth day after receipt of such a notice from the Coastal Commission or on the date specified by the Coastal Commission.

(Ord. C-6533 § 1 (part), 1988).

21.25.906 Procedures—Categorical exclusion.

This section outlines the procedures for processing developments exempt from local coastal permit requirements.

- A. **Jurisdiction.** The zoning administrator, or his designee, shall determine whether a proposed development is exempt, as provided for in Section 21.25.903C of this chapter.
- B. **Means of Determination.** Determination that a proposed development is exempt shall be made by checking the proposed development with the certified local coastal program, including all maps, land use designations, implementing zoning regulations and guidelines for exemption.
- C. **No Hearing Required.** No public hearing or notice shall be required for a project determined to be exempt.
- D. **Appeal of Determination.** Any person may appeal the zoning administrator's determination by requesting a referral of the matter to the Executive Director of the Coastal Commission. If the determination of the Executive Director of the Coastal Commission differs from that of the zoning administrator, then the matter shall be resolved by a hearing before the Coastal Commission.
- E. **Effective Date.** A decision that a development is exempt shall be effective when such a decision is made by the zoning administrator, or his designee, unless the decision is appealed.
- F. **Records Required.** A public record, including the applicant's name, the location and brief description of the development shall be kept for all developments determined to be exempt.

(Ord. C-6533 § 1 (part), 1988).

21.25.908 Appealable area.

Only local actions on projects located within the appealable area may be appealed to the Coastal Commission. The determination of whether a project lies seaward of the appealable area boundary shall be made as follows:

COASTAL COMMISSION

MENTAL HEALTH ADVOCACY SERVICES, INC.

A NON PROFIT ORGANIZATION PROVIDING LEGAL SERVICES TO PEOPLE WITH MENTAL AND DEVELOPMENTAL DISABILITIES

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Michael Mais, Deputy City Attorney
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City of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664

Re: Implementation of the Reasonable Accommodation Ordinance

Dear Mr. Mais:

This letter is a follow up to our recent telephone conversation in which I indicated that Mental Health Advocacy Services Inc., as well as a number of disability rights organizations, are extremely troubled by the delay in the implementation of the fair housing reasonable accommodation ordinance passed by the Long Beach City Council in August. You indicated in our conversation that the Coastal Commission, which must review and approve the zoning code amendment, unilaterally pulled the accommodation ordinance from its agenda because it has several questions about the ordinance. The purpose of this letter is to address the Coastal Commission's concerns so that the reasonable accommodation ordinance may be implemented and the procedure be available to people with disabilities and developers of housing for people with disabilities to further housing opportunities.

The Fair Housing Amendments Act of 1988 was passed by Congress to remedy historic discrimination against people with disabilities in both private and public housing.¹ The fundamental purpose of the Act is to prohibit practices that "restrict the choices" of people with disabilities to live where they wish or that "discourage or obstruct choices in a community, neighborhood or development."² Not only does the Act prohibit discrimination, but it also requires that cities and counties make reasonable accommodations in rules, policies, practices and procedures when it may be necessary for people with disabilities to have equal access to housing.³

In the land use and zoning context, reasonable accommodation means providing flexibility or waiver of a regulation when it will provide equal opportunity in housing for a person with a disability. For example, an individual with a disability might need flexibility in a set back requirement for adding a wheelchair ramp to a home. Or, a developer of housing specifically for people with disabilities might seek an

¹ 42 U.S.C. §3601 *et seq.*

² 24 C.F.R. § 100.70(a) 1994.

³ 42 U.S.C. § 3604 (f)(3)(B); Turning Point v. City of Caldwell, 74 F. 3d 941 (9th Cir. 1996). **LCP 3-99**

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accommodation to site a group home for eight individuals with disabilities in an R1 zone where the size of the home was compatible with the neighborhood.

Recently, the U.S. Department of Justice and the Department of Housing and Urban Development in a joint statement reiterated the importance of reasonable accommodation as remedy for people with disabilities who have been denied housing opportunities because of discriminatory land use and zoning regulations and practices:

Local governments are encouraged to provide mechanisms for requesting reasonable accommodations that operate promptly and efficiently, without imposing significant costs or delays. The local government should also make efforts to insure that the availability of such mechanisms is well known within the community.⁴

In our conversation, you indicated that the Coastal Commission inquired as to why the City's reasonable accommodation ordinance did not include reference to the ADA. While the Fair Housing Act and the Americans With Disabilities Act are both federal anti-discrimination statutes that offer protection to people with disabilities, the laws address different activities. The Fair Housing Act provides protections for people with disabilities in both private and public residential dwellings. The Americans With Disabilities Act (ADA) prohibits discrimination against people with disabilities in a number of areas, including public services.⁵ In most instances, the ADA does not apply to housing. While both the ADA and the Fair Housing Act require reasonable accommodation, the two civil rights laws seek to remedy discrimination in different areas. The reasonable accommodation procedure brought forward by advocates reflects their concern that housing discrimination against people with disabilities is a critical problem and that reasonable accommodation provides an important remedy for such individuals. Additionally, a reasonable accommodation ordinance that addresses both the Fair Housing Act and the ADA unnecessarily complicates matters, akin to mixing apples and oranges.⁶

Our office urges the Coastal Commission to approve Long Beach's reasonable accommodation ordinance at its next session. It is well documented that people with disabilities, a disproportionate number of whom are low income, continue to suffer discrimination in housing and the difficulty of finding decent and accessible housing is exacerbated by the severe crisis in affordable housing in California. The speedy implementation of the Long Beach ordinance, which codifies a federal mandate, will

⁴ Joint Statement of DOJ and HUD, Dec. 7, 1999 (www.usdoj.gov/crt/housing/final8_1.htm).

⁵ 42 U.S.C. § 12101 *et seq.*

⁶ The adoption of a fair housing reasonable accommodation ordinance for land use and zoning in no way diminishes the remedies available to individuals proceeding under the ADA. Additionally, the three other major cities in the nation that have accommodation ordinances, Philadelphia, Washington D.C., and San Jose also address the Fair Housing Act exclusively.

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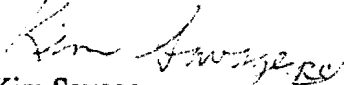
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Michael Mais, Deputy City Attorney
December 17, 1999
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assist people with disabilities in securing much needed housing by providing for a process to request flexibility in the application of municipal zoning laws.

I would be happy to answer any questions that members of the Coastal Commission have regarding the ordinance. Additionally, should the Commission need any additional information, please do not hesitate to contact me.

Sincerely,


Kim Savage
Senior Attorney

KS:rc

cc: State Assemblyman Alan Lowenthal

COASTAL COMMISSION
LB LCP 3-99

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OFFICE OF THE CITY ATTORNEY
Long Beach, California

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COASTAL COMMISSION

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January 18, 2000

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JAN 20 2000

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Re: Implementation of Reasonable Accommodation Ordinance

Dear Ms. Cheddar:

This is in response to your correspondence of December 29, 1999. You have requested the City's response to certain questions which you have posed in regard to the City of Long Beach's Reasonable Accommodation Ordinance which was adopted by the City Council in August of 1999. The following is our response to your inquiries.

Question 1: An analysis of how the specific provisions of the City's Ordinance implement the provisions of the Fair Housing Amendments Act.

The Federal Fair Housing Act (the "Act") was originally enacted in 1968. The statute prohibited discrimination in housing on the basis of race, color, religion, or national origin. The original Act, as amended in 1974, imposed certain compliance duties upon municipalities.

In 1988, Congress again amended the Fair Housing Act, and the amended Act became effective on March 12, 1989. The amendment expanded the substantive provisions of the Act to prohibit discrimination on the basis of "handicap," a term that is synonymous with "disability." Just as the original Act made it unlawful for municipalities to utilize their governmental authority, including zoning and land use authority, to discriminate against racial minorities, a similar prohibition is now applicable to discrimination against persons with disabilities.

For the purpose of evaluating claims of discrimination against persons with disabilities, the Act defines discrimination to include a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such persons equal opportunity to use and enjoy a dwelling. The current

COASTAL COMMISSION

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Re: Implementation of Reasonable Accommodation Ordinance

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Act also imposes a duty on municipalities to make reasonable accommodations to zoning and land use rules or policies where necessary to afford disabled persons an equal opportunity to use or enjoy a dwelling.

The United States Department of Justice has opined that "it [is] important for municipalities to have in place a procedure, such as a special permit or variance procedure, that can be followed when persons with disabilities desire to request an accommodation in zoning or land use requirements."

First, and foremost, the City's Ordinance sets forth a procedure whereby a disabled person has the ability to make application to the City for relief from the City's various land use, zoning or building laws, rules, policies, practices and/or procedures where a reasonable accommodation is necessary. Prior to the enactment of the City's Ordinance, requests for reasonable accommodation were handled on an ad hoc basis. The ad hoc procedure was cumbersome for both the City and the applicant. The procedure was particularly difficult for the applicant because there was no defined procedure which could be identified and followed.

The City's Ordinance sets forth an application procedure (L.B.M.C. § 21.25.1307), establishes a time frame for written determination (L.B.M.C. § 21.25.1309) and sets forth an appeals process in the event the accommodation request is denied (L.B.M.C. § 21.25.1313). Furthermore, the Ordinance establishes required findings that must be made by the decision maker in connection with his or her ruling on the reasonable accommodation request (L.B.M.C. § 21.25.1311). The Ordinance further requires the Department of Planning and Building to permanently display a notice advising those with disabilities or their representatives that they may request a reasonable accommodation hearing in accordance with the procedures established by the Ordinance (L.B.M.C. § 21.25.1305). We believe that the Ordinance fully comports with the requirements of the Federal Fair Housing Act and further implements the U.S. Department of Justice's suggestion that municipalities have in place a procedure to implement the Act.

Question 2: An explanation of the mechanisms the City would use to determine that a party is or is not eligible for a reasonable accommodation.

First of all, an applicant would be required to fill out an application form which will be prepared by the City. The form will request, among other things, that the applicant declare under penalty of perjury that he or she is a disabled person within the meaning of the Ordinance and the Federal Fair Housing Act. Beyond receipt of the application (which must be filed under penalty of perjury), the City will make no further inquiry into the nature or type of the applicant's disability. It is important to note that the disabled community was adamant

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that further inquiry by the City in regard to the nature of a particular disability would infringe upon an applicant's fundamental privacy rights. It was pointed out that many disabled people may not show objective signs or symptoms of their respective disabilities (e.g., mental impairments, AIDS, etc.).

Once a completed application has been received by the City, a determination will be made as to whether or not the request seeks relief from zoning or building regulations. If it is determined that zoning is an issue, the matter will be referred to the City's Zoning Officer. If it is determined that building regulations are at issue, the matter will be referred to the City's Building Official. The zoning or building official has thirty days in which to issue a written determination. In granting or denying a request for reasonable accommodation, the zoning officer or building official must analyze the following issues:

- (a) Will the housing in question be used by an individual protected under the Federal Fair Housing Act?
- (b) Is the request necessary to make specific housing available to an individual protected under the Act?
- (c) Will the requested accommodation impose an undue financial or administrative burden on the City? and
- (d) Will the requested accommodation require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City? (Which would, of course include the Coastal Act).

If the request for a reasonable accommodation is denied, the applicant may appeal such denial to the City's Planning Commission. The Planning Commission must make its determination as soon as reasonably practicable, but in no event later than sixty days after the appeal has been filed. The Planning Commission would consider the four findings described above in determining whether or not it would be appropriate to grant or deny the request.

The procedures in regard to a group home situation are somewhat different from those of an individual applicant. (See L.B.M.C. § 21.25.1315). In the case of a group home, the zoning officer or building official can elect to hear the matter in the first instance or may, in his or her sole discretion, refer the matter to the Planning Commission. Unlike a request for reasonable accommodation relating to an individual, a hearing involving a group home requires fourteen days' written notice to individuals owning property within 300 feet of the real property that is subject to the hearing. Whether the zoning officer, building official or

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Planning Commission hears the matter, the four findings described above must be similarly analyzed. Appeals from the zoning or building officials' determination would go to the Planning Commission while an appeal from a Planning Commission decision would be the City Council.

Question 3: An explanation of how the City would implement the Ordinance for renters as well as property owners given the existing provisions for processing coastal development permits.

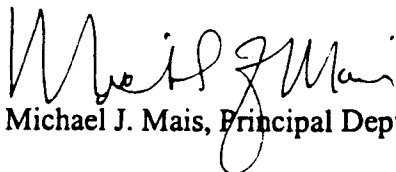
The procedure for a renter of property would be no different from that of an owner except that a renter would also be required to obtain the signature of the property owner on the application form, signifying that the property owner is aware of the request and has no substantive objection to the proposed accommodation.

Hopefully, the above information has adequately responded to your request for information. As I indicated to you on the telephone, the City spent more than a year working with the disabled community to develop an Ordinance that would fully implement the provisions of the Federal Fair Housing Act while at the same time protecting the privacy interests of disabled individuals who require reasonable accommodation. We have been told by several advocacy groups that the City's Ordinance will serve as a model for other communities not only in this state but across the nation. At the time the City's Ordinance was adopted, there were only a handful of cities in the country that had adopted reasonable accommodation ordinances. In short, we would very much appreciate the Coastal Commission's earliest action on this matter so that the City will be in a better position to serve its disabled community.

If you require any further responses whatsoever, please do not hesitate to contact me at your convenience.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By 
Michael J. Mais, Principal Deputy

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