

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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RECORD PACKET COPY

April 19, 2001

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TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA OFFICE
DIANA LILLY, COASTAL PROGRAM ANALYST, SAN DIEGO AREA OFFICE

SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT 1-2001 TO
THE CITY OF IMPERIAL BEACH'S LOCAL COASTAL PROGRAM
(For Public Hearing and Possible Action at the Meeting of May 8-11, 2001)

SYNOPSIS**SUMMARY OF AMENDMENT REQUEST**

The City is proposing to amend its implementation ordinances in several ways. The proposed amendment was adopted by the City in two separate ordinances, although the changes effect the same sections of the zoning code.

First, the definitions sections of the zoning ordinance would be expanded to include a definition of "Church" and "Educational Institution." The proposed amendment would add churches to the list of permitted uses subject to the approval of a Conditional Use Permit (CUP) in the C-1 (General Commercial), C-2 (Seacoast Commercial) and C-3 (Neighborhood Commercial) zones. Requirements for issuance of a CUP for a church would be added, including the need to demonstrate that the parking requirements of the code are met and that sufficient parking exists to accommodate the use. Additionally, the amendment would make a minor modification to the list of permitted uses subject to a CUP in the C-1 zone, to revise the use "Educational institutions for greater than thirty students" to state simply "Educational institutions", which is how the use is currently listed in the C-2 and C-3 zones.

The amendment would also add a definition of "Secondhand or Used Merchandise" to the code, and add secondhand stores to the list of permitted uses subject to the approval of a Conditional Use Permit (CUP) in the C-1 zone. Secondhand stores would be added to the list of prohibited uses in the C-2 and C-3 zones. Secondhand stores would be subject to the same requirements for issuance of a CUP as churches.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that, following a public hearing, the Commission deny the proposed City of Imperial Beach Implementation Plan Amendment 1-01 as submitted, and then

approve the amendment subject to the suggested modifications listed below. Churches are a use typically allowed with a CUP in commercial zones, including visitor-serving commercial zones. The amendment requires that prior to issuance of a CUP, findings be made that parking requirements are met, which will ensure that no impacts on public access will result. Similarly, secondhand stores are the type of uses expected to be located in a general commercial zone, and adding this type of development to the list of permitted uses in Imperial Beach's General Commercial zone is not expected to have any adverse impact on coastal resources. The two suggested modifications address a minor error in the proposed amendment which suggests that clubs and similar organizations are permitted uses in the C-3 Neighborhood Commercial zone, when in fact the existing LCP prohibits clubs and lodges in this zone, and the proposed amendment was not intended to change this. The City of Imperial Beach concurs with the suggested modifications.

The appropriate resolutions and motions begin on page 3. The suggested modifications begin on page 5. The findings for denial of the Implementation Plan Amendment as submitted and approval of the plan, if modified, begin on page 5.

ADDITIONAL INFORMATION

Further information on the City of Imperial Beach LCP Amendment #1-2001 may be obtained from Diana Lilly, Coastal Planner, at (619) 521-8036.

PART I. OVERVIEW

A. LCP HISTORY

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

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

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

B. STANDARD OF REVIEW

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

C. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment Number 1-2001 for the City of Imperial Beach as submitted.*

STAFF RECOMMENDATION OF REJECTION:

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

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program submitted for the City of Imperial Beach and adopts the findings set forth below on grounds that the Implementation Program as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

II. MOTION II: *I move that the Commission certify the Implementation Program Amendment Number 1-2001 for the City of Imperial Beach if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

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

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of Imperial Beach if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. The proposed Subsection G of Section 19.28.020 shall be corrected as follows:

G. The report prepared by staff for the City Council on the conditional use permit application for a church, ~~club, fraternal organization, service organization, or veteran's organization~~ under Section 19.28.020.B.6., shall provide a listing of the number of property owners, business owners, and types of businesses located within three hundred (300) feet of the exterior boundaries of the subject property. [...]

2. The proposed Subsection H of Section 19.28.020 shall be corrected as follows:

H. Prior to the issuance of a conditional use permit for a church, ~~club, fraternal organization, service organization, or veteran's organization~~ under Section 19.28.020.B.6., the applicant must demonstrate and the City Council must make a finding that the parking requirements of Chapter 19.48 of this code are met and that sufficient parking exists to accommodate the proposed uses.

PART IV. FINDINGS FOR DENIAL OF THE CITY OF IMPERIAL BEACH'S IMPLEMENTATION PLAN AMENDMENT 1-01 AND APPROVAL IF MODIFIED

A. AMENDMENT DESCRIPTION

The amendment request will modify several provisions of the existing zoning code. The changes were adopted by the City in two separate actions, which are attached this staff report as Exhibits 1 and 2. However, the changes are similar in nature and affect the same sections of the zoning code.

Changes to the Definition section of the code include adding a definition for "Church", "Educational Institution" and "Secondhand or Used Merchandise." Churches will be added to the list of uses permitted subject to the approval of a Conditional Use Permit (CUP) in the C-1 General Commercial, C-2 Seacoast Commercial and C-3 Neighborhood Commercial zones. Specifically, the item on the list which currently reads "Clubs and lodges", will be revised and clarified to read "Churches, Clubs, Fraternal Organizations (e.g., Masons, Moose, Elks, and Eagles), service Organizations (e.g., Rotary Kiwanis, Lions Club, and Jaycees), and Veterans Organizations (e.g., American Legion, VRW, FRA, and Disabled American Veterans), subject to Subsection E, F, G, and H of this Section as appropriate." This detailed description is consistent with the way in which these organizations are referred to elsewhere in the zoning code.

Secondhand stores will be added to the list of uses permitted with a CUP in the C-1 zone, and added to the list of prohibited uses in the C-2 and C-3 zones. The proposed amendment also adds specific requirements for the issuance of a CUP for churches and secondhand stores, such as the amount and type of public notice, the issues which must be addressed in the CUP (including the proposed hours and days of operation and signage), and the required finding that the adopted parking requirements are met and sufficient parking exists to accommodate the proposed uses.

The amendment also imposes additional notice and procedural requirements for issuance of a CUP for churches, clubs, organizations and secondhand stores. Notice would have to be mailed to all business owners within 300 feet of the proposed use, and project applicants would be required to attempt to contact the property owners and business owners located within three hundred feet of the proposed use to determine how many support and how many oppose the application for a CUP.

The amendment also includes a minor modification to the list of permitted uses subject to a CUP in the C-1 zone, to revise the use listed as "Educational institutions for greater than thirty students" to simply "Educational institutions", which is how the use is currently listed in the C-2 and C-3 zones.

B. FINDINGS FOR DENIAL AS SUBMITTED, AND CERTIFICATION IF MODIFIED

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

The purpose of the C-1 General Commercial zone is to provide areas for businesses to meeting the local demand for commercial goods and services. It is intended that the dominant type of commercial activity in the C-1 zone will be community and neighborhood serving retail and office uses.

The purpose of the C-2 Seacoast Commercial zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. The dominant type of commercial use in this zone will be visitor-serving retail leaseholds which include uses such as specialty stores, surf shops, restaurants, hotels and motels. The development standards of this zone encourage pedestrian activity through the design and siting of building frontages and parking provisions.

The purpose of the C-3 Neighborhood Commercial zone is to provide areas for businesses to meet the local neighborhood demand for commercial goods and services. It is intended that the dominant type of commercial activity in the zone will be neighborhood serving retail and office uses such as markets, professional offices, personal services, restaurants and hardware stores.

2. Major Provisions of the Ordinance. The major provisions of each of the commercial ordinances establish the permitted uses within the zone, the required site plan review, uses that are prohibited, minimum lot sizes, setbacks and coverages, building height, parking and signage standards.

3. Adequacy of the Ordinance to Implement the Certified LUP. The proposed changes consist of the addition of new definitions for several types of development, and changes to the permitted, conditionally allowable, and prohibited uses in the commercial zones. With regard to churches, the City of Imperial Beach has indicated that there is limited availability of areas zoned as non-commercial that is suitable for churches, and thus, there appears to be a need for churches to be located in the commercial zones of the City. In addition, the City's findings refer to pending Federal legislation that would require that churches be treated equally in local zoning regulations with fraternal, service, and veterans organizations and other similar organizations. "Clubs and lodges" are currently on the list of uses permitted with a CUP in the C-1 and C-2 zones.

In general, the Commission's concerns with adding a new permitted use to commercial zones would be if it allowed uses inconsistent with the goals of the Land Use Plan (LUP) and the Coastal Act regarding the protection of visitor-serving commercial areas of the City. Visitor-serving commercial uses are a high priority use under the certified LUP, and typically must be reserved for development required primarily by the tourist population. In Imperial Beach, the C-2 (Seacoast Commercial) zone is the city's visitor-serving commercial zone.

As certified in the LUP, the land use description for the Seacoast Commercial zone states:

The Seacoast Commercial land use designation provides for land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. It is intended that the dominant type of commercial activity in this designation will be visitor-serving retail such as specialty stores, surf shops, restaurants, hotels and motels, etc. In order to promote a more pedestrian-oriented community character as well as to reduce the high volume of vehicle trips attracted by drive-thru establishments, drive-thru services for restaurants, banks, dry cleaners and other similar auto-related business establishments shall be prohibited in this zone. Residential uses may be permitted above the first floor at a maximum density of one dwelling unit per every 1,500 square feet of land. Discretionary permit review by the City shall be required for such residential use.

In the case of the proposed amendment, the Commission has previously found in a number of other cities in San Diego County, including the Cities of San Diego, National City and Solana Beach, that allowing churches and similar organizations to meet and operate within their respective visitor-serving commercial zones, with the approval of a Conditional Use Permit, can be found consistent with the Coastal Act. Churches are not the type of use likely to become so widespread in any particular area that they usurp area

needed for visitor-serving uses. A particular development could impact beach access if adequate parking were not provided. However, the proposed amendment includes specific requirements for issuance of a CUP for a church. These include analyzing the hours of operations, uses, and activities, the days of the week and number of people attending meetings or gatherings, and demonstrating that the parking requirements of the certified LCP are met and that sufficient parking exists to accommodate the proposed uses. These conditions will ensure that no impacts to public access and recreation result from allowing churches in the visitor-serving commercial zone.

The amendment also adds procedural requirements for the CUP that go beyond what would be necessary to implement the LUP or any other applicable Coastal Act requirements. For example, project applicants would be required to attempt to contact the property owners and business owners located within three hundred feet of the proposed use to determine how many support and how many oppose the application for a CUP (Subsection F of Section 19.26.020, Subsection F of 19.27.020 and Subsection G of 19.28.020). However, the entire ordinance change has been submitted to the Commission for certification because the Commission has certified the City's entire zoning code as its Implementation Plan.

The proposed amendment would be fully consistent with the LUP and the Coastal Act, except for a minor error in the section which would add churches as permitted uses with a CUP in the C-3 Neighborhood Commercial Zone. Unlike the C-1 and C-2 zones, "Clubs and Lodges" are currently on the list of prohibited, not permitted uses in the C-3 zone, and this amendment would not change that. However, just as in the other two zones, the amendment would add language to the C-3 zone specifying the notice requirements (Subsection G of 19.28.020) and the requirement that adequate parking be provided (Subsection H of 19.28.020):

G. The report prepared by staff for the City Council on the conditional use permit application for a church, **club, fraternal organization, service organization, or veteran's organization** under Section 19.28.020.B.6., shall provide a listing of the number of property owners, business owners, and types of businesses located within three hundred (300) feet of the exterior boundaries of the subject property [emphasis added]. [...]

H. Prior to the issuance of a conditional use permit for a **church, club, fraternal organization, service organization, or veteran's organization** under Section 19.28.020.B.6., the applicant must demonstrate and the City Council must make a finding that the parking requirements of Chapter 19.48 of this code are met and that sufficient parking exists to accommodate the proposed uses [emphasis added].

Since clubs and lodges are a prohibited use in the C-3 zone, these types of uses should not have been referenced in the proposed new procedures for issuing a CUP for a church. As proposed, this language could suggest that organizations are permitted in the C-3 zone, which was not the City's intention and which creates an ambiguity regarding the

allowable uses in the C-3 zone, inconsistent with the policies of the certified LUP. Therefore, the amendment must be denied as submitted.

Suggested modifications have been added which would eliminate the reference to clubs and organizations in the CUP procedures in the C-3 zone. This would resolve the inconsistency and ensure that there is no confusion regarding permitted and prohibited uses in the C-3 zone.

Therefore, as modified, the Commission finds that since that the City will implement a CUP process reviewing the impact that churches could potentially have on parking and public access and recreation, allowing churches in the Seacoast District will not compromise the intent of the zone to prioritize visitor-serving uses in this area. Allowing churches in the other commercial districts should similarly have no impact on coastal resources. The Federal Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc *et seq.*, appears to be one of the reasons the City is proposing this amendment. The Commission has reviewed this implementation program amendment for consistency with the certified LUP. The Commission makes no conclusions with regard to the consistency of the City's action with the requirements of the Religious Land Use Act.

Furthermore, secondhand and thrift stores are the type of uses typically permitted in general commercial zones. The proposed amendment would permit secondhand stores with a CUP in the C-1 zone, but would prohibit them in the C-2 (visitor-serving) and C-3 zones. Secondhand stores would be required to meet the same requirements for issuance of a CUP as churches. Since the use would be prohibited in the Seacoast District visitor-serving zone, no impacts to coastal resources are anticipated.

The minor change proposed to the list of permitted uses subject to a CUP in the C-1 zone, to revise the use listed as "Educational institutions for greater than thirty students" to simply "Educational institutions", would make the Code slightly more restrictive than the existing language, and will not have any adverse impact on coastal resources.

In conclusion, since the proposed amendment, as modified, conforms with the certified land use plan, the proposed ordinance can be found in conformance with, and adequate to, implement the certified LUP.

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

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

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In the case of the subject LCP amendment, the Commission finds that approval of the subject LCP amendment, as submitted, would not result in significant environmental impacts under the meaning of the California Environmental Quality Act.

All portions of the proposed amendment to the City of Imperial Beach's Implementing Ordinances have been found consistent with and adequate to carry out the policies of the certified land use plan, with the exception of a small error in the CUP procedures for the C-3 zone. Suggested modifications have corrected this error, such that there is no ambiguity regarding permitted uses in the C-3 zone. The proposed amendment will assure that through the Conditional Use Permit process, no impacts to coastal resources will result from the proposed changes in permitted development types in commercial zones.

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

ORDINANCE NO. 2001-960

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING CHAPTER 19.04 TO DEFINE "CHURCH" AND "EDUCATIONAL INSTITUTION" AND AMENDING SECTIONS 19.26.020, 19.27.020, AND 19.28.020 OF THE ZONING ORDINANCE REGARDING PERMITTED USES IN THE C-1 (GENERAL COMMERCIAL) ZONE, THE C-2 (SEACOAST COMMERCIAL) ZONE, AND THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE

WHEREAS, on June 9, 2000, a duly noticed public hearing was held and public comment was received regarding the need and necessity for amendment of the Zoning Ordinance to allow for churches and other organizations to meet within the commercial zones of the City; and

WHEREAS, review of the zoning regulations of other cities within San Diego County indicates that other local cities allow for churches and other organizations to meet and operate within their respective commercial zones; and

WHEREAS, pending Federal legislation would require that churches be treated equally, in local zoning regulations, with Fraternal, Service, and Veterans Organizations and other similar organizations; and

WHEREAS, due to the limited availability of areas zoned as non-commercial and suitable for churches and other organizations, there appears to be a need for the ability, by conditional use permit, to allow these uses within the commercial zones of the City; and

WHEREAS, it is in the best interests of the City and its residents to amend the Zoning Ordinance to allow churches and other organizations to operate in the commercial zones, subject to certain restrictions and standards to ensure adequate parking, compatibility with surrounding uses and to protect existing and future commercial interests; and

WHEREAS, the City Council of the City of Imperial Beach hereby finds that the regulations contained herein are in furtherance of a compelling governmental interest and are the least restrictive means of furthering that compelling governmental interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

Section 1: That Section 19.04.217 is hereby added to Chapter 19.04 of the Imperial Beach Municipal Code to read as follows:

"19.04.217. Church.

"Church" means an institution organized and operated for nonprofit purposes within the provisions of Section 501(c)(3) of the Internal Revenue Code and Section 23701d of the California Revenue and Taxation Code and to whom the Franchise Tax Board has issued a determination exempting the organization from tax, which people regularly attend to participate in or hold religious services, meetings and other activities. The term "church" shall not carry a secular connotation, and shall include buildings in which the religious services of any denomination are held."

Section 2: That Section 19.04.317 is hereby added to Chapter 19.04 of the Imperial Beach Municipal Code to read as follows:

"19.04.317. Educational Institution.

"Educational Institution" means a public or private preschool, elementary, or secondary school or institution."

Section 3: Subsection B.7. of Section 19.26.020 of the Imperial Beach Municipal Code is hereby amended to read as follows:

"7. Churches, Clubs, Fraternal Organizations (e.g., Masons, Moose, Elks, and Eagles), Service Organizations (e.g., Rotary, Kiwanis, Lions Club, and Jaycees), and Veterans Organizations (e. g., American Legion, VFW, FRA, and Disabled American Veterans), subject to Subsection E, F, G, and H of this Section as appropriate."

Section 4: Subsection B.8. of Section 19.26.020. of the Imperial Beach Municipal Code is hereby amended to read as follows:

"8. Educational Institutions;"

Section 5: Subsection E is hereby added to Section 19.26.020 of the Imperial Beach Municipal Code to read as follows:

"E. Notice to adjoining property owners of any application for conditional use permit for a church, club, fraternal organization, service organization, or veteran's organization, under Section 19.26.020.B.7. shall be given pursuant to Section 19.86.050 of this Code. Additionally, notice of hearing shall be made by mailing a postal card or letter to all the business owners within three hundred (300) feet of the exterior boundary of the property involved, such business owners and their addresses being established for this purpose by the latest business licenses issued by the City; provided, however, that in the case where the ownership or address has recently changed and such knowledge is available to the Community Development Department, notice shall also be sent in this manner to the current business owners. Such notice shall include the nature of the proposal, a description of the property under consideration, and the time and place of the public hearing. In certain cases where mailed notice of hearing is deemed impractical, notice may be effected by posting upon the subject property and within the area of the subject property a notice bearing the same information as contained in the notice to be mailed. The notice shall be posted at least ten days prior to the date set for the public hearing, and the Community Development Department shall sign an affidavit of posting to be held in the record. No defect or irregularity in the giving of such notice shall invalidate the public hearing."

Section 6: Subsection F is hereby added to Section 19.26.020 of the Imperial Beach Municipal Code to read as follows:

"F. The report prepared by staff for the City Council on the conditional use permit application for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.26.020.B.7., shall provide a listing of the number of property owners, business owners, and types of businesses located within three hundred (300) feet of the exterior boundaries of the subject property. Prior to the scheduled public hearing, the applicant shall attempt to contact the property owners and business owners located within three hundred (300) feet of the exterior boundary of the subject property to determine how many support and how many oppose the application for the conditional use permit on the subject property. The results of the survey of the property owners and business owners shall be forwarded to city staff for inclusion in the staff report to the City Council."

Section 7: Subsection G is hereby added to Section 19.26.020 of the Imperial Beach Municipal Codes to

read as follows:

"G. Prior to the issuance of a conditional use permit for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.26.020.B.7., the applicant must demonstrate and the City Council must make a finding that the parking requirements of Chapter 19.48 of this Code are met and that sufficient parking exists to accommodate the proposed uses."

Section 8: Subsection H is hereby added to Section 19.26.020 of the Imperial Beach Municipal Codes to read as follows:

"H. Any conditional use permit issued for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.26.020.B.7. shall, at a minimum, specifically address the following:

- (i) Proposed uses or activities;
- (ii) Hours of operations, uses and activities;
- (iii) The days of the week and times for meetings or gatherings and the number of people attending those meetings or gatherings;
- (iv) The number, time, and days of the week of any proposed musical activities, performances or entertainment;
- (v) The number, time, and days of the week of activities involving infants, pre-teens, teens, or young adults;
- (vi) The dates, times, and number of persons in attendance for any special meetings, events, or gatherings not included in the normal hours of operation, that are directly related to the operation, uses and activities of the church, or are attended by the principal membership of the church.; and,
- (vii) The dates, times, and number of persons in attendance for any special meetings, events, or gatherings not included in the normal hours of operation, if any, that are not directly related to the operation, uses and activities of the church, nor are attended by the principal membership of the church.

No child care services by persons unrelated to the parent or child, Child Day Care Center, or Educational Institution shall be operated on the premises unless specifically provided for under the conditional use permit issued for the church, club, fraternal organization, service organization, or veteran's organization. Nothing in Subsections E, F, G, or H of this Section shall supersede or preempt the issuance criteria for a conditional use permit as set forth in Chapter 19.82 of this Code."

Section 9: Subsection B.5. of Section 19.27.020 of the Imperial Beach Municipal Code is hereby amended to read as follows:

"5. Churches, Clubs, Fraternal Organizations (e.g., Masons, Moose, Elks, and Eagles), Service Organizations (e.g., Rotary, Kiwanis, Lions Club, and Jaycees), and Veterans Organizations (e. g., American Legion, VFW, FRA, and Disabled American Veterans) subject to Subsection E, F, G, and H of this Section as appropriate."

Section 10: Subsection E is hereby added to Section 19.27.020 of the Imperial Beach Municipal Code to read as follows:

"E. Notice to adjoining property owners of any application for conditional use permit for a church, club, fraternal organization, service organization, or veteran's organization, under Section 19.27.020.B.5. shall be given pursuant to Section 19.86.050 of this Code. Additionally, notice of hearing shall be made by mailing a postal card or letter to all the business owners within three hundred feet of the exterior boundary of the property involved, such business owners and their addresses being established for this purpose by the latest business licenses issued by the City; provided, however, that in the case where the ownership or address has recently changed and such knowledge is

available to the Community Development Department, notice shall also be sent in this manner to the current business owners. Such notice shall include the nature of the proposal, a description of the property under consideration, and the time and place of the public hearing. In certain cases where mailed notice of hearing is deemed impractical, notice may be effected by posting upon the subject property and within the area of the subject property a notice bearing the same information as contained in the notice to be mailed. The notice shall be posted at least ten days prior to the date set for the public hearing, and the Community Development Department shall sign an affidavit of posting to be held in the record. No defect or irregularity in the giving of such notice shall invalidate the public hearing."

Section 11: Subsection F is hereby added to Section 19.27.020 of the Imperial Beach Municipal Code to read as follows:

"F. The report prepared by staff for the City Council on the conditional use permit application for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.27.020.B.5., shall provide a listing of the number of property owners, business owners, and types of businesses located within three hundred (300) feet of the exterior boundaries of the subject property. Prior to the scheduled public hearing, the applicant shall attempt to contact the property owners and business owners located within three hundred (300) feet of the exterior boundary of the subject property to determine how many support and how many oppose the application for the conditional use permit on the subject property. The results of the survey of the property owners and business owners shall be forwarded to city staff for inclusion in the staff report to the City Council."

Section 12: Subsection G is hereby added to Section 19.27.020 of the Imperial Beach Municipal Code to read as follows:

"G. Prior to the issuance of a conditional use permit for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.27.020.B.5., the applicant must demonstrate and the City Council must make a finding that the parking requirements of Chapter 19.48 of this Code are met and that sufficient parking exists to accommodate the proposed uses."

Section 13: Subsection H is hereby added to Section 19.27.020 of the Imperial Beach Municipal Codes to read as follows:

"H. Any conditional use permit issued for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.27.020.B.5. shall, at a minimum, specifically address the following:

- (i) Proposed use or activities;
- (ii) Hours of operations, uses and activities;
- (iii) The days of the week and times for meetings or gatherings and the number of people attending those meetings or gatherings;
- (iv) The number, time, and days of the week of any proposed musical activities, performances or entertainment;
- (v) The number, time, and days of the week of activities involving infants, pre-teens, teens, or young adults;
- (vi) The dates, times, and number of persons in attendance for any special meetings, events, or gatherings not included in the normal hours of operation, that are directly related to the operation, uses and activities of the church, or are attended by the principal membership of the church.; and,
- (vii) The dates, times, and number of persons in attendance for any special meetings, events, or gatherings not included in the normal hours of operation, if any, that are not directly related to the operation, uses and activities of the church, nor are attended by the principal membership of the church.

No child care services by persons unrelated to the parent or child, Child Day Care Center, or Educational Institution shall be operated on the premises unless specifically provided for under the conditional use permit issued for the church, club, fraternal organization, service organization, or veteran's organization. Nothing in Subsections E, F, G, or H of this Section shall supersede or preempt the issuance criteria for a conditional use permit as set forth in Chapter 19.82 of this Code."

Section 14: That Subsection B.6 of Section 19.28.020 is hereby added to Chapter 19.28 of the Imperial Beach Municipal Code to read as follows:

"6. Churches, subject to Subsection F, G, H, and I of this Section as appropriate."

Section 15: Subsection F is hereby added to Section 19.28.020 of the Imperial Beach Municipal Code to read as follows:

"F. Notice to adjoining property owners of any application for conditional use permit for a church under Section 19.28.020.B.6. shall be given pursuant to Section 19.86.050 of this Code. Additionally, notice of hearing shall be made by mailing a postal card or letter to all the business owners within three hundred (300) feet of the exterior boundary of the property involved, such business owners and their addresses being established for this purpose by the latest business licenses issued by the City; provided, however, that in the case where the ownership or address has recently changed and such knowledge is available to the Community Development Department, notice shall also be sent in this manner to the current business owners. Such notice shall include the nature of the proposal, a description of the property under consideration, and the time and place of the public hearing. In certain cases where mailed notice of hearing is deemed impractical, notice may be effected by posting upon the subject property and within the area of the subject property a notice bearing the same information as contained in the notice to be mailed. The notice shall be posted at least ten days prior to the date set for the public hearing, and the Community Development Department shall sign an affidavit of posting to be held in the record. No defect or irregularity in the giving of such notice shall invalidate the public hearing."

Section 16: Subsection G is hereby added to Section 19.28.020 of the Imperial Beach Municipal Code to read as follows:

"G. The report prepared by staff for the City Council on the conditional use permit application for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.28.020.B.6., shall provide a listing of the number of property owners, business owners, and types of businesses located within three hundred (300) feet of the exterior boundaries of the subject property. Prior to the scheduled public hearing, the applicant shall attempt to contact the property owners and business owners located within three hundred (300) feet of the exterior boundary of the subject property to determine how many support and how many oppose the application for the conditional use permit on the subject property. The results of the survey of the property owners and business owners shall be forwarded to city staff for inclusion in the staff report to the City Council."

Section 17: Subsection H is hereby added to Section 19.28.020 of the Imperial Beach Municipal Codes to read as follows:

"H. Prior to the issuance of a conditional use permit for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.28.020.B.6., the applicant must demonstrate and the City Council must make a finding that the parking requirements of Chapter 19.48 of this Code are met and that sufficient parking exists to accommodate the proposed uses."

Section 18: Subsection I is hereby added to Section 19.28.020 of the Imperial Beach Municipal Codes to read as follows:

"I. Any conditional use permit issued for a church under Section 19.28.020.B.6. shall, at a minimum, specifically address the following:

- (i) Proposed uses or activities;
- (ii) Hours of operations, uses and activities;
- (iii) The days of the week and times for meetings or gatherings and the number of people attending those meetings or gatherings;
- (iv) The number, time, and days of the week of any proposed musical activities, performances or entertainment;
- (v) The number, time, and days of the week of activities involving infants, pre-teens, teens, or young adults;
- (viii) The dates, times, and number of persons in attendance for any special meetings, events, or gatherings not included in the normal hours of operation, that are directly related to the operation, uses and activities of the church, or are attended by the principal membership of the church.; and,
- (ix) The dates, times, and number of persons in attendance for any special meetings, events, or gatherings not included in the normal hours of operation, if any, that are not directly related to the operation, uses and activities of the church, nor are attended by the principal membership of the church.

No child care services by persons unrelated to the parent or child, Child Day Care Center, or Educational Institution shall be operated on the premises unless specifically provided for under the conditional use permit issued for the church, club, fraternal organization, service organization, or veteran's organization. Nothing in Subsections F, G, H, or I of this Section shall supersede or preempt the issuance criteria for a conditional use permit as set forth in Chapter 19.82 of this Code."

Section 19: Subsection H of Section 19.48.050 of the Imperial Beach Municipal Code is hereby amended to read as follows:

"H. The following uses require one space per each one hundred square feet of net floor area, plus one space per two employees minimum. When a conditional use permit is required for any of these uses, applicant shall provide a report by a qualified Civil Engineer or other specialist that shows the proposed uses and maximum required parking:"

Section 20: This ordinance shall become effective thirty (30) days following its passage and adoption.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, held the 7th day of February, 2001; and thereafter **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, held on the 21st day of February, 2001 by the following roll call vote:

AYES:	ROSE, BENDA, WINTER, ROGERS, McCOY
NOES:	NONE
ABSENT:	NONE

Diane Rose
DIANE ROSE, MAYOR

ATTEST:

Linda A. Troyan

LINDA A. TROYAN, CMC
City Clerk

APPROVED AS TO FORM:

Lynn R. McDougal

LYNN R. MCDOUGAL, CITY ATTORNEY

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Ordinance No. 2001-960 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING CHAPTER 19.04 TO DEFINE "CHURCH" AND "EDUCATIONAL INSTITUTION" AND AMENDING SECTIONS 19.26.020, 19.27.020, AND 19.28.020 OF THE ZONING ORDINANCE REGARDING PERMITTED USES IN THE C-1 (GENERAL COMMERCIAL) ZONE, THE C-2 (SEACOAST COMMERCIAL) ZONE, AND THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE


CITY CLERK

3/7/01
DATE

ORDINANCE NO. 2001-959

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING CHAPTER 19.04 OF THE ZONING CODE TO DEFINE "SECONDHAND AND USED MERCHANDISE" AND AMENDING SECTION 19.26.020 OF THE ZONING CODE REGARDING PERMITTED USES IN THE C-1 (GENERAL COMMERCIAL) ZONE, AND AMENDING SECTIONS 19.27.030 AND 19.28.020 OF THE ZONING CODE REGARDING PROHIBITED USES IN THE C-2 (SEACOAST COMMERCIAL) ZONE, AND THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE

WHEREAS, on February 7, 2001, a duly noticed public hearing was held and public comment was received regarding the need and necessity for amendment of the Zoning Ordinance to allow for stores offering Secondhand and Used Merchandise within a commercial zone of the City; and

WHEREAS, review of the zoning regulations of other cities within San Diego County indicates that other local cities allow this use, subject to a Conditional Use Permit; and

WHEREAS, it is in the best interests of the City and its residents to amend the Zoning Ordinance to allow stores offering Secondhand and Used Merchandise to operate in the C-1 General Commercial zone, subject to certain restrictions and standards to ensure adequate parking, compatibility with surrounding uses and to protect existing and future commercial interests; and

WHEREAS, the City Council of the City of Imperial Beach hereby finds that the regulations contained herein are in furtherance of a compelling governmental interest and are the least restrictive means of furthering that compelling governmental interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

Section 1: That Section 19.04.673 is hereby added to Chapter 19.04 of the Imperial Beach Municipal Code to read as follows:

"19.04.673. Secondhand or Used Merchandise.

"Secondhand or Used Merchandise" means merchandise that has been owned or used by any person other than the original manufacturer or distributors of that merchandise when new, or which has ever been used in a manner that is consistent with an ultimate or final consumer, whether or not wear or deterioration can be found."

Section 2: That Subsection 19 of Section 19.26.020.B of the Imperial Beach Municipal Code is hereby added to read as follows:

Exhibit 2

City of Imperial Beach LCPA 1-01
City Resolution "Secondhand Stores"

"19. Stores offering Secondhand or Used Merchandise"

Section 3: Subsection E of Section 19.26.020 of the Imperial Beach Municipal Code is hereby amended to read as follows:

"E. Notice to adjoining property owners of any application for conditional use permit for a church, club, fraternal organization, service organization, or veteran's organization, under Section 19.26.020.B.7, or a store offering secondhand or used merchandise, under Section 19.26.020.B19, shall be given pursuant to Section 19.86.050 of this Code. Additionally, notice of hearing shall be made by mailing a postal card or letter to all the business owners within three hundred (300) feet of the exterior boundary of the property involved, such business owners and their addresses being established for this purpose by the latest business licenses issued by the City; provided, however, that in the case where the ownership or address has recently changed and such knowledge is available to the Community Development Department, notice shall also be sent in this manner to the current business owners. Such notice shall include the nature of the proposal, a description of the property under consideration, and the time and place of the public hearing. In certain cases where mailed notice of hearing is deemed impractical, notice may be effected by posting upon the subject property and within the area of the subject property a notice bearing the same information as contained in the notice to be mailed. The notice shall be posted at least ten days prior to the date set for the public hearing, and the Community Development Department shall sign an affidavit of posting to be held in the record. No defect or irregularity in the giving of such notice shall invalidate the public hearing."

Section 4: Subsection F of Section 19.26.020 of the Imperial Beach Municipal Code is hereby amended to read as follows:

"F. The report prepared by staff for the City Council on the conditional use permit application for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.26.020.B.7, or a store offering secondhand or used merchandise, under Section 19.26.020.B19, shall provide a listing of the number of property owners, business owners, and types of businesses located within three hundred (300) feet of the exterior boundaries of the subject property. Prior to the scheduled public hearing, the applicant shall attempt to contact the property owners and business owners located within three hundred (300) feet of the exterior boundary of the subject property to determine how many support and how many oppose the application for the conditional use permit on the subject property. The results of the survey of the property owners and business owners shall be forwarded to city staff for inclusion in the staff report to the City Council."

Section 5: Subsection G of Section 19.26.020 of the Imperial Beach Municipal Code is hereby amended to read as follows:

"G. Prior to the issuance of a conditional use permit for a church, club, fraternal organization, service organization, or veteran's organization under Section 19.26.020.B.7, or a store offering secondhand or used merchandise, under Section 19.26.020.B19, the applicant must demonstrate and the City Council must make a finding that the parking requirements of Chapter 19.48 of this Code are met and that sufficient parking exists to accommodate the proposed uses."

Section 6: Subsection I is hereby added to Section 19.26.020 of the Imperial Beach Municipal Code to read as follows:

"I. Any conditional use permit issued for a store offering secondhand or used merchandise, under Section 19.26.020.B.19, shall, at a minimum, specifically address the following:

- (i) Proposed uses or activities;
- (ii) Hours of operation;
- (iii) The days of the week and times for delivery of merchandise;
- (iv) The areas to be designated for storage, sorting, cleaning, repairing, and disposing of merchandise;
- (v) The nature of the window display area;
- (vi) Signage at the exterior of the building; and,
- (vii) The limited use of banners or other signs in the display windows to advertise items for sale.

Nothing in Subsection I of this Section shall supersede or preempt the issuance criteria for a conditional use permit as set forth in Chapter 19.82 of this Code."

Section 7: That Subsection 13 of Section 19.27.030 of the Imperial Beach Municipal Code is hereby added to read as follows:

"13. Stores offering Secondhand or Used Merchandise"

Section 8: That Subsection 17 of Section 19.28.020.C of the Imperial Beach Municipal Code is hereby added to read as follows:

"17. Stores offering Secondhand or Used Merchandise"

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, held the 7th day of February, 2001; and thereafter **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, held on the 7th day of March, 2001 by the following roll call vote:

AYES:	ROSE, BENDA, WINTER, ROGERS, McCOY
NOES:	NONE
ABSENT:	NONE

Diane Rose

DIANE ROSE, MAYOR

ATTEST:

Linda A. Troyan

LINDA A. TROYAN, CMC
City Clerk

APPROVED AS TO FORM:

Lynn R. McDougal

LYNN R. MCDUGAL, CITY ATTORNEY

I, Deputy City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Ordinance No. 2001-959 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING CHAPTER 19.04 OF THE ZONING CODE TO DEFINE "SECONDHAND AND USED MERCHANDISE" AND AMENDING SECTION 19.26.020 OF THE ZONING CODE REGARDING PERMITTED USES IN THE C-1 (GENERAL COMMERCIAL) ZONE, AND AMENDING SECTIONS 19.27.030 AND 19.28.020 OF THE ZONING CODE REGARDING PROHIBITED USES IN THE C-2 (SEACOAST COMMERCIAL) ZONE, AND THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE.


DEPUTY CITY CLERK

4/5/01
DATE

