

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



RECORD PACKET COPY

August 21, 2002

TO: COMMISSIONERS AND INTERESTED PARTIES

Mon 5a

FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR

SUBJECT: **EXECUTIVE DIRECTOR'S DETERMINATION** that the City of Imperial Beach's action, certifying the City's Local Coastal Program Amendment #1-01 (Churches), is adequate to effectively certify its local coastal program (for Commission review at its meeting of September 10-13, 2002)

BACKGROUND

At its May 8, 2001 meeting, the Coastal Commission certified, with suggested modifications, the City of Imperial Beach's Local Coastal Program Amendment #1-02, which included two separate ordinances. One regarded the addition of 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. By their action adopting Resolution No. 2001-972 on September 28, 2001, the City Council has acknowledged and accepted all of the Commission's suggested modifications. The two suggested modifications addressed a minor error in the proposed amendment which implied 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 amendment was not intended to change this. The City already has coastal development permit authority and will continue issuing permits consistent with the local coastal program as amended.

Amendment #1-02 also included an ordinance regarding the operation of secondhand stores. The Commission did not suggest any modifications to the secondhand store ordinance. The City has since informed staff that the secondhand store ordinance transmitted to the Commission as a component of the LCP amendment was different than the ordinance actually passed and adopted by the City Council. Because the City Council had not adopted the ordinance language that the Commission certified, the Commission's approval of this portion of the amendment is without effect. The City has resubmitted the correct ordinance for Commission review as a component of LCPA 1-02.

As provided for in Section 13544 of the Commission's Code of Regulations, the Executive Director must determine if the action of the City of Imperial Beach is legally sufficient to finalize Commission review of the LCP amendment. The City's actions to accept the Commission's suggested modifications have been reviewed and determined to be adequate by the Executive Director. Section 13554 of the Commission's Code of Regulations then requires this determination be reported to the Commission for its concurrence.

RECOMMENDATION

Staff recommends that the Commission **CONCUR** with the Executive Director's determination as set forth in the attached letter (to be sent after Commission endorsement).

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036



September 16, 2002

Mayor Diane Rose
City of Imperial Beach
825 Imperial Beach Boulevard
Imperial Beach, CA 91932

RE: Certification of the City of Imperial Beach's Local Coastal Program Amendment
#1-01 (Churches)

Dear Mayor Rose:

The California Coastal Commission has reviewed the City's Resolution No. 2001-972 together with the Commission's action of May 8, 2001 certifying City of Imperial Beach Local Coastal Program Amendment #1-01 pertaining to the addition of 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. In accordance with Section 13544 of the Commission's Code of Regulations, I have made the determination that the City's actions are legally adequate to adopt the modifications suggested by the Commission, and the Commission has concurred at its meeting of September 10-13, 2002.

By its action on September 9, 2001, the City has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The two suggested modifications addressed a minor error in the proposed amendment which implied 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 amendment was not intended to change this. The City is already issuing coastal development permits in conformance with the certified local coastal program for this area.

Local Coastal Program Amendment #1-01 as submitted to the Commission also included an ordinance regarding secondhand stores. Although the Commission voted to certify the secondhand store ordinance, the City subsequently informed the Commission that the City adopted different language than was submitted to the Commission. The component of Local Coastal Program Amendment #1-01 that pertains to secondhand stores is therefore void and is not a part of the City's Local Coastal Program.

In conclusion, I would like to congratulate you and all other elected or appointed officials, staff and concerned citizens for continuing to work towards full implementation of the Coastal Act. We remain available to assist you and your staff in any way possible as you continue to develop and implement the City's local coastal program.

Sincerely,

Peter Douglas
Executive Director

ORDINANCE NO. 2001-972

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING SECTIONS 16 AND 17 OF ORDINANCE NO. 2001-960 TO CORRECT PROVISIONS, PURSUANT TO COASTAL COMMISSION CERTIFICATION ORDER FOR MAJOR AMENDMENT NO. 1-2001, REGARDING PERMITTED USES IN THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE. MF 512

WHEREAS, on September 5, 2001, a duly noticed public hearing was held and public comment was considered regarding the need and necessity for amendment of the Zoning Ordinance to correct previously-adopted Ordinance No. 2001-960 which allowed churches and other organizations within the commercial zones of the City with a conditional use permit; and

WHEREAS, the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA: S. 2869) requires that churches be treated equally in local zoning regulations with fraternal, service, veterans and other similar organizations; and

WHEREAS, on February 21, 2001, the City Council adopted Ordinance No. 2001-960, which allowed churches in the C-1 (General Commercial), C-2 (Seacoast Commercial), and the C-3 (Neighborhood Commercial) Zones with the approval of a Conditional Use Permit; and

WHEREAS, on May 8, 2001, the California Coastal Commission approved Ordinance No. 2001-960 (General Plan Amendment/Local Coastal Program Amendment/Zoning Code Amendment 00-01/Coastal Commission Major Amendment #1-2001) with the modification to the ordinance that fraternal organizations not be allowed by Conditional Use Permit in the C-3 Zone; and

WHEREAS, the City Council must adopt the suggested modification to the ordinance within six months of the Commission's action, pursuant to California Coastal Commission Regulation Section 13542(b), in order for the Coastal Commission to effectively certify Ordinance No. 2001-960 and in order for the Executive Director of the Coastal Commission to report to the Commission that the amendment is consistent with the certification order; and

WHEREAS, the City of Imperial Beach acknowledges receipt of the Commission's resolution of certification; and

WHEREAS, the City Council finds, pursuant to Government Code Section 65860, the proposed Zoning Ordinance Amendment, Ordinance No. 2001-972, to be consistent with the General Plan/Local Coastal Program; and

WHEREAS, the City Council determines that the proposed regulations would not have a significant impact on the environment and, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061.b3 (General Rule), determines that the amendment would be exempt from CEQA.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, IN ORDER TO BE CONSISTENT WITH THE CALIFORNIA COASTAL COMMISSION CERTIFICATION ORDER FOR MAJOR AMENDMENT NO. 1-2001, AS FOLLOWS:

Section 1: That Section 16 of Ordinance No. 2001-960, which added Subsection G to Section 19.28.020 of the Imperial Beach Municipal Code, is hereby amended 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 2: That Section 17 of Ordinance No. 2001-960, which added Subsection H to Section 19.28.020 of the Imperial Beach Municipal Code, is hereby amended 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 3: This ordinance and Ordinance No. 2001-960 shall become effective when the Executive Director of the California Coastal Commission determines that implementation of these amendments will be consistent with the Commission's certification order of Major Amendment #1-2001 (Ordinance No. 2001-960/General Plan Amendment/Local Coastal Program Amendment/Zoning Code Amendment 00-01) but not sooner than thirty (30) days following its passage and adoption by the City Council.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, held the 5th day of September, 2001; and thereafter **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, held on the 19th day of September, 2001 by the following roll call vote:

AYES:	COUNCILMEMBERS: ROGERS, WINTER, BENDA, ROSE
NOES:	COUNCILMEMBERS: NONE
ABSENT:	COUNCILMEMBERS: MCCOY

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, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Ordinance No. 2001-972 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING SECTIONS 16 AND 17 OF ORDINANCE NO. 2001-960 TO CORRECT PROVISIONS, PURSUANT TO COASTAL COMMISSION CERTIFICATION ORDER FOR MAJOR AMENDMENT NO. 1-2001, REGARDING PERMITTED USES IN THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE. MF 512.

Linda A. Troyan
CITY CLERK

9-28-01
DATE