

CALIFORNIA COASTAL COMMISSION

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December 22, 2005

TH 6b**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA OFFICE
GARY CANNON, COASTAL PROGRAM ANALYST, SAN DIEGO AREA
OFFICE****SUBJECT: STAFF RECOMMENDATION ON CITY OF ENCINITAS MAJOR
AMENDMENT NO. 3-05 (Rancho Coastal Humane Society/White) for
Commission Meeting of January 11-13, 2006.**

SYNOPSIS**SUMMARY OF AMENDMENT REQUEST**

The subject LCP land use plan and implementation plan amendment was submitted and filed as complete on September 23, 2005. On December 14, 2005, the Commission granted a time extension of up to one year. As such, the last date for Commission action on this item is December 22, 2006.

The City is proposing to amend its certified Land Use Plan (LUP) to redesignate approximately 3.8 acres of land from Residential 8.01-11 dwelling units/acre (R11) to Public/Semi-Public (P/SP) and to reclassify the Zoning from R-11 to P/SP. The subject property is currently occupied by the Rancho Coastal Humane Society. The Humane Society has been at this location since 1961, but since the site's designation as R11 in 1989 (following incorporation of the City in 1986), the Humane Society has been considered a legal nonconforming use. This amendment will bring the property into conformity. In addition, unrelated to the Humane Society property, the amendment request also involves a change in the total amount of Office Commercial and General Commercial designated areas listed within the LUP. This change in amount Office Commercial and General Commercial designation involves several parcels located outside of the Coastal Zone but within the City. Since the City's Land Use Plan includes distribution of land uses for the entire City, when the land use changes occur outside of the coastal zone, the Land Use Plan is also required to be modified. No adverse impacts to coastal resources are anticipated as result of the proposed amendment.

Attached is the City's ordinance with the proposed changes in strike-out/underline that shows the proposed amendment in the context of the existing LCP (Exhibit #1).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the LCP Land Use Plan and Implementation Plan amendment as submitted. The change in land use designation and rezoning of the Humane Society property, as well as for the property outside of the coastal zone, will have no adverse affects on coastal resources. The Humane Society property contains existing development and does not contain environmentally sensitive habitat areas. The amendment has no potential for adverse affects on sensitive habitat, and the resource protection policies of the certified LCP apply to any future development of the site.

The appropriate resolutions and motions begin on page 3. The findings for approval of the Land Use Plan Amendment as submitted begin on page 4. The findings for approval of the Implementation Plan Amendment as submitted begin on page 7.

ADDITIONAL INFORMATION

Further information on the Encinitas LCP Amendment No. 3-05 may be obtained from Gary Cannon, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

On November 17, 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (both land use plan and implementing ordinances). The City accepted the suggested modifications and, on May 15, 1995, began issuing coastal development permits for those areas of the City within the Coastal Zone. The subject LCPA will be the sixteenth amendment to the City's certified LCP.

B. STANDARD OF REVIEW

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

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.

In those cases when a local government approves implementing ordinances in association with a land use plan amendment and both are submitted to the Commission for certification as part of one LCP amendment, Section 13542 of the Commission's Code of Regulations is applicable. Section 13542 (c) states, in part:

- (c) The standard of review of the implementing actions shall be the land use plan as certified by the Commission. If the land use plan is conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan. However, if the local government elects to revise and resubmit the land use plan in a manner different from that set forth in the suggested modifications of the conditional certification, the Commission's approval of the implementing actions shall be void. Absent either a certified or conditionally certified land use plan, the Commission may take no action on the implementing actions....

C. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION:** *I move that the Commission certify the Land Use Plan Amendment for the City of Encinitas LCP Amendment No. 3-05 as submitted.*

STAFF RECOMMENDATION TO CERTIFY:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Land Use Plan Amendment for the City of Encinitas LCP Amendment No. 3-05 as submitted and adopts the findings set forth below on grounds that the land use plan will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan 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 plan 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 that will result from certification of the land use plan.

II. MOTION: *I move that the Commission reject the Implementation Program Amendment Number 3-05 for the City of Encinitas as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted 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 IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies Implementation Program Amendment No. 3-05 for the City of Encinitas as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified City of Encinitas Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of 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 Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

PART III. FINDINGS FOR APPROVAL OF THE ENCINITAS LAND USE PLAN AMENDMENT 3-05, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City is proposing to amend its certified Land Use Plan (LUP) to redesignate approximately 3.8 acres of land from Residential 8.01-11 dwelling units/acre (R11) to Public/Semi-Public (P/SP). The subject property is currently occupied by the Rancho Coastal Humane Society. The Humane Society has been at this location since 1961, but since the site's designation as R11 in 1989 (following incorporation of the City in 1986), the Humane Society has been considered a legal nonconforming use. This amendment will bring the property into conformity. The changes to the Land Use Plan involves changes to various residential and public/semi-public tables and descriptions resulting in a reduction of residentially designated land throughout the city and an increase in public/semi-public land use and a change to the Land Use Plan Map for the subject site from Residential 11 to Public/Semi-Public (Ref. Exhibit #1).

In addition, unrelated to the Humane Society property, the amendment request also involves a change in the total amount of Office Commercial and General Commercial designated areas listed within the LUP in various tables and text descriptions (Ref. Exhibit #1). This change in amount Office Commercial and General Commercial designation involves several parcels located outside of the Coastal Zone but within the City. Since the City's Land Use Plan includes distribution of land uses for the entire City, when the land use changes occur outside of the coastal zone, the Land Use Plan is also required to be modified.

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that the Land Use Plan as set forth in the preceding resolutions, is in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

- a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.
- b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
- (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- (e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan conforms with Chapter 3 of the Coastal Act or the goals of the state for the coastal zone.

**C. CONFORMITY OF THE ENCINITAS LAND USE PLAN AMENDMENT
3-05 WITH CHAPTER 3**

The following Coastal Act policies, as summarized, apply to the proposed amendment:

Section 30222.

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30250.

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. . . .

Section 30251.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed amendment involves the redesignation of approximately 3.8 acres from Residential 8.01-11 dwelling units/acre (R11) to Public/Semi-Public (P/SP) and to reclassify the Zoning from R-11 to P/SP. As previously stated, the subject property is currently occupied by the Rancho Coastal Humane Society. The P/SP designation allows properties to develop uses operated by government agencies and semi-public uses such as hospitals and other private institutions that serve a community purpose. Animal shelters with a Major Use Permit (MUP) are conditionally approved within the P/SP zone.

The property is surrounded by a mix of single-family and multi-family residential uses. Non-residential uses in the vicinity include the city operated Public Works facility annex, a church and a self-storage facility. The west side of the site is bordered by Interstate 5. The subject property is located in an existing developed area that can accommodate the proposed change in density and intensity of use. Adequate roads, sewer and other public services currently exist to serve the proposed changes in land use. The property is located immediately adjacent to Interstate 5 a primary coastal access route for the City of Encinitas. However, the proposed redesignation in land use will result in no significant additional traffic generated by the subject lots than would occur if the lots were developed consistent with their current designations. Therefore, the proposed land use redesignation is consistent with Section 30250 of the Coastal Act.

In addition, the site is not designated visitor-serving commercial which is a high priority use pursuant to Section 30222 of the Act. Therefore, the change from residential use to public/semi-public will not impact visitor-serving commercial use. Adequate area is designated for visitor-serving uses in other areas within the certified LUP which serve to enhance public opportunities for coastal recreation.

While the subject site is visible by motorists driving north on Interstate 5, the project site lies on the east side of Interstate 5 and any future development will not adversely affect public views of the shoreline. In addition, the project site is not visible from nearby lagoons or beaches. Finally, any development permissible under the proposed designations will be subject to the visual resource protection policies of the certified LCP. Therefore, the proposed land use redesignation is consistent with Section 30251 of the Coastal Act

Finally, the second part of the subject amendment request involves changes in the total amount of Office Commercial and General Commercial designated areas listed within the LUP. This change in amount Office Commercial and General Commercial designation involves several parcels located outside of the Coastal Zone but within the City. The amount of Office Commercial and General Commercial designations within the Coastal Zone are unaffected by this change, therefore, these changes in totals will raise no conflict with Coastal Act policies.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF ENCINITAS IMPLEMENTATION PLAN AMENDMENT #3-05, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The amendment involves changing the zoning classification of an approximately 3.8 acre site containing the Rancho Coastal Humane Society from Residential-11 (R-11) to Public/Semi-Public (P/SP). The implementation plan amendment only involves changes to the certified city-wide Zoning Map for the site from R-11 to P/SP.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

- a) Purpose and Intent of Ordinance. The P/SP zone allows properties to develop uses operated by government agencies and semi-public uses such as hospitals and other private institutions that serve a community purpose. Animal shelters with a Major Use Permit (MUP) are conditionally approved within the P/SP zone
- b) Major Provisions of the Ordinance. The P/SP zone carries a number of provisions including: a listing of permitted uses, minimum lot areas and dimensions; and, development standards, including setbacks, FAR, landscaping, parking requirements and permitted density.
- c) Adequacy of the Ordinance to Implement the Certified LUP. The proposed rezone of subject property currently zoned Residential 11 to Public/Semi-Public will render it consistent with the certified land use plan designation of Public/Semi-Public as established by this amendment.

PART V. 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 approving an LCP submittal, or, as in this case, an LUP and IP amendment submittal, to find that the approval of the proposed LUP and IP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended IP and LUP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment (14 C.C.R. §§ 13542(a), 13540(f), and 13555(b)).

In this particular case, all of the proposed amendments are being approved as submitted. Thus, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP land use and implementation plan, as amended, conforms with CEQA provisions.