

CALIFORNIA COASTAL COMMISSION

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Th 8b

DATE: March 2, 2007
TO: Commissioners and Interested Persons
FROM: Jack Ainsworth, Deputy Director
Gary Timm, District Manager
Steve Hudson, Planning and Regulation Supervisor
Melissa Hetrick, Coastal Program Analyst

SUBJECT: Santa Barbara County Local Coastal Program Amendment No. MAJ-1-06 (Discretionary Process Changes) for Public Hearing and Commission Action at the Thursday, March 15, 2007, Commission Meeting in Monterey.

DESCRIPTION OF THE SUBMITTAL

On February 2, 2006, the City of Santa Barbara submitted an amendment to the certified Coastal Zoning Ordinance/Implementation Plan (IP) portion of its certified Local Coastal Program (LCP) to reformat and revise the current Coastal Overlay Zone Ordinance. The new ordinance would include the following changes: 1) Restructuring of sections to improve usability; 2) Incorporation of a Staff Hearing Officer to review certain Coastal Development Permits (CDP); 3) Standardization of noticing; 4) Revision of review and appeals procedures for secondary dwelling units; 5) Revision of the suspension and appeals process; 6) Addition of provisions for issuance of administrative emergency permits; and 7) Addition and modification of coastal exclusion (pursuant to Categorical Exclusion Request SBC-CEX-06-1) and exemption categories.

On February 17, 2006, after receipt of the additional items necessary for a complete amendment application, the LCP amendment application was filed as complete according to the requirements of Coastal Act Section 30510 (b). The Commission, at its April 2006 hearing, extended the statutory 60 day time limit for Commission action on the proposed LCP amendment for a period not to exceed one year pursuant to Coastal Act Section 30517 and California Code of Regulations Section 13535. The new deadline for Commission action is April 18, 2007.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends the Commission reject the proposed amendment, as submitted, and approve it only if modified so that the ordinance will be consistent with and adequate to carry out the certified LUP. The motions are found on **page 4** of this report. The suggested modifications are necessary to ensure that all new residential second units continue to be subject to all of the provisions and policies of the certified LCP, with the exception of the public hearing requirements. The modifications also clarify and expand on the emergency permit process proposed by the City, new definitions in the ordinance, and proposed temporary event guidelines. The suggested modifications also incorporate changes into the Exclusions and Exemptions section of the amended

Coastal Zone Ordinance to reflect changes made to categorically excluded development pursuant to Categorical Exclusion Order E-06-1 and to make the proposed exemptions mirror the language in Section 30610 of the Coastal Act and the CA Code of Regulations. As modified, the LCP Amendment is consistent with the City of Santa Barbara Land Use Plan (LUP) and Chapter 3 of the Coastal Act, as incorporated into the City's LUP.

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EXHIBITS

- Exhibit 1. Project Area
 - Exhibit 2. Proposed Amended Coastal Zone Ordinance
 - Exhibit 3. Existing Certified Coastal Zone Ordinance
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I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (California Public Resources Code Section 30513)

The standard of review for the proposed amendments to the Implementation Plan (Coastal Zoning Ordinance) of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is that the Commission must approve it unless the proposed amendment is not in conformance with, or is inadequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified City of Santa Barbara Local Coastal Program. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified City LUP as guiding policies pursuant to Policy 1-1 of the LUP.

The City of Santa Barbara's Coastal Zoning Ordinance implements the City's Land Use Plan/Coastal Plan and policies. It serves to integrate the City of Santa Barbara Coastal Plan with the adopted Santa Barbara General Plan and Zoning Ordinance as applied to the Coastal Zone. The Coastal Zoning Regulations and Maps set forth regulations, standards, and procedural requirements for development within the Coastal Zone and establish required consistency with the policies of the LCP Coastal Plan.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held a series of public hearings (9/16/04, 1/18/05, 4/7/05, 12/6/05, and 12/13/05) and received verbal and written comments regarding the project from concerned parties and members of the public. The hearings were noticed to the public consistent with Sections 13552 and 13551 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties and a hearing notice has been run in the Santa Barbara News Press.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations (“14 CCR”), the City resolution for submittal may provide that a Local Coastal Program Amendment will either require formal adoption by the local government after the Commission action to approve, or is an amendment that will take effect automatically upon the Commission’s approval. In this case, because the recommendation of approval is subject to suggested modifications, if the Commission approves the Amendment pursuant to the staff recommendation, the City must act to formally accept the suggested modifications before the amendment can become effective. Pursuant to Section 13544 of the Code of Regulations, the Executive Director shall determine whether the City’s action is adequate to satisfy all requirements of the Commission’s certification with suggested modifications and report such adequacy to the Commission.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

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

A. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission reject the City of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment SBC-MAJ-1-06 as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the proposed 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 City of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment SBC-MAJ-1-06 and adopts the findings set forth below on grounds that the Implementation Program amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program amendment 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.

B. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission certify City of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment SBC-MAJ-1-06 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 amendment 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 AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the City of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment SBC-MAJ-1-06 if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program, as amended by the proposed amendment with the suggested modifications, will conform with and be adequate to carry out the provisions of the certified Land Use Plan. Certification of the Implementation Program amendment 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.

III. SUGGESTED MODIFICATIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

The staff recommends the Commission certify the proposed LCP amendment only if the following provisions of that amendment are modified as shown below. Language from the existing LCP that is not revised other than to move into the proposed new ordinance is shown in straight type. The existing language of the certified Coastal Zoning Ordinance is shown in straight type. The proposed amended language to the certified LCP Implementation Plan is shown in *italics*. Language recommended by Commission staff to be deleted is shown in ~~strikeout~~. Language proposed by Commission staff to be inserted is shown underlined.

1. EXCLUSIONS AND EXEMPTIONS

Section 28.44.070 of the City's Coastal Zone Ordinance amendment shall be modified as follows:

28.44.070 Exclusions and Exemptions.

The following categories of development, through Subsection C, are categorically excluded from the coastal development permit requirements of this Chapter 28.44 pursuant to Categorical Exclusion Order E-86-03 as amended by Categorical Exclusion Order E-06-1 and certified by the California Coastal Commission:

- A. TIME-SHARE CONVERSION EXCLUSION. Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in *Section 11212 of the Business and Professions Code*. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.
- B. VESTED RIGHTS EXCLUSION. Any development which, on the effective date of this subsection, that has a valid approval from the Coastal Commission shall be considered to have a vested right until such time as said approval be made in any such development without prior City approval having been obtained by the developer.
- C. SINGLE FAMILY RESIDENCE EXCLUSIONS.
1. Construction of one (1) single family residence on an existing vacant parcel in the area designated as Non-appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara.
 2. *Demolition and reconstruction of an existing single-family residence in the area designated as Non-appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara. Notwithstanding the exclusion specified in this paragraph, if an application for demolition and reconstruction of an existing single-family residence is submitted for a lot that either: (1) contains a City Landmark or Structure of Merit, (2) contains or is within 100 feet of archeological or paleontological resources, or (2) (3) contains or is within 100 feet of immediately adjacent to an environmentally sensitive habitat area, stream, wetland, marsh, or estuary, regardless of whether such resources are mapped or unmapped, then the application shall require a coastal development permit.*

The following categories of development, through the end of this Section 28.44.070, are exempt from the coastal development permit requirements of this Chapter 28.44 pursuant to Section 30610 of the California Coastal Act and Sections 13250-13253 of Title 14 of the California Administrative Code:

D. SINGLE FAMILY RESIDENCE EXEMPTION

Improvements to existing single-family residences; provided, however, that those improvements which involve a risk of adverse environmental effect ~~or adversely affect public access or result in a change of the intensity of use~~ shall require a coastal development permit, as provided in Section 13250 of Title 14 of the California Administrative Code, as amended from time to time.

E. OTHER CONSTRUCTION EXEMPTION. Improvements to any structure other than a single-family residence or a public works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use contrary to any policy of the Coastal Act; shall require a coastal development permit, as provided in Section 13253 of Title 14 of the California Administrative Code, as amended from time to time.

F. MAINTENANCE OF NAVIGATION CHANNEL EXEMPTION. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

G. REPAIR OR MAINTENANCE EXEMPTION. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact shall require a coastal development permit, as provided in *Section 13252 of Title 14 of the California Administrative Code*, as amended from time to time.

H. UTILITY CONNECTIONS EXEMPTION. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 and this Chapter; provided that the Community Development Director may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

I. REPLACEMENT OF EXISTING STRUCTURES DESTROYED BY NATURAL DISASTER EXEMPTION. *The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this Subsection I, the term:*

1. *"Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.*

2. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
3. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

J. TEMPORARY EVENT EXEMPTION.

1. *Definitions.* For the purposes of this Subsection J, the following words and phrases shall be construed as set forth below:
 - a. *Exclusive Use.* A use that precludes public uses in the area of the temporary event for recreation, beach access or access to coastal waters other than for or through the temporary event itself.
 - b. *Limited Duration.* A period of time that does not exceed a two week period on a continual basis, or does not exceed a consecutive four month period on an intermittent basis.
 - c. *Non-permanent Structure(s).* Include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, booths, platforms, movie/film sets, which do not involve grading or landform alteration for installation.
 - d. *Temporary Event.* An activity or use that constitutes development as defined in Section 30106 of the California Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.
 - e. Coastal Resources. Include but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.
 - f. Sandy Beach Area. Includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.
2. *General Rule.* Except as provided in Paragraph 4 below, ~~E~~every temporary event is excluded from the coastal development permit requirements under this Chapter 28.44, unless the temporary event meets all of the following criteria:
 - a. The event is to be held between Memorial Day weekend and Labor Day, inclusive; and,

- b. *The event occupies all or a portion of a sandy beach area; and,*
 - c. *The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).*
3. *Other Exclusions. The Community Development Director may also exclude a temporary event that satisfies all of the criteria specified in Paragraph 2 above, if:*
- (1) *The fee is for preferred seating only and 75% of the provided seating capacity is available free of charge for general public use; or,*
 - (2) *The event is held on a sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources; or,*
 - (3) *The event is less than one day in duration; or,*
 - (4) *The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for a similar duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.*
4. *Special Circumstances. The Community Development Director, or the Planning Commission or City Council through direction to the Community Development Director, may determine that a temporary event shall require a coastal development permit, even if the criteria specified in Paragraph 2 above are not met, if the Community Development Director determines that unique or changing circumstances exist relative to the particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include, but shall not be limited to, the following:*
- a. *The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;*
 - b. *The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Paragraph 1 above;*
 - c. *The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters;*

d. The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources.

2. EMERGENCY PERMITS

Section 28.44.100 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

28.44.100 ~~Administrative Permit for Emergency Work.~~

The Community Development Director may issue an emergency coastal development permit without compliance with the procedures for the issuance of a coastal development permit specified in this Chapter 28.44 in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code. Where persons or public agencies seek an ~~administrative~~ permit for emergency work pursuant to Section 30624 of the California Public Resources Code or ~~and~~ this Section 28.44.100, the following procedures shall apply:

A. *APPLICATION. Applications for ~~administrative~~ permits for emergency work shall be made to the Community Development Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:*

- 1. The nature of the emergency;*
- 2. The cause of the emergency, insofar as this can be established;*
- 3. The location of the emergency;*
- 4. The remedial, protective, or preventive work required to deal with the emergency;*
- 5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action;*
- 6. The identity of other public agencies alerted to the emergency;*
- 7. Access routes to the emergency; and,*
- 8. Any other information deemed necessary by the Community Development Director.*

B. *VERIFICATION OF EMERGENCY. The Community Development Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.*

C. *CORDINATION AND PUBLIC NOTICE. Prior to issuance of an emergency coastal development permit, when feasible, the Community Development Director shall notify, and coordinate with, the South Central Coast District office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone. The Community Development Director shall provide public notice of the proposed emergency action*

required by Section 30624 of the Public Resources Code Section 13329 of Title 14 of the California Administrative Code, with the extent and type of notice determined on the basis of the nature of the emergency itself.

D. **ISSUANCE.** *The Community Development Director may grant an administrative permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Community Development Director finds that:*

1. *An emergency exists and requires action more quickly than permitted by the procedures for administrative permits or for ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;*
2. *Public comment on the proposed emergency action has been reviewed if time allows;*
3. *The work proposed would be consistent with the requirements of the City's Local Coastal Program and the California Coastal Act of 1976;*
4. *The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency. This finding shall be made with the maximum information and analysis possible given the expedited review demanded by the emergency situation;*
5. *The Community Development Director shall not issue an emergency permit for any work that falls within the provisions of Public Resources Code Section 30519(b) since a coastal development permit application for this type of work must be reviewed by the California Coastal Commission pursuant to provisions of Public Resources Code Section 30519(b) and 30600(d).*

E. **FORMAT OF PERMIT.** *The emergency permit shall be a written document that includes the following information:*

1. *The date of issuance;*
2. *An expiration date;*
3. *The scope of work to be performed;*
4. *Terms and conditions of the permit. The emergency permit may contain conditions for removal of development or structures if they are not authorized in a regular coastal development permit, or the emergency permit may require that a subsequent permit must be obtained to authorize the removal;*
5. *A provision stating that within 90 days of issuance of the emergency permit, a regular coastal development permit application shall be submitted and properly filed consistent with the requirements of this Chapter seeking authorization to retain structures erected pursuant to the original emergency permit, to remove such structures, or some other alternative;*
6. *A provision stating that any development or structures constructed pursuant to an emergency permit shall be considered temporary until authorized by a follow-up regular coastal development permit and that issuance of an emergency coastal development permit shall not constitute an entitlement to the erection of permanent development or structures;*

7. A provision that states that the development authorized in the emergency permit must be removed unless a complete application for a regular coastal development permit is filed within 90 days of approval of the emergency permit. If a regular coastal development permit authorizing permanent retention of the development is denied, then the the development that was authorized in the emergency permit, or the denied portion of the development, must be removed.

E.F. NOTICE TO THE PLANNING COMMISSION.

1. The Community Development Director shall report in writing to the Planning Commission at each meeting the emergency permits applied for or issued since the last report. The report shall contain a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time that application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing. Copies of this report shall also be sent to the South Central Division Office of the Coastal Commission.
2. All emergency permits issued after completion of the agenda for the meeting shall be briefly described by the Community Development Director at the meeting and the written report required by Paragraph 1 above shall be distributed prior to the next succeeding meeting.
- ~~3. Any administrative permit for emergency work issued by the Community Development Director pursuant to the provisions of this Section 28.44.100 shall be scheduled on the agenda of the Planning Commission at its first scheduled meeting after the permit has been issued. If, at that meeting, at least one-third of the members of the Planning Commission present so request, the permit issued by the Community Development Director shall not go into effect and an application for a coastal development permit shall be processed by the City pursuant to Section 30600.5 of the California Public Resources Code and this Chapter.~~
3. The report of the Community Development Director shall be informational only; the decision to issue the emergency permit is solely at the discretion of the Community Development Director.

3. SECONDARY DWELLING UNITS

Subsection C of Section 28.44.110 and Section 28.44.220 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

28.44.110 Authority to Review.

- C. SECONDARY DWELLING UNITS. When a proposed development only involves the addition of a secondary dwelling unit to an existing single family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in

accordance with subdivision (j) of Government Code Section 65852.2. The Staff Hearing Officer shall not issue a decision on the application until at least ten (10) calendar days after notice having been given pursuant to Section 28.44.130. The Staff Hearing Officer may receive written comments regarding the application and consider such written comments during the review of the application, but the Staff Hearing Officer shall not conduct a public hearing on the application. The decision of the Staff Hearing Officer concerning an application for a coastal development permit pursuant to this subsection C shall constitute the final action of the City. In the appealable area, decisions of the Staff Hearing Officer made pursuant to this subsection C may be appealed to the Coastal Commission in accordance with Section 28.44.200. Actions on applications to construct residential second units shall be consistent with the provisions of the applicable zoning district and the policies and development standards of the City of Santa Barbara's certified Local Coastal Program and Chapter 3 of the California Coastal Act. Review of a coastal development permit application for a residential second unit as an addition to an existing single family development shall conform with all procedures and development standards of this Chapter, aside from the requirements to conduct public hearing and local government appeals as described in Sections 28.44.120, 28.44.140, and 28.44.160.

28.44.120 Public Hearing.

At least one public hearing shall be held on each application requiring a coastal development permit, with the exception of applications that only include the addition of a secondary dwelling unit to an existing single family residence pursuant Section 28.44.110(C). The Planning Commission or the Staff Hearing Officer, as designated in Section 28.44.110, shall hold the public hearing regarding the coastal development permit concurrently with any other required public hearing or hearings before the reviewing body for any other applications regarding the proposed development.

4. CONFLICT WITH OTHER PROVISIONS

Section 28.44.030 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

28.44.030 Compliance.

Any person (including the City, any utility, any federal, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Overlay Zone of the City of Santa Barbara shall comply with the provisions of this Chapter 28.44. If there is a conflict between a provision of the City of Santa Barbara Local Coastal Program, including Land Use Plan and Coastal Zoning Ordinance, and a provision of the General Plan, or any other City-adopted plan, resolution, or ordinance not included in the City of Santa Barbara Local Coastal Program, and it is not possible for the proposed development to comply with both the Local Coastal Program and such other plan, resolution or ordinance, the Local Coastal Program shall take precedence and the development shall not be approved unless it complies with the Local Coastal Program provision.

5. DEFINITIONS

Paragraph O. in Section 28.44.040 of the City of Santa Barbara's Coastal Zone Ordinance amendment shall be modified as follows:

O. MAJOR PUBLIC WORKS PROJECT OR MAJOR ENERGY FACILITY.

1. *"Major public works" and "Major energy facilities" mean facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase every year following the baseline of one hundred thousand dollars set in 1983 in accordance with the Engineering News Record Construction Cost Index, except for those facilities governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624.*
2. *Notwithstanding the criteria in Paragraph 1 above, "major public works" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.*

IV. FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE LOCAL COASTAL PROGRAM IF MODIFIED AS SUGGESTED

The following findings support the Commission's denial of the LCP amendment as submitted, and approval of the LCP amendment if modified as indicated in Section III (*Suggested Modifications*) above. The Commission hereby finds and declares as follows:

A. BACKGROUND

The City of Santa Barbara's Land Use Plan (LUP) was approved and certified by the Commission in 1981. The City of Santa Barbara Implementation Plan (Coastal Overlay Zone) was certified subsequently in November 1986 and the City assumed permitting authority at that time. The Implementation Plan included the addition of the S-D-3, Coastal Overlay Zone as a Special District codified in Section 28.45.009 of the City's Zoning Ordinance (to be replaced by Section 28.44 in the proposed amendment as described below). The Implementation Plan submittal also included an appendage, Map A, that defined the appealable and non-appealable areas in the City and the areas of retained permit jurisdiction of the Commission. In 1991, the Commission certified the final version of the "Post-LCP Certification Permit and Appeals Jurisdiction" maps for the City of Santa Barbara. The City of Santa Barbara's Local Coastal Program (LCP) has been amended several times since its original certification.

Section 28.45.009 of the City's Coastal Zoning Ordinance describes the permit, notice, and appeal procedures for coastal development permit issuance within the City. The ordinance also provides for categories of development that are categorically excluded from permit requirements pursuant to Categorical Exclusion Order E-86-3. This categorical exclusion order was approved by the Commission in June 1986 and incorporated into the City's Coastal Overlay Zone/Implementation Plan prior to its certification in November 1986.

Based on the current procedures, the City of Santa Barbara Planning Commission must review and act on all coastal development permits under local jurisdiction. The decisions of the Planning Commission on any locally issued CDP is appealable to the Santa Barbara City Council within ten calendar days of the Planning Commission's decision. Once a final action on a permit is taken by either the Planning Commission or City Council, notice is given to the Commission and interested parties. Those coastal development permits (CDPs) which are approved for development defined as "appealable" under Section 30603(a) of the Coastal Act may then be appealed to the Coastal Commission by certain designated parties.

The City of Santa Barbara submitted the subject amendment to the certified Coastal Zoning Ordinance/Implementation Plan (IP) portion of its certified Local Coastal Program (LCP) to the Commission on February 2, 2006. On February 17, 2006, after receipt of the additional items necessary for a complete amendment application, the LCP amendment application was filed as complete according to the requirements of Coastal Act Section 30510 (b). The Commission, at its April 2006 hearing, extended the statutory 60 day time limit for Commission action on the proposed LCP amendment for a period not to exceed one year pursuant to Coastal Act Section 30517 and California Code of Regulations Section 13535. The new deadline for Commission action is April 18, 2007.

B. AMENDMENT DESCRIPTION

The City of Santa Barbara proposes to amend the Implementation Plan portion of this LCP to remove the certified Coastal Zone Ordinance, Section 28.45.009 of the City's Zoning Ordinance, and replace the ordinance with a new ordinance which describes the S-D-3, Coastal Overlay Zone as a Special District codified in Section 28.44 of the City's Zoning Ordinance. The new Section 28.44 would, therefore, become the implementing ordinance of the City's LCP. The City is not proposing any changes to the LCP maps certified with the Implementation Plan. The new ordinance (Section 28.44) has completely been reformatted from the previous version to make the planning process clearer to applicants and to be more consistent with the wording and language contained in the California Coastal Act and CA Code of Regulations. The proposed and existing ordinances are shown in Exhibits 2 and 3 respectively. Due to the extensive formatting changes proposed by the City, the proposed ordinance is shown in Exhibit 2 without indication of the City's proposed changes in ~~strikeout~~ and underline.

Due to the increasing number and complexity of discretionary projects going before the Planning Commission, and the City's desire to streamline permitting of less controversial projects, the City has proposed in the subject LCP amendment to delegate discretionary permitting authority of certain projects to a Staff Hearing Officer. Additionally, the amendment reformats the ordinance in order to make the ordinance more user friendly. The City has also submitted the subject LCP Amendment to revise and add several categories of exempt development (many of which were formerly certified as Coastal Exclusions). New proposed exemptions include adding the Commission's adopted Temporary Events Guidelines to the Implementing Ordinance. The amendment also proposes to add a secondary dwelling unit category of development, and make small changes to noticing, suspension, and appeal processes. Finally, the amendment incorporates changes made to the categorical exclusion language in the Coastal Zoning Ordinance that is being proposed by Categorical Exclusion Order E-06-1. Categorical Exclusion Order Request E-06-1 has been submitted in conjunction with the subject LCP Amendment and is scheduled for review by the Commission at its March 15, 2007 hearing as Item TH 8a.

The following describes the substantive changes of the subject LCP Amendment:

Definitions

The LCP Amendment changes the definitions in the Coastal Zoning Ordinance to:

- Clarify that appealable development not only includes those areas located on the certified LCP maps, but also those developments that meet the requirements of Section 30603 of the Coastal Act.
- Reword the definition of "Major Public Works Project" or "Major Energy Facility" to be consistent with Section 13012 of the CA Code of Regulations.

Emergency Permits

The LCP Amendment adds provisions in the Coastal Zone Ordinance whereby the Community Development Director of the City may approve an administrative permit for emergency work pursuant to Section 30624 of the Coastal Act. As shown in Exhibit 2, the emergency permit would be reported to the Planning Commission at its next scheduled meeting. If at that meeting at least one-third of the members of the Planning Commission present so request, the emergency permit shall not go into effect. The terms and conditions of all emergency permits would include requirements that the applicant apply for a follow up regular CDP by a "certain date."

Staff Hearing Officer, Suspensions, and Appeals

As mentioned above, the Planning Commission currently reviews, hears, and acts on all City of Santa Barbara coastal development permit applications. The LCP Amendment would delegate review and approval of certain CDPs to a Staff Hearing Officer (SHO). The SHO review and approval would take place in a noticed public hearing. According to proposed Section 28.05 of the City's Zoning Ordinance:

The Staff Hearing Officer means the Community Development Director or his or her designee. For purposes of this Title 28, the Staff Hearing Officer shall

have the authority to investigate, approve, approve with conditions, or deny applications for development as specified in this Title 28. Notwithstanding any provision of this Code designating the Staff Hearing Officer as the reviewing body, if an application requires review by the Planning Commission under any provision of this Code, then all discretionary review of the application shall be conducted by the Planning Commission.

The SHO will review the following projects in both the non-appeal and appeal zones:

- Secondary Dwelling Units
- Commercial Condominiums (up to 3,000 sq. ft.)
- Condominium Conversions (4 units or less)
- Development Plans (small additions of 1,000sq. ft. -3,000sq. ft. where an EIR has not been prepared)
- Lot Line Adjustment (involving 4 lots or less)
- Modifications
- Performance Standard Permits
- Tentative Subdivision Maps (4 lots/units or less outside Hillside Design District, that meet public street frontage requirements, and do not abut or intercept certain creeks)
- Time Extensions for Tentative Subdivision Maps

In addition, the SHO would review some additions to residential projects in the appeals zone (most residential projects in the non-appeal zone would be excluded and exempt pursuant to Categorical Exclusion Order E-06-1 described below). Additions to existing single family residences in the appeal zone would be reviewed by the SHO if they met all of the following criteria:

- Located more than 50 feet away from the edge of a coastal bluff;
- Landward of the sea cliff retreat line;
- One story; and
- Less than 500 square feet of floor area.

The Planning Commission would review CDPs for all other projects and any projects that require any other discretionary actions by the Planning Commission. The Planning Commission or the SHO, will hold at least one public hearing on each application requiring a coastal development permit. The LCP amendment would also amend the suspension and appeals portion of the zoning ordinance to incorporate the ability of the Planning Commission to suspend any decision of the SHO within 10 calendar days of the decision and to schedule a public hearing for the project before the Planning Commission. It also outlines a process by which any applicant or aggrieved person could appeal any decision of the SHO to the Planning Commission within 10 calendar days of the decision. Aside from the suspension and appeals process, the SHO review of a coastal development permit will be the same as for the Planning Commission with regards to public hearing requirements, noticing, findings, time limits, extensions, amendments, etc.

Secondary Dwelling Units

The LCP Amendment amends the Coastal Zoning Ordinance to designate the review of projects that only involve the addition of a secondary dwelling unit to an existing single family residence to the Staff Hearing Officer (SHO) without a public hearing pursuant to Section 65852.2 of the Government Code. The SHO will be able to receive and consider written comments received concerning the second unit projects, but can not conduct a public hearing on the application. The decisions by the SHO on the second unit projects will be the final local action and will be appealable to the Commission if the projects are in the appealable area or meet the definitions of “appealable” pursuant to Section 30603 of the California Coastal Act.

Noticing

The existing Coastal Zone Ordinance includes several different noticing procedures for CDPs in different areas of the coastal zone. The proposed LCP Amendment standardizes noticing for all CDPs consistent with Section 13063 of the CA Code of Regulations. The amendment also allows for additional noticing (newspaper and posting) should the City deem it necessary.

Local Recommendations to California Coastal Commission

The LCP Amendment adds a section to the Coastal Zone Ordinance that delineates the process of review for a local recommendation (i.e. “approval in concept”) to the state on projects that require state approvals, including projects within the retained permit jurisdiction of the Commission. The review for a recommendation would be conducted by the Planning Commission, the SHO, or the Community Development Department depending on whether the project requires other discretionary or ministerial review by these entities. A public hearing would be held for any review conducted by the Planning Commission and SHO.

Exclusions and Exemptions

In June 1986 the Commission approved with conditions Categorical Exclusion Order E-86-3 for the City of Santa Barbara. The language of the categorical exclusion order was incorporated into the City’s LCP and S-D-3 Coastal Overlay Zone prior to certification in November 1986. The order excluded several types of development from the requirement to obtain a coastal development permit, including:

- i. Conversion of any existing multiple-unit residential structure to a time share project, estate, or use and associated improvements;
- ii. Vested development;
- iii. Construction of a single family residence on an existing vacant parcel in the City’s non-appeal zone;
- iv. Additions to single family residences in the City’s non-appeal zone.

The 1986 Categorical Exclusion Order also included several exclusions for categories of development already considered exempt from coastal permitting requirements under Section 30610 of the Coastal Act and Sections 13250-13253 of the California Code of Regulations including:

- v. Improvements to single family residences in the appeal zone pursuant to Administrative Code 13250;
- vi. Improvements to other structures pursuant to Administrative Code 13253;
- vii. Maintenance of navigation channels pursuant to Section 30610 (c) of the Coastal Act ;
- viii. Repair and maintenance pursuant to Administrative Code 13252;
- ix. Utility connections pursuant to Section 30610 (f) of the Coastal Act; and
- x. Replacement of an existing structure destroyed by a natural disaster pursuant to Section 30610 (g) of the Coastal Act.

The City has requested a new categorical exclusion order E-06-1 that would amend the 1986 Categorical Exclusion Order E-86-03 to:

- Add a new exclusion for demolition and reconstruction of an existing single family residence in the non-appeal area. Residences designated a City Landmark or Structure of Merit_or within 100 feet of ESHA are not excluded.
- Remove exclusion for any additions to single family residences in the non-appeal zone
- Removal of all categories of development already considered exempt from coastal permitting requirements under Section 30610 of the Coastal Act and Sections 13250-13253 of the California Code of Regulations (items v – x above).

Categorical Exclusion Order E-06-1 has been submitted to the Commission in conjunction with the subject LCP Amendment and is scheduled for review by the Commission at its March 15, 2007 hearing. The subject LCP Amendment incorporates the changes proposed in Categorical Exclusion Order E-06-1 into the language of the City of Santa Barbara Coastal Zoning Ordinance/Implementation Plan. The Commission staff are recommending approval of Categorical Exclusion Order E-06-1 with several special conditions, as can be seen in the Staff Report for this item dated February 22, 2007. Recommended Special Condition One (1) for the approval of E-06-1 modifies the language of the proposed exclusion for demolition and reconstruction of existing single family residences in the non-appeal zone. **Suggested Modification One (1)**, therefore, incorporates the modifications proposed by Commission Staff to the Single Family Residence Exclusions (Section 28.44.070(c) that are included as Special Condition One (1) for Categorical Exclusion Order E-06-1.

In addition to incorporating the conditioned language of Categorical Exclusion Order E-06-1, the amendment also adds to the Coastal Zoning Ordinance “exemptions” for five of the categories of development already considered exempt from coastal permitting requirements under Section 30610 of the Coastal Act and Sections 13250-13253 of the California Code of Regulations (items vi – x above) that were originally included as “exclusions” in the previous zoning ordinance. The Amendment also distinguishes between the “exclusions” approved pursuant to Categorical Exclusion Order E-86-3 and pending Categorical Exclusion Order E-06-1, for which the City is required to follow

specific noticing procedures to the Commission and interested parties, and “exemptions” for which the City is not required to give the Coastal Commission notice.

The LCP amendment also adds three new exemptions from coastal permitting requirements for improvements to single family residences and replacement of existing structures destroyed by natural disaster that mirror and/or cite the language of Section 13250 of the CA Code of Regulations and Section 30610(g) of the Coastal Act respectively. The Amendment also adds an exemption for temporary events consistent with the Temporary Events Guidelines adopted by the Coastal Commission.

C. CONSISTENCY ANALYSIS

New Development/Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act, which are incorporated into the City’s LUP as Policy 1.1, address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Policy 5.3 of the City of Santa Barbara LUP states:

New development in and/or adjacent to existing residential neighborhoods must be compatible in terms of scale, size, and design with the prevailing character of the established neighborhood. New development which would

result in an overburdening of public circulation and/or on-street parking resources of existing residential neighborhoods shall not be permitted.

Pursuant to Coastal Act Sections 30250 and 30252 and Policy 5.3 of the City's LUP cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site with a primary residence intensifies the use of any given parcel or neighborhood. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. Past Commission action has consistently found that both second units and guesthouses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and policies and standards within the City's Local Coastal Program and zoning ordinance have been required to limit the size, number, and design of such units to ensure consistency with the City's LUP and the Chapter 3 policies of the Coastal Act.

The City of Santa Barbara proposes to amend the City's Coastal Zoning Ordinance and Implementation Plan to designate the review of projects that only involve the addition of a secondary dwelling unit to an existing single family residence to a staff hearing officer without a public hearing. The SHO would be able to receive and consider written comments received concerning the project, but could not conduct a public hearing on the application. The decision by the SHO on the project would be the final local action and would be appealable to the Commission if the project is in the appealable area of the City's coastal zone.

Signed by former Governor Davis on September 29, 2002, AB 1866 added three new provisions to Section 65852.2 of the Government Code that are particularly significant for the purposes of reviewing proposed second units in residential zones within the coastal zone. The law now:

- 1) Requires local governments that adopt second unit ordinances to consider second unit applications received on or after July 1, 2003 "ministerially without discretionary review or a hearing." (Government Code Section 65852.2(a)(3))
- 2) Requires local governments that have not adopted second unit ordinances to "approve or disapprove the [second unit] application ministerially without discretionary review." (Government Code Section 65852.2(b)(1))
- 3) Specifies that "nothing in [Section 65852.2] shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act ... except that the local government shall not be required to hold public hearings for coastal development permit applications for second units." (Government Code Section 65852.2(j))

Thus, AB 1866 significantly changes one component of local government procedures regarding coastal development permits for second units in residential zones (public hearings), but does not change the substantive standards that apply to coastal development permits for such second units.

Pursuant to AB 1866, local governments can no longer hold public hearings regarding second units in residential zones. This prohibition applies both to initial local review and any subsequent local appeals that may be allowed by the LCP. The restriction on public hearings, however, does not apply to the Coastal Commission itself. The Commission can continue to conduct public hearings on proposed second units located in areas where the Commission retains permitting jurisdiction and when locally approved coastal development permits are appealed to the Commission.

AB 1866 does not change any other procedures or the development standards that apply to second units in residential zones located within the coastal zone. Rather, it clarifies that all requirements of the Coastal Act apply to second units, aside from requirements to conduct public hearings. Thus, for example, public notice must be provided when second unit applications are filed and members of the public must be given an opportunity to submit comments regarding the proposed development. When a second unit application is appealable, local governments must still file a final local action notice with the Commission and inform interested persons of the procedures for appealing the final local action to the Commission. In addition, all development standards specified in the certified LCP and, where applicable, Chapter 3 of the Coastal Act apply to such second units.

The proposed LCP Amendment changes the procedures by which applications for secondary dwelling units on lots containing existing single family residences are reviewed by eliminating the provisions for a required public hearing on the project. The amendment, however, does not change the requirement that the application for CDP for secondary dwelling unit meet all provisions and development guidelines outlined in the City's LCP and Chapter 3 of the Coastal Act, which is incorporated into the LCP as Policy 1.1. **Suggested Modification Three (3)**, therefore, modifies Section 28.44.110 (C) of the Coastal Zoning Ordinance to make it clear that residential second units shall be consistent with the policies and development standards of the LCP and that review of the CDP applications for said development shall conform with all procedures of the Coastal Zoning Ordinance, except those that pertain to public hearings and local government appeals (Sections 28.44.120, 27.44.140, and 28.44.160). **Suggested Modification Three (3)** also modifies Section 28.44.120 Public Hearing of the Coastal Zoning Ordinance to clarify that at least one public hearing shall be held of each coastal development permit application, except those applications that only deal with the addition of a secondary dwelling unit to an existing single family residence.

As described above, the LCP amendment, as modified, is consistent with Policy 5.3 of the LUP and Section 30250 and 30252 of the Coastal Act as incorporated into the LCP as Policy 1.1.

Public Access, ESHA, and Other Coastal Resources

The certified LUP contains policies and provisions for new development, protection of visual resources, environmentally sensitive habitat, water quality, and public access and recreation, and other policies and provisions to protect coastal resources. In addition, all

Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified City LUP as guiding policies pursuant to Policy 1-1 of the LUP. The existing Coastal Zoning Ordinance/Implementation Plan certified for the City of Santa Barbara describes the permit, notice, and appeal procedures for implementing the LUP and review and issuance of coastal development permits within the City. The Coastal Zoning Ordinance, on several occasions, refers to or mimics the language contained in Sections 13001-13666 of Title 14 of the CA Code of Regulations (“the regulations”) that pertains to the issuance of coastal development permits by local governments.

The City of Santa Barbara proposes to amend the City’s Coastal Zoning Ordinance to: 1) restructure sections to improve usability; 2) incorporate use of a Staff Hearing Officer to review certain CDPs 3) standardize noticing requirements; 4) revise review and appeals procedures for secondary dwelling units; 5) revise the suspension and appeals process; 6) add provisions for issuance of emergency permits; and 7) add and revise coastal exclusion and exemption categories.

The newly proposed procedures for noticing, suspensions, and appeals of coastal development permits either meet or exceed those requirements for these procedures outlined in the California Coastal Act and Title 14 of the CA Code of Regulations. In addition, the creation of a Staff Hearing Officer who will review certain coastal development permits would still conform to the noticing and appeals process for CDPs required pursuant to the Coastal Act. The SHO will still also ensure that at least one public hearing be conducted for all coastal development permit applications, except those applications for secondary dwelling units as discussed above. The Commission, in past actions, has allowed several local governments to allow zoning administrators and other officials to review coastal development permits as long as the procedures for this review meet the hearing, noticing, and appeals procedures required by the Coastal Act. The LCP Amendment does, however, include two new sections pertaining to Temporary Events and Emergency Permits that are not consistent with those standards and policies typically required by the Commission to satisfy the requirements of the Coastal Act. These two sections are discussed in detail below. Two other portions of the Amendment do not include the exact language of the CA Code of Regulations as interpreted by the Commission. **Special Conditions Four (4) and Five (5)** clarify the use and intent of the definition of Major Public Works and the standards of approval of coastal development permits. The City is in agreement with these modifications that clarify the use of the proposed amended ordinance.

Temporary Events

The City proposes to add a section to the Coastal Zone Ordinance that would exempt certain temporary events from the requirement to obtain a coastal development permit. Temporary events, such as volleyball tournaments, visual arts and music festivals, surfing contests, boat and auto races, and farmers markets, have a long-standing tradition and history in California’s coastal communities. The nature and frequency of such events, their impact on coastal resources and nearby residential neighborhoods, and the general public’s ability to get to and utilize coastal recreational lands during

such events has been a subject of substantial concern to the Commission, as well as to local governments.

The City's Land Use Plan, which incorporates the provisions of the Coastal Act as Policy 1.1, includes several policies that deal with potential impacts on parking and traffic affecting public beach access, visual resources and amenities, the recreational and free use of public beaches, impacts on environmentally sensitive habitat and water quality, and the cumulative affects of multiple events, especially during the high-use summer season. While some temporary events raise substantial concerns with regard to adverse impacts on coastal resources, most events of this type are de minimis and raise no such concerns. In order to minimize permitting burdens on the Commission and local governments for the vast majority of temporary events that do not raise Coastal Act concerns the Commission adopted the "Guidelines for the Exclusion of Temporary Events from Coastal Commission Coastal Development Permit Review." The most recent version of the "Temporary Event Guidelines" was officially adopted by the Commission in May 1993. The Guidelines were provided to all local governments within the Coastal Zone.

The City's proposed language to be added to Section 28.44.070(J), Temporary Event Exemption, generally mirrors the language of the Commission's 1993 Temporary Event Guidelines, with the exception of two sections. The City's ordinance does not include definitions of "coastal resources" and "sandy beach area" that are included in the Guidelines. The Commission finds that in order for the Temporary Event Exemption to be interpreted and implemented correctly, it is necessary to clarify what is meant by these specific terms that are used in the ordinance, but not currently defined. **Suggested Modification One (1)** therefore, incorporates the definition of these terms outlined in the Commission's Temporary Event Guidelines into the City's Coastal Zoning Ordinance as it pertains to temporary events.

Additionally, the City's proposed Temporary Event Exemption includes a provision that the Community Development Director of the City may determine that a temporary event shall require a CDP even if the event would otherwise be considered exempt. In this case the Community Development Director must determine that the event may have the potential to cause significant adverse impacts on coastal resources. The Commission's Temporary Event Guidelines contain the same provision, but go on to detail particular situations that would meet this definition and require a permit. The situations outlined in the Guidelines include events that may cumulatively preclude the use of a public area for recreational use for a significant amount of time; activities that could impact sensitive habitat areas, scenic resources, and rare and endangered species; events that would significantly impact public use or access to coastal waters between Memorial Day weekend and Labor Day; or events that have historically required a coastal development permit to address impacts to coastal resources. In order for the City's Temporary Event Exemption to be interpreted correctly and to substantially protect coastal resources including public access, scenic resources, and environmentally sensitive habitat, the Commission requires **Suggested Modification One (1)**. Suggested Modification One (1) modifies the proposed Temporary Event Exemption to

include the specific language and examples included in the Commission's 1993 Temporary Event Guidelines.

Emergency Permits

The LCP Amendment adds provisions in the Coastal Zone Ordinance whereby the Community Development Director of the City may approve an administrative permit for emergency work pursuant to Section 30624 of the Coastal Act. As shown in Exhibit 2 the emergency permit will be reported to the Planning Commission at its next scheduled meeting. If at that meeting at least one-third of the members of the Planning Commission present so request, the emergency permit will not go into effect. The Amendment describes in detail the process for application, verification of emergency, public notice, issuance, and actions of the Community Development Director and the Planning Commission on emergency permits. However, the Amendment does not include: 1) any provisions for coordination with or noticing of the Coastal Commission of the emergency permits; 2) requirements for an analysis by the Community Development Director of alternatives to the work proposed that might be less environmentally damaging; or 3) details as to the exact content and format of the permit.

Section 30624 of the Coastal Act provides a framework whereby the Commission and local governments may issue temporary coastal development permits in cases of emergency. Sections 13136-13144 of the CA Code of Regulations outline the process by which the Commission may implement Section 30624 and issue emergency permits. These regulations serve as guidance for local governments who wish to implement the provisions for issuing emergency permits contained in Section 30624. In past permitting actions, the Commission has reviewed and approved several LCPs that have incorporated provisions for issuing emergency permits that mirror the language in the CA Code of Regulations. The Commission, in its approval of the City of Malibu LCP and other LCPs, has consistently required specific language in the LCP that requires the local government to: 1) coordinate with Commission Staff; 2) make specific findings with regard to alternatives to the emergency work; 3) make findings that the emergency work is consistent with the LCP and Coastal Act; 4) include terms and conditions to the permit to ensure that the emergency permit is considered temporary and that a follow up application for a regular coastal development permit be filed for the permanent retention of any emergency work. **Suggested Modification Two (2)**, therefore, modifies Section 28.44.100 of the Coastal Zone Ordinance to add these procedures, deadlines, and requirements for issuance of an emergency permit. The Commission notes, that pursuant to this suggested modification, the emergency permit procedures provided by the City's Coastal Zoning Ordinance would be consistent with: 1) Section 30624 of the Coastal Act; 2) Sections 13136-13144 of the CA Code of Regulations; and 3) with similar provisions for the issuance of emergency permits that have been incorporated into other certified LCPs, including the provisions of the City of Malibu LCP. Suggested Modification 2 also eliminates the term "administrative" from preceding "emergency" permit in order to be consistent with Section 30624 and the Code of Regulations.

The LCP Amendment submitted by the City includes provisions for all Emergency Permit to be scheduled at the next available Planning Commission meeting. According to the City's originally proposed language, the Planning Commission would be able to revoke the Community Development Director's decision on the Emergency Permit if at least one third of the members of the Planning Commission voted for the revocation. The emergency permits issued by the Commission typically are not revocable by the Commission, although the required follow up regular permits to retain the development allowed in the Emergency Permit are subject to discretionary authority of the Commission. Commission staff expressed concerns to the City of Santa Barbara that the proposed revocation process for emergency permits in the LCP Amendment was very general and did not explain when the actual effective date of the emergency permit would be and what would occur if emergency development had already occurred, but the emergency permit was revoked by the Planning Commission. City staff responded that they had misinterpreted Section 30624(C) of the Coastal Act to mean that issuance of emergency permits by local governments required a process whereby the permit could be revoked by the Planning Commission. In actuality, Section 30624(C) refers to procedures required for local government issuance of administrative non-emergency permits, not emergency permits. City staff have stated that it was not the City's intention to create emergency permitting procedures different than that required for the Commission. The City has, therefore, asked Commission staff to modify Section 28.44.100 of the proposed Coastal Zone Ordinance Amendment to remove Paragraph 3 of Subsection F that explains the revocation process and replace this paragraph with a new section clarifying that the issuance of emergency permits is solely at the discretion of the Community Development Director. **Suggested Modification Two (2)**, therefore, incorporates these changes into the Emergency Permit provisions, which staff has found to be consistent with the requirements of the City's LUP and Chapter 3 of the Coastal Act.

For the reasons states above, the commission finds that the proposed CZO/IP amendment, as modified, is consistent with and adequate to carry out the provisions of the City of Santa Barbara LUP with respect to the protection of public access, environmentally sensitive habitat, and other coastal resources and Chapter Three of the Coastal Act.

V. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...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."

The proposed amendment is to the City of Santa Barbara's certified Local Coastal Program Implementation Ordinance. The Commission originally certified the City of Santa Barbara's Local Coastal Program Land Use Plan and Implementation Ordinance in 1981 and 1986, respectively. For the reasons discussed in this report, the LCP amendment, as submitted is inconsistent with the intent of the applicable policies of the Coastal Act and the certified Land Use Plan and feasible alternatives are available which would lessen any significant adverse effect which the approval would have on the environment. The Commission has, therefore, modified the proposed LCP amendment to include such feasible measures adequate to ensure that such environmental impacts of new development are minimized. As discussed in the preceding section, the Commission's suggested modifications bring the proposed amendment into conformity with the certified Land Use Plan and Chapter Three of the Coastal Act as incorporated into the Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA and the Land Use Plan.

PROPOSED CITY OF SANTA BARBARA COASTAL ZONE ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA DELETING SECTION 28.45.009 OF THE SANTA BARBARA MUNICIPAL CODE IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 28.44 OF TITLE 28 OF THE SANTA BARBARA MUNICIPAL CODE AMENDING THE PROVISIONS OF THE COASTAL OVERLAY ZONE.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 28.45.009 of Chapter 28.45 of Title 28 of the Santa Barbara Municipal Code is hereby deleted in its entirety.

SECTION 2. Chapter 28.44 of Title 28 is adopted to read as follows:

28.44.010 Legislative Intent.

The Coastal Overlay Zone is established for the purpose of implementing the Coastal Act of 1976 (Division 20 of the California Public Resources Code) and to insure that all public and private development in the Coastal Zone of the City of Santa Barbara is consistent with the City's Certified Local Coastal Program and the Coastal Act.

28.44.020 Location.

The S-D-3 Zone is applied to the "Coastal Zone" which is defined as generally all of the land 1,000 yards from the mean high tide line as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the City of Santa Barbara (including the Santa Barbara Municipal Airport and Goleta).

**City of Santa
Barbara LCP
Amendment 06-1**

Exhibit 1

**Proposed Coastal
Zone Ordinance**

28.44.030 Compliance.

Any person (including the City, any utility, any federal, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Overlay Zone of the City of Santa Barbara shall comply with the provisions of this Chapter 28.44.

28.44.040 Definitions.

For the purposes of this Chapter 28.44, the following words and phrases shall be construed as set forth below in this Section 28.44.040 unless it is apparent from the context that a different meaning is intended:

A. ACCESS.

1. Lateral. An area of land providing public access along the water's edge.

2. Vertical. An area of land providing a connection between the first public road or use area nearest the sea and the publicly owned tidelands or established lateral access way.

B. AGGRIEVED PERSON. Any person who, in person or through a representative, appeared at a public hearing of the City in connection with the decision or action appealed, or who, by other appropriate means prior to the hearing, informed the City of the nature of his concerns or who for good cause was unable to do either.

C. APPEALABLE DEVELOPMENT.

1. Developments approved by the City between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

2. Developments approved by the City not included within Paragraph 1 above located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

3. Developments approved by the City not included within Paragraphs 1 or 2 above that are located in a sensitive coastal resource area.

4. Any development which constitutes a major public works project or a major energy facility.

The Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5).

D. APPLICANT. The person, partnership, corporation or state or local government agency applying for a coastal development permit.

E. COASTAL COMMISSION. California Coastal Commission.

F. COASTAL DEVELOPMENT PERMIT. A permit for any development

within the coastal zone that is required pursuant to subdivision (a) of Section 30600 of the California Public Resources Code and issued by the City in accordance with the provisions of this Section.

G. COASTAL ZONE. That land and water area of the City of Santa Barbara extending seaward to the State's outer limit of jurisdiction and extending inland to the boundary shown on the official Zoning Maps for the S-D-3 Coastal Overlay Zone, as amended from time to time and adopted by the Coastal Commission.

H. DEVELOPMENT. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

I. ENERGY FACILITY. Any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other source of energy.

J. ENVIRONMENTALLY SENSITIVE AREA. Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

K. FEASIBLE. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

L. FILL. Earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

M. LAND USE PLAN. Maps and a text which indicate the kinds, location and intensity of land uses allowed in the Coastal Zone and includes resources protection and development policies related to those uses.

N. LOCAL COASTAL PROGRAM. The City's land use plan, zoning ordinances, zoning maps and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

O. MAJOR PUBLIC WORKS PROJECT OR MAJOR ENERGY FACILITY.

1. "Major public works" and "Major energy facilities" mean facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those facilities governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624.

2. Notwithstanding the criteria in Paragraph 1 above, "major public works" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

P. NATURAL DISASTER. Any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owner.

Q. OCEAN-DEPENDENT DEVELOPMENT OR USE. Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

R. OCEAN-RELATED DEVELOPMENT OR USE. Any development or use which is dependent on an ocean-dependent development or use.

S. OTHER PERMITS AND APPROVALS. Permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

T. PERSON. Any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility, and any federal, state, local government or special district or an agency thereof.

U. PUBLIC WORKS PROJECT. Any of the following development shall constitute a public works project:

1. All production, storage, transmission and recovery facilities for water, sewage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

2. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.

3. All publicly financed recreational facilities, all projects of the State Coastal Conservancy and any development by a special district.

4. All community college facilities.

V. SEA. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

W. STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

X. VISITOR-SERVING DEVELOPMENT OR USE. Stores, shops, businesses, temporary lodging and recreational facilities (both public and private) which provide accommodations, food and services for the traveling public; including, but not limited to, hotels, motels, campgrounds, parks, nature preserves, restaurants, specialty shops, art galleries and commercial recreational development such as shopping, eating and amusement areas.

Y. WETLAND. Lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats

and fens.

Z. WORKING DAY. Any day on which all City offices are open for business.

28.44.050 Application for Development.

A. APPLICATION. Except for development involving emergency work subject to the provisions of Section 28.44.100, an application for a coastal development permit shall be submitted prior to the commencement of any development within the Coastal Zone. The application for the coastal development permit shall be filed prior to or concurrent with other necessary City permits or approvals for said development. Such application shall be submitted to the Community Development Department and shall be accompanied by such filing fee as established by the City Council. The Community Development Department shall provide a written handout explaining the requirements for a completed coastal development application. The Community Development Department shall take the following actions.

1. Determine if the proposed project requires a coastal development permit and, if so, determine the category of permit for the project in accordance with this Chapter.

2. File the application and provide notice of action on the application in accordance with this Chapter.

3. For those projects requiring a public hearing, prepare and transmit a staff report and recommendation regarding the application to the Planning Commission or Staff Hearing Officer.

B. DETERMINATION OF APPLICABLE NOTICE AND HEARING PROCEDURES.

The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the Community Development Department at the time the application for the coastal development permit is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning laws which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or a Community Development Department has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

1. The Community Development Department shall make its determination as to what type of development is being proposed (i.e. categorically excluded, non-appealable or appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.

2. If the determination of the Community Development Department is challenged by the applicant or an interested person, or if the City wishes to have a Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an opinion from the Executive Director of the Coastal Commission.

3. The Executive Director shall, within two (2) working days of the City's request (or upon completion of a site inspection where such inspection is warranted), transmit the determination as to whether the development is categorically excluded, non-appealable or appealable.

4. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the City determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Coastal Commission shall schedule the hearing on the determination for the next meeting (in the appropriate geographic region of the state) following the City's request.

28.44.060 Permit Required.

In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the coastal zone of the City, unless the development involves emergency work subject to the provisions of Section 28.44.100, or the development is subject to one of the exclusions or exemptions specified in Section 28.44.070.

28.44.070 Exclusions and Exemptions.

The following categories of development are categorically excluded from the coastal development permit requirements of this Chapter 28.44:

A. **TIME-SHARE CONVERSION EXCLUSION.** Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

B. **VESTED RIGHTS EXCLUSION.** Any development which, on the effective date of this subsection, has a valid approval from the Coastal Commission shall be considered to have a vested right until such time as said approval be made in any such development without prior City approval having been obtained by the developer.

C. **SINGLE FAMILY RESIDENCE EXCLUSION.**

1. Construction of one (1) single family residence on an existing vacant parcel in the area designated as Non-appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara.

2. Demolition and reconstruction of an existing single-family residence in the area designated as Non-appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara. Notwithstanding the exclusion

specified in this paragraph, if an application for demolition and reconstruction of an existing single-family residence is submitted for a lot that either: (1) contains a City Landmark or Structure of Merit or (2) contains or is immediately adjacent to an environmentally sensitive habitat area, then the application shall require a coastal development permit.

D. SINGLE FAMILY RESIDENCE EXEMPTIONS. Improvements to existing single-family residences; provided, however, that those improvements which involve a risk of adverse environmental effect or adversely affect public access or result in a change of the intensity of use shall require a coastal development permit, as provided in Section 13250 of Title 14 of the California Administrative Code, as amended from time to time.

E. OTHER CONSTRUCTION EXEMPTION. Improvements to any structure other than a single-family residence or a public works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use contrary to any policy of the Coastal Act; shall require a coastal development permit, as provided in Section 13253 of Title 14 of the California Administrative Code, as amended from time to time.

F. MAINTENANCE OF NAVIGATION CHANNEL EXEMPTION. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

G. REPAIR OR MAINTENANCE EXEMPTION. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact shall require a coastal development permit, as provided in Section 13252 of Title 14 of the California Administrative Code, as amended from time to time.

H. UTILITY CONNECTIONS EXEMPTION. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 and this Chapter; provided that the Community Development Director may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

I. REPLACEMENT OF EXISTING STRUCTURES DESTROYED BY NATURAL DISASTER EXEMPTION. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this Subsection I, the term:

1. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
2. "Bulk" means total interior cubic volume as measured from the exterior

surface of the structure.

3. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

J. TEMPORARY EVENT EXEMPTION.

1. Definitions. For the purposes of this Subsection J, the following words and phrases shall be construed as set forth below:

a. Exclusive Use. A use that precludes public uses in the area of the temporary event for recreation, beach access or access to coastal waters other than for or through the temporary event itself.

b. Limited Duration. A period of time that does not exceed a two week period on a continual basis, or does not exceed a consecutive four month period on an intermittent basis.

c. Non-permanent Structure(s). Include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, booths, platforms, movie/film sets, which do not involve grading or landform alteration for installation.

d. Temporary Event. An activity or use that constitutes development as defined in Section 30106 of the California Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.

2. General Rule. Every temporary event is excluded from the coastal development permit requirements under this Chapter 28.44, unless the temporary event meets all of the following criteria:

a. The event is to be held between Memorial Day weekend and Labor Day; and,

b. The event occupies all or a portion of a sandy beach area; and,

c. The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

3. Other Exclusions. The Community Development Director may also exclude a temporary event that satisfies all of the criteria specified in Paragraph 2 above, if:

(1) The fee is for preferred seating only and 75% of the provided seating capacity is available free of charge for general public use; or,

(2) The event is held on a sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources; or,

(3) The event is less than one day in duration; or,

(4) The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for a similar duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.

4. Special Circumstances. The Community Development Director may

determine that a temporary event shall require a coastal development permit, even if the criteria specified in Paragraph 2 above are not met, if the Community Development Director determines that unique or changing circumstances exist relative to the particular temporary event that have the potential for significant adverse impacts on coastal resources.

28.44.080. Record of Categorical Exclusion Determinations.

The Community Development Department shall maintain a record of all determinations made which shall be made available to the Coastal Commission or any interested person upon request. This record must include the applicant's name, the location of the project, a brief description of the project, the site plan, the date upon which the determination was made, and all terms and conditions imposed by the City in granting its approval. Notice of each exclusion determination shall be made to the Coastal Commission within five (5) working days of the determination by the Community Development Department. The City is not required to give the Coastal Commission notice of exemption determinations.

28.44.090 [Reserved]

28.44.100 Administrative Permit for Emergency Work.

The Community Development Director may issue a coastal development without compliance with the procedures for the issuance of a coastal development permit specified in this Chapter 28.44 in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code. Where persons or public agencies seek an administrative permit for emergency work pursuant to Section 30624 of the California Public Resources Code and this Section 28.44.100, the following procedures shall apply:

A. APPLICATION. Applications for administrative permits for emergency work shall be made to the Community Development Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:

1. The nature of the emergency;
2. The cause of the emergency, insofar as this can be established;
3. The location of the emergency;
4. The remedial, protective, or preventive work required to deal with the emergency;
5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action;
6. The identity of other public agencies alerted to the emergency;
7. Access routes to the emergency; and,

8. Any other information deemed necessary by the Community Development Director.

B. VERIFICATION OF EMERGENCY. The Community Development Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.

C. PUBLIC NOTICE. The Community Development Director shall provide public notice of the proposed emergency action required by Section 30624 of the Public Resources Code, with the extent and type of notice determined on the basis of the nature of the emergency itself.

D. ISSUANCE. The Community Development Director may grant an administrative permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Community Development Director finds that:

1. An emergency exists and requires action more quickly than permitted by the procedures for administrative permits or for ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;

2. Public comment on the proposed emergency action has been reviewed if time allows;

3. The work proposed would be consistent with the requirements of the City's Local Coastal Program and the California Coastal Act of 1976.

E. NOTICE TO THE PLANNING COMMISSION. Any administrative permit for emergency work issued by the Community Development Director pursuant to the provisions of this Section 28.44.100 shall be scheduled on the agenda of the Planning Commission at its first scheduled meeting after the permit has been issued. If, at that meeting, at least one-third of the members of the Planning Commission present so request, the permit issued by the Community Development Director shall not go into effect and an application for a coastal development permit shall be processed by the City pursuant to Section 30600.5 of the California Public Resources Code and this Chapter.

28.44.110 AUTHORITY TO REVIEW.

Where a coastal development permit is required pursuant to Section 28.44.060, the authority to review an application for a coastal development permit is designated as follows:

A. APPEALABLE DEVELOPMENT.

1. Planning Commission. The Planning Commission shall review all applications for coastal development permits for proposed development in the appealable area unless authority is granted to the Staff Hearing Officer pursuant to Paragraph 2 below.

2. Staff Hearing Officer. The Staff Hearing Officer shall review applications for coastal development permits for development proposed in the appealable area when:

a. The proposed development requires another discretionary action by the Staff Hearing Officer under any other provision of this Code; or

b. The proposed development involves single family residential development unless the proposed development:

- (1) is located less than 50 feet from the edge of any coastal bluff or the inland extent of any beach; or
- (2) is located seaward of the seacliff retreat line as defined in the City of Santa Barbara Coastal Plan; or
- (3) involves an improvement that increases the internal floor area of any structure by more than 500 square feet; or
- (4) involves a second story improvement; or
- (5) requires a discretionary action by the Planning Commission under another provision of this Code.

B. NON-APPEALABLE DEVELOPMENT.

1. Planning Commission. The Planning Commission shall review applications for coastal development permits for development proposed in the non-appealable area when the proposed development requires another discretionary action by the Planning Commission under any other provision of this Code.

2. Staff Hearing Officer. The Staff Hearing Officer shall review applications for coastal development permits for development proposed in the non-appealable area when the proposed development does not require another discretionary action by the Planning Commission under another provision of this Code.

C. SECONDARY DWELLING UNITS. When a proposed development only involves the addition of a secondary dwelling unit to an existing single family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in accordance with subdivision (j) of Government Code Section 65852.2. The Staff Hearing Officer shall not issue a decision on the application until at least ten (10) calendar days after notice having been given pursuant to Section 28.44.130. The Staff Hearing Officer may receive written comments regarding the application and consider such written comments during the review of the application, but the Staff Hearing Officer shall not conduct a public hearing on the application. The decision of the Staff Hearing Officer concerning an application for a coastal development permit pursuant to this subsection C shall constitute the final action of the City. In the appealable area, decisions of the Staff Hearing Officer made pursuant to this subsection C may be appealed to the Coastal Commission in accordance with Section 28.44.200.

28.44.120 Public Hearing.

At least one public hearing shall be held on each application requiring a coastal development permit. The Planning Commission or the Staff Hearing Officer, as designated in Section 28.44.110, shall hold the public hearing regarding the coastal development permit concurrently with any other required public hearing or hearings before the reviewing body for any other applications regarding the proposed development.

28.44.130 Notice.

A. TIMING AND METHOD. At least ten (10) days prior to the public hearing on the application for a coastal development permit, the Community Development Department shall provide written notice of the public hearing in the following manner:

1. Notice shall be published in a newspaper of general circulation in the City;
2. Notice shall be sent by first class mail to any person who has filed a written request therefore;
3. Notice shall be sent by first class mail to property owners within 300 feet of the exterior boundary of the project parcel;
4. Notice shall be sent by first class mail to occupants of residences, including apartments, on or within 100 feet of the affected parcel;
5. Notice shall be sent by first class mail to the Coastal Commission; and
6. In addition to the required methods of notice above, the Community Development Department may provide for supplemental noticing methods including, but not limited to, posted notice on the project site. However, the failure to receive notice pursuant to any supplemental noticing method shall not constitute a basis for invalidating any action taken on the coastal development permit application.

B. CONTENT. The written notice of the public hearing shall contain all of the following information:

1. A statement that the development is within the coastal zone;
2. The date of filing of the application and the name of the applicant;
3. The permit number assigned to the application;
4. A description of the development and its proposed location;
5. The date, time and place at which the application will be heard by the Planning Commission or the Staff Hearing Officer;
6. A brief description of the general procedure of the Planning Commission or the Staff Hearing Officer concerning the conduct of hearings, submission of public comment either in writing or orally, and local action; and
7. The system for City and Coastal Commission appeals.

28.44.140 Notice when Hearing is Continued.

If a public hearing regarding an application for a coastal development permit is continued by the Planning Commission or the Staff Hearing Officer to a date which is neither (1) previously stated in the notice provided pursuant to Section 28.44.130, nor (2) announced at the public hearing as being continued to a date certain, the Community Development Department shall provide notice of the continued hearing in the same manner, and within the same time limits as established in Section 28.44.130.

28.44.150 Findings.

In order to approve a coastal development permit, all of the following findings shall be made:

- A. The project is consistent with the policies of the California Coastal Act; and
- B. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.

28.44.160 Suspensions and Appeals.

A. FROM THE STAFF HEARING OFFICER.

1. Suspensions. The Chairperson, Vice Chairperson or other designated member of the Planning Commission may take action to suspend any decision of the Staff Hearing Officer and to schedule a public hearing before the Planning Commission to review said decision. The notice of suspension must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The Community Development Department shall prepare a report to the Planning Commission with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer.

2. Appeals. The decisions of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant, an aggrieved person or any two (2) members of the Coastal Commission. The appeal must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the application for a coastal development permit, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal wherein the decision of the Staff Hearing Officer is not in accord with the provisions of this Chapter or wherein it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. The Community Development Department shall prepare a report to the Planning Commission with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

B. FROM THE PLANNING COMMISSION. The decisions of the Planning

Commission, including decisions on suspensions or appeals from decisions of the Staff Hearing Officer, may be appealed to the City Council by the applicant, an aggrieved person or any two (2) members of the Coastal Commission. The appeal must be filed with the City Clerk within ten (10) calendar days of the date of the Planning Commission's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the coastal development permit, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal wherein the decision of the Planning Commission is not in accord with the provisions of this Section or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission. Prior to the hearing on said appeal, the City Clerk shall inform the Community Development Department that an appeal has been filed whereon said Department shall prepare a report to the City Council with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Planning Commission's decision. The City Council shall affirm, reverse, or modify the decision of the Planning Commission after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Planning Commission; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

28.44.170 Finality of City Action.

A local decision on an application for a coastal development permit shall be deemed final when:

A. The local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter 3 of the California Coastal Act, Public Resources Code; and

B. When all local rights of appeal have been exhausted as defined in Section 28.44.160.

28.44.180 Notice of Final Action by the City.

Within seven (7) calendar days of a final City decision on an application for a coastal development permit, the Community Development Department shall provide notice of the action by first class mail to the Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope. Such notice shall include conditions of approval, written findings and the procedures for appeal of the City decision to the Coastal Commission.

28.44.190 Effective Date of City Final Action on Appealable Items.

A final decision of the City on an application for an appealable development shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired unless any of the following occur:

- A. An appeal is filed in accordance with Section 28.44.200; or
- B. The notice of final City action has not been given pursuant to Section 28.44.180.

When either of the above circumstances occurs, the Coastal Commission shall, within five (5) working days of receiving notice of that circumstance, notify the City and the applicant that the effective date of the City action has been suspended.

28.44.200 Appeals to the Coastal Commission.

For those actions taken by the City on applications for coastal development permits that are approved for development defined as "appealable" under California Public Resources Code, Section 30603(a) and Subsection 28.44.030.C, an appeal may be filed with the Coastal Commission by an aggrieved party, the applicant, or two (2) members of the Coastal Commission. Such appeals must be filed in the office of the Coastal Commission not later than 5:00 p.m. of the tenth working day following the Commission's receipt of sufficient notice of the final local governmental action. In the case of an appeal by an applicant or aggrieved party, the appellant must have first pursued appeal to the City Council, as established in Section 28.44.160, to be considered an aggrieved party.

28.44.220 Development within Coastal Commission Permit Jurisdiction.

Notwithstanding other permit and appeal provisions of this Chapter, development proposals which are located on lands identified as tidelands, submerged lands or public trust lands as identified on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara adopted by the Coastal Commission, shall, pursuant to the requirements of California Public Resources Code Section 30519(b), require a coastal permit from the Coastal Commission. Upon submittal to the City of an application for a coastal development permit, the Community Development Department shall determine if the development may be located on land identified as tidelands, submerged lands and/or public trust lands. Such determination shall be based upon maps and other descriptive information identifying such lands which the Coastal Commission and/or State Lands Commission may supply. Upon a determination that the proposed coastal development involves such lands, the Community Development Department shall notify the applicant and the Coastal Commission of the determination that a State coastal permit is required for the development. In conjunction with the City's review and decision on the development in accordance with the requirements of this Chapter and other City codes, the City shall also make a recommendation to

the coastal commission regarding the development's conformance with the certified local coastal program, including this Chapter. The City's determination of development conformance with the objectives and requirements of the local coastal program shall be advisory only and not a final action under this Chapter. Development shall not proceed until the Coastal Commission grants a coastal permit for such a development.

A. **PLANNING COMMISSION RECOMMENDATION.** If proposed development within the permit jurisdiction of the coastal commission requires discretionary review by the Planning Commission under any other provision of this Code, the Planning Commission shall conduct a public hearing regarding development's conformance with the certified local coastal program including this Chapter. The public hearing shall be held concurrently with any other required public hearing or hearings for any other applications regarding the proposed development. Following approval of the development by the City, the Community Development Department shall forward the City approval, the application, supporting file documents and the City's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application.

B. **STAFF HEARING OFFICER RECOMMENDATION.** If proposed development within the permit jurisdiction of the coastal commission requires discretionary review by the Staff Hearing Officer under any other provision of this Code, the Staff Hearing Officer shall conduct a public hearing regarding development's conformance with the certified local coastal program including this Chapter. The public hearing shall be held concurrently with any other required public hearing or hearings for any other applications regarding the proposed development. Following approval of the development by the City, the Community Development Department shall forward the City approval, the application, supporting file documents and the City's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application.

C. **COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION.** If the proposed development within the permit jurisdiction of the coastal commission does not require discretionary review by the Planning Commission or the Staff Hearing Officer under any other provision of this Code, the Community Development Department shall review the proposed development's conformance with the certified local coastal program including this Chapter and shall forward the application, supporting file documents and the Community Development Department's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application.

28.44.230 Time for Commencement of Approved Development; Extensions.

A. TIME FOR COMMENCEMENT OF APPROVED DEVELOPMENT. The time for commencement of the approved development shall be two years from the date of the final action upon the application, unless a different time is specified in the conditions of approval for the coastal development permit.

B. EXTENSIONS. Prior to the time that commencement of development must occur under the terms of the coastal development permit or Subsection A, the applicant may apply to the Community Development Director for an extension of time not to exceed an additional one year period. Such an extension of time may be granted no more than three (3) times, and under no circumstances shall the time for commencement of development be more than five (5) years after the date of the final action on the application. Extensions of time may be granted by the Community Development Director upon findings that the development continues to be in conformance with the certified local coastal program, that the applicant demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record, and that there are no changed circumstances that may affect the consistency of the development with the certified local coastal program, the general plan and applicable City ordinances, resolutions and other laws.

28.44.240 Amendments to Coastal Development Permits.

On the request of an applicant, a coastal development permit may be amended in the same manner specified for the initial review of an application for a coastal development permit.

28.44.250 General Provisions.

A. CONFLICTING PERMITS AND LICENSES TO BE VOIDED. All departments, officials, and public employees of the City vested with the duty and authority to issue permits or licenses shall conform to the provisions of this zone and shall issue no permits or licenses for uses, buildings, or any purpose in conflict with the provisions of this Section. Any such permit or license issued in conflict with this Section shall be null and void.

B. CONFLICT WITH OTHER REGULATIONS. Where conflicts occur between the regulations contained in this Section and the building code, other sections of Title 28 of this Code, or other regulations effective within the City, the more restrictive of such laws, codes or regulations shall apply.

It is not intended that this Section shall interfere with, abrogate or annul any easement, covenant, or other agreement now in effect; provided, however, that where this Section imposes a greater restriction upon the use of buildings or land or upon new construction than are imposed or required by other ordinances, rules, or regulations or by easements, covenants, or agreements, the provisions of this Section shall apply.

Nothing contained in this Section shall be deemed to repeal or amend any regulation of the City requiring a permit, license, and/or approval, for any business, trade, or occupation, nor shall anything in this Section be deemed to repeal or amend the building code. If provisions of this Section overlap or conflict, the most protective provision relating to coastal resources shall apply.

C. FAILURE TO ACT NOTICE.

1. Notification by Applicant: If the City has failed to act on an application within the time limits set forth in Article 5, ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Section 65950 et seq. shall notify, in writing, the City and the Coastal Commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

2. Notification by City. Upon determination that the time limits established pursuant to Government Code Section 65950 et seq. have expired, the Community Development Department shall, within five (5) working days of such determination, notify those persons entitled to receive notice that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the City's notice in the office of the Coastal Commission.

D. AMENDMENTS TO A CERTIFIED LOCAL COASTAL PROGRAM. The purpose of this Subsection is to provide for changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; to provide for text amendments to this Section and/or the City's Local Coastal Plan as the City may deem necessary or desirable; and to provide for amendments to any ordinances or implementation measures carrying out the provisions of the City's Local Coastal Plan. The intent of this Subsection is to provide the mechanism, consistent with the Coastal Act, for amending the City's certified Local Coastal Program.

1. Initiation. An amendment to the certified Local Coastal Program may be initiated by any member of the public, the Planning Commission or the City Council. All amendments proposed to the Commission for final certification must be initiated by resolution of the City Council.

2. City Review and Processing. Processing of amendments to the certified Local Coastal Program shall proceed in the same manner as that required for an amendment to the:

a. General Plan, if that amendment is intended to amend the text or map of the City's Coastal Plan.

b. Municipal Code or Zoning Map, if that amendment is intended to amend the Municipal Code or Zoning Map.

3. Noticing. Notice of the hearing shall be given at least ten (10) calendar days before the hearing.

a. For any amendment, notice shall be:

1. Published in a newspaper of general circulation in the City.

2. Mailed to any person who has filed a written request therefore and has supplied the City with self-addressed, stamped envelopes.

3. Mailed to the Coastal Commission.

b. In addition, for a proposed rezoning or change of land use designation, notices shall be mailed:

1. To the owners of the affected property and also the owners of all property within 300 feet of the exterior boundaries of the affected property, using for this purpose, the name and address of such owners shown on the tax rolls of Santa Barbara County.

2. To occupants of residences, including apartments on or within 100 feet of the affected property.

3. In the event that the rezoning or change of land use designation affects a portion of the City which has an area equivalent to more than four (4) square City blocks, the City may, instead, provide notice by placing a display advertisement in a newspaper of general circulation, published and circulated in the City.

E. COASTAL COMMISSION CERTIFICATION. Any proposed amendment to the Local Coastal Program shall not take effect until it has been certified by the Coastal Commission. Therefore, any approval by the City of such a proposed amendment to the Local Coastal Program shall be submitted to the Coastal Commission within fourteen (14) days of the final approval by the City Council in accordance with Sections 30512 and 30513 of the Coastal Act.

F. DEVELOPMENT POTENTIAL. Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in General Provisions, Development Plan Approval, Section 28.87.300.

G. DEVELOPMENT WITHIN THE GOLETA SLOUGH. Any development within the Goleta Slough Reserve Zone is required to obtain a Goleta Slough Coastal Development Permit pursuant to the provisions of Chapter 29.25 unless specifically exempted.

H. HAZARDOUS WASTE MANAGEMENT FACILITIES. Approval for construction or use of any off-site hazardous waste management facilities, as defined in Section 28.04.277 of this Title, shall require preparation and approval of an amendment to the Local Coastal Program by the City Council and the California Coastal Commission. Such facilities shall also require approval of a change in zone to the HWMF Overlay Zone and any other required permits in accordance with Chapter 28.75 of this Title.

SECTION 3. This ordinance shall not be effective until it has been certified by the California Coastal Commission pursuant to the requirements of the California Coastal Act.

EXISTING CITY OF SANTA BARBARA COASTAL ZONE ORDINANCE

28.45.009 S-D-3 Zone Designation - Coastal Overlay Zone.

1. LOCATION. The S-D-3 Zone is applied to the "Coastal Zone" which is defined as generally all of the land 1,000 yards from the mean high tide line as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the City of Santa Barbara (including the Santa Barbara Municipal Airport and Goleta).

2. LEGISLATIVE INTENT. The Coastal Overlay Zone is established for the purpose of implementing the Coastal Act of 1976 (Division 20 of the California Public Resources Code) and to insure that all public and private development in the Coastal Zone of the City of Santa Barbara is consistent with the City's Certified Local Coastal Program and the Coastal Act.

3. DEFINITIONS. For the purpose of Section 28.45.009 of this Code, certain words and phrases shall be construed as set forth in this Section unless it is apparent from the content that a different meaning is intended:

a. ACCESS.

(1) Lateral. An area of land providing public access along the water's edge.

(2) Vertical. An area of land providing a connection between the first public road or use area nearest the sea and the publicly owned tidelands or established lateral accessway.

b. AGGRIEVED PERSON. Any person who, in person or through a representative, appeared at a public hearing of the City in connection with the decision or action appealed, or who, by other appropriate means prior to the hearing, informed the City of the nature of his concerns or who for good cause was unable to do either.

c. APPEALABLE DEVELOPMENT.

(1) Developments approved by the City between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, as indicated on Map A, which is appended hereto and marked Map A.

(2) Developments approved by the City not included within Section 28.45.009.3.c(1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff, as indicated on the official City appeals map or as determined by the State Lands Commission.

(3) Any development which constitutes a major public works project or a major energy facility.

d. APPLICANT. The person, partnership, corporation or state or local government agency applying for a coastal development permit.

e. BULK. Total interior cubic volume as measured from the exterior surface of the structure.

f. COASTAL COMMISSION. California Coastal Commission.

g. COASTAL DEVELOPMENT PERMIT. A permit, letter or certificate issued by the City in accordance with the provisions of this Section, after the applicant has submitted all necessary supplementary documentation required to satisfy the conditions precedent in the notice to issue a coastal development permit.

h. COASTAL ZONE. That land and water area of the City of Santa Barbara extending seaward to the State's outer limit of jurisdiction and extending inland to the boundary shown on the official Zoning Maps for the S-D-3 Coastal Overlay Zone, as amended from time to time and certified by the Coastal Commission.

**City of Santa Barbara
LCP Amendment 06-1**

Exhibit 2

**Existing Coastal Zone
Ordinance**

i. **DEVELOPMENT.** On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

j. **ENERGY FACILITY.** Any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other source of energy.

k. **ENVIRONMENTALLY SENSITIVE AREA.** Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

l. **FEASIBLE.** Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

m. **FILL.** Earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

n. **LAND USE PLAN.** Maps and a text which indicate the kinds, location and intensity of land uses allowed in the Coastal Zone and includes resources protection and development policies related to those uses.

o. **LOCAL COASTAL PROGRAM.** The City's land use plan, zoning ordinances, zoning maps and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

p. **MAJOR PUBLIC WORKS PROJECT OR MAJOR ENERGY FACILITY.** Any public works project or energy facility which exceeds \$50,000 in estimated cost of construction.

q. **NATURAL DISASTER.** Any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owner.

r. **OCEAN-DEPENDENT DEVELOPMENT OR USE.** Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

s. **OCEAN-RELATED DEVELOPMENT OR USE.** Any development or use which is dependent on an ocean-dependent development or use.

t. **OTHER PERMITS AND APPROVALS.** Permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

u. **PERSON.** Any individual, organization, partnership, or other business association or corporation, including any utility, and any federal, state, local government or special district or an agency thereof.

v. **PUBLIC WORKS PROJECT.**

(1) All production, storage, transmission and recovery facilities for water, sewage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

(2) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.

(3) All publicly financed recreational facilities, all projects of the State Coastal Conservancy and any development by a special district.

(4) All community college facilities.

w. **SEA.** The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

x. **STRUCTURE.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

y. VISITOR-SERVING DEVELOPMENT OR USE. Stores, shops, businesses, temporary lodging and recreational facilities (both public and private) which provide accommodations, food and services for the traveling public; including, but not limited to, hotels, motels, campgrounds, parks, nature preserves, restaurants, specialty shops, art galleries and commercial recreational development such as shopping, eating and amusement areas.

z. WETLAND. Lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens.

aa. WORKING DAY. Any day on which all City offices are open for business.

4. APPLICABILITY AND EXCLUSIONS. Any person (including the City, any utility, any federal, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Overlay Zone of the City of Santa Barbara shall comply with the provisions of this Section. In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the coastal zone of the City, except for the following exclusions:

a. TIME-SHARE CONVERSIONS. Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11003.5 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

b. VESTED RIGHTS. Any development which, on the effective date of this subsection, has a valid approval from the Coastal Commission shall be considered to have a vested right until such time as said approval be made in any such development without prior City approval having been obtained by the developer.

c. SINGLE FAMILY.

(1) Construction of one (1) single family residence on an existing vacant parcel in the areas designated as Non-appealable on the Post LCP Certification Permit and Appeal Jurisdiction Map. If demolition or relocation of any existing structure is necessary in order to accommodate such construction, or if such demolition or relocation has occurred in the year prior to the request for construction, the lot is not vacant.

(2) Additions to existing single family residences in areas designated as Non-appealable on the Post LCP Certification Permit and Appeal Jurisdiction Map except when such additions require other City approvals other than building permits.

(3) Improvements to existing single-family residences in areas designated as Appeal Jurisdiction on Post LCP Certification Permit and Appeal Jurisdiction Map; provided, however, that those improvements which involve a risk of adverse environmental effect or adversely affect public access or result in a change of the intensity of use shall require a coastal development permit, as provided in California Administrative Code Section 13250, as amended from time to time.

d. OTHER CONSTRUCTION. Improvements to any structure other than a single-family residence or a public works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use; shall require a coastal development permit, as provided in California Administrative Code Section 13253, as amended from time to time.

e. MAINTENANCE OF NAVIGATION CHANNELS. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

f. REPAIR OR MAINTENANCE. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact, shall require a coastal development permit, as provided in California Administrative Code Section 13252, as amended from time to time.

g. UTILITY CONNECTIONS. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 or the Coastal Overlay Zone requirements; provided that the City may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

h. **REPLACEMENT OF EXISTING STRUCTURE.** The replacement of any structure, other than a public works facility, destroyed by a natural disaster, subject to Section 28.87.038 of this Code.

i. **EMERGENCY CONSTRUCTION.** Deleted. Not approved by Coastal Commission.

j. **DEVELOPMENT WITHIN THE GOLETA SLOUGH.** Any development within the Goleta Slough Reserve Zone is required to obtain a Goleta Slough Coastal Development Permit pursuant to the provisions of Chapter 29.25 unless specifically exempted.

5. **GENERAL REQUIREMENTS.**

a. **CONFLICTING PERMITS AND LICENSES TO BE VOIDED.** All departments, officials, and public employees of the City vested with the duty and authority to issue permits or licenses shall conform with the provisions of this zone and shall issue no permits or licenses for uses, buildings, or any purpose in conflict with the provisions of this Section. Any such permit or license issued in conflict with this Section shall be null and void.

b. **CONFLICT WITH OTHER REGULATIONS.** Where conflicts occur between the regulations contained in this Section and the building code, other sections of Title 28, or other regulations effective within the City, the more restrictive of such laws, codes or regulations shall apply.

It is not intended that this Section shall interfere with, abrogate or annul any easement, covenant, or other agreement now in effect; provided, however, that where this Section imposes a greater restriction upon the use of buildings or land or upon new construction than are imposed or required by other ordinances, rules, or regulations or by easements, covenants, or agreements, the provisions of this Section shall apply.

Nothing contained in this Section shall be deemed to repeal or amend any regulation of the City requiring a permit, license, and/or approval, for any business, trade, or occupation, nor shall anything in this Section be deemed to repeal or amend the building code. If provisions of this Section overlap or conflict, the most protective provision relating to coastal resources shall apply.

6. **PERMIT PROCEDURES.** In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the coastal zone of the City except those excluded under Section 28.45.009.4 of this Code.

a. **APPLICATION.** A coastal development permit shall be applied for prior to or concurrent with other necessary City permits or approvals. Such application shall be submitted to the Community Development Department and shall be accompanied by such filing fee as established by the City Council. The Community Development Department shall provide for a completed coastal development application. The Community Development Department shall take the following actions.

(1) Determine if the proposed project is subject to the requirement of a coastal development permit and if so, determine the category of permit for the project in accordance with this Section.

(2) File the application and provide notice of action on the application per this Section.

(3) For those projects requiring a public hearing, transmit an application summary and recommendation thereon to the Planning Commission.

b. **NOTICE OF CATEGORICALLY EXCLUDED DEVELOPMENTS.** A determination issued by the City for a development which is categorically excluded from permit requirements pursuant to Section 28.45.009.4 of this Code, if an appealable development or otherwise, shall be exempt from the notice and hearing requirements of Section 28.45.009. The Community Development Department shall maintain a record for all determinations made which shall be made available to the Coastal Commission or any interested person upon request. This record must include the applicant's name, the location of the project, a brief description of the project, the site plan, the date upon which the determination was made, and all terms and conditions imposed by the City in granting its approval. Notice of each development permit issued for any approved exclusion shall be made to the Coastal Commission within five (5) working days.

c. **APPEALABLE DEVELOPMENTS.** At least one (1) public hearing shall be held on each application for an appealable development. At least ten (10) calendar days prior to the first public hearing on a coastal development permit within the appealable area and which is not categorically excluded, the Community Development Department shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development or for coastal decisions within the City, to all property owners and to occupants of residences, including apartments, on or within 100 feet of the affected parcel on which the development is proposed and to the Coastal Commission. The notice shall contain the following information:

- (1) a statement that the development is within the coastal zone;
- (2) the date of filing of the application and the name of the applicant;
- (3) the street address of the proposed development;
- (4) a description of the development;
- (5) the date, time and place at which the application will be heard by the Planning

Commission;

(6) a brief description of the general procedure of the Planning Commission concerning the conduct of hearings and local action; and

(7) the system for City and Coastal Commission appeals, including any fees required.

d. NON-APPEALABLE DEVELOPMENTS REQUIRING A PUBLIC HEARING.

(1) When a proposed development in a non-appealable area is not categorically excluded and requires a public hearing by the Planning Commission under any other provision of this Code, a hearing on the coastal development permit shall be held concurrently with other applications. If a development would normally be heard only by the modification hearing officer, it shall be sent instead to the Planning Commission to be heard concurrently with the application for coastal development permit. Notice of public hearing on such developments shall be given at least ten (10) calendar days in advance of the public hearing in the following manner:

- (a) shall be published in a newspaper of general circulation in the City;
- (b) shall be sent by first class mail to any person who has filed a written request

therefore;

- (c) shall be sent by first class mail to property owners within 300 feet of the

proposed project;

- (d) shall be sent by first class mail to occupants of residences, including

apartments, on or within 100 feet of the affected parcel;

- (e) shall be sent by first class mail to the Coastal Commission; and

- (f) shall contain the information stated in Subsection 28.45.009.6.c.

(2) When a proposed development in a non-appealable area is not categorically excluded, does not normally require a public hearing by the Planning Commission or modification hearing officer, but requires discretionary approval by any approving body of the City, a public hearing shall be held by the Planning Commission in accordance with the requirements of Subsection 28.45.009.6d(1) above. New permit applications which, in the opinion of the Community Development Director, are de minimis with respect to the purposes and objectives of the Coastal Act and the City's Coastal Plan may be scheduled on the Consent Calendar and noticed in accordance with the provisions of Subsection 28.45.009.6.e.

e. NON-APPEALABLE DEVELOPMENTS NOT REQUIRING A PUBLIC HEARING.

When a proposed development is in a non-appealable area, is not categorically excluded and would not normally require a public hearing, it shall be placed on a consent calendar to be approved by the Planning Commission. At least ten (10) calendar days prior to consent calendar approval by the Planning Commission, public notice shall be given by first class mail. Notice shall be provided to all persons who have requested to be on the mailing list for that development, to all property owners and occupants of residences including apartments, on or within 100 feet of the affected parcel on which the development is proposed, and to the Coastal Commission. The notice shall contain the following information:

- (1) a statement that the development is within the coastal zone;
- (2) the date of filing of the application and the name of the applicant;
- (3) the street address of the proposed development;
- (4) a description of the proposed development;
- (5) the date the application will be acted upon by the Planning Commission;
- (6) the general procedure of the Community Development Department concerning the

submission of public comments either in writing or orally prior to the Planning Commission decision; and

- (7) a statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the Planning Commission decision.

If significant testimony is received against the proposed development, it shall be removed from the consent calendar and placed on the regular agenda for public hearing by the Planning Commission.

f. DETERMINATION OF APPLICABLE NOTICE AND HEARING PROCEDURES.

The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the Community Development

Department at the time the application for development within the coastal zone is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning laws which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or a Community Development Department has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

(1) The Community Development Department shall make its determination as to what type of development is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.

(2) If the determination of the Community Development Department is challenged by the applicant or an interested person, or if the City wishes to have a Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an opinion from the Executive Director of the Coastal Commission.

(3) The Executive Director shall, within two (2) working days of the City's request, (or upon completion of a site inspection where such inspection is warranted), transmit the determination as to whether the development is categorically excluded, non-appealable or appealable.

(4) Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the City determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Coastal Commission shall schedule the hearing on the determination for the next meeting (in the appropriate geographic region of the state) following the City's request.

g. **NOTICE OF PLANNING COMMISSION ACTION WHEN HEARING IS CONTINUED.** If a decision on a development permit is continued by the Planning Commission to a date which is neither (1) previously stated in the notice provided pursuant to Subsection 28.45.009.6b, c, d or e above, nor (2) announced at the hearing as being continued to a time certain, the Community Development Department shall provide notice of the further hearings in the same manner, and within the same time limits as established in Subsection 28.45.009.6b, c, d or e above.

h. **FINDINGS.** In order to approve a Coastal Development Permit, all of the following findings shall be made:

(1) The project is consistent with the policies of the California Coastal Act.

(2) The project is consistent with all applicable policies of the City's Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.

i. **FINALITY OF CITY ACTION.** A local decision on an application for development shall be deemed final when:

(1) the local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter 3 of the California Coastal Act, Public Resources Code, and

(2) when all local rights of appeal have been exhausted as defined in Subsection 28.45.009.6.j. below.

j. **APPEALS TO THE CITY COUNCIL.** The decisions of the Planning Commission may be appealed to the City Council by the applicant, an aggrieved person or any two (2) members of the Coastal Commission. The appeal must be filed with the City Clerk within ten (10) calendar days of the date of the Planning Commission's decision unless a longer appeal period is allowed by other applications involved in the decision, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal wherein the decision of the Planning Commission is not in accord with the provisions of this Section or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission. Prior to the hearing on said appeal, the City Clerk shall inform the Community Development Department that an appeal has been filed whereon said Department shall prepare a report to the City Council with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Planning Commission's decision. The City Council shall affirm, reverse, or modify the decision of the Planning Commission at a regular public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required at the Planning Commission; however, notice shall also be mailed to the appellant.

k. **EFFECTIVE DATE OF CITY FINAL ACTION ON APPEALABLE ITEMS.** A final decision of the City on an application for an appealable development shall become effective after the

ten (10) working day appeal period to the Coastal Commission has expired unless any of the following occur:

- (1) An appeal is filed in accordance with Subsection 28.45.009.6m below.
- (2) The notice of final coastal project permit does not meet the requirements of

Subsection 28.45.009.6.1 below.

- (3) The notice of final action is not received in the Coastal Commission office and/or distributed to interested parties in time to permit the filing of an appeal to the Coastal Commission within the ten (10) working day appeal period.

Where any of the above circumstances in Subsection 28.45.009.6k(1), (2) or (3) occur, the Coastal Commission shall, within five (5) working days of receiving notice of that circumstance, notify the City and the applicant that the effective date of the City action has been suspended.

1. NOTICE OF FINAL ACTION BY THE CITY. Within seven (7) calendar days of a final City decision on an application for a coastal development permit, the Community Development Department shall provide notice of the action by first class mail to the Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope. Such notice shall include conditions of approval, written findings and the procedures for appeal of the City decision to the Coastal Commission.

m. APPEALS TO THE COASTAL COMMISSION. For those coastal development permits which are approved for developments defined as "appealable" under California Public Resources Code, Section 30603(a) and under Subsection 28.45.009.3.c., an appeal may be filed with the Coastal Commission by (1) an aggrieved party, (2) the applicant, or (3) two members of the Coastal Commission. Such appeals must be filed in the office of the Coastal Commission not later than 5:00 p.m. of the tenth working day following receipt of sufficient notice of the final local governmental action. In the case of an appeal by an applicant or aggrieved party, the appellant must have first pursued appeal to the City Council, as established in this Section of this Code, to be considered an aggrieved party.

n. FAILURE TO ACT -NOTICE.

(1) NOTIFICATION BY APPLICANT: If the City has failed to act on an application within the time limits set forth in Article 5, ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Section 65950 et seq. shall notify, in writing, the City and the Coastal Commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

(2) NOTIFICATION BY CITY. Upon determination that the time limits established pursuant to Government Code Section 65950 et seq. have expired, the Community Development Department shall, within five (5) working days of such determination, notify those persons entitled to receive notice pursuant to Section 28.45.009.8 that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the City's notice in the office of the Coastal Commission.

o. AMENDMENTS TO COASTAL DEVELOPMENT PERMITS. A coastal development permit may be amended by the Planning Commission in the same manner specified for initial approval. Amendment requests shall be subject to the appeal provisions established in this Section as applicable.

p. DEVELOPMENTS REQUIRING A COASTAL DEVELOPMENT PERMIT FROM THE COASTAL COMMISSION. Notwithstanding other permit and appeal provisions of this Section of this Code, development proposals which are located on lands identified as tidelands, submerged lands or public trust lands as identified on permit/appeals jurisdiction maps certified by the Coastal Commission, shall, pursuant to the requirements of California Public Resources Code Section 30519(b), require a coastal permit from the Coastal Commission. Upon submittal to the City of an application for a coastal development permit, the Community Development Department shall determine if the development may be located on land identified as tidelands, submerged lands and/or public trust lands. Such determination shall be based upon maps and other descriptive information identifying such lands which the Coastal Commission and/or State Lands Commission may supply. Upon a determination that the proposed coastal development involves such lands, the Community Development Department shall notify the applicant and the Coastal Commission of the determination that a State coastal permit is required for the development. In conjunction with the City's review and decision on the development per the requirements of the S-D-3 zoning district and other City codes, the City shall also include a recommendation on the developments conformance with the certified

local coastal program including this Section. The City's determination of development conformance with the objectives and requirements of the local coastal program shall be advisory only and not a final action under this Section. Following City approval of the development, the application, supporting file documents and the City recommendation shall be forwarded to the Coastal Commission for its action on the development permit request. Development shall not proceed until the Coastal Commission grants a coastal permit for such a development.

q. EXPIRATION DATE AND EXTENSIONS. A coastal development permit shall expire two (2) years from date of issuance unless otherwise explicitly modified by conditions of approval of the development permit, or unless construction or use on the development has commenced. The expiration date of a coastal development permit, for which construction or use of the development has not commenced, may be extended for up to one (1) year upon request for an extension of time filed with the City prior to that expiration date. Such an extension of time may be granted no more than three (3) times, and under no circumstances shall the expiration date of any coastal development permit, on which construction or use of the development has not commenced, be more than five (5) years after the date of issuance.

Coastal Development Permit extensions may be granted upon findings that the development continues to be in conformance with the certified local coastal program, that the applicant demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record, and that there are no changed circumstances that may affect the consistency of the development with the certified local coastal program, the general plan and applicable City ordinances, resolutions and other laws.

This subparagraph q. shall become effective 30 days after it has been certified by the State Coastal Commission. (Said approval was obtained April 9, 1992.)

r. HAZARDOUS WASTE MANAGEMENT FACILITIES. Approval for construction or use of any off-site hazardous waste management facilities, as defined in Section 28.04.277 of this Title, shall require preparation and approval of an amendment to the Local Coastal Program by the City Council and the California Coastal Commission. Such facilities shall also require approval of a change in zone to the HWMF Overlay Zone and any other required permits in accordance with Chapter 28.75 of this Title.

7. AMENDMENTS TO A CERTIFIED LOCAL COASTAL PROGRAM. The purpose of this Subsection is to provide for changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; to provide for text amendments to this Section and/or the City's Coastal Plan as the City may deem necessary or desirable; and to provide for amendments to any ordinances or implementation measures carrying out the provisions of the City's Coastal Plan. The intent of this Subsection is to provide the mechanism, consistent with the Coastal Act, for amending the City's certified Coastal Program which consists of a Land Use Plan, Zoning and other ordinances, Land Use and Zoning Maps and special programs.

a. INITIATION. An amendment to the certified Local Coastal Program may be initiated by any member of the public, the Planning Commission or the City Council. All amendments proposed to the Commission for final certification must be initiated by resolution of the City Council.

b. CITY REVIEW AND PROCESSING. Processing of amendments to the certified Local Coastal Program shall proceed in the same manner as that required for an amendment to the:

(1) General Plan, if that amendment is intended to amend the text or map of the City's Coastal Plan.

(2) Municipal Code or Zoning Map, if that amendment is intended to amend the Municipal Code or Zoning Map.

c. NOTICING. Notice of the hearing shall be given at least ten (10) calendar days before the hearing.

(1) For any amendment, notice shall be:

(a) Published in a newspaper of general circulation in the City.

(b) Mailed to any person who has filed a written request therefore and has supplied the City with self-addressed, stamped envelopes.

(c) Mailed to the Coastal Commission.

(2) In addition, for a proposed rezoning or change of land use designation, notices shall be mailed:

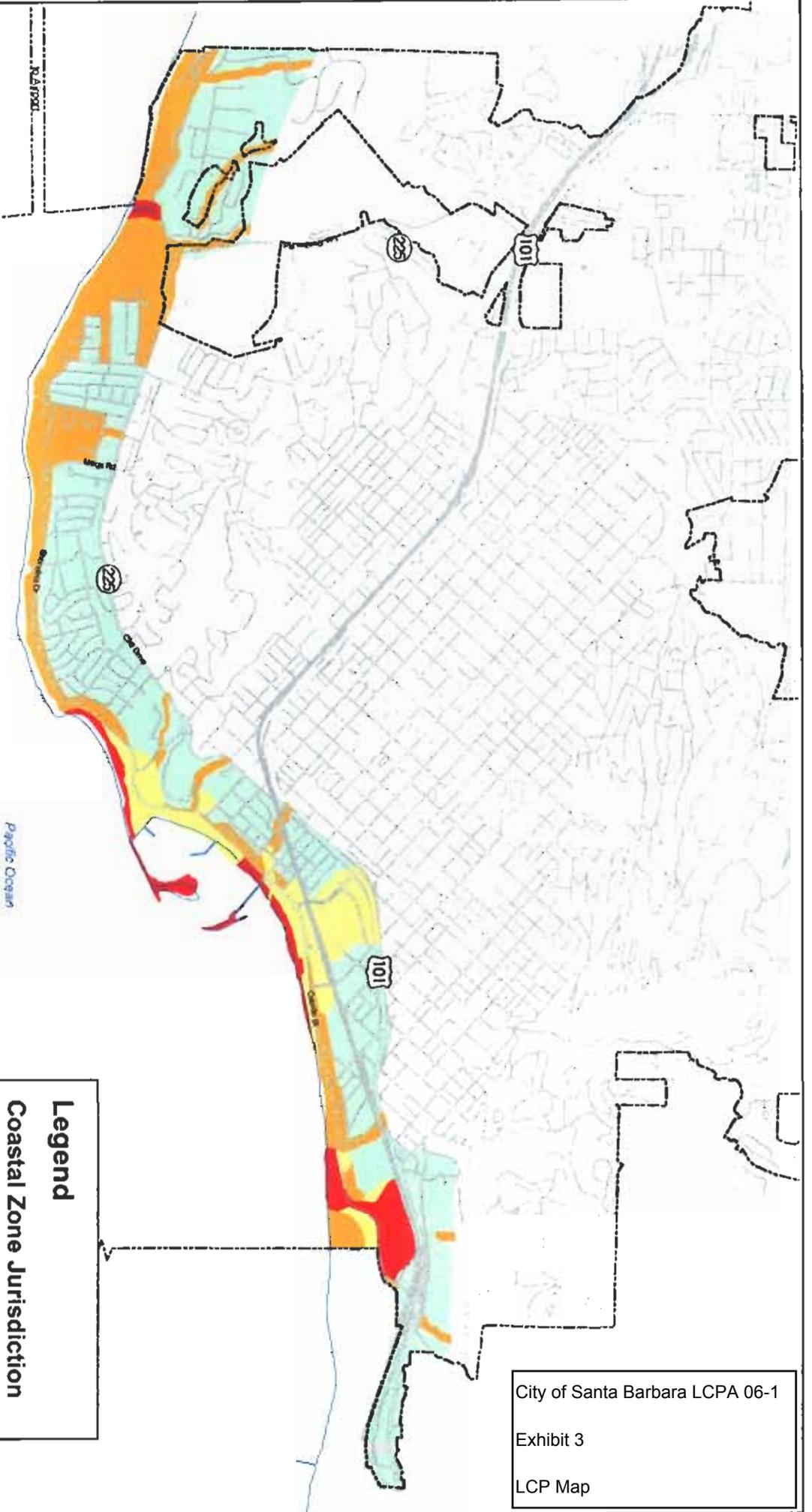
(a) To the owners of the affected property and also the owners of all property within 450 feet of the exterior boundaries of the affected property, using for this purpose, the name and address of such owners shown on the tax rolls of Santa Barbara County.

(b) To occupants of residences, including apartments on or within 100 feet of the affected property.

(c) In the event that the rezoning or change of land use designation affects a portion of the City which has an area equivalent to more than four (4) square City blocks, the City may, instead, provide notice by placing a display advertisement in a newspaper of general circulation, published and circulated in the City.

d. COASTAL COMMISSION CERTIFICATION. Any proposed amendment to the Local Coastal Program shall not take effect until it has been certified by the Coastal Commission. Therefore, any approval by the City of such a proposed amendment to the Local Coastal Program shall be submitted to the Coastal Commission within fourteen (14) days of the final approval by the City Council in accordance with Sections 30512 and 30513 of the Coastal Act.

8. DEVELOPMENT POTENTIAL. Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in General Provisions, Development Plan Approval, Section 28.87.300. (Ord. 4825, 1993; Ord. 4748, 1992; Ord. 4674, 1991; Ord. 4670, 1991; Ord. 4430, 1986; Ord. 4375, 1986; Ord. 4173, 1982.)



Legend

Coastal Zone Jurisdiction

- Appealable Jurisdiction I
- Appealable Jurisdiction II
- Non Appealable Jurisdiction
- Permit Jurisdiction (CCC)

City of Santa Barbara LCPA 06-1
 Exhibit 3
 LCP Map



City of Santa Barbara - Categorical
 Exclusion Request - SBC-CFX-06-001

Coastal Zone
 Local Coastal Plan



March 2008
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