

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**Fr 14a**

July 21, 2010

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, South Coast Deputy Director (Orange County)
Teresa Henry, District Manager
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Meg Vaughn, Coastal Program Analyst

SUBJECT: Major Amendment Request No. 2-09 (RLUIPA) to the City of Huntington Beach Certified Local Coastal Program, (For Public Hearing and Commission Action at the August 11-13, 2010 meeting in San Luis Obispo).

SUMMARY OF LCP AMENDMENT REQUEST NO. 2-09

Request by the City of Huntington Beach to amend the Implementation Plan (IP) portion of the Local Coastal Program (LCP) by amending Chapter 211 of the City's Zoning and Subdivision Ordinance by allowing religious assembly uses within the Visitor Commercial zoning district. Proposed LCP Amendment request No. 2-09 was submitted for Commission action pursuant to City Council Resolution No. 2009-72 (exhibit 1) and is reflected in Ordinance No. 3848 (exhibit 2). The sole change proposed under this amendment request is the addition of "religious assembly" to the list of allowable uses within the visitor serving zone designation. The use is proposed to be allowable subject to approval of a conditional use permit by the Planning Commission. Approval of a coastal development permit would also be required.

The issue raised by the amendment request is whether "religious assembly" use is an appropriate use within the City's Visitor Commercial district. Staff is recommending approval of the proposed amendment as submitted for the reasons outlined in this staff report, including: that adequate visitor serving areas will remain, especially within the specific plan areas, and that future discretionary review would allow consideration of whether individual proposals would reduce the amount of visitor serving uses or public access below acceptable levels. Local Coastal Program Amendment 2-09 affects only the Implementation Plan portion of the certified LCP. No changes are proposed to the Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

Approve the amendment request to the Implementation Plan **as submitted**.

The proposed amendment, as submitted, is in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motion to accomplish this recommendation is found on page 2.**

STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementation Plan is conformance with and adequacy to carry out the provisions of the certified Huntington Beach Land Use Plan.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states: "During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission."

The Huntington Beach City Council held public hearings on the proposed amendment on November 16, 2009 and December 7, 2009. The Huntington Beach Planning Commission held a public hearing on the proposed amendment on October 27, 2009. There was one speaker at the Planning Commission and at the City Council Hearings who spoke in support of the proposed amendment. No written comments were submitted to any of the local hearings.

The City made all local staff reports related to this LCPA available for public review in the Planning Department and the Huntington Beach Public Library. Public hearing notices were mailed to property owners, occupants and interested parties. Notice of the public hearing was published in a local newspaper of general circulation.

EXHIBITS

1. City Council Resolution No. 2009-72
2. Ordinance No. 3848
3. Zoning Map Showing Commercial Visitor Zoned Parcels
4. Letter from City; 4/8/10

ADDITIONAL INFORMATION

Copies of the staff report are available on the Commission's website at www.coastal.ca.gov and at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact Meg Vaughn in the Long Beach office at (562) 590-5071. The City of Huntington Beach contact for this LCPA is Rosemary Medel, Associate Planner, who can be contacted at (714) 536-5271.

I. STAFF RECOMMENDATION

Following a public hearing, staff recommends the Commission adopt the following resolution and findings.

Approval of the IP Amendment as Submitted

MOTION: *I move that the Commission reject Implementation Plan Amendment No. 2-09 for the City of Huntington Beach as submitted.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Plan as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PLAN AS SUBMITTED:

The Commission hereby certifies the Implementation Plan Amendment 2-09 for the City of Huntington Beach as submitted and adopts the findings set forth below on grounds that the Implementation Plan amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment 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 Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. FINDINGS

The following findings support the Commission's approval as submitted of the proposed LCP Implementation Plan amendment. The Commission hereby finds and declares as follows:

A. Amendment Description

The City of Huntington Beach has requested to amend the Implementation Plan (IP) portion of the certified Local Coastal Program (LCP). The main document comprising the City's certified Implementation Plan is the City's Zoning and Subdivision Ordinance (ZSO), but also includes a number of specific plans. The proposed amendment is comprised of a single change to Chapter 211 (Commercial Districts) of the City's Zoning and Subdivision Ordinance. The single change would add "religious assembly" to the list of allowable uses within the Commercial Visitor zoning district.

There are three areas within the City currently zoned Commercial Visitor: 1) the Peter's Landing site on Pacific Coast Highway, fronting on Huntington Harbour (generally located at 16400 Pacific Coast Highway), 2) a site northwest of and adjacent to Peter's Landing, extending northwest along the inland side of Pacific Coast Highway to the City boundary (generally located from 16278 to 15922 Pacific Coast Highway). The northernmost point of this area includes frontage on Huntington Harbour; and, 3) a site at the southeast corner of the intersection of Pacific Coast Highway and Beach Boulevard (see exhibit 3 for a map depicting these locations). Much of the City's visitor serving areas are zoned "specific plan" rather than visitor serving and the proposed amendment would not change allowable land uses in these areas. These areas include the City's main visitor serving area just inland of Pacific Coast Highway, including Main Street, and the pier area. This specific plan area also includes the downcoast areas developed with hotels such as the Hyatt, Hilton, and others. This visitor serving area of the City's coastal zone is contained within the Downtown Specific Plan. Another specific plan with visitor serving potential includes the Huntington Harbour Bay Club Specific Plan area which is located along Warner Avenue and fronts on Huntington Harbour. Also the Palm/Goldenwest Specific Plan area, located along the inland

side of Pacific Coast Highway between Seapoint Street and Goldenwest Street (inland to Palm Avenue), promotes visitor serving uses (among others) at the time the area is developed (currently it remains in oil production).

The proposed addition of “religious assembly” to the list of allowable uses within the Commercial Visitor zone would directly effect the three sites currently zoned Commercial Visitor. Approval of an LCP amendment to modify allowable uses would be required before a religious assembly use could be established within any of the specific plan areas.

B. Findings for Approval of Implementation Plan Amendment 2-09 as Submitted

The standard of review for amendments to the Implementation Plan (IP) of a certified Local Coastal Program (LCP) is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out the policies of the certified Land Use Plan (LUP).

1) Land Use

Section 211.02 of the certified IP Zoning and Subdivision Ordinance (ZSO) states that the purpose of the Commercial district is to implement the General Plan and Local Coastal Program commercial land use designations. Specifically regarding the Commercial Visitor zone district, Section 211.02 states:

The CV Visitor Commercial District implements the Visitor Serving Commercial land use designation within the coastal zone and provides uses of specific benefit to coastal visitors. More specifically, the CV district provides opportunities for visitor-oriented commercial activities, including specialty and beach related retail shops, restaurants, hotels, motels, theaters, museums, and related services.

The CV zoning is intended to implement the certified Land Use Plan (LUP) land use designation Commercial Visitor (CV). The CV land use designation allows uses such as “hotels/motels, restaurants, recreation-related retail sales, cultural uses (e.g. museums) and similar uses oriented to coastal and other visitors to the City.” Regarding CV uses the LUP further states: “Marine related development such as marinas, retail marine sales, boat rentals, and boat storage which are coastal dependent developments shall have priority over any other type of development (consistent with resource Protection) on or near the shoreline.”

The City’s certified LUP contains the following policies¹:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible. [Policy C 3.1.3]

Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low cost facilities and activities. [Objective 3.2]

¹ The LUP includes goals, objectives, and policies. Goals are described as general in nature and not necessarily quantifiable. Objectives are described as measurable goals. Policies are described as a specific statement guiding actions and implying clear commitment.

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 5

Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone. [Policy C 3.2.1]

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. On oceanfront, waterfront, or nearshore areas or lands designated for visitor uses and recreational facilities, an assessment of the availability of lower cost visitor uses shall be completed at the time of discretionary review and an in-lieu fee in an amount necessary to off-set the lack of the preferred lower cost facilities in or near Huntington Beach shall be imposed. [Policy C 3.2.2]

Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including, but not limited to, shops, restaurants, hotels and motels, and day spas. [Policy C 3.2.4]

Provide a variety of recreational and visitor commercial serving uses for a range of cost and market preferences. [Goal C3]

The policies above implement Sections 30221, 30222 and 30223 of the Coastal Act² that prioritize use of waterfront sites and other suitable lands in the coastal zone for coastal recreation and visitor serving commercial uses. Not all land within the coastal zone is zoned visitor serving commercial. Non-visitor serving uses are allowed within the coastal zone. However, this underscores the importance of promoting visitor uses over lesser priority uses at sites zoned Visitor Commercial. Typically, land that is zoned visitor serving commercial is specifically identified for such use because its location and situation especially lend itself to visitor uses. These locations may be near the beach, on a busy visitor access corridor, or in an area known as a visitor destination. Therefore, appropriate uses within such zones must be carefully considered.

The proposed amendment would add “religious assembly” to the list of allowable uses with the Commercial Visitor zone. Generally, religious assembly uses are not considered priority visitor serving uses. Certainly some visitors to the coastal zone will make use of a religious assembly facility if it suits them. Unlike typical visitor serving uses like restaurants and hotels that draw visitors because of their location in the coastal zone and/or facilitate visitation to the coast, a religious assembly use would not typically draw or be a reason for people to visit the coastal zone (unless the facility was some sort of landmark). In addition, religious assemblies are not normally dependent on a coastal location. However, religious assembly uses would also not necessarily be prohibited in a visitor-serving commercial zone, especially if there are ample visitor serving uses already present in the area, and provisions are in place to prevent the displacement of priority uses with non-priority uses.

In the case of the City of Huntington Beach, there is an adequate supply of areas that provide visitor serving uses, particularly in the areas near the ocean beaches. The Downtown Specific Plan area, for example, provides a great deal of visitor serving uses ranging from restaurants, shops and hotels to the public pier and beach areas. The City’s downtown area is an excellent location for visitor serving commercial uses because many visitors drawn to the beaches and pier support the commercial area just inland across Pacific Coast Highway. The City’s downtown area

² In certifying the City’s LUP update in June 2001 (LCPA 3-99) the Commission found that the LUP as updated and with the modifications suggested, was consistent with and adequate to carry out Coastal Act Sections 30221, 30222 and 30223.

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 6

is not zoned Commercial Visitor and thus won't be affected by the proposed amendment. Rather, its zoning is established in the Downtown Specific Plan which is part of the certified LCP Implementation Plan. As discussed previously, other areas within the City's coastal zone that are suitable for the provision of visitor serving commercial uses are also zoned Specific Plan. Moreover, as acknowledged by the City in a letter dated 4/8/10 (see exhibit 4), before "religious assembly" uses could be added as an allowable use within specific plans, "the City would require a formal amendment to a specific plan rather than allowing the religious assembly use by an informal interpretation." Thus, the underlying proposed IP amendment will not result in the addition of "religious assembly" uses within the City's visitor serving specific plan areas.

The standard of review for an amendment to a certified Implementation Plan is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP). The certified LUP identifies typical permitted uses within the Commercial Visitor land use designation as follows: hotels/motels, restaurants, recreation-related retail sales, *cultural uses (e.g. museums)* and similar uses oriented to coastal and other visitors to the City. Marine related development is also identified as a typical permitted use within the Commercial Visitor land use designation. "Cultural" is generally defined to mean a pattern of knowledge, belief, and behavior. Religious assembly could be considered a "cultural use". Thus, religious assembly would constitute a use that is consistent with the uses allowed within the certified LUP's commercial visitor land use designation, though it is not a priority one.

The City staff report prepared for the proposed amendment, in analyzing land use issues that may arise from the proposed addition of "religious assembly" as an allowable use within the CV district states: *"Staff believes that the inclusion of religious assembly would not result in any different land use issues than other permitted assembly uses requiring a discretionary permit. Additionally, from a land use perspective assembly uses are analyzed for sufficient parking and operational needs as well as the impact of the use on surrounding properties. Therefore, because religious assembly is subject to the same analysis and regulations as other assembly uses, would increase the diversity of services available to residents and visitors, and would not necessarily conflict or impede public access and public recreation in the Coastal Zone, staff can support the inclusion of this use in the CV category."* Thus, religious assembly use is not proposed as a use allowed outright within the CV zone. Religious assembly use would require approval of a conditional use permit by the City's Planning Commission, in addition to approval of a coastal development permit. The balance of priority visitor uses versus non-priority uses within a particular area would be considered during this discretionary review process.

It should be noted that for the sites zoned Commercial Visitor along Pacific Coast Highway in the Huntington Harbour area, where a previous coastal development permit has been issued and a proposed development project would affect the previously permitted development (e.g. constitutes a change of use not included in the original approval), approval of an amendment to that permit or a new coastal development permit would be required before the applicant could commence the contemplated development.

The Commission finds that the proposed IP amendment, which would allow the addition of "religious assembly" as an allowable use within the Commercial Visitor district, is adequate to carry out the land use designation Commercial Visitor because (1) the CV land use designation allows "cultural uses" and religious assembly constitutes a cultural use, albeit not a priority use and (2) as noted above, there are other adequate visitor serving priority uses available in the

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 7

Commercial Visitor zone and in other districts of the City. Further, the discretionary review process provides a means to consider and temper proliferation of non-priority (such as religious assembly) uses. Moreover, allowing the addition of “religious assembly” within the CV zone will not supplant the preference for visitor serving uses within areas that are zoned specific plan, such as but not limited to, the Downtown Specific Plan, the Palm/Goldenwest Specific Plan, and the Huntington Harbour Specific Plan. Therefore, the Commission finds that the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the land use policies of the certified Land Use Plan (LUP).

2) Public Access

The City’s certified LUP Goal C2 states:

Provide coastal resources access opportunities for the public where feasible and in accordance with the California Coastal Act requirements.

In addition, LUP Objective C 2.5 states:

Maintain and enhance, where feasible, existing shoreline and coastal resource access sites.

The Commercial Visitor zoned sites along Pacific Coast Highway in the Huntington Harbour area are located between the sea (in this case, the waters of Huntington Harbour) and the first public road (Pacific Coast Highway). The Peter’s Landing site fronts on the harbour. The second CV site in the Huntington Harbour area, adjacent to and north of the Peter’s Landing site, has some water frontage at its northern tip near the City boundary. The third Commercial Visitor site is located just inland of the sandy ocean beach, at the southeast (inland) corner of Pacific Coast Highway and Beach Boulevard.

As described above, adding “religious assembly” to the list of uses allowed in the Commercial Visitor zone is consistent with the certified LUP because “religious assembly” constitutes a cultural use. Whether such a use would have any adverse impacts on public access would be evaluated at the time a coastal development permit is processed. As with other existing uses allowed within the CV zone, impacts will depend upon the specific circumstances and details of the project itself, the project’s location, and the particulars of each, individual case. For example, where it is determined that adequate visitor serving uses are provided and would remain, it may be appropriate to allow a lesser priority use such as religious assembly or banking (a use currently allowed within the CV zone). Thus, the addition of “religious assembly” as an allowable use within the CV zone is not inconsistent with the public access policies of the certified LUP.

LUP Policy C 2.4.1 states:

Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

Parking can adversely impact public access when the parking demand within the coastal zone exceeds the supply. Many beach and coastal zone visitors arrive from inland destinations via automobile. If insufficient parking spaces are available, visitors may be deterred from coastal visits. Thus, parking is an important consideration when assessing potential impacts a

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 8

development may have on public access. All three of the sites currently zoned CV in the City are located in areas, due to their proximity to the sea, where inadequate parking would adversely impact public access. It should be noted that the provision of alternate forms of transportation (bicycle lanes, bus routes, shuttle systems, etc.) are also encouraged in the coastal zone, but the provision of adequate parking remains a necessity in assuring that public access is maximized.

The certified IP standards for all development within the CV zone require that the parking requirements of Chapter 231 Off-Street Parking and Loading apply. No exception for the proposed "religious assembly" use exists or is proposed. Thus, all uses, including the proposed "religious assembly" use, will be required to meet the City's standard parking requirements. In certifying Chapter 231 in the past in conjunction with overall Implementation Plan certification, the Commission found that the parking standards contained therein are adequate to provide sufficient parking with new development. The addition of "religious assembly" as an allowable use within the CV district will not create adverse impacts to public access due to parking deficiencies.

In addition, pursuant to Coastal Act section 30604(c), any coastal development permits for proposed development located between the first public road and the sea must also comply with the Coastal Act's public access and recreation policies.

Therefore, the Commission finds that the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the public access policies of the certified Land Use Plan (LUP).

C. Peter's Landing Permit History

Although the proposed amendment would apply to all the sites within the City's coastal zone that are zoned Commercial Visitor (but not specific plan areas), this amendment request is project driven. A request to establish a religious assembly use within a vacant space at the Peter's Landing commercial site has generated this amendment request from the City.

The history of the Peter's Landing site includes a number of past Commission actions. Following is a list of those actions:

P-5-14-76-7871: Denied by the South Coast Regional Commission on July 23, 1976. Project was for the construction of 294 condominiums and 23 single family dwellings with boat slips and a commercial marina. Denial was based, in part, on the lack of public access and that it was not a water dependent use and would have an adverse impact on the marine environment.

P-8-27-76-8742: Approved by the South Coast Regional Commission on October 18, 1976. Project for the construction of a bulkhead, 244 condominium units, clubhouse, pool, three tennis courts, commercial development, marina, 75 room hotel, three public parks including plaza, natural area, and swimming beach, public pedestrian and bike ways, public facilities such as restrooms, showers, fishing dock, harbour tour ferry and ten public boat slips. Six Special conditions were imposed by the Commission, as follows:

- 1) Required the protection, maintenance and monitoring of two created natural intertidal environments.
- 2) Required that the applicant agree to the conditions and specifications of the U.S. Fish and Wildlife Service and the Regional Water Quality Control Board.

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 9

- 3) Required that a transportation system and signage program (designed to encourage, promote, and protect public use of the facilities) be implemented.
- 4) Required that the applicant submit a signed notarized statement agreeing to either heat the pool system through a solar heating system or to have unheated swimming pools.
- 5) Required that the applicant dedicate to the City of Huntington Beach a 12,150 square foot beach and for unrestricted public access and use of the proposed trails and boardwalks around and through the project.
- 6) Required that the 75 room hotel be constructed prior to the issuance of occupancy permits for the 12 multi-family residences.

P-12-17-76-9689: Approved by the South Coast Regional Commission on December 17, 1976. Application by Broadmoor Homes to assign a portion of permit P-8-27-76-8742 to Broadmoor Grimaud. Permit was for 244 condominiums, bulkhead, and other facilities. Special Conditions 2 through 5 of P-8-27-76-8742 remained in effect.

P-12-17-76-9690: Approved by the South Coast Regional Commission on December 17, 1976. Application to assign a portion of the site covered by permit P-8-27-76-8742 from Broadmoor Homes to Arthur Shapiro for further subdivision. Was for 22 single family residence and boat slips. Special Conditions 2 through 5 remained in effect.

P-77-2393 and Amendment P-12-8-77-2393: Approved by the South Coast Regional Commission on December 29, 1977. Amended Tract Map No. 9738 (which is a re-subdivision of a portion of Tract map No. 6675) through a minor realignment of internal lot lines. This amendment reiterated special conditions 2, 3, 4, and 5 of P-8-27-76-8742.

P-77-2392: Approved by the South Coast Regional Commission on March 13, 1978. Deleted special condition number 4 of P-8-27-76-8742 which required a solar heating pool. Also approved resubdivision of Tract No. 6675 into Tract Maps No. 9738 and 10004. This amendment reiterated special conditions 2, 3, and 5 of P-8-27-76-8742.

P-79-6083: Approved by the South Coast Regional Commission on November 19, 1979. Expansion of the public commercial marina and retail-office specialty center. Included 81 boat slips and 20,000 gross square feet of retail, office, and restaurant use. Total commercial allowed would be 127,132 square feet of retail, office, and restaurant; and 281 boat slips. Seventy-nine (79) additional parking spaces for a total of 630 on-site parking spaces. The Commission imposed one special condition for the submission of revised plans showing: a) either 16 additional on-site spaces or a reduction in square footage; b) two public fishing piers, c) gangplank access to the fishing piers, d) signage advising the public of the availability of the fishing piers, and e) that future improvements require a coastal development permit.

Should a religious assembly use be proposed at Peter's Landing in the future, approval of an amendment to any applicable previously issued coastal development permits, or a new coastal development permit would be required. The previous coastal development permits for the Peter's Landing development allowed residential, recreational, and commercial uses, but did not contemplate religious assembly use at the site. Thus, an amendment may need to be processed with the Coastal Commission. If it is determined that a new coastal development permit, rather than an amendment to the previous coastal development permit is appropriate, the new coastal development permit would be processed by the City and would be appealable to the Coastal Commission. The applicant contemplating future establishment of a religious assembly use at

Peter's Landing should contact the Coastal Commission Executive Director for further review and determination of the appropriate entity to process the coastal development permit.

IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – and the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing environmental impact reports (EIRs), among other things, in connection with their activities and approvals necessary for the preparation and adoption of local coastal programs (LCPs). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required, in approving an LCP submittal, to find that the proposal does conform with the provisions of CEQA, and to base any certification on a specific factual finding supporting the conclusion that the proposal "meets the requirements of [CEQA] Section 21080.5(d)(2)(i) ... , which requires that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment." 14 C.C.R. Sections 13555(b), 13542(a), and 13540(f). The City of Huntington Beach LCP amendment 2-09 consists of an amendment to the Implementation Plan (IP) only. The City has found the proposed addition of religious assembly uses within the CV district to be categorically exempt under CEQA.

As outlined in this staff report, the proposed Implementation Plan amendment as submitted is not expected to result in significant adverse impacts on the environment. Allowing religious assembly uses within the Commercial Visitor zone would result in similar impacts as other allowable uses within the zone. Any impacts that may arise could be addressed and avoided and/or mitigated at the time a specific project is proposed through the required permitting process.

Section 15342(d) of the Commission's regulations requires that "[a]ny final action taken by the Commission either approving or rejecting the LCP implementation actions must include written responses to significant environmental points raised during Commission review." During the City's review process one person spoke in support of the proposed amendment. No other comments were received.

For the reasons described above and throughout this staff report, the IP amendment is in conformity with and adequate to carry out the policies of the certified LUP, including the land use and public access policies. Therefore, the Commission finds that approval of the Implementation Plan amendment as submitted will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies City of Huntington Beach LCP amendment request 2-09 as submitted.

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 11

RESOLUTION NO. 2009-72

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH ADOPTING LOCAL COASTAL PROGRAM
AMENDMENT NO. 09-003 AND REQUESTING ITS CERTIFICATION BY THE
CALIFORNIA COASTAL COMMISSION**

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Section 30503 and 30510, the Planning Commission of the City of Huntington Beach held a public hearing to consider the adoption of the Huntington Beach Local Coastal Program Amendment No. 09-003, and such amendment was recommended to the City Council for adoption; and

The City Council, after giving notice as prescribed by law, held at least one public meeting regarding the proposed Huntington Beach Local Coastal Program Amendment No. 09-003; and

The City Council finds that the proposed amendment is consistent with the Certified Huntington Beach Local Coastal Program and Chapter 6 of the California Coastal Act; and

The City Council of the City of Huntington Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

SECTION 1. That the Huntington Beach Local Coastal Program Amendment No. 09-003 is hereby approved, consisting of an ordinance pertaining to Zoning Text Amendment (ZTA) described below:

<u>Ordinance</u>	<u>Subject</u>	<u>Description</u>
No. <u>3848</u>	ZTA No. 09-006	Visitor Commercial District

A copy of the aforesaid ordinance is attached hereto as **Exhibit A**, and is incorporated by this reference as though fully set forth herein.

SECTION 2. That the California Coastal Commission is hereby required to consider, approve and certify Huntington Beach Local Coastal Program Amendment No. 09-003.

SECTION 3. That pursuant to Section 13551 (b) of the Coastal Commission Regulations, Huntington Beach Local Coastal Program Amendment No. 09-003 will take effect automatically upon Coastal Commission approval, as provided in Public Resources Code Sections 30512, 30513, and 30519.

COASTAL COMMISSION
HNB-MAJ-2-09

09-2126.001/40292

1

EXHIBIT # 1
PAGE 1 OF 2

Resolution 2009-72

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 12

Resolution No. 2009-72

PASSED, APPROVED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting held on the sixteenth day of November 2009.

Glenn Boh
Mayor

ATTEST:

Jean A. Iglesias
City Clerk

REVIEWED AND APPROVED:

[Signature]
City Administrator

APPROVED AS TO FORM;

[Signature] 11/2/09
for City Attorney

INITIATED AND APPROVED

[Signature]
Director of Planning

COASTAL COMMISSION
HNB-MAJ-2-09

EXHIBIT # 1
PAGE 2 OF 2

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 13

ORDINANCE NO. 3848

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 211 OF THE HUNTINGTON BEACH
ZONING AND SUBDIVISION ORDINANCE TITLED
COMMERCIAL DISTRICTS

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Chapter 211 of the Huntington Beach Zoning and Subdivision Ordinance is hereby amended to read as follows:

211.04 CO, CG, and CV Districts: Land Use Controls

In the following schedules, letter designations are used as follows:

"P" designates use classifications permitted in commercial districts.

"L" designates use classifications subject to certain limitations prescribed by the "Additional Provisions" that follow.

"PC" designates use classifications permitted on approval of a conditional use permit by the Planning Commission.

"ZA" designates use classifications permitted on approval of a conditional use permit by the Zoning Administrator.

"TU" designates use classifications allowed upon approval of a temporary use permit.

"P/U" for an accessory use means that the use is permitted on the site of a permitted use, but requires a conditional use permit on the site of a conditional use.

Use classifications that are not listed are prohibited. Letters in parentheses in the "Additional Provisions" column refer to provisions following the schedule or located elsewhere in the Zoning Ordinance. Where letters in parentheses are opposite a use classification heading, referenced provisions shall apply to all use classifications under the heading.

	P	=	Permitted
CO, CG, and CV Districts Land Use Controls	L	=	Limited (see <u>Additional Provisions</u>)
	PC	=	Conditional use permit approved by Planning Commission
	ZA	=	Conditional use permit approved by Zoning Administrator
	TU	=	Temporary Use Permit
	P/U	=	Requires conditional use permit on site of conditional use
	-	=	Not Permitted

COASTAL COMMISSION
HNB-MAJ-2-09

EXHIBIT # 2
PAGE 1 OF 5

Huntington Beach LCPA 2-09
 RLUIPA IP Amendment
 Page 14

	CO	CG	CV	Additional Provisions
Residential				(J)(Q)(R)(V) (3334-6/97)
Group Residential	PC	PC	PC	(3334-6/97)
Multifamily Residential	-	-	PC	(3334-6/97)
Public and Semipublic				(J)(Q)(R)(V) (3334-6/97, 3553-5/02)
Clubs and Lodges	P	P	-	(3334-6/97, 3707-6/05)
Community and Human Services				
Drug Abuse Centers	-	PC	-	
Primary Health Care	L11	L11	-	(3522-2/02)
Emergency Kitchens	-	L-2	-	
Emergency Shelters	-	L-2	-	
Residential Alcohol Recovery, General	-	PC	-	
Residential Care, General	ZA	ZA	-	(3707-06/05)
Convalescent Facilities	ZA	ZA	-	(3707-06/05)
Cultural Institutions	PC	PC	PC	
Day Care, General	L-3	L-3	-	(3707-06/05)
Day Care, Large-Family	P	P	-	(Y) (3522-2/02)
Emergency Health Care	L-2	L-2	-	(3334-6/97)
Government Offices	P	P	PC	(3334-6/97)
Heliports	PC	PC	PC	(B)
Hospitals	PC	PC	-	(3334-6/97)
Park & Recreation Facilities	L-9	L-9	L-9	
Public Safety Facilities	PC	PC	PC	
Religious Assembly *	ZA	ZA	PC	(3522-2/02) (3522-2/02)
Schools, Public or Private	PC	PC	-	
Utilities, Major	PC	PC	PC	
Utilities, Minor	P	P	P	(L)

* proposed to be added

COASTAL COMMISSION

HNB-MAJ-2-09

EXHIBIT # 2

PAGE 2 OF 5

Huntington Beach LCPA 2-09

RLUIPA IP Amendment

	P	=	Permitted
CO, CG, and CV Districts Land Use Controls	L	=	Limited (see <u>Additional Provisions</u>)
	PC	=	Conditional use permit approved by Planning Commission
	ZA	=	Conditional use permit approved by Zoning Administrator
	TU	=	Temporary Use Permit
	P/U	=	Requires conditional use permit on site of conditional use
	-	=	Not Permitted

	CO	CG	CV	Additional Provisions
Commercial Uses				(J)(Q)(R) (3341-096)
Ambulance Services	-	ZA	-	
Animal Sales & Services				
Animal Boarding	-	ZA	-	(3522-202)
Animal Grooming	-	P	-	
Animal Hospitals	-	ZA	-	(3522-202)
Animals: Retail Sales	-	P	-	
Equestrian Centers (CG Zone)	-	PC	-	(S) (3707-605)
Pet Cemetery	-	PC	-	
Artists' Studios	P	P	P	
Banks and Savings & Loans	P	P	P	
With Drive-Up Service	P	P	P	(3522-202)
Building Materials and Services	-	P	-	
Catering Services	P	P	P	
Commercial Filming	P	P	P	(F)
Commercial Recreation and Entertainment	-	PC	PC	(D)
Communication Facilities	L-13	L-13	L-13	(3568-902)
Eating and Drinking Estab.	L-4	L-4	L-4	(3522-202, 3707-605)
W/Alcohol	ZA	ZA	ZA	(N)(Y) (3522-202)
W/Drive Through	-	P	P	(3522-202, 3707-605)
W/Live Entertainment	ZA	ZA	ZA	(W)(Y) (3522-202)
W/Dancing	PC	PC	PC	(H)
W/Outdoor Dining	ZA	ZA	ZA	(X)(Y) (3522-202)
Food & Beverage Sales	-	P	L-2	
W/Alcoholic Beverage Sales	-	ZA	ZA	(N)
Funeral & Internment Services	-	ZA	-	
Laboratories	L-1	L-1	-	
Maintenance & Repair Services	-	P	-	
Marine Sales and Services	-	P	P	
Nurseries	-	ZA	-	
Offices, Business & Professional	P	P	P	(3334-697)
Pawn Shops	-	ZA	-	
Personal Enrichment Services	L-10	L-10	-	(Y) (3522-202)
Personal Services	P	P	P	
Research & Development Services	L-1	ZA	-	
Retail Sales	-	P	P	(U)(V) (3285-695, 3334-697, 3482-12/00)
Secondhand Appliances/Clothing	-	P	-	
Swap Meets, Indoor/Flea Markets	-	PC	-	(T)
Swap Meets, Recurring	-	ZA	-	
Tattoo Establishments	-	PC	-	
Travel Services	P	P	P	

COASTAL COMMISSION
HNB-MAJ-2-09

EXHIBIT # 2
PAGE 3 OF 5

Huntington Beach LCPA 2-09
 RLUIPA IP Amendment
 Page 16

CO, CG, and CV Districts Land Use Controls	P = Permitted
	L = Limited (see <u>Additional Provisions</u>)
	PC = Conditional use permit approved by Planning Commission
	ZA = Conditional use permit approved by Zoning Administrator
	TU = Temporary Use Permit
	P/U = Requires conditional use permit on site of conditional use
	- = Not Permitted

	CO	CG	CV	Additional Provisions
Vehicle Equipment/Sales & Services				
Automobile Rentals	-	L-8	L-8	L-12
Automobile Washing	-	ZA	-	(3707-605)
Commercial Parking	-	ZA	ZA	(P) (3707-605)
Service Stations	-	PC	PC	(E)
Vehicle Equip. Repair	-	L-5	-	
Vehicle Equip. Sales & Rentals	ZA	ZA	-	L-12 (3522-202)
Vehicle Storage	-	ZA	-	(3707-605)
Visitor Accommodations				
Bed & Breakfast Inns	PC	PC	PC	(K) (3707-605, 3774-907 subject to approval by the CA Coastal Commission)
Hotels, Motels	-	PC	PC	(I) (3334-697, 3707-605, 3774-907 - subject to approval by the CA Coastal Commission)
Condominium – Hotel	-	-	PC	(Z) (3774-907, 3707-605 subject to approval by the CA Coastal Commission)
Fractional Ownership Hotel				(3774-907 - subject to approval by the CA Coastal Commission)
Quasi Residential				
Timeshares	-	PC	-	(I)(J) (3334-697, 3774-907 subject to approval by the CA Coastal Commission)
Residential Hotel	-	PC	-	(J) (3334-697, 3774-907 subject to approval by the CA Coastal Commission)
Single Room Occupancy	-	PC	-	(3774-907, 3774-907 subject to approval by the CA Coastal Commission)
Industrial				
Industry, Custom		L-6	L-6	(J)(Q)(R)(V) (3334-697)
Accessory Uses				(J)(V) (3334-697)

COASTAL COMMISSION
 HNB-MAJ-2-09
 EXHIBIT # 2
 PAGE 4 OF 5

Huntington Beach LCPA 2-09
 RLUIPA IP Amendment
 Page 17

Accessory Uses & Structures	P/U	P/U	P/U		
Temporary Uses				(F)(J)(V)	(3334-6/97)
Animal Shows	-	TU	-		
Circus and Carnivals and Festivals	-	TU	-		(3522-2/02)
Commercial Filming, Limited	-	P	P	(M)	
Real Estate Sales	P	P	P		(3522-2/02, 3707-6/05)
Retail Sales, Outdoor	-	TU	TU	(M)	(3522-2/02)
Seasonal Sales	TU	TU	TU	(M)	(3522-2/02)
Tent Event	-	P	-		(3522-2/02, 3707-6/05)
Trade Fairs	-	P	-		(3707-6/05)
Nonconforming Uses				(G)(J)(V)	(3334-6/97)

(Rest of page not used)

SECTION 2. All other provisions of Chapter 211 not modified herein shall remain in full force and effect.

SECTION 3. This ordinance shall become effective 30 days after its adoption.


PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2009.

 Mayor

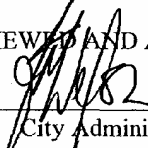
ATTEST:

 City Clerk

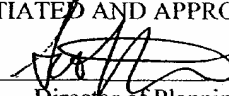
APPROVED AS TO FORM:


 City Attorney *DM 10/28/09*
 10-28-09

REVIEWED AND APPROVED:


 City Administrator

INITIATED AND APPROVED:

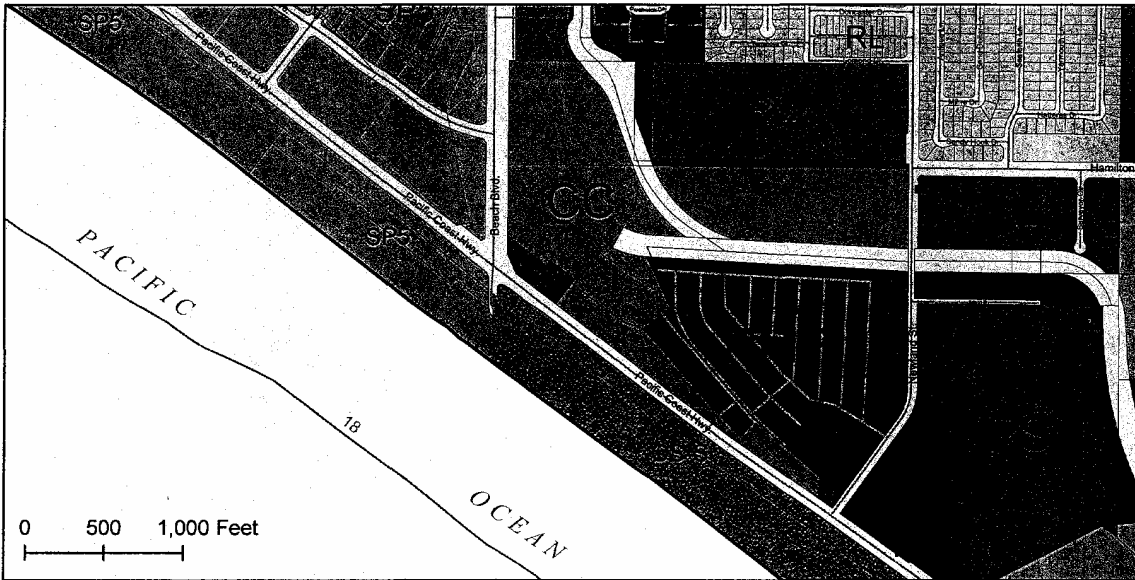
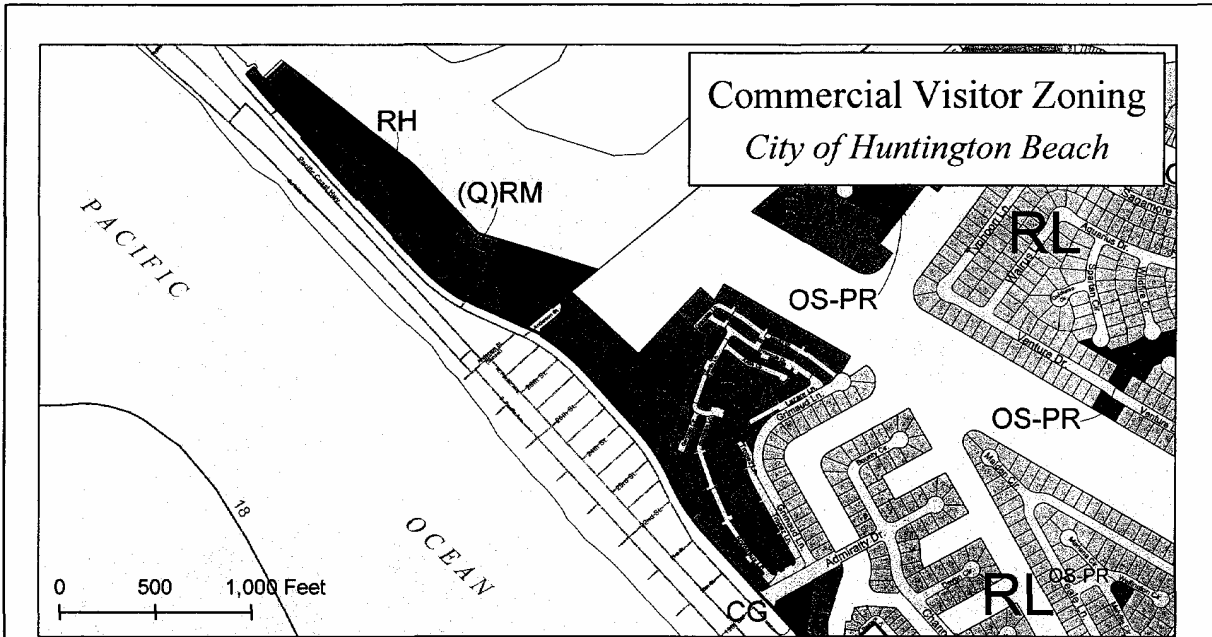

 Director of Planning

COASTAL COMMISSION

HNB-MAJ-2-09

EXHIBIT # 2

PAGE 5 OF 5



Commercial	Residential	Open Space	Miscellaneous
Commercial Visitor	Residential Low Density	Parks and Recreation Subdistrict	Specific Plan Designations
Commercial General	Residential Medium Density	Shoreline Subdistrict	Qualified Classification
Industrial	Residential Medium High Density	Water Recreation Subdistrict	Right of Ways, Bridges, Channels
Industrial General	Manufactured Home Park		
Industrial Limited	Residential Agriculture		
Conservation	Public		
Coastal Conservation	Public-Semipublic		

Information Services Department

HB GIS
09/10/09
G:\apps\02\Projects\Planning\Zoning\CVZ\Zoning.mxd

HNB-MAJ-2-09

Exhibit 3

page 1 of 2

Huntington Beach LCPA 2-09
RLUIPA IP Amendment
Page 19

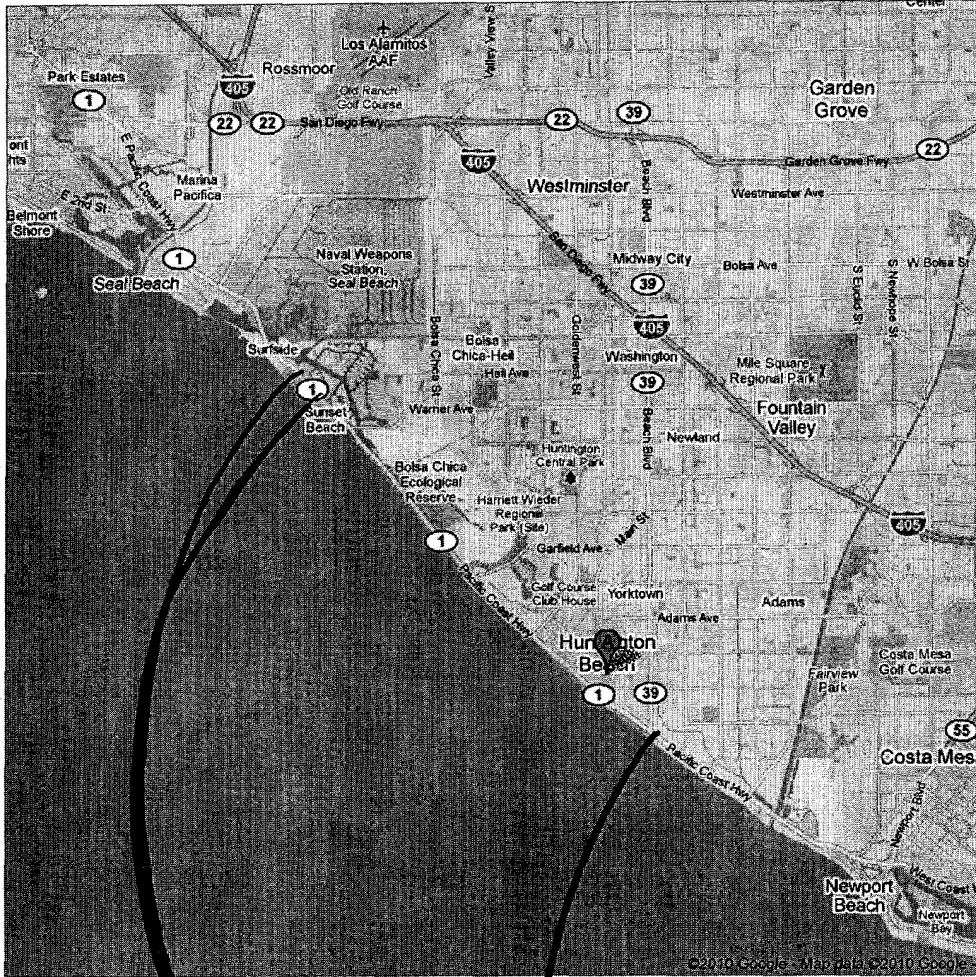
Huntington Beach, CA - Google Maps

Page 1 of 1

Google maps

Address Huntington Beach, CA

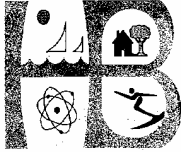
Get Google Maps on your phone
Text the word "GMAPS" to 466453



CV ZONE locations (3)

HNB-MAJ-2-09

Exhibit 3
page 2 of 2



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING AND BUILDING

www.huntingtonbeachca.gov

Planning Division

714.536.5271

April 8, 2010

Meg Vaughn, Staff Analyst
South Coast Area Office
California Coastal Commission
200 Occangate, 10th Floor
Long Beach, CA 90802-4302

RECEIVED
South Coast Region

APR 13 2010

CALIFORNIA
COASTAL COMMISSION

Building Division

714.536.5241

SUBJECT: Huntington Beach LCP Implementation Plan Amendment No. 2-09 (RLUIPA)

Dear Ms. Vaughn:

This is in response to the letter dated March 23, 2010 from your office requesting additional information in an effort to deem the application complete for Local Coastal Program Amendment No.2-09.

Your letter requests the following: Comment on whether the interpretation of allowable uses within visitor serving areas within specific plans may include religious assembly as a result of the proposed amendment. Could the CV zone language, as proposed to be amended, be used to guide what constitutes a visitor serving use within the specific plans?

The addition of Religious Assembly in the Commercial Visitor Zoning District could be used as a guide with respect to allowable uses; however, the City would require a formal amendment to a specific plan rather than allowing the religious assembly use by a informal interpretation. The allowance of Religious Assembly in the Commercial Visitor Zoning district could also be the basis for support of an amendment to a specific plan. Prohibition of this use in any zone that permits similar assembly uses could be in violation of the provisions of the Federal Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc. RLUIPA clearly states that no government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with non-religious assembly uses such as museums, movie theaters and commercial/recreational uses.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Hess', is written over a horizontal line.

Scott Hess
Director of Planning and Building

xc: Mary Beth Broeren, Planning Manager
Rosemary Medel, Associate Planner

COASTAL COMMISSION

HNB-MAJ-2-09

EXHIBIT # 4

PAGE 1 OF 1