

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



October 13, 2016

F19c

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
GABRIEL BUHR, COASTAL PROGRAM MANAGER, SD COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SD COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE MAJOR
AMENDMENT LCP-6-OCN-15-0043-5 (Part C - Reasonable Accommodations)
for Commission Meeting of November 2-4, 2016**

SYNOPSIS

The subject LCP implementation plan amendment (LCP-6-OCN-15-0043-5 (Part C – Reasonable Accommodations)) was submitted and filed as complete on August 28, 2016. A one-year time extension was granted on October 6, 2016. As such, the last date for Commission action on this item is October 6, 2017. This report addresses one of three components of the City’s submittal. LCP-6-OCN-15-0043-5 (Part A – Emergency Shelters) will allow for emergency shelters within the City’s Light Industrial Zone (outside the Coastal Zone only) and Transitional and Supportive Housing within residentially zoned properties and LCP-6-OCN-15-0043-5 (Part B - Inclusionary Housing) will provide a process for applicants to be afforded certain incentives for providing a portion of a proposed development as lower-income units. Both of these items are also scheduled for the Commission’s November 2016 agenda. The proposed amendment will affect the certified LCP Implementation Plan only.

SUMMARY OF AMENDMENT REQUEST

The City is proposing to add a new Article, Article 41 – Reasonable Accommodation – to its certified Implementation Plan. Federal and State fair housing laws require that local governments provide reasonable accommodation procedures in rules, policies, practices or services when such accommodations are deemed necessary to afford a person with disabilities equal opportunity to use and enjoy a dwelling unit. In these cases, the certified development standards may be relaxed in order to provide the necessary improvements. As an example, requests for reasonable accommodations can involve such variances as reducing the required front yard setback to allow construction of a ramp for wheelchair access.

As proposed, Article 41 defines reasonable accommodations, recognizes various types of physical or mental impairment that may result in the need for reasonable accommodations, and outlines the process and necessary findings to approve proposals

for specific reasonable accommodations. Typically, these types of proposals would be handled administratively and approved by the City Planner. However, the processing of a reasonable accommodation would occur concurrently with any other required review/approvals engendered by any request (e.g. if located in the Coastal Zone, review of the request would occur concurrently with the review of a coastal development permit). The proposed ordinance would not permit approval of specific reasonable accommodations, if such requests would require a fundamental alteration of the City's applicable land use and zoning regulations.

SUMMARY OF STAFF RECOMMENDATION

The Commission may only reject Implementation Plan (IP) amendments where it can be shown that the amendment would be inconsistent with the certified Land Use Plan (LUP) or render the IP inadequate to carry out the LUP. Staff is recommending denial of the amendment as proposed, and then approval of the amendment with one suggested modification. The Commission is not concerned with the review and approval of a request for a reasonable accommodation as it relates to the threshold criteria of whether a requestor of a reasonable accommodation is medically qualified to make such a request. However, when the authorization of reasonable accommodations includes allowing flexibility in the City's application of land use and zoning regulations for properties in the Coastal Zone, the Commission does have an interest in assuring that any proposed accommodations can still be found consistent with the certified Local Coastal Program and will minimize any potential impacts to coastal resources.

In this case, Section C.2 of the City's proposed ordinance includes language that specifies any request for reasonable accommodations will occur at the same time as any associated discretionary review. For the Commission's purposes, this means that any proposal for reasonable accommodations will occur along with the review and issuance of a coastal development permit. Additionally, the article elucidates that all associated procedures; such as public hearings, appeals, and time extensions, shall conform to those associated with the companion discretionary review (the certified CDP review process). It is through the review and issuance of a coastal development permit process that the applicable policies of the LCP are invoked and consistency with the LCP is determined. Thus, as proposed, it is clear that application of the policies included in the City's certified LCP will still be included in the review for any proposed for reasonable accommodations located in the Coastal Zone.

The proposed ordinance also includes a number of findings necessary in order to approve any request for reasonable accommodations. Specifically, Section D.1.e includes the requirement that "*the requested accommodation would not require a fundamental alteration of a City program or law, including but not limited to land use and zoning regulations.*" This language, however, fails to specify that the requested accommodations also cannot fundamentally alter the regulations contained within the City's certified Local Coastal Program. Without this included in the required findings, it is not as clear that any proposed reasonable accommodation has to take into consideration the level of impact the development may have on coastal resources. This is

a concern because the proposed reasonable accommodation likely will include some deviation from the certified development standards, be it setbacks, height restrictions, etc., and thus may not be consistent with certain development standards contained in the City's LCP. And while this should be acknowledged and accepted by the Commission, ultimately, any proposed project may not result in significant impacts to coastal resources. Thus, it is necessary to ensure, through policy language, that any deviation from the certified development standards must still not result in significant inconsistencies with the certified LCP. Therefore, staff is recommending denial of the IP amendment as submitted, and approval of the zoning amendment with one suggested modification. The bases for inclusion of this suggested modification is discussed in greater detail below.

Suggested Modification #1 would clarify that any approval for reasonable accommodations must not fundamentally alter the regulations contained within the City's certified LCP. Inclusion of this language ensures adequate protection of coastal resources.

The appropriate resolutions and motions begin on Page 5. The suggested modifications begin on Page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 7. The findings for approval of the plan, if modified, begin on Page 10.

ADDITIONAL INFORMATION

Further information on the City of Oceanside LCP amendment LCP-6-OCN-15-0043-5 (Part C – Reasonable Accommodations) may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of Oceanside first submitted its Local Coastal Program Land Use Plan (LUP) to the Commission in July 1980, and it was certified with suggested modifications on February 19, 1981. This action, however, deferred certification on a portion of the San Luis Rey River valley where an extension of State Route 76 was proposed. On January 25, 1985, the Commission approved with suggested modifications the resubmitted LUP and Implementing Ordinances. The suggested modifications related to the guaranteed provision of recreation and visitor-serving facilities, assurance of the safety of shorefront structures, and the provision of an environmentally sensitive routing of the proposed Route 76 east of Interstate 5. The suggested modifications to the Zoning/Implementation phase resulted in ordinances and other implementation measures that were consistent with the conditionally certified LUP policies.

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for "commercial" use; the Commission's suggested modification designated it as "open space." On July 10, 1985, the Commission certified the City's Local Coastal Program as resubmitted by the City, including deferred certification on the above parcel.

The City's Implementation Plan does not currently contain any policies that would permit the application for reasonable accommodations. As such, the proposed amendment will certify Article 41 as a new article within the City's LCP. The City intends to apply the provisions for reasonable accommodations Citywide.

B. STANDARD OF REVIEW

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

C. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. **MOTION I:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-OCN-15-0043-5 Part C for the City of Oceanside as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program 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 AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Oceanside and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

- II. **MOTION II:** *I move that the Commission certify the Implementation Program Amendment No. LCPA-6-OCN-15-0043-5 Part C for the City of Oceanside 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 Implementation Program Amendment for the City of Oceanside if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plan as amended. 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 Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

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

1. Modify Article 41 – Reasonable Accommodations as follows:

D. Findings and Decisions

[...]

e. The requested reasonable accommodation would not require a fundamental alteration of a City program or law, including but not limited to land use and zoning regulations, and the City's Local Coastal Program.

**PART IV. FINDINGS FOR REJECTION OF THE CITY OF OCEANSIDE
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The City is proposing to add a new Article, Article 41 – Reasonable Accommodation – to its certified Implementation Plan. Federal and State fair housing laws require that local governments provide reasonable accommodation procedures in rules, policies, practices or services when such accommodations are deemed necessary to afford a person with disabilities equal opportunity to use and enjoy a dwelling unit. As such, the certified development standards may be relaxed in order to provide the necessary improvements. As an example, requests for reasonable accommodations can involve such variances as reducing the required front yard setback to allow construction of a ramp for wheelchair access.

As proposed, Article 41 defines reasonable accommodations, recognizes various types of physical or mental impairment that may result in the need for reasonable accommodations, and outlines the process and necessary findings to approve proposals for specific reasonable accommodations. Typically, these types of proposals would be handled administratively and approved by the City Planner. However, the processing of a reasonable accommodation would occur concurrently with any other required review/approvals engendered by any request (e.g. if located in the Coastal Zone, review of the request would occur concurrent with the review of a coastal development permit).

B. SPECIFIC FINDINGS FOR REJECTION

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

Purpose and Intent of the Ordinance. The purpose and intent of the proposed ordinance is to provide a streamlined process by which persons with disabilities can seek reasonable accommodations in zoning standards that would afford the equal opportunity to use and enjoy a dwelling unit.

Major Provisions of the Ordinance. The major provisions of the ordinance include that requests for reasonable accommodations may be made by any individual with a disability when the application of a land use or zoning provision, regulation or policy acts as a barrier to fair housing opportunities. The article allows for these requests to be approved administratively and by the City Planner, unless such proposals are associated with discretionary review of a land use and/or development proposal subject to such discretionary review. Finally, the article clarifies that any approved reasonable accommodation is granted to an individual and does not run with the land.

Adequacy of the Ordinance to Implement the Certified LUP Segments. The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan(s) (LUP). The City's LUP contains a number of policies that address protection of public views, geologic stability, preservation of community character, the provision of adequate parking, protection for sensitive habitats and protection of and improvements to public access and state, in part:

City of Oceanside LCP Land Use Policies for Visual Resources

VI. Visual Resources and Special Communities

1. In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment.

3. All new development shall be designed in a manner which minimizes disruption of natural land forms and significant vegetation.

4. *The City shall maintain existing view corridors through public rights-of-way.*

[...]

8. *The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.*

City of Oceanside LCP – Design Standards for Preserving and Creating Views

The visual orientation to the Pacific Ocean is a major identity factor for the City of Oceanside. Traditional view corridors should be preserved and reinforced in the placement of buildings and landscaping. Additionally, some views not presently recognized deserve consideration in the design and location of further coastal improvements.

City of Oceanside LCP Land Use Policies for Coastal Access

I. Coastal Access

Objective: Adequate access to and along the coast shall be provided and maintained

VII. New Development and Public Works

1. The City shall deny any project which diminishes public access to the shoreline, degrades coastal aesthetics, or precludes adequate urban services for coastal-dependent, recreation, or visitor serving uses.

City of Oceanside LCP Land Use Policies for Environmentally Sensitive Habitat

IV. San Luis Rey River Specific Plan

Objectives – The City shall protect, maintain and enhance the river’s existing sensitive habitats

V. Environmentally Sensitive Habitat Areas

2. Prior to approving any development on dry lands adjacent to Buena Vista Lagoon, the City shall consult the State Department of Fish and Game to ensure that adequate measures are provided to protect and enhance the lagoon’s sensitive resources. Such measures shall include:

a. Provision of adequate buffers between development and the lagoon.

City of Oceanside LCP Land Use Policies for Geologic Stability

III. Water and Marine Resources; Diking, Dredging Filling, and Shoreline Structures; and Hazard Areas – C- Objectives and Policies

- 6. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shorelines processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate impacts on local shoreline sand supply. Such structures shall be designed and constructed to minimize erosive impacts on adjacent unprotected property and minimize encroachment on to the beach. The structures and not interfere with access along the beach. The property owner shall dedicate all area seaward of the shoreline structure for lateral access for the public.*

- 11. New development along the City's coastal bluffs and hillsides should assure stability and protection of natural landforms, and neither create nor contribute significantly to erosion or geologic instability, or in any way require the construction of protective devices that would substantially alter natural landforms.*

- 12. Coastal bluff development shall be permitted if the design and setbacks are adequate to ensure stability for the expected economic life of the development, and measurements are taken to control run-off, foot traffic, irrigation or other activities which could aggravate erosion problems.*

The City of Oceanside is proposing to amend its Implementation Plan (IP) to include a new chapter (Article 41) to formalize the process by which requests for reasonable accommodations are reviewed and approved. The Commission recognizes that the City and other regulated parties must, by federal law, make reasonable accommodations available as necessary to assure that structures are accessible by all people, including those with disabilities. Again, the Commission is not concerned with the review and approval of a request for a reasonable accommodation as it relates to whether a requestor of a reasonable accommodation is medically qualified to make such a request. The Commission is concerned; however, when such approval includes flexibility in the City's application of land use, zoning, and building code regulations, as it relates to potential inconsistencies with the City's certified LCP and specifically, the potential for impacts to coastal resources. As proposed, the amendment would allow flexibility for development standards if such restrictions would preclude or limit accessibility to people with disabilities. This flexibility could also ultimately result in the requirement that certain modifications to LCP requirements be allowed. Thus, there is the potential that such modifications could result in significant impacts to coastal resources. While the amendment includes language that would disallow a request for a reasonable accommodation if such request would require a fundamental alteration in the nature of the city's land use and zoning and building regulations, there is no specific mention if such flexibility could be supported if such allowance would result in fundamental alteration of the requirements of the certified LCP. As is reflected in the City's certified

LUP policies cited above, the City's certified LCP places high value on maximizing public access and recreation, protecting and enhancing public views, protecting natural habitats, wildlife and geologic stability. As such, the proposed amendment should clarify that any such proposals may not fundamentally alter the resource and geologic protection, public access and recreation, or public view policies certified as a part of the City's Local Coastal Program.

Therefore, to ensure maximum compliance with LCP policies when approving a reasonable accommodation, **Suggested Modification No. 1** includes language that if a reasonable accommodation requires a deviation from an LCP policy then the City can only approve such a project so long as the requested deviation does not fundamentally alter the nature of the City's LCP.

**PART V. FINDINGS FOR APPROVAL OF THE CITY OF OCEANSIDE
IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED**

The proposed amendment would allow for the granting of less than fundamental modifications to LCP requirements to give persons with disabilities equal access to housing opportunities. As an example, the proposed ordinance could facilitate development proposals such as a wheel chair ramp within required building setbacks and/or a reduction in required off-street parking when the applicant's disability limits his/her ability to operate a vehicle.

A project located in the coastal zone which requests land use and zoning flexibility should identify whether impacts to coastal resources would result, and, if so, identify the specific resources impacted. The required alternatives review should also describe feasible alternatives to the project and identify a feasible alternative with the minimum impacts to coastal resources. As proposed, the reasonable accommodations process would take place during the course of any other required reviews/approvals engendered by any particular request (e.g., if a coastal development permit or other planning permit/approval was also necessary). Specifically, Sections C.1 & 2 include language that clarifies that while the approval of the reasonable accommodation may be approved administratively, requests associated with discretionary review, such as a request associated with a proposed or existing CDP, shall occur concurrent with any required discretionary review. Section C.2 clarifies that if discretionary review is required, the procedures, such as public hearings and appeals, will also need to conform to those processes associated with the companion discretionary review. That being said, the proposed amendment does not include sufficient language to describe how the flexibility in the development standards shall be weighed against the LCP and ultimately provide adequate protection of coastal resources.

The Commission is therefore suggesting one modification, **Suggested Modification No. 1**, to the City's proposed amendment to clarify that while requests for reasonable accommodations may require flexibility in the City's development standards. The potential impacts of those requests will be analyzed through the CDP process, and as amended, will not be approved if such requests fundamentally alter the nature of the

City's LCP. Thus, while the primary intent of the amendment is to comply with State and Federal laws related to reasonable accommodations, as modified herein, the proposed language specifically includes the City's LCP, and has been designed to ensure that any reasonable accommodations granted will not result in impacts to coastal resources.

To conclude, the certified LCP requires that coastal resources such as public access and recreation, public views, and sensitive habitats; including wetlands, be protected. In this case, the City is proposing language that will make it clear to any applicant that if the proposed development is located in the coastal zone, the proposal will also have to be found consistent with the City's LCP, to the maximum degree feasible, and that any deviation from the LCP, in approving a reasonable accommodation, does not fundamentally alter the nature of the land use and zoning and building regulations, policies, practices, and procedures of the City's Local Coastal Program. For the reasons described above, if modified as suggested, the proposed Implementation Plan amendment can be found to be consistent with and adequate to carry out the City's certified Land Use Plan. Therefore, the Commission finds that, as modified, the proposed Implementation Plan amendment will be consistent with and adequate to carry out the provisions of the certified Land Use Plan (LUP).

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

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP. The City concluded that there was no possibility that the activity would have a significant effect on the environment and therefore determined that the LCP amendment was not subject to CEQA.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. The Commission finds that approval of the proposed ordinance amendment, as submitted, would result in significant impacts under the meaning of the California Environmental Quality Act. However, with the inclusion of the suggested modification, implementation of the revised ordinance would not result in significant impacts to the environment within the meaning of the California Environmental Quality Act. Therefore, the Commission finds that approval of the LCP amendment will not result in any significant adverse environmental impacts.

RECEIVED

NOV 25 2015

ORDINANCE NO. 15-OR0640-1

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COUNTY

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF OCEANSIDE INTRODUCING ARTICLE 3043
(REASONABLE ACCOMMODATION) TO THE OCEANSIDE
ZONING ORDINANCE AND ESTABLISHING THE
AMENDED TEXT AS PART OF THE IMPLEMENTING
DOCUMENT OF THE CITY'S LOCAL COASTAL
PROGRAM

WHEREAS, adoption of provisions for reasonable accommodation will provide flexibility in the application of zoning standards for individuals with disabilities, when such flexibility is necessary to eliminate barriers to housing; and

WHEREAS, the Fair Housing Act, the Fair Housing Act Amendments of 1988, and the Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodations in their land use and zoning rules, policies, practices, and procedures when such accommodations may be necessary to provide individuals with disabilities an equal opportunity to use and enjoy a dwelling; and

WHEREAS, Program 21 (Review of Governmental Constraints) of the City's 2013-2021 Housing Element establishes that the City will adopt provisions for reasonable accommodation in conformance with federal and state fair housing law; and

WHEREAS, the Planning Division has prepared recommendations for text amendments to the Oceanside Zoning Ordinance that would incorporate provisions for reasonable accommodation consistent with federal and state fair housing law; and

WHEREAS, on April 20, 2015, the Planning Commission conducted a duly-advertised public hearing as prescribed by law and recommended City Council approval of said recommendations by a vote of 7-0; and

WHEREAS, the City Council conducted a duly-noticed public hearing on October 7, 2015, to consider the recommended provisions for reasonable accommodation; and

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California Environmental Quality Act of the 1970 and State Guidelines;

EXHIBIT NO. 1

Ordinance



Oceanside LCPA-6-OCN-15-0043-5 Part C
California Coastal Commission

1 NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

2 **SECTION 1.** Zone Amendment (ZA12-00005), introducing provisions for
3 reasonable accommodation to the text of the Oceanside Zoning Ordinance and the
4 implementing document of the City's Local Coastal Program, as specified in Exhibits A and B,
5 is hereby adopted.

6 **SECTION 2.** The City Clerk of the City of Oceanside is hereby directed to publish
7 this Ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen
8 (15) days after its passage in a newspaper of general circulation published in the City of
9 Oceanside.

10 **SECTION 3.** Severability.

11 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be
12 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
13 shall not affect the validity of the remaining portions of this Ordinance. The City Council
14 hereby declares that it would have passed this Ordinance and adopted this Ordinance and each
15 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more
16 sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

17 **SECTION 4.** Notice is hereby given that the time within which judicial review must
18 be sought on this decision is governed by Government Code Section 65009(c).

19 **SECTION 5.** For properties within the Coastal Zone, this ordinance shall be effective
20 upon certification of Local Coastal Plan Amendment (LCPA12-00003) by the California
21 Coastal Commission. For properties outside of the Coastal Zone, this ordinance shall be
22 effective 30 days after its adoption.

23 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
24 California, held on the 7th day of October, 2015, and, thereafter,

25 ///
26 ///
27 ///
28 ///

1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Oceanside, California, held on the 21st day of October, 2015, by the following vote:

3 AYES: WOOD, FELLER, KERN, LOWERY, SANCHEZ

4 NAYS: NONE

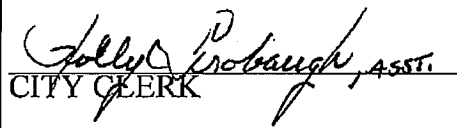
5 ABSENT: NONE


6 ABSTAIN: NONE

7 
8 MAYOR OF THE CITY OF OCEANSIDE

9 ATTEST:

APPROVED AS TO FORM:

10
11 
12 CITY CLERK

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CITY ATTORNEY

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING ARTICLE 30,
SECTION 3032, OF THE 1992 OCEANSIDE ZONING ORDINANCE AND ADDING ARTICLE 40 OF THE
1986 OCEANSIDE ZONING ORDINANCE, MODIFYING THE CITY'S DENSITY BONUS PROVISIONS
TO COMPLY WITH GOVERNMENT CODE SECTION 65915

1986 ZONING ORDINANCE

ARTICLE 41 REASONABLE ACCOMMODATION

A. Specific Purposes

The specific purposes of the Reasonable Accommodation provisions outlined in this section are to:

1. Provide a procedure to request reasonable accommodation, through the application of zoning and land use regulations, policies and procedures, for disabled persons seeking an equal opportunity to use and enjoy a dwelling unit under the federal Fair Housing Act and the California Fair Employment and Housing Act.
2. Define "reasonable accommodation" as a modification or exception to the regulations, policies and procedures for the siting, development and use of housing or housing-related facilities that would eliminate or reduce regulatory barriers and thereby provide a disabled person with equal opportunity to housing of their choice.
3. Establish eligibility for reasonable accommodation for persons (1) with a physical or mental impairment that substantially limits one or more major life activities; (2) who are regarded as having such an impairment; and (3) who have a record of such an impairment.
4. Recognize "physical or mental impairment" as including, but not being limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.
5. Stipulate that reasonable accommodations shall be granted to individual residents and shall not run with the land unless it is determined that (1) the modification is physically integrated into the dwelling unit(s) and cannot readily be removed or altered to comply with applicable codes; or (2) the accommodation will be utilized by another disabled person.

EXHIBIT NO. 2

Article 41 – All New Language

Oceanside LCPA-6-OCN-15-0043-5 Part C
California Coastal Commission

B. Applicability

1. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use or zoning provision, regulation or policy acts as a barrier to fair housing opportunities.
2. A request for reasonable accommodation may include a modification or exception to the rules, standards, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability with equal opportunity to housing of their choice.
3. Nothing in this ordinance shall require the City to waive or reduce application processing fees associated with a reasonable accommodation request.

C. Review Authority and Procedure

1. Requests for reasonable accommodation associated with administrative review of land use and/or development proposals shall be considered by the City Planner or designee. Modification or exception to applicable regulations, policies and procedures shall not, in and of itself, necessitate discretionary review and approval (e.g. Variance or Use Permit). Written determination from the City Planner on administrative requests shall be provided within 45 days of the submittal of a complete application.
2. Requests for reasonable accommodation associated with discretionary review of land use and/or development proposals shall be considered by the authority charged with such review under other provisions of this ordinance. Discretionary review of requests for reasonable accommodation shall only be required when such requests coincide with land use and/or development proposals subject to discretionary review. Procedures for discretionary review of requests for reasonable accommodation – including public notification, public hearings, appeals and time extensions – shall be those set forth in this ordinance for those entitlements concurrently under review.
3. Adverse decisions regarding reasonable accommodation rendered by the City Planner or designee may be appealed to the Planning Commission by ~~any interested party~~ the applicant. Adverse decisions regarding reasonable accommodation rendered by the Planning Commission may be appealed to the City Council by ~~any interested party~~ the applicant. Appeals of decisions regarding reasonable accommodation shall follow procedures established in Article 46 of the 1992 Zoning Ordinance.

D. Findings and Decision

1. Findings. Written determination to grant or deny a request for reasonable accommodation shall be consistent with applicable federal and state law and based on consideration of the following:
 - a. The housing which is the subject of the request will be inhabited by the person(s) considered disabled in accordance with federal and state law.
 - b. The requested accommodation is reasonable and necessary to make the housing available to the disabled person(s).
 - c. The requested accommodation would not result in adverse impacts on surrounding properties and land uses.
 - d. The requested accommodation would not impose an undue financial or administrative burden on the City.
 - e. The requested reasonable accommodation would not require a fundamental alteration of a City program or law, including but not limited to land use and zoning regulations.
2. Alternatives. In evaluating the reasonableness of a requested accommodation, the review authority may consider whether there are reasonable alternatives that would provide an equivalent level of benefit to the disabled individual or group of individuals.
3. Conditions. In granting a request for reasonable accommodation, the reviewing authority may impose conditions of approval to ensure that the above findings can be met. Conditions may include, but are not limited to, ensuring that any removable structures or physical design features constructed or installed in association with a reasonable accommodation be removed once they are not needed to provide access to the dwelling unit for current occupants.

E. Application Requirements

1. Requests for reasonable accommodation shall be submitted on an application form provided by the Planning Division. Applications for reasonable accommodation shall include the following information
 - a. The applicant's name, address and telephone number.
 - b. The street address and assessor's parcel number of the property for which the request is being made.

- c. The current actual use of the subject property.
 - d. The basis for the claim that the individual or group of individuals is considered disabled under the federal Fair Housing Act and the California Fair Employment and Housing Act.
 - e. The zoning provision, regulation or policy from which reasonable accommodation is being requested.
 - f. Explanation of why of the requested reasonable accommodation is necessary to make the specific property accessible to the disabled individual.
 - g. Credible documentation shall be provided to allow the City to fully evaluate the factual basis of the request. Application materials shall be provided in a manner that allows the City to independently assess its merits.
- F. Expiration. Any reasonable accommodation approved in accordance with the terms of this article shall expire within twenty four (24) months from the effective date of approval or at an alternative time specified as a condition of approval unless:
- 1. A building permit has been issued and construction has commenced;
 - 2. A certificate of occupancy has been issued; or
 - 3. A time extension has been granted.
- G. Time Extension. The City Planner or other approving authority may approve a single one-year time extension for a reasonable accommodation. An application for a time extension shall be made in writing to the approving authority no less than thirty (30) days prior to the expiration date.
- H. Revocation. Any reasonable accommodation approved in accordance with the terms of this article may be revoked if any of the conditions or terms of such reasonable accommodation are violated, or if any law or ordinance is violated in connection therewith.