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Prepared May 19, 2017 (for June 7, 2017 Hearing)

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Mike Watson, Central Coast Coastal Planner

**Subject: City of Carmel-by-the-Sea LCP Amendment Number LCP-3-CML-17-0041-1
(Commercial Uses)**

SUMMARY OF STAFF RECOMMENDATION

The City of Carmel-by-the-Sea proposes to amend the Local Coastal Program's (LCP) Implementation Plan (IP, also known as the LCP zoning code) by clarifying and adding to the regulations for commercial uses, including by adding more specificity and clarity for uses such as restaurants, wine tasting rooms, and temporary events, all of which help sustain the unique visitor-serving character of this popular coastal city. The amendment also clarifies that approval of Conditional Use Permits requires at least three votes from either the Planning Commission or City Council, as the case may be.

The LCP includes policies and standards that in general require the City to maintain an appropriate mix of commercial uses and a high quality commercial environment while also preserving the residential character of the village. The proposed amendments will help foster these important visitor-serving uses in a manner that respects Carmel's unique character. Finally, the amendment also proposes to codify the voting requirements for Conditional Use Permits and provide consistency between the City Council and Planning Commission by requiring a simple majority vote for approval (i.e., at least three votes) by either entity, as the case may be.

Commission staff collaborated with the City to ensure that the proposed amendments to the commercial use regulations appropriately carry out Land Use Plan policies in regards to maintaining a balanced mix of uses in the commercial district while simultaneously protecting the City's unique coastal resources and community character. Therefore, staff recommends that the Commission find the proposed amendment consistent with and adequate to carry out the policies of the LUP, and that the Commission approve the amendment as submitted. The motion and resolution are found on page 3 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on April 14, 2017. The proposed amendment affects the LCP's IP, and the 60-day action deadline is June 14, 2017. Thus, the Commission has until June 14, 2017 to take a final action on this LCP amendment.

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EXHIBITS

Exhibit 1: Proposed IP Amendment

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment as submitted. The Commission needs to make one motion in order to act on this recommendation.

A. Certify the IP Amendment As Submitted

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

***Motion:** I move that the Commission reject Implementation Plan Amendment Number LCP-3-CML-17-0041-1 as submitted by the City of Carmel-by-the-Sea, and I recommend a **no** vote.*

***Resolution:** The Commission hereby certifies Implementation Plan Amendment Number LCP-3-CML-17-0041-1 as submitted by the City of Carmel-by-the-Sea and adopts the findings set forth below on the grounds that the amendment is consistent with and adequate to carry out 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Implementation Plan Amendment may have on the environment.*

II. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The proposed amendment clarifies and adds to the LCP's commercial use regulations. Specifically, the amendment modifies IP Section 17.14 by: (1) re-classifying community centers, liquor stores, and small conference facilities from permitted uses to conditional uses in all commercial zoning districts; (2) adding cosmetic stores and wine tasting shops to the list of conditional uses in all applicable commercial zoning districts; (3) recognizing that bicycle rentals is an activity that requires a Conditional Use Permit; (4) codifying the voting requirements for Conditional Use Permits and providing consistency between the City Council and Planning Commission, including that either body, as the case may be, requires at least three votes to approve such permit; (5) authorizing temporary uses on private property for up to five consecutive days; and (6) providing more specificity for restaurant uses, including with regard to minimum size, number of seats, and allowance of outdoor cooking. The amendment also adds definitions of "cosmetic stores" and "wine tasting shops" to Section 17.68 of the IP. Please see **Exhibit 1** for the proposed IP amendment text.

B. BACKGROUND

Carmel-by-the-Sea is internationally recognized as a unique coastal community. The character of this community is defined primarily by the predominance of residentially-zoned neighborhoods surrounding a bustling commercial core district with quaint hotels, visitor-attracting shopping, and dining opportunities. The village overlooks scenic Carmel Bay and its mile-long white sand beach. But perhaps the most character defining feature is the eclectic collection of historic homes, small cottages, meandering streets, and quaint architecture all nestled among a forest of Monterey pine and coast live oak trees. It is the combination of all these attributes that attracts hundreds of thousands of visitors annually.

C. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects the IP component of the City of Carmel-by-the-Sea LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP. (*See Pub. Res. Code §§ 30513, 30514(b).*)

Applicable Policies

The Carmel-by-the-Sea Land Use Plan (LUP, also known as the General Plan) contains general policies directing the City to maintain a mix of commercial uses and to enhance the commercial district user experience while protecting the unique character of the residential village.

***LUP Goal: GI-1.** Continue to preserve and maintain the predominance of the residential character in Carmel through appropriate zoning and land development regulations in all districts.*

***LUP Objective: OI-3.** Preserve the economic integrity of the community and maintain an economic philosophy toward commercial activity ensuring compatibility with goals and objectives of the General Plan.*

***LUP Objective: OI-4.** Maintain a mix of commercial uses that are compatible with the character of Carmel as a residential village.*

***LUP Objective: OI-5.** Protect and enhance the balanced mix of uses in the central business area, particularly along Ocean Avenue to ensure a high quality, pedestrian oriented commercial environment providing a wide variety of goods and services to local residents.*

***LUP Policy: PI-6.** Monitor the mix of permitted and conditional uses in the commercial and multifamily land use districts in order to maintain a transition of land use to the single family residential district.*

***LUP Policy: PI-16.** Periodically review the mix of business uses in all commercial districts to assess the progress in achieving the land use objectives of the community and the success of policies and ordinances in achieving those objectives.*

***LUP Policy: PI-20.** Encourage outdoor eating areas that are in character with the design of*

the commercial district...

LUP Policy: P1-21. *Control and reduce where possible the number of business uses that are found to be out of proportion with a balanced mix of uses necessary to protect the residential character and economic objectives of the community.*

LUP Policy: P1-71. *Adopt appropriate ordinances that will regulate uses, including the intensity of land use, in a manner that is consistent with the character of Carmel, including the concept of planned commercial zoning through the permit procedure and specific criteria for such use permits.*

IP Amendment Consistency Analysis

Chapter 17.14 of the Zoning Code (IP) regulates land uses in commercial zoning districts. Uses are classified as “permitted” while others are classified as “conditional” uses necessitating a Conditional Use Permit. The process by which projects are reviewed and the level of discretion is determined by the use classification, with permitted uses being the primary designated use for the particular zoning district and conditional uses being other allowed uses subject to more stringent findings and requirements. For example, one of the standard findings necessary to approve a Conditional Use Permit is that the proposed use is consistent with LCP provisions that require the City to maintain a balanced mix of uses that serve the needs of both residents and visitors alike, and that the use will not otherwise be incompatible with the character of Carmel as a residential village.

Due to potential neighborhood, traffic, and community character impacts, the City proposes re-classifying liquor stores, community centers, and small conference facilities from permitted to conditional uses for all commercial zoning districts. In addition, cosmetic stores, wine tasting shops, and bicycle rentals would require a Conditional Use Permit for all applicable commercial zoning districts. These changes are appropriate to ensure these uses’ potential impacts to neighborhood character are avoided or mitigated, consistent with the City’s LUP.

Regarding specialty restaurants and food stores, the proposed amendment would clarify that specialty restaurants are “*coffee shops, ice cream parlors, etc.*” The proposed amendment would also modify the regulations for specialty restaurants to reduce the minimum size from currently 600 square feet to 400 square feet, and seating requirements from 20 seats currently to 14 seats, for these uses. This was needed because the current regulations (600 square feet and 20 seats) often acted as a barrier to these uses, which frequently operate on a smaller scale. The revised standards thus help foster these visitor-serving uses, and are consistent with the LUP.

A new provision was added for Full-Line Restaurants, which states that “*outdoor cooking devices are permitted on private property if designed and located to mitigate impacts to adjacent properties.*”

Similarly, the use regulations for Food Store, Specialty are proposed to be amended to limit full-line food stores to a maximum of 12 seats either indoors or outdoors and to authorize the operation of an outdoor grill. The change brings into conformance current practices at the City’s two existing grocery stores, which currently have some on-site seating and grilling. Again, both provisions help foster restaurants and other visitor-serving uses, and are consistent with the LUP in this regard.

Regarding Conditional Use Permit voting requirements, the voting requirements are currently contained in the Planning Commission's Rules of Procedure (outside of the LCP), which states that decisions on Conditional Use Permits require a minimum of four members for a quorum and four affirmative votes (supermajority). The City's current policy only addresses Planning Commission voting requirements, and as such, when the City Council acts on a Conditional Use Permit upon appeal of a Planning Commission decision, a simple majority vote is sufficient for approval (i.e., three votes). In order to codify the voting requirements and provide consistency between the City Council and Planning Commission, IP Section 17.14.050 would be amended to require that the decision to approve a Conditional Use Permit shall require at least three affirmative votes of either the Planning Commission or City Council, as the case may be.

Lastly, on temporary uses, the existing IP section addressing such uses primarily pertains to events involving the playing of music in establishments that serve alcohol, such as restaurants or bars. Nevertheless, the City has historically applied this section of the code to authorize a broad range of special events on private property, such as art gallery shows/parties, wine tasting room social events, and larger events, such as car or food shows in the Carmel Plaza. The proposed amendment would broaden the scope of this IP section to cover other special events in such locations and provides additional discretion, including referral of the proposal to the Planning Commission for review and approval. The proposed amendment will better regulate these temporary uses.

In conclusion, the proposed IP amendment enhances and clarifies the LCP's existing framework for balancing the mix of commercial district uses and providing the necessary review of said uses to ensure that the character of Carmel's unique community is preserved. For these reasons, the proposed IP amendment is consistent with and adequately carries out the certified LUP.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. (14 CCR § 15251(f).) Local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

For the proposed LCP amendment, the City of Carmel-by-the-Sea determined that the proposed amendments were categorically exempt per State CEQA Guidelines Section 15305 and would not have any significant adverse environmental impacts. This report has discussed the relevant coastal resource issues with the proposal. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).