

CALIFORNIA COASTAL COMMISSION

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



May 31, 2019

Th19c

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
STEPHANIE LEACH, COASTAL PLANNER, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF ENCINITAS LOCAL COASTAL
PROGRAM AMENDMENT NO. LCP-6-ENC-19-0014-1 for Commission Meeting
of June 12-14, 2019**

SYNOPSIS

The subject Local Coastal Program (LCP) Land Use Plan and Implementation Plan amendment was submitted and filed as complete on April 4, 2019. Pursuant to Section 30512 of the Coastal Act, the Commission must act on combined Land Use Plan/Implementation Plan amendments within 90 working days (for submittals filed after January 1, 2019). Thus, the Commission must act on this amendment by August 12, 2019.

SUMMARY OF AMENDMENT REQUEST

The subject submittal consists of changes to both the certified Land Use Plan (LUP) and the Implementation Plan (IP) for the City of Encinitas. The City proposes to update the Housing Element component of its General Plan, and prepared a 2013-2021 Housing Element Update in accordance with California Housing Element law. With this update, the City proposes to repeal the 1992 Housing Element in its entirety from the General Plan and corresponding policies within the LUP. No portion of the City's new Housing Element is proposed for incorporation into the LCP.

The update reflects housing needs set forth by SANDAG's Regional Housing Needs Assessment (RHNA) Fifth Housing Element Cycle, and includes a current inventory of 15 sites that will be up-zoned to increase density allowances in order to meet these housing needs. The amendments are specifically intended to allow for the City's remaining RHNA allocation of approximately 1,500 dwelling units. In order to accomplish this, fifty percent of the remaining lower income RHNA determination will be accommodated on sites designated residential as the only permitted use. In total, the inventory of sites available to meet the City's lower income housing need comes to approximately 1,500 units, which exceeds the 1,141-unit RHNA obligation by approximately 350 units. Projects that conform to specific requirements, including containing at least 20% lower income housing and not including a subdivision (Gov.

Code, § 65583.2(h)), will have guaranteed approval, and replacement affordable housing will be mandated on all sites identified in the Housing Element (Gov. Code, § 65583.2(g)(3)).

Within the LUP, a new overlay zone (Residential 30 Overlay, or R-30 OL) will be introduced for the up-zoning of a specific inventory of sites that will meet the housing need. The intent is to provide for compatible high-density multiple family residential development including apartments, condominiums and senior housing, and to meet the City's need for low and very-low affordable units. As detailed in Resolution 2019-19 ([Exhibit 1](#)), the LUP General Plan Land Use Designations and Standards will be updated with the new R-30 Overlay Zone, as well as the Overlay Designations and Land Use Designation Maps.

Various sections of the Encinitas Municipal Code/certified IP will also be updated to reflect the necessary revisions to the LUP, as detailed in Ordinance 2019-04 ([Exhibit 2](#)). These revisions include the amending of two definitions within Chapter 30.04 pertaining to building height and net acreage. Sections 30.08.010 of the IP will also be revised to add the R-30 Overlay Zone and applicable provisions, Chapter 30.09 to include the overlay zone in the Encinitas Municipal Code Zoning Matrix, Section 30.16.010 for the amending of residential development standards to include R-30 OL, and the amending of the City of Encinitas Official Zoning Map to add the R-30 OL for those sites currently within the Candidate Sites Inventory. Additionally, the zoning map will be amended to change zoning designation of one particular parcel (APN 257-01-117), known as L7, from Rural Residential (RR1) to Residential 3 (R3).

In addition to the above cited changes to the LUP, three specific plans will also be modified with the approval of this amendment. The Encinitas Ranch Specific Plan, will be amended to allow for the development of 246 to 296 multifamily residential units in conjunction with a working agriculture practice within the 16-acre portion of the Sidonia East Planning Area under the newly created ER-R-30 Zone. Applicable policies and standards will be revised to reflect the inclusion of the ER-R-30 Zone, and both the Land Use Plan Map and Zoning Map will be updated. Finally, the ER-R-30 zone will be incorporated into the Specific Plan Zoning Ordinance, including permitted uses and development standards that defer to the R-30-OL Development Standards established in the Housing Element Update.

The Downtown Encinitas Specific Plan will also be modified to add the D-VCM-R-30 OL Zone to the Zoning Map. Additional provisions regarding the new overlay zone, including a description of the zone, permitted uses, development standards, and a list of zones, will be included.

Finally, the North 101 Corridor Specific Plan will also be modified to account for up-zoning in two locations within the specific plan area. The list of zones and zoning map will be updated to include both the N-R3 (R-30 Overlay) zone as well as an N-L-VSC (R-30 Overlay) zone. Modifications to the zones will also include updated descriptions, permitted uses, and development standards for both overlay zones.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission first reject the proposed amendments to the LUP and IP as submitted, and then approve each with suggested modifications, to ensure that the proposed LCP amendment will be consistent with the Coastal Act and will not result in adverse impacts to visitor-serving uses.

The findings for rejection of the LUP Amendment as submitted involve the problematic nature of applying the R-30 Overlay Zone to one particular site and the ramifications for overnight visitor accommodations. For the Jackel property (Site 7), the land use designation is “Limited Visitor-serving Commercial” (L-VSC) and is therefore intended to provide for hotel/motel uses as the primary use, with ancillary uses for residents and visitors alike. The up-zoning of this site to the R-30 Overlay could preclude the development of overnight accommodations on a site that is located along the historic Coast Highway at the northern entrance to the City and within the North Highway 101 Corridor Specific Plan area, which has been specifically identified as lacking critical visitor-serving accommodations. While the provision of affordable housing with the Coastal Zone is a significant challenge that this LCP amendment seeks to ameliorate, the up-zoning of this site in particular conflicts with Section 30222 of the Coastal Act, which requires that visitor-serving facilities have priority over residential and commercial facilities. Therefore, the LUP amendment cannot be found consistent with the priority use mandate and coastal access policies of the Coastal Act.

The City’s LUP also protects visitor-serving commercial uses and is particularly sensitive to those areas near primary coastal access routes. Policies 1.13 of the Land Use Element and 3.2 of the Resource Management Element demonstrate that within those areas designated as Visitor-Serving Commercial, especially along primary coastal access routes such as North Highway 101, visitor-serving commercial uses are a priority and will remain distinct from residential communities. Policy 1.14 of the Land Use Element augments this by requiring the City to maintain and enhance the Highway 101 commercial corridor by providing tourist-related and pedestrian-oriented uses. Hotels and motels, especially along the Highway 101 corridor, provide necessary visitor accommodations and support facilities for the City. The Jackel Property is not only located along a primary coastal access route, but is currently zoned for hotel/motel as its primary use, along with those uses intended to serve residents and visitors as secondary uses. While the site could be developed into a mixed-use development under the R-30 Overlay, the primary permitted use of the zone would be lost, as hotels and motels are excluded from permitted uses within the R-30 Overlay. The Jackel Property, along with four other parcels, constitute the only areas within the North 101 Corridor Specific Plan where a hotel/motel is permitted by-right (i.e. within the N-L-VSC and N-VSC zones). Suggested modifications to the approval of the Specific Plan in the first place pivoted on the continued allowance of hotels and motels, and the LCP amendment as proposed would weaken those provisions.

Because the proposed LCP amendment will not protect the development option for overnight visitor-serving accommodations in an area of the City that has long been identified for this priority use, the Commission finds the proposed amendment request inconsistent with Section 30222 of the Coastal Act and can therefore not approve the amendment as submitted.

Staff therefore recommends three modifications to the amendment to address this issue. First, the Jackel Property (Site 7) that is proposed to be up-zoned within the North 101 Corridor Specific Plan would be removed from the inventory of eligible sites. Second, the R-30 Overlay applied to the site, known as the N-L-VSC (R-30 Overlay), would be removed from the list of Zones in Section 3.1 of the North 101 Corridor Specific Plan as well as the Specific Plan Zoning Map. Third, specific proposed provisions in the Zoning descriptions of the Specific Plan for the site's new N-L-VSC (R-30 Overlay) zone would be rescinded from the proposed IP amendment.

The appropriate resolutions and motions begin on Page 6. The suggested modifications begin on Page 8. The findings for denial of the Land Use Plan Amendment as submitted begin on Page 9. The findings for approval of the plan, if modified, begin on Page 17. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 28. The findings for approval of the plan, if modified, begin on Page 31.

ADDITIONAL INFORMATION

Further information on the City of Encinitas LCP Amendment No. LCP-6-ENC-19-0014-1 may be obtained from Stephanie Leach, Coastal Planner, at (619) 767-2370.

EXHIBITS

[Exhibit 1 – Resolution No. 2019-19](#)

[Exhibit 2 – Ordinance No. 2019-04](#)

[Exhibit 3 – Site Inventory Map](#)

[Exhibit 4 – Strike-out of Land Use Designation Map Update](#)

[Exhibit 5 – Strike-out of N-L-VSC Zones within the North 101 Corridor Specific Plan](#)

[Exhibit 6 – Strike-out of Exhibit 2019-04-9](#)

[Exhibit 7 – Housing Element Policies of the Certified LUP](#)

PART I. OVERVIEW

A. LCP HISTORY

On November 17, 1994, the Commission approved, with suggested modifications, the City of Encinitas' LCP (both LUP and implementing ordinances). The City accepted the suggested modifications and, on May 15, 1995, began issuing CDPs for those areas of the City within the Coastal Zone. The Commission has certified many amendments to the City's LCP since 1995.

B. STANDARD OF REVIEW

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

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

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

In those cases when a local government approves implementing ordinances in association with a land use plan amendment and both are submitted to the Commission for certification as part of one LCP amendment, pursuant to Section 13542(c) of the Commission's regulations, the standard of review of the implementing actions shall be the land use plan most recently certified by the Commission. Thus, if the land use plan is conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan.

C. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. 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 certify the Land Use Plan Amendment No. LCP-6-ENC-19-0014-1 for the City of Encinitas certified LCP as submitted.*

STAFF RECOMMENDATION OF DENIAL OF CERTIFICATION:

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Land Use Plan Amendment for the City of Encinitas LCP as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

- II. **MOTION:** *I move that the Commission certify the Land Use Plan Amendment No. LCP-6-ENC-19-0014-1 for the City of Encinitas certified LCP as submitted if modified in accordance with the suggested changes set forth in the staff report.*

STAFF RECOMMENDATION: CERTIFICATION IF MODIFIED AS SUGGESTED:

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification with suggested modifications of the submitted land use plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY SUBMITTED LAND USE PLAN AMENDMENT IF MODIFIED AS SUGGESTED:

Subject to the following modifications, the Commission hereby certifies the Land Use Plan Amendment for the City of Encinitas LCP and finds for the reasons discussed herein that, if modified as suggested below, the submitted Land Use Plan Amendment will meet the requirements of and conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan if modified as suggested below 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 Land Use Plan Amendment may have on the environment.

- III. **MOTION:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-ENC-19-0014-1 for the City of Encinitas certified LCP as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

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

IV. MOTION: *I move that the Commission certify the Implementation Program Amendment No. LCP-6-ENC-19-0014-1 for the City of Encinitas 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 Encinitas LCP 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 provisions of the certified Land Use Plan. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program 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 LCP amendment 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.

Suggested Modification #1: Delete the Jackel property from the list of inventoried candidate sites depicted on the R-30 Overlay Candidate Site Map ([Exhibit 3](#)).

Suggested Modification #2: Delete the Jackel property from Land Use Designation Maps that are to be updated with the R-30 Overlay Zone, including Figure 3 of the General Land Use Map on LU-64, as detailed in Exhibit 2019-19-B of the Resolution ([Exhibit 4](#)).

Suggested Modification #3: Delete the following language (in strike-out below) from the last paragraph of the text changes proposed to Page LU-38A entitled, “Housing Plan Update 2019 R-30 OL Implementing Zone”:

The R-30 OL Zone’s development standards also apply to sites in the DVCM R-30 OL Zone of the Downtown Specific Plan, the N-R3 (R-30 OL) ~~and N-L-VSC (R-30 OL)~~ Zones of the North 101 Corridor Specific Plan, and the ER-R-30 Zone of the Encinitas Ranch Specific Plan.

Suggested Modification #4: Delete the N-L-VSC (R-30) Overlay Zone from the list of Zones in Section 3.1 of the North 101 Corridor Specific Plan and delete the N-L-VSC (R-30) Overlay Zone from the North 101 Corridor Specific Plan Zoning Map ([Exhibit 5](#)) as detailed in Exhibit 2019-04-7 of the Ordinance.

Suggested Modification #5: Delete Section 3.1.2.H of the North 101 Corridor Specific Plan found in Exhibit 2019-04-9 of the Ordinance that would allow for the R-30 Overlay within the Limited Visitor-Serving Commercial (N-L-VSC) Zone of the Plan ([Exhibit 6](#)).

PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE ENCINITAS LAND USE PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

In November 2016, the City of Encinitas placed an earlier version of the Housing Element Update on the ballot as Measure T, as is required by Proposition A, an initiative approved by Encinitas voters in June 2013 that requires voter approval of land use changes that increase the intensity or density of development. Measure T failed. The City repeated its efforts with Measure U on the November 6, 2018 ballot, which also failed to gain voter approval. On December 12, 2018, the San Diego Superior Court issued an order requiring the City to adopt a housing element consistent with Housing Element law within 120 days, waiving the requirement for Proposition A in the process.¹ On March 13, the City Council approved a Housing Element Update for 2013-2021 planning period with conforming and ancillary amendments to the Local Coastal Program policies and Land Use Element, per City Council Resolution No. 2019-19. Revisions to the amendments and text/map changes to the Local Coastal Program, Municipal and Zoning Codes, and three specific plans are necessary to provide consistency between the General

¹ (*Building Industry Assoc. of San Diego County v. City of Encinitas*, Super Ct., San Diego County, 2018, Nos. 37-2017-00023267 and 37-2017-00013257.)

Plan, Specific Plans, Municipal Code, and Zoning Code. The new housing element is designed to address a variety of objectives, including increased housing choice by accommodating a variety of housing types to meet the needs of all Encinitas residents, providing adequate sites with corresponding density to meet the City's RHNA allocation, adopting State mandated and locally desired programs to implement the City's efforts effectively, maintaining community character through project design requirements, and distributing attached and multi-family housing to the City's five communities.

The City of Encinitas has worked closely with the Department of Housing and Community Development (HCD) in order to develop an inventory of suitable sites. All sites designated can accommodate 16 units or more. Some of the sites consist of several individual parcels that are in common ownership. Although only two of the individual parcels are too small to contain 16 units, the rezoning will apply only to projects containing at least 16 units to ensure that lots are consolidated as needed. For every 7 units, one unit must be considered low or very-low (15%), and such designated units will be deed restricted to ensure their affordable status. Maximum average size of dwelling units in the project is limited to 1,000 square feet of floor area for rental projects and 1,150 square feet for ownership projects. For properties located in and developing in conformance with the R-30 Overlay provisions, as well as for those properties requesting a density bonus, any fraction of a dwelling unit shall be rounded up to the next whole unit. Units may be either rental or ownership dwellings.

The capacity of the current inventory has been calculated conservatively at 25 units per net acre, with environmentally sensitive areas and areas of steep slope (greater than 40%) deducted from net acreage to provide realistic site capacity. Slopes determined to be between 25-40% are developable at 50% of the acreage per Encinitas Municipal Code. In order to meet the RHNA determination, fifty percent of the remaining lower income units will be accommodated on sites permitting residential as the only permitted use. In total, the inventory of sites available to meet the City's lower income housing need comes to approximately 1,500 units, which exceeds the 1,141-unit RHNA obligation by approximately 350 units. Density will range from a minimum of 25 dwelling units per net acre to a maximum of 30 dwelling units per net acre. Developers will be entitled to densities of 30 units per acre and may obtain even greater densities with a density bonus. The City therefore believes that the calculated capacity of approximately 1,500 units actually undercounts site capacity and so will be adequate for the remainder of the planning period. Projects that conform to specific requirements, including containing at least 20% lower income housing and not including a subdivision (Gov. Code, § 65583.2(h)), will have guaranteed approval, and replacement affordable housing will be mandated on all sites identified in the Housing Element (Gov. Code, § 65583.2(g)(3)).

Notwithstanding the provisions of Section 30.41.080 on Inclusionary Housing, sites in the R-30 OL Zone will not be permitted to pay in-lieu fees as an alternative to affordable housing requirements. This is in contrast to the inclusionary housing program that has been in effect since December 2017 within the City. The inclusionary housing program requires housing developers of 7 or more dwelling units or lots to include affordable units for rent or sale. Developers must make available either 15% of the dwelling units to low

income households or 10% of the dwelling units to very-low income households at an affordable sales price or rent, or to pay an in-lieu fee if approved by the City Council. As of December 31, 2017, the ordinance has created 146 very low and low income units. The City updated the ordinance based on many of the panel's recommendations and extended the ordinance to rental projects, as permitted by AB 1505, enacted in 2017.

While the current inventory of sites available for the R-30 upzoning totals 15, only 13 of the sites are within the Coastal Zone. A brief description of each site is found below.

Leucadia

Cannon Property (Piraeus) (Site 2) – This site is a vacant property located at the corner of Piraeus Street and Plato Place, both of which are two-lane local streets. The southern portion of the site is flat due to previous grading, with the majority of the rest of the site sloping up towards a flat pad on the northeast corner. Some mature trees and vegetation are on the northern portion of the site. The land use classification of the site is Rural Residential 2 (RR2).

Jackel Properties (Site 7) – This site is comprised of two parcels located on the west side of I-5, just south of the intersection of La Costa Avenue and N. Coast Highway 101. One parcel is a vacant property that sits between existing commercial uses and an attached residence. The other non-vacant parcel contains a vacant restaurant and a large parking lot. The owner has expressed interest in developing both of these sites for residential and commercial uses. Some existing mature trees and vegetation exist on site. The site is located within the Highway 101 Corridor Specific Plan and its land use classification is Limited Visitor-Serving Commercial (L-VSC).

Echter Property (Site 9) – This site is comprised of one large parcel located northwest of the intersection of Leucadia Boulevard and Quail Gardens Drive. It contains mostly temporary greenhouse structures and an existing single-family residence. Several other buildings related to agricultural practice, large service tanks, and interior roads also exist on-site. The owner has expressed interest in developing a 250 residential units in conjunction with a working agricultural practice. As currently conceived, 16 acres of the 21.49 gross acres of the site would be designated for housing, with the remaining 5.49 acres to remain in agricultural use. The development plan references this “agrihood” as consisting of a residential development interwoven with amenities such as a community garden, farm field, a barn, and greenhouses. The land use classification is Agriculture (AG).

Vulcan and La Costa (Site AD8) – This site is comprised of one non-vacant parcel with greenhouse structures and frames, several 1-story structures related to sales and storage of agricultural products, and a small paved parking lot. It is located just southwest of the intersection of La Costa Avenue and N. Vulcan Ave. This site is located within the North Highway 101 Corridor Specific Plan and its land use classification is N-R3.

Meyer Proposal (Site AD31) – This site is comprised of six parcels located directly east of I-5 and north of Union Street. All of the parcels are developed, and feature two single-family residences, paved and unpaved parking areas, agricultural facilities, and temporary greenhouse structures. A representative of the property owners has proposed development of these parcels, and the owners of the six parcels have signed a Letter of Intent indicating they will work cooperatively to enter a formal agreement for the entitlement of the parcels as a residential subdivision. The properties are bordered by I-5 to the west, agricultural uses to the north and south, and a single-family subdivision to the east. The land use classification of the subject parcels is R3 and R5.

Old Encinitas

Encinitas Blvd. and Quail Gardens Sites (Site 5) – This site is comprised of four parcels under one common ownership located along the north side of Encinitas Boulevard in between Quail Drive and Westlake Street. The parcels are vacant, with some steep slopes that have been deducted from the buildable acreage. A previous resolution by the City of Encinitas from December 2014 found that the subject project also contains manufactured steep slopes consisting of artificial fill soils, which are not considered natural slopes/grades per Section 30.16.010B(6)(c) of the Encinitas Municipal Code and so will not present a constraint on future development. The land use classification of the site is Office Professional.

Baldwin and Sons Properties (Site AD2a, 2b, 2c) – This site is comprised of eight parcels located along Quail Gardens Drive, north of Site 12. Six of the parcels are vacant and the site is generally bordered by vacant parcels to the north, single-family residential uses to the east, and commercial uses to the south. The two remaining parcels are non-vacant and have a power line easement along the northern portion of each parcel. Site features include paved concrete pads, some mature trees and vegetation, as well as the 50-foot buffer of an off-site wetland that encroaches onto one of the parcels. The power line easement area, wetland buffer, and areas of steep slopes have been removed from the site acreage. The land use classifications for these parcels are R3 and Residential 5 (R5).

Sunshine Gardens Parcel (Site 12) – This site is comprised of two parcels located south of AD2, near the northeast intersection of Quail Gardens Drive and Encinitas Boulevard. Both are underutilized parcels, and contain a 1-story commercial building, a variety of retail uses, several temporary agriculture and outdoor sales-related structures, a paved parking lot, and unpaved dirt areas. The land use classification is Office Professional (OP).

Seacoast Church (Site AD9) – This site contains four existing structures associated with the existing church on-site, as well as two paved parking lots and a community outdoor landscaped area. This site is located just east of the I-5 and southwest of the intersection of Melba Road and Regal Road. Nearby development includes the I-5 roadway to the southwest and a mixture of office and residential uses to the north. The existing structures are proposed to remain and have been deducted from the gross site acreage. The land use classification of the site is Residential 11 (R11).

Harrison Properties (Site AD14) – This site is comprised of two developed parcels located west of S. Coast Highway 101, north of C Street and in between Hwy 101 and 3rd Street. The parcels contain several existing older commercial/office structures. The owner has expressed interest in developing the site as a mixed-use residential and commercial development. This site is located within the Downtown Encinitas Specific Plan and its land use classification is Visitor Commercial Mixed (D-VCM).

New Encinitas

Sage Canyon Parcel (Site AD1) – This site is comprised of a vacant property surrounded by open space to the south and east, and a four-lane major road to the west. It is located on the east side of El Camino Real, in between Sage Canyon Drive and a church. The site has been previously graded but some steep slopes still exist adjacent to El Camino Real. Existing mature trees and natural vegetation are found on site, as well as a drainage that runs parallel to El Camino Real on the west side of the site. Areas that were considered environmentally sensitive as well as those with steep slopes were subtracted from the total site acreage. The land use classification of the site is Residential 3 (R3).

Cardiff

Greek Church Parcel (Site 1) – This site is a portion of a property owned by the Greek Orthodox Church located just southwest of the intersection of Manchester Avenue and El Camino Real. It is part of a larger parcel with existing multi-family residential uses as well as an existing church. The owner has expressed interest in developing the site for affordable housing. The site itself is primarily vacant, and the land use is Rural Residential 1 (RR1).

Manchester Avenue West Sites (Site AD11) – This site is comprised of three parcels located north of Manchester Avenue, just west of the I-5. One of the parcels is vacant and appears to be graded or partially disturbed, with little existing vegetation. The two other parcels each have one single-family residence, accessed off a dirt road and featuring mature vegetation. The site is bordered to the east by an off-ramp from I-5, to the south by a one-story commercial development, and to the north and west by existing residential townhouses. The land use classification of the site is R11.

Of the 13 Coastal Zone sites described above, 4 are either within or contain areas appealable to the Coastal Commission (as described in Section 30603, including locations within 100 feet of wetlands or streams, and between the sea and the first public roadway). The appealable areas are the Jackel Property, a portion of the Sage Canyon Parcel, a portion of the Baldwin and Sons Properties, and a portion of the Echter property.

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that portions of the Land Use Plan as set forth in the preceding resolutions, are not in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

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

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

The Commission therefore finds, for the specific reasons detailed below, that the land use plan amendment submitted as LCP-6-ENC-19-0014-1 does not conform with Chapter 3 of the Coastal Act to the extent necessary to achieve the goals of the state for the coastal zone.

**C. NONCONFORMITY OF THE ENCINITAS LAND USE PLAN
AMENDMENT WITH CHAPTER 3**

Several Coastal Act policies address the provision and protection of visitor-serving uses within the Coastal Zone. The most pertinent to the subject LUP amendment request are:

Section 30210 of the Coastal Act states:

In carry out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

Section 30222 of the Coastal Act states:

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

Coastal Act Section 30604(f) specifically encourages the Commission to approve an increase in density for affordable housing when such housing can be accommodated in a manner otherwise consistent with the resource protection policies of the Coastal Act or a local government's certified LCP. Section 30604(f) of the Coastal Act specifically states: "[t]he Commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing... the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the Commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program." However, for one particular site within the City's inventory, the Jackel property (Site 7), the land use designation is "Limited Visitor-Serving Commercial" (L-VSC) and it is intended to provide for hotel/motel uses as the primary use, with ancillary uses being those specifically intended to serve the needs of persons visiting the City. While the provision of affordable housing with the Coastal Zone is a significant challenge that this LCP amendment seeks to ameliorate, the up-zoning of this site in particular conflicts with Section 30222 of the Coastal Act, which requires that visitor-serving facilities have priority over residential and commercial facilities. Given its location near the coast at the northern entrance to the City by the Batiquitos Lagoon and Ponto Beach, and on the seaward side of Highway 101, the subject site is well suited for high priority uses encouraged by the Coastal Act. Therefore, the LUP amendment cannot be found consistent with the priority use and public access policies of the Coastal Act.

The proposed conversion of land designated and reserved for high priority visitor-serving accommodations to residential uses at this location is inconsistent with the Coastal Act because it adversely impacts the City's ability to provide visitor amenities that are necessary to support public recreation. The Coastal Act requires public access to the coast to be protected and maximized. In particular, Coastal Act Section 30222 requires private land suitable for visitor serving uses to be prioritized for those uses, rather than for private residential or general industrial or commercial development. In addition, Section

30213 specifically requires protection of lower cost visitor serving uses, including lower cost overnight accommodations.

Visitor-serving commercial uses are a high priority use since they provide enhanced opportunities for a greater segment of the general public to enjoy the coast. These types of uses provide accommodations, goods, and services intended to primarily serve the needs of visitors, such as hotel/motel, bed and breakfast, hostel and other overnight accommodations; restaurants, food concessions and other eating establishments; bike and other recreational equipment rentals, and souvenir shops and other retail uses. There is a finite amount of land available for visitor serving uses along the coast, and land zoned for overnight accommodations is especially limited. Overnight accommodations are a necessary part of providing public access and recreational opportunities for the many visitors that live far from the coast, including those from inland areas, such as California's Central Valley and San Diego's Inland Empire, from which a coastal trip requires a lengthy car ride. In addition, for many low and moderate income visitors, lower cost overnight accommodations are essential to being able to access the California coast at all, and reducing the supply of land available for accommodations increases their overall demand and cost.

The supply of overnight accommodations along the coast is extremely limited. In 2018, the State Coastal Conservancy released an assessment of coastal lower cost overnight accommodations, titled 'Explore the Coast Overnight'² and found that occupancy rates show that there is a limited supply of overnight accommodations in coastal California. In 2018, the average annual occupancy rate in coastal counties was 70%, with rates north of San Francisco at 60%, and rates in southern CA at 80% or higher. In San Diego County, the average occupancy rate was 84%. This is significantly higher than typical hotel occupancy rates, and it means that few hotel rooms are available during peak visiting times.

The Conservancy found that lower cost overnight accommodations along the coast are even more limited. In San Diego, the Conservancy found that there are only 2 hotel rooms for every 1000 low income households. Focusing on this LCP Amendment and the Jackel property property in particular, the City of Encinitas has approximately 46 other parcels that are considered either visitor commercial mixed or visitor serving commercial, but only four of them are within the North 101 Corridor Specific Plan. A lack of visitor-serving locations has been identified as an issue as early as 1994 when the Commission approved the City of Encinitas LCP and noted the City had a minimal amount of area allocated to visitor-serving commercial uses. When the Commission adopted the North Highway 101 Corridor Specific Plan (Encinitas Major Amendment 1-97), a critical aspect of this approval was for the allowed continuation of hotels and motels as permitted uses within most of the commercial areas of the specific plan in order to provide for high-priority, visitor-serving uses along what is considered a critical corridor. Sites that are in close proximity to the coast as well as easily accessible from major coastal access routes,

² To view the full assessment, please visit: [Explore the Coast Overnight](#).

such as the Jackel property, were noted as being most desirable in the findings for Specific Plan approval.

The Commission has been working diligently to protect overnight accommodations to reduce this barrier for many years, including by ensuring that land use planning provides for the development and redevelopment of hotels and motels. Further reducing the availability of land zoned for hotels and motels, especially in San Diego County, exacerbates the lack of overnight accommodations, restricting the public's ability to access the coast and placing even more pressure on the cost and availability of existing hotels to meet the demand for visitors. Specific to this LUP amendment, the up-zoning of this site to the R-30 Overlay would preclude the development of visitor-serving accommodations on a site that is currently designated for this particular use. Moreover, the site is located approximately a quarter of a mile from the beach southwest of a key coastal access point (N. Coast Highway 101 and La Costa Ave) and is located less than half a mile from South Ponto Beach to the north, making it a prime location for visitor-serving uses. The City holds that the site is constrained due to its small size and the intended use of the area is maintained with the approval of the Encinitas Beach Resort development located just north of the site, which will offer 130 hotel units after construction. Another approved project in close proximity, Surfer's Point, will offer 26 hotel/timeshare units upon project construction. However, the overall scarcity of properties set aside specifically for visitor-serving uses make their protection all the more significant, and the Commission holds that if the Jackel property could be developed at a mixed-use ratio that yields 33 dwelling units, a hotel/motel could also be developed with similar capacity on the same site.

Because the proposed LUP amendment does not protect land reserved for visitor-serving uses, especially overnight accommodations, in an area of the City that has long been identified for this priority use, the Commission finds the proposed amendment request inconsistent with Sections 30210, 30213 and 30222 of the Coastal Act.

PART V. FINDINGS FOR APPROVAL OF THE ENCINITAS LAND USE PLAN AMENDMENT, IF MODIFIED

A. SUMMARY FINDING/CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

With **Suggested Modifications #1 - #3**, the Commission seeks the removal of one particular site (the Jackel Property, Site 7) from its list of inventoried sites that would be eligible for development under the standards and provisions of the R-30 Overlay. Removal of this site's designation for development under the R-30 Overlay from the General Land Use Plan maps and R-30 Overlay description within the LUP would ensure that the parcel remains designated and reserved for visitor-serving uses; in particular, the primary by-right use of the property will remain motel/hotel, thus protecting a visitor-serving use that is in very short supply within the City and located in a key coastal access area. The suggested modification makes the LUP consistent with Section 30001.5 by

assuring balanced utilization of coastal resources and prioritizing visitor-serving uses over residential uses.

B. SPECIFIC FINDINGS FOR APPROVAL

With the incorporation of **Suggested Modifications #1 - #3**, the LUP Amendment can be found consistent with Chapter 3 of the Coastal Act. A description of findings that pertain to relevant sections of the Coastal Act is found below for the purpose of presenting aspects of the LUP Amendment that otherwise conform with Chapter 3.

The certified Encinitas Land Use Plan (LUP) is designed to primarily address those areas and policies of the City that most pertain to the Coastal Act. Designated sections of the Encinitas General Plan (indicated by backshading) constitute the LUP. These sections include descriptions, goals, and policies that cover the protection of environmentally sensitive resources as well as scenic and visual resources, public access to the coast, traffic and parking, visitor-serving uses, water quality, agriculture, and new development.

The proposed LUP amendment will amend the Land Use Element of the LUP as well as the land use plans of three specific plans. Specifically, the new R-30 Overlay Zone (and its specific plan equivalents) will be added to the appropriate land use lists and maps, and description of standards. As noted in Exhibit 2019-19-A of Resolution No. 2019-19, the 1992 Housing Element will be repealed in its entirety and removed from the General Plan. In its place, the new 2013-2021 Housing Element, which includes all appendices and incorporates the Environmental Assessment by reference, is adopted in its entirety to the General Plan. No portion of the City's new Housing Element is proposed for incorporation into the LCP. While the majority of the current Housing Element does not contain any LUP policies, three sections of text describing the City's commitments to accessory apartments, farm employee housing, and existing provisions of the zoning code that are designed to ensure housing objectives are met, will remain in the certified LCP until they are updated in the future in order to provide policy direction in the LUP for those housing programs ([Exhibit 7](#)).

Access

Section 30210 of the Coastal Act states:

In carry out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30250 of the Coastal Act states, in relevant part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close

proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Section 30252 of the Coastal Act states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by: [...]

(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

The certified Encinitas LCP contains several policies that protect the public's access to the shoreline, requires off-street parking for expansions and additions to existing and future development in the coastal area, and requires that all uses be designed with sufficient off-street parking and loading facilities to assure that no adverse impacts on coastal access take place. Individual permits granted under the Housing Element Update will conform with these policies. The City will provide for adequate parking on the candidate sites as well as ensuring that traffic impacts are minimized to the greatest extent feasible in accordance with the certified Encinitas LCP. The re-designated sites are located in or adjacent to currently developed areas, many with existing access roads, and will not impede the public's access to the coast.

While the City has identified parking standards as a potential constraint that limits its ability to maintain, improve, and develop housing for all income levels, the City will focus on updating housing standards to reflect current and anticipated parking needs and to adopt parking standards appropriate for affordable, senior-age, mixed-use, and transit-oriented housing projects. Indeed, sites within the Downtown Encinitas and North 101 Corridor Specific Plan already contain modified parking standards that encourage mixed-use and affordable housing, with low or very-low households allowed a reduced, one-space-per-unit parking requirement. Additionally, State Density Bonus law allows for even lower parking standards for eligible projects. The timeframe for the City's update of parking regulations is anticipated in January 2020.

In terms of traffic, the May 2018 EA did identify several intersections and roadway segments as significant and unavoidable impacts under Future Year 2035 + Project conditions.³ An affected roadway/intersection of particular concern was La Costa Avenue between North Highway 101 and Vulcan Avenue, for which the Housing Element (specifically, the Vulcan and La Costa Site) is projected to impact the Level of Service

³ Intersections of particular concern included Vulcan Ave at La Costa Avenue and Saxony Road at Leucadia Boulevard due to their proximity to the Vulcan and La Costa Site and Echter Property, respectively. Roadway segments of particular concern include La Costa Ave from North Coast Highway 101 to Vulcan Avenue, Encinitas Boulevard from Quail Gardens Drive to Delphinium Street, and the I-5 on-ramps from Encinitas Boulevard due to their proximity to the Vulcan and La Costa Site, Encinitas Boulevard and Quail Gardens Site, and the Sunshine Gardens site.

during peak morning traffic that would otherwise not be anticipated if the project did not take place. However, this particular impact to peak morning traffic affects commuter traffic and will not impede recreational access to the coast that likely occurs during the evening and weekend hours. Accordingly, none of the affected roadways will impede the public's access to coastal facilities or beaches. Additionally, the City will conduct a site-specific study prior to the approval of discretionary permits for future development at a housing site for the purpose of determining whether a fair-share contribution is warranted to mitigate any significant traffic impacts resulting from build-out of the development. The study will be prepared if a Capital Improvement Program has been adopted by the City that includes feasible traffic improvements or if a similar program is approved by Caltrans for future improvements to a roadway facility significantly impacted by the site-specific development's build-out trips. The fair-share contribution shall be based upon a proportionate share of the development's build-out trips and shall be subject to the satisfaction of the Development Services Department or Caltrans, as applicable. The fair-share contribution, if warranted, shall be made a condition of project approval and collected prior to issuance of a Certification of Occupancy Permit. Therefore, the Commission find the proposed Housing Element Update consistent with the relevant Chapter 3 policies.

Visitor-Serving Uses

Section 30222 of the Coastal Act states:

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

While a suggested modification to the amendment would remove the Jackel Property (Site 7) from the inventory of sites prepared by the City, another site also falls within a visitor-serving land use designation. The Harrison property (AD14), located within the Downtown Encinitas Specific Plan, has a current land use designation of visitor commercial mixed (D-VCM). The D-VCM designation is intended to provide for development of hotel/motel, campground, eating and drinking, food and beverage retail, sports and recreation, and entertainment uses. Business, professional, and residential (for a maximum density of 18 units) are considered permitted uses by right but should be ancillary. While office and residential uses are not allowed within the L-VSC designated areas of the North 101 Corridor Specific Plan unless the R-30 Overlay were to apply, greater flexibility is already permitted in the uses for the D-VCM designated areas.

While the re-designation of this site to the R-30 Overlay would preclude the development of strictly visitor-serving accommodations, such as hotel or motel, residential and professional uses are currently permitted as ancillary uses. The site is intended to be developed in a mixed-use concept, meaning that residential, business, and potentially visitor-serving uses could all be accommodated on the site. The Downtown Encinitas Specific Plan was approved at the same time as the City of Encinitas certified LCP, and

suggested modifications within the staff report reveal that while visitor-serving commercial activities were also intended to be the principal use, office and residential uses would be permitted under limited circumstances. The Specific Plan itself offers a broader mix of development uses within the City's downtown core. Unlike the North 101 Corridor Specific Plan, the Downtown Encinitas Specific Plan also encompasses frontage on both sides of Highway 101 and so has greater potential for increased inventory of commercial development that can serve the needs of residents and visitors alike.

Therefore the Commission finds the proposed Housing Element Update consistent with the relevant Chapter 3 policies.

Sensitive Resources

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233 of the Coastal Act states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects....

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Several of the selected sites contain or are adjacent to environmentally sensitive habitat areas and resources that warrant protection under the Coastal Act. The Encinitas LUP contains a number of policies that extends stringent protection to environmentally sensitive areas such as wetlands, streams, steep slopes, and particular vegetative

communities. Policies within the LUP seek to minimize development impacts on coastal sage scrub by protecting all native vegetation on natural slopes of 25% grade and over, and minimizing the fragmentation of existing natural areas while preserving contiguous areas of chaparral and coastal sage scrub as well as significant yet isolated habitat areas. Other LUP policies are in place to protect wetlands and their buffers, including providing for a minimum of a 50-foot riparian wetland buffer, wherein only minor passive recreational uses may be permitted in the upper half of the buffer where feasible, as well as potential wetland mitigation options and the permanent conservation of wetlands and their buffers through the application of an open space easement or other suitable device. Individual permits granted under the Housing Element Update will conform with these policies.

Preliminary review of the sites identified within the inventory reveal that several contain sensitive resources such as steep slopes, wetlands, or coastal sage scrub. The projected developable site areas were reduced for those areas known to be undevelopable according to the LCP, and the estimated dwelling unit yields reflect each site's realistic potential for development, inclusive of those known site constraints. Additionally, potential unit counts were assumed to develop at less than the maximum density on each site to account for potential site constraints that may be identified when specific projects are proposed on each site.

According to the May 2018 EA, vegetation mapping was based on regional, large-scale mapping efforts conducted by SanGIS in 1995 for Multiple Species Conservation Program. Three of the sites were identified as having sensitive vegetative communities, including the Cannon property (Site 2), the Encinitas Blvd and Quail Gardens Sites (Site 5), and Sage Canyon (Site AD1). Additionally, Sage Canyon was identified as having wetlands on-site. All future development on sites with coastal sage scrub or wetlands will be subject to the certified LCP policies as well as mitigation measures within the EA, which includes avoidance and minimization measures for impacts to vegetation communities from grading and development, as well as suitable mitigation in accordance with the North County Multiple Habitat Conservation Program. For the potential wetland on the Sage Canyon site, a building pad for a previously-entitled residential project on site included a buffer around the area that ranged from 35 to 125 feet. This same buffer was used in the calculations of site capacity to estimate future development capacity on the site. New entitlements for the site may be sought with project development, but all future development will comply with the appropriate mitigation measures to ensure impacts to wetlands are avoided. Several sites also contain or are adjacent to an impaired water body (e.g. Cottonwood Creek), which will be subject to the mitigation measures described in the EA.

LUP policies that protect hillside/inland bluffs will also be applicable to the sites. The Hillside/Inland Bluff Overlay Zone requires that development is restricted in those areas where slopes exceed 25% and encroachments have been minimized to the greatest extent feasible. Constraints imposed by steep slopes have been considered for each site, with acreage containing 25-40% slopes considered only 50% buildable, and slopes over 40%

being removed from buildable acreage. Manmade slopes on Encinitas Blvd and Quail Gardens Sites (Site 5) were not considered part of the deducted acreage.

An important note is that site-specific surveys were not conducted in conjunction with this EA; individual surveys would be required on a project-level basis as sites are developed. All subsequent development projects undertaken pursuant to the Housing Element in the Coastal Zone will be required to comply with the certified LCP (and, as applicable, the public access and recreation policies of the Coastal Act), including the requirements to obtain a Coastal Development Permit (CDP) prior to any development activity. In this case, site-specific information will be made available for review to reveal the actual site constraints imposed by sensitive resources at that time and all the resource protection standards of the City's LCP remain the standard of review. Therefore the Commission find the proposed Housing Element Update consistent with the relevant Chapter 3 policies.

Agriculture

Section 30242 of the Coastal Act states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30250 of the Coastal Act states:

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

While only one of the sites within the inventory has an agricultural land use designation, several of the sites contain agricultural structures or sales. Most of these sites contain greenhouse structures and other temporary structures related to agricultural storage areas, and outdoor sales. The Encinitas LUP provides for the recognition and protection of agricultural and horticultural land uses in the local economy while also noting that conversion of particular areas is desirable in order to concentrate development, in accordance with Chapter 3 of the Coastal Act. Sites that contain or are adjacent to agricultural uses include Baldwin and Sons Properties (Sites AD2a, 2b, 2c), Sunshine Gardens Parcel (Site 12), Vulcan and La Costa (Site AD8), and the Meyer Proposal (AD31). These sites are located within the Leucadia and Old Encinitas neighborhoods. Within the Land Use Section of the Encinitas LUP, future development for these neighborhoods focuses on the gradual elimination of green houses and the consolidation

of residential uses and increased intensity of development on those parcels. For Old Encinitas, the LUP explicitly states that new development will be minimized to areas of infill and the redevelopment of greenhouse areas. The section within the LUP on new development in Leucadia also states that it “will be restricted to infill and recycling in the residential neighborhoods where vacant lots and green houses will ultimately be developed in residential uses.” While the LUP goes on to note that redevelopment and revitalization of the business district along the 101 Corridor is also a priority, the relevant site (Vulcan and La Costa) has a residential land use designation. Therefore, the LUP provisions will carry out Chapter 3 of the Coastal Act.

One site within the inventory (the Echter Property, Site 9) has an agricultural land use designation and is within the Encinitas Ranch Specific Plan. With this LUP amendment, the Encinitas Ranch Specific Plan will be revised to include conversion of an approximately 16-acre portion of the Sidonia East Planning Area to a 246 - 296 multifamily residential units (at a density of 25 to 30 du/acre) as part of an “agrihood” development included in the Housing Element Update. The agrihood concept allows for the continued viability of an agricultural business on site.

As noted above, the Encinitas LUP has particular policies in place to protect agricultural uses. The Encinitas Ranch Specific Plan was created to carry out the LCP for the Ecker Ranch property and surrounding area, and has particular policies in place that designate certain areas where affordable housing will potentially be sited. The LUP updates include modifications to several policies in order to account for the ER-R-30 Overlay Zone. Policy 24.3 will be modified to include the Sidonia East area, where the Echter Property is located. Policy 24.3 will also be modified so that the Sidonia East area is included as one of the neighborhoods that will consider the use of progressive density and increased building heights. Finally, Policy 29.3 is proposed to be amended. It currently states that new residential development will be located and clustered to avoid inhibiting continued agricultural use of the land and should be sited adjacent to existing development. This LUP amendment will add language that in those instances where continued agricultural use is no longer feasible, sensitive residential development that allows for the continued viability of an agricultural business on the site shall be encouraged.

Indeed, while the R-30 Overlay zone will allow for the conversion of land currently in agriculture, land use conflicts will be minimized in accordance with Section 30242 of the Coastal Act. Through development of an agrihood, the site will be allowed to stay in agricultural use in conjunction with development that allows for affordable housing. In this way, conversion would be limited while also allowing for the City to meet its RHNA allotment. While not reflected in the land use designation, the agrihood concept would transform the agricultural portion of the site to a more traditional open field agricultural use and aesthetic, as opposed to the many greenhouses currently on-site.

Moreover, the partial conversion of the Echter property is compatible with surrounding land uses, as it marks a transitional boundary between more highly developed (i.e. residential) uses to the west and south, and less intensive uses to the north and east. The North Mesa Planning Area to the east of the Echter site and on the east side of Quail

Gardens Drive is designated for golf course uses. Also, south of the Echter site and on the south side of Leucadia Boulevard, properties are designated for residential uses (at a density of 5 dwelling units per acre). To the north of the site is the Magdalena Ecke Park area, with a mix of agricultural, residential, and open space land uses north of the park area. In this way, the conversion of lands concentrates development by completing a logical and viable neighborhood and contributing to the establishment of a stable limit to urban development. . Because of this mix of land uses, the subject site can be found to be consistent with Section 30242 of the Coastal Act in concentrating development. Therefore the Commission find the proposed Housing Element Update consistent with the relevant Chapter 3 policies.

Archaeology/Paleontology

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The Encinitas LUP includes Policies 7.1 and 7.2 to document and preserve paleontological, historical, and archaeological resources if threatened by new development, as well as ensure surveys are conducted to identify sites that contain such resources. The City also developed a Cultural/Natural Resources Overlay Zone that has been included in the LUP and will remain unchanged by the Housing Element Update LCP Amendment.

Several of the sites fall within the City's Cultural/Natural Resources Overlay Zone, and the May 2018 EA concludes that the potential for a direct or indirect impact to undiscovered archaeological and tribal resources due to the potential of ground-disturbing activities are significant and unavoidable. However, site-specific surveys will be conducted as each site becomes available for development, and many of the candidate sites have been altered by prior ground disturbance and development and are not likely to yield these underground resources. Additionally, appropriate measures are in place to ensure that potential adverse impacts to archaeological or paleontological resources will be avoided and minimized via the use of monitors during construction. To address potential impacts to undiscovered archaeological resources, future development would be subject to compliance with Policies 7.1 and 7.2, as well as a mitigation measure that requires an archaeological survey be conducted prior to the issuance of any permit. Therefore the Commission find the proposed Housing Element Update consistent with the relevant Chapter 3 policies.

New Development and Community Character

Section 30250 of the Coastal Act states:

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

[...]

Section 30253 of the Coastal Act states:

New development shall do all of the following:

[...]

(d) Minimize energy consumption and vehicle miles traveled.

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Of all the sites within the Coastal Zone, three are considered vacant, nine are considered built out, and one is comprised of parcels that are both vacant and developed. In order for the City to meet its RHNA allotment, vacant sites need to accommodate 50% of the units (i.e. 571 units). Because of that, the current inventory features sites that have a variety of current uses, including residential, greenhouses, agricultural sales, parking lots, offices, church facilities, as well as vacant or no current development. The Encinitas LUP has a number of policies in place to concentrate development and discourage incompatible development in conformance with Chapter 3, especially in regards to residential and adjacent nonresidential structures, and for the revitalization of blighted or underutilized properties along major corridors in the City, such as Highway 101 and Encinitas Boulevard. While a number of the inventoried sites to be re-designated have lower density land use designations (in some cases, significantly lower, as is the case with the Cannon Property, Echter Property, and Greek Church Parcel), the R-30 Overlay is intended to respect neighborhood character, be compatible with community specific settings and provide reasonable transitions between existing residences and potential development sites. All of the sites are located within, contiguous with, or in close proximity to, existing developed areas. Two of the sites, Harrison and Jackel properties, are also proposed to be mixed-use development, which will encourage commercial activity in a pedestrian-friendly area adjacent to residential, recreational, and other commercial mixed-use zones. Therefore, the Commission find the proposed Housing Element Update consistent with the relevant Chapter 3 policies.

Scenic and Visual Resources

The Coastal Act requires that the scenic qualities and special character of communities be protected.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Ten of the thirteen sites within the Coastal Zone overlap with scenic resources, whether it is a view corridor, critical viewshed, or is located along a scenic road. Review of site locations reveal that development will occur in areas that will not impede coastal views. The Cannon property (Site 2), for example, is located within the I-5 Scenic Corridor and Critical Viewshed for two viewpoints along I-5 and La Costa Ave. However, the development is proposed to occur on the inland side of the vista points, and the site itself is upslope of the I-5 Corridor and will therefore not impact scenic views. The Jackel Property (Site 7) is also located along a Scenic Road (North Highway 101) and within the critical viewshed for Highway 101 north of La Costa Ave; however, views from the vista point will be northwest from these vista points and across the Batiquitos Lagoon, and the project is not located in an area that would obstruct views from these points. For the Vulcan and La Costa Site (AD8), which is located along a Scenic Road (La Costa and North Highway 101), the Scenic View Corridor along La Costa, and the Critical Viewshed for Highway 101 north of La Costa Ave, the project would not impact coastal views because public views are directed north and west in these key areas, and the project location is south and inland of these protected vista points. Similar conclusions can be drawn for both the Manchester Avenue West Sites (AD11) and the Harrison Sites (AD14), which are also located inland of critical view points.

Furthermore, a number of policies within the Encinitas LUP that protect scenic views and seek to maximize visual access to coastal and inland views in conformity with Chapter 3 of the Coastal Act will remain in effect and be unchanged by the Housing Element Update. Policy 4.5 in particular provides for the development of the Scenic/Visual Corridor Overlay Zone, which is designed to protect the integrity of vista points and scenic highways through design review of development within 2,000 feet of vista points or along scenic roads. Specifically, future development within scenic view corridors, along scenic highways and/or adjacent to significant viewsheds or vista points are subject to compliance with regulations that consider the project's overall visual impact and may condition or limit project bulk, mass, height, architectural design, and grading. Other visual factors may be applied as part of Design Review approval and will also be considered for coastal development permit approval when the development on the site is formally proposed. Additionally, where development is proposed on slopes greater than 25%, special standards would apply, including that slopes of greater than 25% should be preserved in their natural state and that no principal structure or improvement should be placed, and no grading undertaken, within 25 feet of any point along an inland bluff edge. Therefore, future development will be reviewed on a case-by-case basis to verify consistency with Encinitas General Plan and LUP standards. Therefore the Commission

find the proposed Housing Element Update consistent with the relevant Chapter 3 policies.

**PART VI. FINDINGS FOR REJECTION OF THE ENCINITAS
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

The proposed amendment affects the IP component of the City's LCP. 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 (LUP).

A. AMENDMENT DESCRIPTION

As part of the Housing Element Update, the City of Encinitas proposes to up-zone 15 sites (13 of which are within the Coastal Zone) throughout the City's five different neighborhoods. These sites currently have a wide range of zoning designations, from Rural Residential 1 to Office Professional, Agricultural, or Residential 11, each with their own allowed density and permitted uses. A new overlay zone (R-30 OL) will be introduced in order to provide for compatible high-density multiple family residential development including apartments, condominiums, and senior housing, and to meet the City's need for low and very-low affordable units.

Various sections of the Encinitas IP will be updated to reflect the necessary revisions to the LUP, including the revision of two definitions within Chapter 30.04, Section 30.08.010 to add the R-30 Overlay Zone and applicable provisions, Chapter 30.09 to include the overlay zone in the Encinitas Municipal Code Zoning Matrix, Section 30.16.010 for the amending of residential development standards to include R-30 OL, and the amending of the City of Encinitas Official Zoning Map to add the R-30 OL for those sites currently within the Candidate Sites Inventory. Additionally, unrelated to the housing element proposal, the zoning map will be amended to change zoning designation of one particular parcel (APN 257-01-117), known as L7, from Rural Residential (RR1) to Residential 3 (R3).

In addition to the above cited changes, the zoning code of three specific plans will also be modified with the approval of this amendment. The Encinitas Ranch Specific Plan will be amended to allow for the development of 246 to 296 multifamily residential units in conjunction with a working agriculture practice within the 16-acre portion of the Sidonia East Planning Area under the newly created ER-R-30 Zone. Applicable policies and standards will be revised to reflect the inclusion of the ER-R-30 Zone, and the Zoning Map will be updated. Finally, the ER-R-30 zone will be incorporated into the Specific Plan Zoning Ordinance, including permitted uses and development standards that defer to the R-30-OL Development Standards established in the Housing Element Update. The Downtown Encinitas Specific Plan, which was approved by the Commission on November 17, 1994 as part of the Local Coastal Program, will also be modified to add the D-VCM-R-30 OL Zone to the Zoning Map. Additional provisions regarding the new overlay zone, including a description of the zone, permitted uses, development standards, and a list of zones have also been included. Finally, the North 101 Corridor Specific Plan,

approved by the Commission on August 13, 1997, will also be modified to account for up-zoning in two locations within the specific plan area. The list of zones and zoning map will be updated to include both the N-R3 (R-30 Overlay) zone as well as an N-L-VSC (R-30 Overlay) zone. Modifications to the zones will also include updated descriptions, permitted uses, and development standards for both overlay zones.

B. SUMMARY FINDINGS FOR REJECTION

The City's LUP protects visitor-serving commercial uses and is particularly sensitive to those areas near primary coastal access routes. Relevant policies are listed below:

Policy 1.13 of the Land Use Element states:

The visitor-serving commercial land use shall be located where it will not intrude into existing residential communities. This category applies in order to reserve sufficient land in appropriate locations expressly for commercial recreation and visitor-serving uses such as:

- *tourist lodging, including campgrounds (bed and breakfast facilities may be compatible in residential areas)*
- *eating and drinking establishments*
- *specialty shops and personal services*
- *food and beverage retail sales (convenience)*
- *participant sports and recreation*
- *entertainment (Coastal Act/30250)*

The above listed uses and other uses specifically intended to serve the needs of visitors shall be the principal uses allowed within the visitor-serving land use designation. All other permitted or conditionally permitted uses specified in the Zoning Code for areas zoned as visitor-serving commercial, shall be considered as ancillary uses to the allowable principal uses. Ancillary or non-principal uses and required off-street parking shall not occupy or utilize more than 30% of the ground floor area. Policy 1.13 amended 5/11/95 (Reso. 95-32)

Policy 1.14 of the Land Use Element states:

The City will maintain and enhance the Hwy 101 commercial corridor by providing appropriate community-serving tourist-related and pedestrian-oriented uses. (Coastal Act/30250)

Policy 3.2 of the Recreation Element states:

The City will designate as "Visitor-Serving Commercial" use areas land in the vicinity of primary coastal access routes, particularly in proximity to higher intensity beach use areas. (Coastal Act/30221/30222/30223)

The IP consists of development standards specific to visitor-serving uses that serve to carry out the provisions of the relevant LUP policies, including that particular visitor-serving commercial land uses will prioritize certain types of developments and place restrictions on ancillary uses (such as residential). With the amending of the IP, the R-30 Overlay provisions will apply in addition to the existing underlying zoning designations. Uses and standards of the underlying zone continue to apply until such time as a development is approved conforming with the provisions of the R-30 Overlay Zone.

The Jackel Property (Site 7) is located within the N-L-VSC Zone of the North 101 Corridor Specific Plan. This zone defers to the L-VSC zone of Title 30, which provides for hotel/motel uses as the primary use, along with uses specifically intended to serve the needs of persons visiting the City as ancillary uses. Under the new N-L-VSC (R-30) Overlay Zone, permitted uses will be the same as those permitted in L-VSC Zone, and those permitted in the R-30 OL Zone. While some differences in the N-L-VSC and R-30 OL development standards exist, including for setbacks, distance between buildings on the same lot, and landscaping, the more generous standard would prevail.

The LUP policies cited above conflict with the proposed IP amendment in the case of the Jackel property. Policies 1.13 of the Land Use Element and 3.2 of the Resource Management Element demonstrate that within those areas designated as Visitor-Serving Commercial, especially along primary coastal access routes such as North Highway 101, visitor-serving commercial uses are a priority and will remain distinct from residential communities. Policy 1.14 of the Land Use Element augments this by requiring the City to maintain and enhance the Highway 101 commercial corridor by providing tourist-related and pedestrian-oriented uses. Hotels and motels, especially along the Highway 101 corridor, provide necessary visitor accommodations and support facilities for the City. The Jackel Property is not only located along a primary coastal access route, but is currently designated and prioritized for hotel/motel as its primary use, along with those uses intended to serve visitors as secondary uses. While the site could be developed into a mixed-use development under the R-30 Overlay, the primary by-right use of the zone would be lost, as hotels and motels are excluded from permitted uses within the R-30 Overlay. As was discussed within the LUP findings, visitor-serving uses within the City of Encinitas have historically been in short supply, and the Jackel Property, along with four other parcels, constitute the only areas within the North 101 Corridor Specific Plan where a hotel/motel is permitted by-right (i.e. within the N-L-VSC and L-VSC zones). Suggested modifications to the approval of the Specific Plan in the first place pivoted on the continued allowance of hotels and motels, and the LCP amendment as proposed would weaken those provisions. Because the development of the Jackel property under the R-30 Overlay Zone standards would preclude a protected visitor-serving use of the property, the proposed implementation plan amendment is not consistent with, and adequate to carry out, the policies of the certified LUP.

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, as amended herein.

a) Purpose and Intent of the Ordinance.

The purpose of the Housing Element Update is to update the City's Housing Element in accordance with California Housing Element law, and includes a current inventory of 15 sites that will be up-zoned to increase density allowances in order to meet the City's remaining RHNA housing needs.

b) Major Provisions of the Ordinance.

The Housing Element Update 2019 includes many detailed provisions, but the most significant are:

- Defines the goals and strategies for achieving the RHNA allotment.
- Amends the Encinitas Ranch, Downtown Encinitas, and North 101 Corridor Specific Plans to include the R-30 Overlay Zone on specific sites in the inventory that fall within the plan area.
- Defines the R-30 Overlay Zone.
- Creates zoning and development regulations tailored specifically to the specific properties on the inventory list.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The Commission has, in general found that the allowance for increased densities can be an effective tool to provide for affordable housing. In fact, Coastal Act Section 30604(f) specifically encourages the Commission to approve an increase in density for affordable housing when such housing can be accommodated in a manner otherwise consistent with the resource protection policies of the Coastal Act or a local government's certified LCP. However, because the ordinance would allow for the R-30 Overlay on parcels specifically zoned for and protected as high-priority visitor-serving uses within the LUP, the ordinance is found to be inadequate to carry out the provisions of the certified LUP.

PART VII. FINDINGS FOR APPROVAL OF THE ENCINITAS IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

With the incorporation of **Suggested Modifications #4 and #5**, the IP Amendment can be found consistent with the City of Encinitas certified LCP. **Suggested Modification #4** will require that the N-L-VSC (R-30) Overlay Zone proposed within the North 101 Corridor Specific Plan be removed from the list of Zones included in Section 3.1 of the Specific Plan and its application on the Jackel property as depicted on the Specific Plan Zoning Map. **Suggested Modification #5** would require the City to delete the modified sections of Section 3.1.2.H of the North 101 Corridor Specific Plan found in Exhibit 2019-04-9 of the Ordinance that would allow for the R-30 Overlay within the Limited Visitor-Serving Commercial (N-L-VSC) Zone of the Plan. Only through the

incorporation of these two modifications can the IP Amendment be found consistent with the City of Encinitas certified LCP.

Various other sections of the Encinitas IP will be updated to reflect the necessary revisions to the LUP, including the amending of two definitions within Chapter 30.04, Section 30.08.010 to add the R-30 Overlay Zone and applicable provisions, Chapter 30.09 to include the overlay zone in the Encinitas Municipal Code Zoning Matrix, Section 30.16.010 for the amending of residential development standards to include R-30 OL, and the amending of the City of Encinitas Official Zoning Map to add the R-30 OL for those sites currently within the Candidate Sites Inventory. Additionally, the zoning map will be amended to change zoning designation of one particular parcel (APN 257-01-117), known as L7, from Rural Residential (RR1) to Residential 3 (R3). A description of findings that pertain to relevant sections of the City's certified LUP are found below for the purpose of presenting aspects of the conforming IP Amendment.

Access

Policy 1.12 of the Circulation Element states:

[...]The City will require that all commercial, industrial and residential uses be designed and constructed with sufficient off-street parking and loading facilities to assure adequate parking is provided with new development such that no adverse impacts on coastal access are documented. Parking ratios shall be utilized as specified and detailed in the City's Zoning Code and in implementing Specific Plans which provide sufficient parking spaces so as not to require patrons/employees/ residents to utilize parking which is necessary/required for other approved uses or street and other public parking that should otherwise be available for public use.

Goal 6 of the Circulation Element states:

The City will make every effort to provide public access and circulation to the shoreline, through private dedications, easements or other methods, and public transportation or other facilities.

Goal 3 of the Encinitas Ranch Specific Plan states:

The City of Encinitas will promote the use of other modes of transport to reduce the dependence on the personal automobile.

The Encinitas certified LUP contains policies that call for the City to protect and expand public access to the shoreline, promote alternative modes of transportation, and require the provision of adequate off-street parking with the use of appropriate parking ratios. Parking for the inventoried sites will be provided in accordance with Chapter 30.54 of the Encinitas Municipal Code, which is currently part of the certified IP. Chapter 30.54 of the Encinitas Municipal Code includes parking ratios for different uses as well as their

development standards, methods for obtaining required off-street parking, joint use parking, landscaping in parking areas, and also includes provisions for where the City may approve parking districts. An exception to the parking standards of Chapter 30.54 will be those units which are deed-restricted to be affordable (i.e. very-low and low income), which will be provided off-street parking at a reduced ratio. Developers on the R-30 sites may utilize the City's density bonus requirements without applying for a density bonus, incentive, or waiver. The City desires to maintain higher parking standards for projects containing no affordable housing.

As previously mentioned, the City proposes to update its housing standards to reflect current and anticipated parking needs, and to adopt parking appropriate for affordable, senior-aged, mixed-use and transit-oriented housing projects. Program 3A of the Housing Element will establish parking standards appropriate for different kinds of housing, at which time Chapter 30.54 of the IP will require amending.

The Downtown Encinitas and the North 101 Corridor Specific Plans, previously approved by the Commission as part of the certified LCP, already contain reduced parking standards to encourage mixed-use and affordable housing development. Mixed-use developments that are guaranteed to be affordable to low or very-low income households are allowed a reduced, off-street one-space-per-unit parking requirement. State Density Bonus Laws allows for even lower parking standards for projects eligible for the density bonus. The Commission therefore finds the proposed implementing provisions of the Specific Plan consistent with, and adequate to carry out, the policies of the certified LUP.

Visitor-Serving

Policy 1.13 of the Land Use Element states:

The visitor-serving commercial land use shall be located where it will not intrude into existing residential communities. This category applies in order to reserve sufficient land in appropriate locations expressly for commercial recreation and visitor-serving uses such as:

- *tourist lodging, including campgrounds (bed and breakfast facilities may be compatible in residential areas)*
- *eating and drinking establishments*
- *specialty shops and personal services*
- *food and beverage retail sales (convenience)*
- *participant sports and recreation*
- *entertainment (Coastal Act/30250)*

The above listed uses and other uses specifically intended to serve the needs of visitors shall be the principal uses allowed within the visitor-serving land use designation. All other permitted or conditionally permitted uses specified in the Zoning Code for areas zoned as visitor-serving commercial, shall be considered as ancillary uses to the allowable principal uses. Ancillary or non-principal uses

and required off-street parking shall not occupy or utilize more than 30% of the ground floor area. Policy 1.13 amended 5/11/95 (Reso. 95-32)

Policy 1.14 of the Land Use Element states:

The City will maintain and enhance the Hwy 101 commercial corridor by providing appropriate community-serving tourist-related and pedestrian-oriented uses. (Coastal Act/30250)

Policy 3.2 of the Resource Management Element states:

The City will designate as "Visitor-Serving Commercial" use areas land in the vicinity of primary coastal access routes, particularly in proximity to higher intensity beach use areas. (Coastal Act/30221/30222/30223)

While the implementation of the R-30 Overlay Zone on the Jackel Property will conflict with certified LUP policies, the Harrison Site (AD14) can be accepted as a candidate site. The Harrison Site (Site AD14) is located within the Visitor Commercial Mixed (D-VCM) zone of the Downtown Encinitas Specific Plan. This zone is intended to primarily provide for commercial activities such as hotel/motel uses, campgrounds, eating and drinking establishments, food and beverage retail sales, participant sports and recreation, entertainment uses, and other principal visitor-serving uses which are specifically intended to serve the needs of persons visiting the City. The IP states that all other permitted or conditionally permitted uses specified for the zone, including business and professional office and residential uses, are considered ancillary uses. Ancillary uses and required off-street parking are restricted to no more than 30% of the ground floor area. Nonetheless, the D-VCM zone still allows by right residential and offices as permitted uses, unlike the N-L-VSC zone for the Jackel property, where residential uses would not be allowed absent the R-30 Overlay rezone. Development offering mixed visitor-serving commercial or office uses with restricted residential use may be allowed, with the intent of providing housing opportunities and of mitigating the impacts between new mixed visitor-serving commercial/office and residential uses. Additional restrictions on ancillary uses in this zone include that residential uses shall be located above and/or behind the primary visitor-serving commercial or office use, and residential units may not exceed 50% of the gross building floor area for a development site. However, there is no specified residential density for this zone, which allows for a larger overall building envelope than other commercial zones in the downtown Encinitas area. Residential units in this subdistrict are to be attached multi-family, and may take advantage of affordable incentives but are not automatically restricted by affordability.

Under the new D-VCM R-30 Overlay Zone within the Downtown Encinitas Specific Plan, a minimum of 50% of the site shall accommodate residential development at a density of 25-30 dwelling units per acre under the R-30 Overlay. Like the underlying zoning, the site will be allowed a relatively larger building envelope and will feature multi-family housing with an affordable component. Also, the owner intends to develop the site as a mixed-use development, and current zoning for this site allows for mixed

visitor-serving commercial or office uses with restrictions on the size and location of a residential component. Zoning and permitted uses in their current state and with the addition of the R-30 Overlay are therefore more compatible for the Harrison Site than the Jackel Property; unlike the Jackel Property, the Harrison Site has various permitted uses that are not necessarily exclusive to motel/hotel, and therefore the re-zoning will not significantly undermine efforts to provide overnight accommodations. The D-VSC zone within the Downtown Encinitas Specific Plan also provides for more exclusive hotel/motel uses. The Commission therefore finds the proposed implementing provisions of the Specific Plan consistent with, and adequate to carry out, the policies of the certified LUP.

Sensitive Resources

Policy 1.2 of the Circulation Element states:

Restrict development in those areas where slope exceeds 25% as specified in the Hillside/Inland Bluff overlay zone of the zoning code. Encroachment into slopes as detailed in the Hillside/Inland Bluff overlay may range from 0 percent to a maximum of 20 percent, based on a sliding scale of encroachment allowances reflective of the amount of the property within steep slopes, upon the discretionary judgement that there is no feasible alternative siting or design which eliminates or substantially reduces the need for such encroachment, and it is found that the bulk and scale of the proposed structure has been minimized to the greatest extent feasible and such encroachment is necessary for minimum site development and that the maximum contiguous area of sensitive slopes shall be preserved. Within the Coastal Zone and for the purposes of this section, "encroachment" shall constitute any activity which involves grading, construction, placement of structures or materials, paving, removal of native vegetation including clear-cutting for brush management purposes, or other operations which would render the area incapable of supporting native vegetation or being used as wildlife habitat. Modification from this policy may be made upon the finding that strict application of this policy would preclude any reasonable use of property (one dwelling unit per legal parcel)...

Policy 1.3 of the Circulation Element states:

The City will rely on the Coastal Bluff and Hillside/Inland Bluff Overlay Zones to prevent future development or redevelopment that will represent a hazard to its owners or occupants, and which may require structural measures to prevent destructive erosion or collapse. (Coastal Act/30240/30251/30253)

Goal 8 of the Land Use Element states:

Environmentally and topographically sensitive and constrained areas within the City shall be preserved to the greatest extent possible to minimize the risks

associated with development in these areas. (Coastal Act/30240/30253) Goal 8 amended 5/11/95 (Reso. 95-32)

Policy 8.6 of the Land Use Element states:

Significant natural features shall be preserved and incorporated into all development. Such features may include bluffs, rock outcroppings, natural drainage courses, wetland and riparian areas, steep topography, trees, and views. (Coastal Act/30240/30250/30251)

Policy 10.1 of the Resource Management Element states:

The City will minimize development impacts on coastal mixed chaparral and coastal sage scrub environmentally sensitive habitats by preserving within the inland bluff and hillside systems, all native vegetation on natural slopes of 25% grade and over other than manufactured slopes. A deviation from this policy may be permitted only upon a finding that strict application thereof would preclude any reasonable use of the property (one dwelling unit per lot).

Policy 10.5 of the Resource Management Element states:

The City will control development design on Coastal Mixed Chaparral and Coastal Sage Scrub environmentally sensitive habitats by including all parcels containing concentrations of these habitats within the Special Study Overlay designation. The following guidelines will be used to evaluate projects for approval.

- *conservation of as much existing contiguous area of Coastal Mixed Chaparral or Coastal Sage Scrub as feasible while protecting the remaining areas from highly impacting uses;*
- *minimize fragmentation or separation of existing contiguous natural areas;*

[...]

- *where appropriate, based on community character and design, clustering of residential or other uses near the edges of the natural areas rather than dispersing such uses within the natural areas;*
- *where significant, yet isolated habitat areas exist, development shall be designed to preserve and protect them;*
- *conservation of the widest variety of physical and vegetational conditions on site to maintain the highest habitat diversity;*
- *design of development, with adjacent uses given consideration, to maximize conformance to these guidelines; and*
- *preservation of rare and endangered species on site rather than by transplantation off site. (Coastal Act/30240/30250)*

In addition, all new development shall be designed to be consistent with multi-species and multi-habitat preservation goals and requirements as established in the statewide Natural Communities Conservation Planning (NCCP) Act. Compliance with these goals and requirements shall be implemented in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game . Policy 10.5 amended 5/11/95 (Reso. 95-32)

Policy 10.6 of the Resource Management Element states:

The City shall preserve and protect wetlands within the City's planning area There shall be no net loss of wetland acreage or resource value as a result of land use or development, and the City's goal is to realize a net gain in acreage and value when ever possible.

[...]

The City shall also control use and development in surrounding areas of influence to wetlands with the application of buffer zones. At a minimum, 100-foot wide buffers shall be provided upland of salt water wetlands, and 50-foot wide buffers shall be provided upland of riparian wetlands. Unless otherwise specified in this plan, use and development within buffer areas shall be limited to minor passive recreational uses with fencing, desiltation or erosion control facilities, or other improvements deemed necessary to protect the habitat, to be located in the upper (upland) half of the buffer area when feasible.

All wetlands and buffers identified and resulting from development and use approval shall be permanently conserved or protected through the application of an open space easement or other suitable device.

Goal 14 of the Resource Management Element states:

The City shall stringently control erosion and sedimentation from land use and development to avoid environmental degradation of lagoons and other sensitive biological habitat, preserve public resources and avoid the costs of dealing with repair and sedimentation removal (Coastal Act/30231/30240/30250/30253).

The IP consists of specific zoning regulations and Special Purpose Overlay Zones that serve to carry out the provisions of the relevant LUP policies, including providing for design review, grading, erosion, and sediment control, as well as the protection of coastal and inland bluffs and hillsides, floodplains, and wetlands. The Housing Element Update will not modify any of the relevant zoning sections (e.g Chapters 23.08, 23.24, 30.32, or 30.34), and all development on the re-zoned sites will be subject to the requirements of these sections in addition to CDP approval. The Commission therefore finds the proposed implementing provisions of the Specific Plan consistent with, and adequate to carry out, the policies of the certified LUP.

Agriculture

Description of land use policy for Leucadia within Land Use Element:

New development in the community will be restricted to infill and recycling in the residential neighborhoods where vacant lots and green houses will ultimately be developed in residential uses. However, land use policy for the 101 corridor within Leucadia focuses on ways to redevelop and revitalize the business district located along this corridor.

Description of land use policy for Old Encinitas within Land Use Element:

The land use policy for the community of Old Encinitas' encourages the maintenance of the existing character of the community. New development in Old Encinitas will be minimal with most of it occurring as infill (e.g., new development on vacant parcels) or the redevelopment of the greenhouse areas to more urban uses...

Goal 11 of the Resource Management Element states:

The City recognizes the important contribution of agricultural and horticultural land uses in the local economy and the emphasis of the need to maintain these activities.

Policy 11.8 of the Resource Management Element states:

Preserve and promote the right to produce unique horticultural crops and community gardens in Encinitas.

Policies within the certified LUP strike a balance when discussing agriculture by explicitly recognizing the importance of agricultural and horticultural land uses within the City while also noting that residential infill in specific neighborhoods will be sought to concentrate development. For those sites containing agricultural uses within Leucadia (Vulcan and La Costa and Meyer Proposal), and those sites containing agricultural uses within Old Encinitas (Baldwin and Sons Properties and Sunshine Gardens Parcels), the LUP explicitly notes that parcels containing greenhouses will be redeveloped to residential/urbanized uses. Changes within the IP that provide for the conversion of these sites through the application of the R-30 Overlay are therefore compatible with land use policy goals stated in the certified LUP.

The Echter property, which is currently zoned as Agricultural, is also within the Encinitas Ranch Specific Plan and the certified LCP. Several key policies within the Encinitas Ranch Specific Plan will be revised in order to accommodate the R-30 Overlay Zone on the Echter site. These policies include the following:

Revised Policy 14.3 of the Encinitas Ranch Specific Plan states:

Provide an opportunity in the Green Valley, Sidonia East, and West Saxony Areas to meet some of the needs of the City of Encinitas for affordable housing.

Revised Policy 24.3 of the Encinitas Ranch Specific Plan states:

Promote the use of progressive density and increasing building heights (up to three stories) at community centers (e.g., West Saxony, Sidonia East, and Green Valley) as means of minimizing housing costs and reinforcing community centers).

Revised Policy 29.1 of the Encinitas Ranch Specific Plan states:

Provide that an Agriculture/Open Space Preservation land use category be applied to a portion of the properties located within this Specific Plan south of the Leucadia Boulevard extension on the upper mesa or combination of lands in the South Mesa and East Saxony Planning Areas.

Revised Policy 29.3 of the Encinitas Ranch Specific Plan states:

Require that new residential development be located and clustered to avoid inhibiting continued agricultural use of land reserved for that purpose, and where feasible, require that new development be located adjacent to existing development or areas planned for development. In instances where continued agricultural use is no longer feasible, encourage sensitive residential development that allows for the continued viability of an agricultural business on site.

The new ER-R-30 zone will allow for thirty multi-family dwelling units per net acre on the Echter property within the Sidonia East area of Encinitas Ranch. Zoning categories will be modified in order to add the ER-R-30 Overlay, including that agricultural uses will be permitted in a non-agricultural zone within the overlay, as well as where the Park and Recreation Overlay may overlap. Permitted uses will be expanded within the ER-R-30 zone to allow for agricultural produce sales, farmers market, outdoor dining uses, outdoor event uses, and farm-to-table restaurants.

Policy 29.3 of the Specific Plan will be revised so as to allow for some residential development to occur in conjunction with the continuation of an on-site agricultural business, to which the ER-R-30 Overlay responds. Furthermore, the re-zoning of the Echter property adheres to Policy 29.3 through the clustering of new residential development adjacent to existing development, as described in the Coastal Act conformance section above. Additionally, Section 6.1 and Table 6-2 of the Encinitas Ranch Specific Plan Zoning Ordinance states that in all zones except open space, agricultural uses shall be permitted subject to the development and design guidelines of the Agricultural Zone. Therefore, agricultural uses on the up-zoned Echter property will

continue, and the wider application of agricultural uses within the Specific Plan will remain unchanged.

A fifty-foot building setback shall be created along the western boundary of the “agrihood” development to buffer it from existing single-family homes to the west. Development standards for the ER-R-30 Zone will be consistent with those of the R-30 Overlay Zone, including height. Section 7.0 of the Specific Plan, which includes design guidelines for the community, will remain in effect and provide standards for building massing, building colors and materials, and landscaping. The Commission therefore finds the proposed implementing provisions of the Specific Plan consistent with, and adequate to carry out, the policies of the certified LUP.

Archaeological/Paleontological

Policy 8.5 of the Land Use Element states:

The Special Study Overlay designation shall be applied to lands which, due to their sensitive nature, should only be developed with consideration of specific constraints and features related to drainage courses, bluffs, slopes, geology and soils, biotic habitat, viewsheds and vistas, and cultural resources. Development within the overlay area shall be reviewed and approved in accordance with criteria and standards which protect coastal and inland resources.

Policy 7.1 of the Resource Management Element states:

Require that paleontological, historical and archaeological resources in the planning area are documented, preserved or salvaged if threatened by new development. (Coastal Act/30250)

Policy 7.2 of the Resource Management Element states:

Conduct a survey to identify historic structures and archaeological/cultural sites throughout the community and ensure that every action is taken to ensure their preservation. (Coastal Act/30250/30253(5))

The LUP provides for policies that require surveys of archaeological/cultural sites and their preservation, as well as a special study overlay zone (known as the Cultural/Natural Resource Overlay Zone) that will be subject to specific criteria and standards. Future development under the 2018 Housing Element will take place with consideration of the Cultural/Natural Resource Overlay Zone, which is subject to compliance with Encinitas Municipal Code Section 30.34.050. This section of the IP requires that a survey be conducted by a qualified professional historian to determine a site’s significance and need for mitigation. The Commission therefore finds the proposed implementing provisions of the Specific Plan consistent with, and adequate to carry out, the policies of the certified LUP.

New Development and Community Character

Policy 6.6 of the Land Use Element states:

The construction of very large buildings shall be discouraged where such structures are incompatible with surrounding development. The building height of both residential and nonresidential structures shall be compatible with surrounding development, given topographic and other considerations, and shall protect public views of regional or statewide significance. (Coastal Act/30251/30252/30253) Policy 6. 6 amended 5/11/95 (Reso. 95 -32)

Policy 13.2 of the Resource Management Element states:

The City shall plan for compatible land uses within and adjacent to recreation areas, natural preserves, and agricultural areas. (Coastal Act/30240/30250)

Modifications will be made to the development standards listed in Section 30.16.010 for Higher Density Single-Family and Multi-Family Residential Zones. Specifically, the R-30 Overlay standards will be incorporated into the relevant table. Development standards generally include the maximum density, lot width, setbacks, lot coverage, and distance between buildings on the same lot. Density of development will still be based on net acreage, the definition of which will be modified in the IP so that for properties within the R-30 Overlay Zone, private access roads, parking lots, driveways, and drive aisles will all be considered part of the gross acreage, so not to further constrain potential on-site density calculations.

Design standards associated with the new overlay zone will ameliorate potential impacts relating to community character. All front walls of buildings will be required to be articulated, as well as any other side or rear elevation visible from a public right-of-way. An average of a five-foot offset will be required for the remaining 25% of the building face. Additionally, if parcels within the overlay zone share a property line with an adjacent parcel developed with an existing single-family residential use or duplex units, additional setback requirements will apply to provide an appropriate transition to the existing use. Specifically, the third story of residential uses in the R-30 Overlay will be setback 30 feet from the property line adjacent to a parcel with an existing single family residential or duplex units. While maximum lot coverage will be higher (60%) in the R-30 Overlay Zone as compared to other high density zones (40%), accessory structures as defined in Section 30.16.010(F) will not be allowed within the R-30 OL Zone, and permitted improvements in the setback areas will be limited to landscaping, pathways, stormwater quality facilities, parking, and other passive site amenities.

Section 30.16.010(A) (13) will also be added to the Residential Development Standards that specifies that replacement housing consistent with the requirements of Government Code Sections 65583.2(g)(3) and 65915(c)(3) shall be provided on any site listed in the City's adopted housing element of the general plan, if the site is proposed for development and: (a) residences either exist on the site or existed on the site within the

five-year period prior to submittal of the application; and (b) the residences were either deed-restricted subject to rent control or any other limitation on rent, or occupied by low or very low income households. The Commission therefore finds the proposed implementing provisions of the Specific Plan consistent with, and adequate to carry out, the policies of the certified LUP.

Community Character and Visual Resources

Goal 9 of the Land Use Element states:

Preserve the existence of present natural open spaces, slopes, bluffs, lagoon areas, and maintain the sense of spaciousness and semirural living within the I-5 View Corridor and within other view corridors, scenic highways and vista/view sheds as identified in the Resource Management Element. (Coastal Act/30240/30251)

Policy 4.5 of the Resource Management Element states:

The City will designate "Scenic/Visual Corridor Overlay" areas within which the character of development would be regulated to protect the integrity of the Vista Points according to the following criteria:

- *Critical viewshed areas should meet the following requirements:*
 - *extend radially for 2,000 feet (610M) from the Vista Point; and*
 - *cover areas upon which development could potentially obstruct, limit, or degrade the view.*
- *Development within the critical viewshed area should be subject to design review based on the following:*
 - *building height, bulk, roof line and color and scale should not obstruct, limit or degrade the existing views;*
 - *landscaping should be located to screen adjacent undesirable views (parking lot areas, mechanical equipment, etc.) (Coastal Act/30251/30253)*

Policy 4.6 of the Resource Management Element states:

The City will maintain and enhance the scenic highway/visual corridor viewsheds. (Coastal Act/30251)

Policy 4.9 of the Resource Management Element states:

It is intended that development would be subject to the design review provisions of the Scenic/Visual Corridor Overlay Zone for those locations within Scenic View Corridors, along scenic highways and adjacent to significant viewsheds and vista points with the addition of the following design criteria....

Policy 9.1 of the Resource Management Element states:

Encourage and preserve low-density residential zoning within I-5 Corridor while preserving the best natural features and avoiding the creation of a totally urbanized landscape and maintain I-5 Interchange areas to conform to the specifications of this overall goal. The City will develop an I-5 view corridor plan to implement this policy. (Coastal Act/30240/30251)

Policy 9.5 of the Resource Management Element states:

Discourage development that would infringe upon scenic views and vistas within the I-5 corridor.

The certified LUP contains a number of provisions that protect scenic resources and open spaces within the Coastal Zone. The IP has been certified to carry out the provisions of the LUP, and several elements of it will be revised to implement the goals of the Housing Element Update and the corresponding LUP amendment.

Perhaps the most relevant change is that the definition of building height in Chapter 30.04 of the IP will be modified to state that only for those properties located in and developing in conformance with the provisions of the R-30 Overlay, height is measured from the finished grade adjacent to the structure, and to the highest portion of the structure immediately above. Another change will include the adjustment of standard height limit so that it will be the lesser of two stories in the RR through R-25 and MHP zones but the lesser of three stories in the R-30 Overlay Zone. This standard includes that height shall be limited to 26 feet in the RR to R-1 zones, 22 feet in the RR-2 to R-25 and MHP zones, with the new addition of 35 feet (for a flat roof) or 39 feet (for a pitched roof) allowed within the R-30 Overlay Zone. An additional provision of the R-30 development standards would make it acceptable for the 35-39 foot height limit to be exceeded by a maximum of five feet to accommodate necessary equipment (such as elevator shafts and other mechanical equipment).

While the change to the IP constitutes a definite increase in allowed height, the IP also notes that all of the Special Purpose Overlays, including the Scenic/Visual Corridor Overlay, and their requirements, will apply. As discussed above, the Scenic/Visual Corridor Overlay contains a number of provisions, some of which relate specifically to project design review, and will provide for the protection of scenic resources near R-30 sites within the Coastal Zone. Also, future development would be reviewed to confirm compliance with other IP Sections, such as Chapter 23.08 (Design Review) to maximize compatibility with surrounding development and natural topography, and to ensure appropriate design. The Commission therefore finds the proposed implementing provisions of the Specific Plan consistent with, and adequate to carry out, the policies of the certified LUP.

PART VIII. 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 submission.

At the local level, the City of Encinitas prepared a draft Environmental Assessment (EA) for the 2013-2021 Housing Element Update in May of 2018 to address potential environmental effects. This was prepared in addition to the 2016 Final Environmental Assessment/Program Environmental Impact report for At Home in Encinitas, the City's previous attempt to pass a Housing Element Strategy for the 2013-2021 planning period. Although the City adopted the environmentally preferred alternative, voters did not approve the ballot measure when it was placed on the November 2016 ballot in accordance with Proposition A. The May 2018 draft EA, however, was found through the December 2018 court action to not apply, as Government Code Section 65759 provides in part that CEQA does not apply to any action necessary to bring its general plan or relevant mandatory elements into compliance with any court order. Instead, the Housing Plan Update will incorporate the EA and shall be deemed part of the General Plan upon adoption of the Housing Plan as required by Government Code Section 65759(a)(3).

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. Several significant and unavoidable impacts are described in the EA, relevant aspects of which have been included in the findings above. Impacts include those to community character, neighborhood compatibility, air quality, greenhouse gas emissions, and water supply. The impacts affecting community character and neighborhood compatibility are associated with sites that have been dropped from the current inventory. The significant and avoidable air quality impact will be eliminated once the SDAPCD completes a future update to RAQS in order to account for changes in population and growth density that would incorporate the Housing Element Update. Other mitigation policies recommended by the EA and in accordance with Encinitas General Plan would also implement emissions reductions strategies and encourage alternate energy systems.

The LCP amendment will not have any significant adverse effects on the environment, as each site will be reviewed for regulatory consistency with the relevant standards at the time development is proposed. This review will ensure that no feasible alternatives or feasible mitigation measures are available that would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP land use and implementation plans, as amended, conform with CEQA provisions.