

CALIFORNIA COASTAL COMMISSION

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



June 27, 2019

W 30a**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO AREA OFFICE
TONI ROSS COASTAL PROGRAM ANALYST, SAN DIEGO AREA OFFICE****SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE MAJOR
AMENDMENT NO. LCP-6-OCN-18-0069-2 (Base Zone Districts) for
Commission Meeting of July 10-12, 2019**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on October 15, 2018. A one-year time extension was granted on November 8, 2018. As such, the last date for Commission action on this item is December 13, 2019. This report addresses the entire submittal.

SUMMARY OF AMENDMENT REQUEST

The subject amendment includes the repeal of a number of articles of the City's Implementation Plan and simultaneous certification of a number of replacement and/or new articles. Included in the sections proposed for repeal are the City's certified residential zones (Article 5 – R-1 – Single Family Residential Zone; Article 7 – R-3 Medium Family Residential Zone; Article 32 – R-T Residential Tourist Zone), office zones (Article 8 – O-P Office Professional Zone; Article 8.1 – R-P Residential-Professional) commercial zones (Article 10 – C-1 Neighborhood Commercial; Article 11 – C-2 General Commercial; Article 34 – V-C Visitor Commercial Zone) and the industrial zone (Article 12 – M-1 Light Industrial). The City is also proposing the repeal of a number of articles that regulate specific development types including Articles 14 ("F" Floodplain Area), 14.5 (Hillside Development Regulations), 40 (Affordable Housing/Density Bonus) and 41 (Reasonable Accommodation). Finally, the City is proposing the repeal of Article 17 (General Provisions, Development Standards, Conditions and Exceptions) which contains general development standards that apply to new development and Article 41C (Use Permit – Coastal Zone Exclusive of Downtown) which regulated those uses authorized as a conditional use.

The City is requesting certification of a number of replacement articles including Article 10C (Coastal Residential Districts), which will apply to all residentially zoned properties, Article 11C (Coastal Commercial Districts), which will apply to all commercially zoned properties (including office zones), and Article 13C (M/1/CZ Light Industrial Zone),

which will apply to the M-1 zone, the only industrial zone that has been applied to properties within the Coastal Zone. Additional articles proposed for certification include Article 30 (Site Regulations) which contains a number of provisions that generally regulate development and will serve as the replacement for Article 17, as well as provisions for Hillside Development (Section 3039 – Hillside Development Provisions), Affordable Housing/Density Bonus (Section 3032), and Reasonable Accommodations (Section 3043), and will therefore serve as the replacement for Articles 14.5 (Hillside Development Regulations), 40 (Affordable Housing/Density Bonus) and 41 (Reasonable Accommodations) respectively. The City is not proposing to replace Article 14 (“F” Floodplain Area) or Article 41C (Use Permit – Coastal Zone Exclusive of Downtown) at this time.

SUMMARY OF STAFF RECOMMENDATION

The primary purpose of the subject LCPA amendment is to finalize a years-long process the City has undergone to merge its two zoning ordinances. One of these has been certified by the Commission and is commonly referred to as the ‘86 ordinance. The other is applied outside the Coastal Zone is commonly referred to as the ‘92 ordinance. Over the last four years the City has processed four separate LCP amendments, each repealing certain sections of the ‘86 ordinance and certifying articles of the ‘92 ordinance into the IP. This amendment will be the final step in complete merger of the two ordinances. The articles that currently remain from the ‘86 ordinance include all residential, commercial and industrial zones as well as the general development standards that apply to a variety of development proposals. Upon certification of the subject LCPA amendment, the City will have one set of provisions that include the provisions of the certified IP as well as the zoning ordinances that apply citywide and; as a result, the ‘86 zoning ordinance will be eliminated.

Staff is recommending first that the Commission reject the amendment request as submitted and then approval of the amendment request with the inclusion of thirty-two (32) suggested modifications. While the number of modifications is voluminous, a significant portion of the modifications are not contentious and serve to reinsert previously certified policies within the merged zoning document, make clarifications, or include minor revisions that were requested by the City. The remaining suggested modifications are concentrated within Article 30 (Site Regulations). This article includes a number of new and generally applied development regulations, some of which have the potential to impact coastal resources. The suggested modifications call out the requirements of the Local Coastal Program or the Coastal Development Permit (CDP) process where necessary; including restrictions on various types of development if proposed within geologic setbacks, public accessways, environmentally sensitive habitat areas, areas reserved as fuel modification zones, or located within the floodplain.

A number of suggested modifications were necessary to revise Section 3019 of Article 30, which provides for the general regulation of landscaping. Modification Nos. 6, 8, 13 remove other references to landscape requirements within the residential, commercial and industrial zones and replace them with revised landscape regulations contains only within

Section 3019. Suggested Modification No. 24 revises Section 3019 to include provisions that require submittal of landscaping plans, which shall include fire-resistant, native, non-invasive, drought- and salt-tolerant species to promote water conservation. Then, when sites are located in scenic areas, the proposed revisions further require that landscape plans should be designed to protect views, and, when development is proposed adjacent to undeveloped land, include measures to provide appropriate fuel modification areas. Suggested Modification No. 24 further requires that when new development is proposed adjacent to sensitive habitat areas, no brush management may occur within ESHA.

Suggested Modification No. 31 has been included and provides public access requirements for a significant portion of the City. As proposed, the amendment would repeal a policy that requires at least seven vertical public accessways be provided within the northern portion of the City. Maintaining and providing public access is one of the key tenets of the City's LCP and removing the policy would not only weaken the City's ability to require maintenance and protection for existing public accessways, but would also weaken the City's ability to require the construction of new lateral accessways. Suggested Modification No. 31 reinserts this language as a new section (Section 3045 – Public Access Requirements) into Article 30 (Site Regulations).

Finally, the amendment proposes the repeal of Article 14 which contains the City's regulations for development within the floodplain. The City has indicated that the Municipal Code contains preferred provisions for development in the floodplain; however, these provisions are not a part of the LCP. As such, Suggested Modification No. 32 reinserts the certified regulations for development into the floodplain as a new section (Section 3046 - Floodplain Requirements for Coastal Zone Properties) into Article 30 (Site Regulations).

The appropriate resolutions and motions begin on Page 6. The suggested modifications begin on Page 7. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 19. The findings for approval of the plan, as modified, begin on Page 30.

BACKGROUND

For the last decade, the City has been utilizing two different zoning ordinances, one of which applied to properties located in the Coastal Zone and one of which applied for the remainder of the City. However, the use of two different zoning documents became problematic and starting in 2015, the City began the process of merging the two documents. City and Commission staffs worked cooperatively to expedite those changes, which do not raise Land Use Plan or Coastal Act consistency concerns. The Commission certified the first group of revisions, changes that could be found to be minor in nature, in December of 2015. Since 2015, the Commission has approved three additional LCP amendments that further facilitated the merger of the two documents (ref. LCP-6-OCN-16-0071-2; LCP-6-OCN-16-0072-3; LCP-6-OCN-17-0039-1).

The subject amendment now represents the final LCP amendment that will complete the merging of these two zoning ordinances. This set of revisions repeal the base zone districts (residential, commercial, industrial) and site regulations and subsequently present new, and in some cases updated, base zone districts and site regulations. Upon completion of the subject amendment request, the City will have one zoning law that will apply citywide. However, the Commission and the City have identified additional changes, including updating the City's stringline maps, modifying height restrictions, and updating definitions for terms that have historically caused issues for the City, among others that are necessary. The City staff has indicated they intend to continue efforts to update the LCP to include these revisions. Additionally, the City recently received a Local Coastal Program Local Assistance Grant from the Commission to include a Sea Level Rise Vulnerability Assessment, Adaptation Plan, and overall LUP Update, and; as such, the City will include some of these specific components into its forthcoming LCP Update.

ADDITIONAL INFORMATION

Further information on the City of Oceanside LCP Amendment No. LCP-6-OCN-18-0069-2 may be obtained from **Toni Ross**, Coastal Planner, at (619) 767-2370.

EXHIBITS

[Exhibit 1 – Resolution No. 2018-P26](#)

[Exhibit 2 – Ordinance No. 18-ORO424-1](#)

[Exhibit 3 – Proposed Text Changes in Strikeout/Underline](#)

PART I. OVERVIEW

A. LCP HISTORY

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

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for “Commercial” use; the Commission's suggested modification designated it as “Open Space.” On July 10, 1985, the Commission certified the City's LCP as resubmitted by the City, including deferred certification on the above parcel.

B. STANDARD OF REVIEW

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

C. PUBLIC PARTICIPATION

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 Coastal Commission for review. The City held a Planning Commission meeting with regard to the subject amendment request on May 21, 2018. The City held a City Council meeting on June 20, 2018. All local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION I:** *I move that the Commission reject Implementation Program Amendment No. LCP-6-OCN-18-0069-2 for the City of Oceanside as submitted.*

STAFF RECOMMENDATION OF REJECTION:

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

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

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

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment No. LCP-6-OCN-18-0069-2 for the City of Oceanside if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

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

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of Oceanside if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications,

conforms with and is adequate to carry out the certified Land Use Plan. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

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

1. Modify Section 1010C – Specific Purposes section of the Coastal Residential District, as follows:

In addition to the general purposes listed in Article 1, the specific purposes of the coastal residential districts are to:

A. Provide appropriately located areas for residential development that are consistent with the General Plan and with standards of public health and safety established by the City Code.

[...]

G. Provide sites for public and semipublic land uses needed to complement residential development or requiring a residential environment.

H. Ensure the provision of public services and facilities needed to accommodate planned population densities.

I. The purpose of the R-T Zone is intended to accommodate tourist and year-round visitor-serving uses to serve all income levels. The R-T Zone is primarily designated on shorefront property in order to optimize access to the beach.

2. Modify Section 1020C – General Criteria section of the Coastal Residential District, as follows:

The following general criteria are hereby established for use in the classification or reclassification of land to the R-1/CZ, R-3/CZ and R-T/CZ zone:

1. General Plan and Local Coastal Program – Compliance with the General Plan and the Local Coastal Program where applicable, shall be established.

3. Modify Section 1030C – Additional Use Regulations for High Rise Structures within Residential Districts, as follows:

(X) The Planning Commission shall determine from the evidence presented at the hearing that all of the following facts exist:

(a) The proposed building or structure at the particular location and under the proposed conditions of development has complied with good planning practices, including provisions for height, building bulk, yards, open space, lot coverage, grading and related public health, safety and convenience features, and will provide for the preservation of the general welfare of the community as if developed to the height limits imposed by the provisions of the appropriate zone.

(b) The proposed building or structure will comply with the regulations and conditions specified in the Building Code for such structures.

(c) For properties located in the Coastal Zone, the proposed building or structure shall comply with the regulations specified in the Local Coastal Program.

(d)(e) The granting of an exception will not adversely affect any adopted plan of any governmental agency.

The Planning Commission may modify or further restrict setback requirements, maximum height, off-street parking, and landscaping requirements upon a specified finding being made that it is necessary to provide for a more aesthetically pleasing project or necessary for the preservation of health, safety, peace or general welfare of persons living in or near the project.

- 4. Modify Section 1040 – Property Development Regulations, Additional Development Regulations for Minimum Yards to include standard for development along The Strand, as follows:

	R-1/CZ	R-3/CZ	R-T/CZ	Additional Regulations
[...]				
Minimum Yards:				(G, <u>P</u> , T, W, AA, BB, CC)

- 5. Modify Section 1040 – Property Development Regulations, Additional Regulations for Horse Yard Areas to incorporate the provisions of Section 3034 (Animals) by reference, as follows:

	R-1/CZ	R-3/CZ	R-T/CZ	Additional
Regulations				
[...]				
Horse Yard Areas	<u>See Section 3034</u>			(P)

- 6. Modify Section 1040 – Property Development Regulations, Additional Regulations for Minimum Site Landscaping to incorporate the provisions of Section 3019 (Landscaping, Irrigation and Hydroseeding by reference, as follows:

	R-1/CZ	R-3/CZ	R-T/CZ	Additional Regulations
[...]				
Minimum Site-Landscaping				(J)(EE)

- 7. Modify Section 1040 – Property Development Regulations, Additional Regulations to incorporate the provisions of Section 3045 (Public Access Requirements) by reference as follows:

	R-1/CZ	R-3/CZ	R-T/CZ	Additional Regulations
[...]				
<u>Public Access Requirements</u>				<u>See Section 3045</u>

- 8. Eliminate Section 1040 – Additional Development Regulations for Landscaping (to be replaced by Section 3019 (Landscaping, Irrigation and Hydroseeding), as follows:

~~(J) All open areas with the exception of vehicular accessways and parking areas, pedestrian walkways, and recreational facilities shall be landscaped. A minimum of sixty (60) percent landscaping shall be provided within the required front and side yard setback areas, respectively. All landscaped areas shall have a permanent irrigation system providing one hundred (100) percent irrigation.~~

- 9. Modify Section 1040 – Additional Development Regulations for Fences and Walls to include fencing restrictions in sideyards along the shorefront, as follows:

(K) The maximum height of a fence or wall, including retaining walls shall be 6 feet except in required front yards abutting a street where the maximum height shall be 42 inches. Fences in front yards abutting a street may be up to 5-feet in heights, if the fence material above 42 inches is decorative in appearance and 75 percent open. “Chainlink” or similar materials are not acceptable decorative material for fences above 42 inches in height. In addition, all fences and walls shall be subject to the driveway visibility requirements of Section 3115 and all retaining walls over 4 feet in height shall be planted and irrigated. Tennis court fencing shall be a maximum height of 12 feet and shall not be located within any required yard. Side yard fencing located on properties between the sea and the first coastal road shall be designed to maintain views and shall be at least 75 percent open.

- 10. Eliminate Article 1040 – Property Development Regulations: Additional Development Regulations for Horse Yard Area (to be replaced by Section 3034 (Animals)), as follows:

~~(P) Minimum horse yard areas, consisting of seventy two hundred (7,200) square feet of useable area shall be maintained on a residential lot for the stabling and servicing of up to two (2) horses. One additional horse is allowed for each thirty-six hundred (3,600) square feet of useable horse yard area, not to exceed a maximum of four (4) horses per lot, unless a Conditional Use Permit is approved by the City Planner to exceed four (4) horses. Useable area for horse yards shall be defined as an area with no slopes greater than 10 to 1. The horse yard shall be able to site the following facilities exclusive of side and rear yard setbacks.~~

~~(1) A minimum of one (1) 24 foot by 24 foot pen for the stabling and servicing of one horse.~~

~~(2) A minimum of two (2) 24 foot by 24 foot pens for the stabling and serving of two horses.~~

~~(3) A minimum area of 150 square feet for hay and tack storage.~~

~~(4) A minimum area of 250 square feet for waste storage.~~

~~(5) A minimum 50 foot diameter lunge (exercise) area.~~

~~(6) Vehicular access for hay delivery and horse trailers.~~

~~(7) No horse shall be stabled within forty (40) feet of any window or door of any on or off site building used for human habitation. Additionally, all structures, including barns and stables, shall comply with all applicable development regulations. Corrals shall maintain a minimum side and rear yard setback of five (5) feet and a front yard setback of twenty five (25) feet.~~

11. Add a new policy to Section 1040 – Additional Development Regulations for buildings located along The Strand, as follows:

(P) Buildings along The Strand shall be designed so that when viewed from the beach, the visual impact is minimized to the maximum extent possible.

12. Revise Article 1040 – Property Development Regulations: Additional Development Regulations for Exceptions to Height Limits, as follows:

~~(Y) See Section 3018 Exceptions to Height Limits. Penthouses or roof structures for the housing of elevators, stairways, ventilator fans, air conditioning or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, church steeples, flag poles, chimneys, antennas and similar structures may be erected above the height limits prescribed hereinabove provided the same may be safely erected and maintained at such height, in view of the surrounding conditions and circumstances, but no penthouses or roof structures or any space above the height limit shall be allowed for the purpose of providing additional floor space.~~

Projects that exceed base density allowances and reserve units for low-income households in accordance with Municipal Code Section 14C.7 are eligible for one additional story, not to exceed eight (8) additional feet above the maximum allowable

height for the surrounding zoning district. While this concession is granted to qualified projects without the benefit of a variance, it does not preclude the discretionary review process, through which project approval may be contingent upon neighborhood compatibility, mitigation of massing impacts, compliance with the California Environmental Quality Act, and other considerations that may have the effect of limiting the overall bulk and scale of development.

13. Add a new policy to Article 1040 – Additional Development Regulations to incorporate the regulations of Article 3019 (Landscaping, Irrigation and Hydroseeding) by reference, as follows:

(EE) See Article 3019: Landscaping, Irrigation and Hydroseeding

14. Revise Section 1110C – Specific Purposes of the Coastal Commercial District, as follows:

The additional purposes of each Coastal Commercial district are as follows:

[...]

VC/CZ Visitor Commercial District. To provide recreation-oriented and visitor serving commercial activities near recreation and scenic areas with immediate access to freeways and major thoroughfares. This classification encompasses specialized commercial uses which are directly dependent, supportive or related to the coast including the Harbor area, the San Luis Rey River area, and the municipal pier area.

15. Modify Section 1130 –Additional Use Regulations for High Rise Structures within Commercial Districts, as follows:

(K) The Planning Commission shall determine from the evidence presented at the hearing that all of the following facts exist:

- (a) The proposed building or structure at the particular location and under the proposed conditions of development has complied with good planning practices, including provisions for height, building bulk, yards, open space, lot coverage, grading and related public health, safety and convenience features, and will provide for the preservation of the general welfare of the community as if developed to the height limits imposed by the provisions of the appropriate zone.
- (b) The proposed building or structure will comply with the regulations and conditions specified in the Building Code for such structures.
- (c) For properties located in the Coastal Zone, the proposed building or structure shall comply with the regulations specified in the Local Coastal Program.
- (d)(e) The granting of an exception will not adversely affect any adopted plan of any governmental agency.

The Planning Commission may modify or further restrict setback requirements, maximum height, off-street parking, and landscaping requirements upon a specified

finding being made that it is necessary to provide for a more aesthetically pleasing project or necessary for the preservation of health, safety, peace or general welfare of persons living in or near the project.

16. Revise Section 1140 – Property Development Rights, Minimum Yard Requirements to reference applicable regulations for setbacks within the V/C Visitor-Serving Commercial Zone, as follows:

	V/C/CZ	C-1/CZ	C-2/CZ	OP/CZ	Add.
Reg.					
Minimum yards:					(O, R)
Front (ft.)	see add. regs	10	per add. regs	15	(C)
Side (ft.)		0	0	0	(C)
Corner Side (ft.)		10	10	10	(C)
Rear (ft.)		0	0	0	(C,P)
Maximum Height (ft.)					(D,E)

17. Add new policy to Section 1140 – Additional Development Regulations to incorporate applicable building setbacks in V/C Visitor-Serving Commercial Zone, as follows:

(R) Building Setbacks in V/C Zone. Although a minimum front yard, side yard, and rear yard setbacks are not specified herein for all types of land uses, developers should be guided by the following criteria:

- (1) Proposals for front yard, side yard, or rear yard will be judged on the merits of each individual proposal and the architectural compatibility of all proposed structures with existing or proposed structures on adjoining parcels. Functional site layout with special attention to design of recreational, parking and landscaped areas may produce an acceptable proposal with minimum or no setbacks. Abutting property owners shall be advised of proposals for no setback on side and rear yards prior to approval of same.

18. Modify Section 1130 – Land Use Regulations for Hotels, Motels & Tourist Cottages within Coastal Commercial Districts, as follows:

	V/C/CZ	C-1/CZ	C-2/CZ	OP/CZ
Add. Reg.				
[...]				
Hotels, & Motels & Tourist Cottages (H)	U	U	U	-

19. Modify Section 1330 –Additional Use Regulations for High Rise Structures within the M-1 Industrial Zone, as follows:

(H) The Planning Commission shall determine from the evidence presented at the hearing that all of the following facts exist:

- (a) The proposed building or structure at the particular location and under the proposed conditions of development has complied with good planning practices, including provisions for height, building bulk, yards, open space, lot coverage, grading and related public health, safety and convenience features, and will provide for the preservation of the general welfare of the community as if developed to the height limits imposed by the provisions of the appropriate zone.
- (b) The proposed building or structure will comply with the regulations and conditions specified in the Building Code for such structures.
- (c) For properties located in the Coastal Zone, the proposed building or structure shall comply with the regulations specified in the Local Coastal Program.
- (d)(e) The granting of an exception will not adversely affect any adopted plan of any governmental agency.

The Planning Commission may modify or further restrict setback requirements, maximum height, off-street parking, and landscaping requirements upon a specified finding being made that it is necessary to provide for a more aesthetically pleasing project or necessary for the preservation of health, safety, peace or general welfare of persons living in or near the project.

20. Revise Section 3002 – Relocated Buildings, as follows:

In addition to the requirements of Chapter 6, Section 6.27 of the City Code (Moving of Buildings), a use permit for relocation of a building shall be required. This permit, to be issued by the City Planner, shall establish conditions necessary to ensure that the relocated building will be compatible with its surroundings in terms of architectural character, height and bulk, and quality of exterior appearance. If the property is located within the Coastal Zone, any relocation of a building will require the issuance of a Coastal Development Permit unless otherwise exempt.

21. Revise Section 3003 – Exterior Materials in Residential Districts, as follows:

In all residential districts, the exterior walls of all structures, other than accessory structures, shall have a nonmetallic finish, with the exception of aluminum siding, which may be allowed on approval by the City Planner. If located in the Coastal Zone, residential structures shall be subordinate to the natural environment and exterior materials shall be restricted to colors compatible with the surrounding environment (earth tones) such as shades of green, brown, and gray, with no white or light shades and no bright tones except as minor accents to the maximum extent practicable.

22. Revise Section 3005 – Nonresidential Accessory Structures, as follows:

A. In Commercial, Downtown and Residential Districts.

1. Timing. Nonresidential accessory structures shall not be established or constructed prior to the start of construction of a principal structure on a site, except that construction trailers may be permitted as outlined in the Oceanside Traffic Code [...]

E. In the Coastal Zone. Nonresidential accessory structures within the Coastal Zone shall not be located within geologic setback areas, habitat buffers, public accessways, or scenic view corridors.

23. Revise Section 3008 – Swimming Pools and Hot Tubs, as follows:

Swimming pools and hot tubs shall be fenced, as required by Section 6.29 of the City Code. Additional fencing, separation, or fixed windows shall be required where, in the judgement of the Building Official, such features are needed for safety.

An unenclosed swimming pool, hot tub (spa) and related equipment shall be setback a minimum of 5 feet from a rear or side property line. Pools and hot tubs (spas) shall not be allowed within the front yard or corner side yard setback area, or within any required geological setback area.

24. Revise Section 3019 regulating Landscaping, Irrigation, and Hydroseeding, to add a new subsection, to be titled – Landscaping Requirements for Properties Located in the Coastal Zone, and shall include the following:

H. In addition to the above regulations, if a property is located in the Coastal Zone, the following additional regulations shall apply:

a. All coastal permit applications for new development projects shall be required to provide a Landscape Plan that emphasizes the use of fire-resistant, native, non-invasive, drought tolerant and salt-tolerant species, and shall include the following:

i. Development within a viewshed area shall be subject to design review as part of any discretionary review, and shall be based on the following criteria:

a) Landscaping shall not, at maturity, obstruct views; and

b) Landscaping shall be located to screen adjacent undesirable views (such as parking lot areas, mechanical equipment, bulky or tall structures, cell phone towers, electrical lines).

ii. Development within the Coastal Zone shall conform to the following Wild Urban Interface (WUI) requirements:

a) Within the WUI, which includes those areas that provide a transition between wild land (undeveloped land) and human development, the person owning or occupying a building or structure shall maintain a fuel modification zone within 100 feet of any and all habitable buildings or structures. The area within 100 feet of a habitable structure is divided into two zones as follows. Zone 1 is located from 0 – 50 feet from the residence and Zone 2 located from 50-100 feet from the residence.

Required fuel modification that may take place in both zones is defined as follows: In Zone 1, vegetation that is not fire-resistant shall be removed and re-planted with fire-resistant plants. In Zone 2, all dead and dying vegetation shall be removed. Native vegetation may remain in this area provided that the vegetation is modified so that combustible vegetation does not occupy more than 50% of the square footage of this area. Weeds and annual grasses shall be maintained at a height not to exceed 6 inches. Root systems and stumps will be left in place to minimize soil disturbance and soil erosion. All fuel modification work shall be done only by hand crews. The Fire Marshal retains the discretion to reduce or expand the fire Zones 1 and 2 on a case-by-case basis, with specific findings due to factors that may include, but are not limited to, building material, topography, vegetation load, and type.

b) All coastal permit applications for projects located in a wild/urban interface area shall be required to provide a Landscape Plan, which shall be reviewed by the Fire Marshal to determine if any thinning or clearing of native vegetation is required. The Fire Marshal may reduce the 100-foot fuel management requirement for existing development, when equivalent methods of wildfire risk abatement are included in project design.

Equivalent methods of fire risk reduction shall be determined on a case-by-case basis by the Fire Marshal and may include the following, or a combination of the following

i. Installation of masonry or other non-combustible fire resistant wall up to six feet in height;

ii. Boxed eaves;

iii. Other alternative construction to avoid the need for vegetation thinning, pruning, or vegetation removal

c) New development, including but not limited to, subdivisions and lot line adjustments, shall be sited and designed so that no brush management or the 100 ft. fuel modification zone encroaches into ESHA. Where a new addition to a principal structure would encroach closer than 100 feet to an ESHA, the Fire Marshal shall review the project for fuel modification requirements. If a 100-foot fuel modification zone would encroach into

ESHA, the additions shall not be permitted unless the addition would not encroach any closer to ESHA than existing principal structures on either side of the development.

25. Revise Section 3020 – Outdoor Facilities, as follows:

The specific purpose of the Outdoor Facilities provisions are to maintain consistent development standards for the entire City while providing for an exceptional visual environment; provide for a quality working and business environment at the same time as enhancing the communities appearance; and provide a streamline approach to achieving compliance with specific design criteria.

[...]

3. Sidewalks Cafes and Outdoor Food Service Accessory to an Eating and Drinking Establishment

Sidewalk cafes or outdoor food service accessory to an Eating and Drinking Establishment shall be permitted in the CV, CC, CL, CG, CR, CS, CV, IL, IP, C-1/CZ, C-2/CZ, M-1/CZ and D Districts subject to the review and approval of an Outdoor Eating Permit issued by the City Planner if the following steps are met:

- (a) The outdoor eating area is less than 500 square feet.

[...]

- (i) If a Sidewalk Café or Food Service is proposed within the C-1/CZ, C-2/CZ or any portion of the D District located within the Coastal Zone, such proposal will require the issuance of a Coastal Development Permit and will be subject to the applicable requirements of the certified Local Coastal Program including, but not limited to, parking standards, public access requirements and protection of scenic resources.

26. Revise Section 3020 – Outdoor Facilities, regulations for Outdoor Storage Containers, as follows:

4. Outdoor Storage Containers

For the purposes of this section an Outdoor Storage Container is defined as a metal container previously used as a shipping container, truck trailer or other similar use and not exceeding 8' in width by 40' in length or a total enclosed area of 320 square feet [...]

- (b) Containers shall not be located in any required setback or yard area including setbacks required for geologic stability, biological buffers, or required fire modification zones, required landscape area, required drive aisles, driveway, or

parking area. Maximum height of storage container shall be 12 feet from the ground.

27. Modify Section 3023 – Underground Utilities, as follows:

All existing and new electrical, telephone, CATV and similar distribution lines providing direct service to a development site shall be installed underground within the site and along the site's frontage in the public right-of-way if frontage improvements are required to develop the site. The underground utility provisions of the City of Oceanside Subdivision Ordinance shall apply to all projects requiring development plan approval. If a site is located within the Coastal Zone, development of underground utilities shall be consistent with the certified Local Coastal Program, including but not limited to, requirements for protection of Environmentally Sensitive Habitat Areas (ESHA), biological buffers, and geologic setbacks.

28. Modify Section 3024 – Performance Standards, regulating glare from glass and outdoor lighting, as follows:

D. Glare.

1. From Glass. Mirrored or highly reflective glass shall not cover more than 20 percent of a building surface visible from street unless an applicant submits information demonstrating to the satisfaction of the City Planner that use of such glass would not significantly increase glare visible from adjacent streets or pose a hazard for moving vehicles.

2. For properties located within the shorefront, or along Buena Vista Lagoon or San Luis Rey River, only non-reflective glass that is specially treated to reduce glare shall be permitted.

~~3.~~ From Outdoor Lighting. Parking lot lighting shall comply with Article 31. Security lighting in any district may be indirect or diffused, or shall be shielded or directed away from residential district within 100 feet. Lighting for outdoor court or field games within 300 feet of residential district shall require approval of a use permit, unless included as part of an approved Master Plan.

4. For properties located in the Coastal Zone, in addition to the above, glare from outdoor lighting shall be limited to the lowest light intensity (i.e. luminance, measured in lux) necessary for safety; light wavelengths (i.e. frequency, measured in nanometers) that avoid, to the greatest extent feasible, white and blue wavelengths; and Kelvin light temperatures in excess of 3,000 K. All lighting fixtures shall incorporate, to the greatest extent feasible, the best visor and light direction technology to reduce light spillover, sky glow, and glare.

29. Revise Section 3035 – Live/Work Quarters, as follows:

This section establishes regulations governing the adaptation of space in existing commercial buildings for joint live/work quarters for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft, or the operation of a Custom Industry business activity.

[...]

C. Design and Development Standards.

1. Each live/work quarters shall be separated from other live/work quarters or other uses in the building, and access to live/work quarters shall be provided only from common access areas, halls or corridors...

4. If the site is located within the V-C/CZ zone, the first floor of any structure shall be reserved for commercial use.

30. Modify Section 3042 – Mixed-use Plans, Required Findings, as follows:

A. Required Findings. The Planning Commission may approve or conditionally approve a Mixed-Use Plan and a Mixed-Use Development Plan, upon finding that:

1. The Mixed-Use Development Plan is consistent with the adopted Land Use Element of the General Plan and other applicable policies and is compatible with surrounding development. If the property is located within the V-C/CZ Zone, the Mixed-Use Plan shall prioritize visitor-serving commercial uses.

31. Add a new Section – 3045 Public Access Requirements, as follows:

3045 Public Access Requirements

Permanent facilities shall be provided for pedestrian access from the nearest public street on the bluff top to the public beach. Between 9th Street and Wisconsin Avenue, such access will be provided on the average every eight hundred (800) feet, but in no event will there be fewer than seven (7) such pedestrian access routes.

32. Add a new Section – 3046 Flood Plain Requirements for Coastal Zone Properties, to re-insert language previously contained within Article 14, as follows:

This section establishes regulations governing development located within the floodway or the floodplain and includes the following provisions:

A. Permitted Use. In any area determined by FEMA to be located within a flood way or an associated floodplain, no building shall be erected, reconstructed, or

structurally altered nor shall any building be used for any purpose except as hereafter provided and allowed by this Article.

The properties located within the floodway or floodplain shall be limited only to the following uses regardless of the other applicable zoning classifications:

- (1) Agricultural uses; or
- (2) Other uses not involving buildings designed or occupied for living purposes, public assembly or both, or for manufacture or storage of products and materials except those incidental and necessary to the permitted uses, unless such properties comply with the following additional requirements over and above those set forth in the Article governing the basic zoning classification:
 - a. Foundation walls, footings and type of construction shall be such as will prevent damage to the structure during flood conditions.
 - b. The floor levels of the main floor of any dwelling in the various areas enumerated as flood plain shall not be lower than the elevation designated as a being the part below which such areas are subject to flood.

This section does not permit the excavation or quarrying of any rock, sand, gravel, or other material in any such areas declared as hazardous for such use, nor does it permit any operation which will, by its nature or structure or materials used in connection there with, impede or tend to impede, retard or change the direction of the flow water in any river, stream, wash or arroyo, or that will catch or collect debris carried by water flowing in such areas, unless such areas are so used in conformity with any rules and regulations established by the City Council.

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

A. AMENDMENT DESCRIPTION

The subject amendment includes the repeal of the City's certified residential, office, commercial and industrial zones as well as a number of articles that regulate specific development types, including development in the floodplain and on hillsides, affordable housing/density bonus measures and provisions for reasonable accommodations. Finally, the City is proposing the repeal of the general development standards as well as an article that regulates issuance of conditional use permits.

Simultaneously, the City is seeking the certification of replacement articles, including residential, commercial, and industrial zones as well as an article that provides revised general site regulations. The City is also requesting certification of new provisions for hillside development, and relocating the existing provision for affordable housing/density bonuses and reasonable accommodations. The City is not proposing to replace the

regulations for development in the floodplain at this time. Additionally, the regulations currently certified in Article 41C (Use Permit – Coastal Zone Exclusive of Downtown) are proposed to be relocated into the applicable base zone districts, and Article 41C will be repealed.

Generally speaking, a large portion of the regulations contained within the articles proposed for certification mirror those proposed for repeal. For example, the permitted uses, densities and standards for height, minimum lot size, and setbacks have been moved directly from the existing certified IP with no revisions proposed. However, some of the provisions currently certified were not carried over. An example is this is Article 14.5 (“F” Floodplain Area). Finally, the majority of Article 30 (Site Regulations) contains new regulations proposed for certification. Examples include minor regulations such as Section 3008 (Swimming Pools and Hot Tubs), which regulates the development of pools and hot tubs in residential zones, to more substantial regulations such as Section 3019 which provides regulation for all landscaping, irrigation and hydroseeding.

B. SUMMARY 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 proposed, a number of critical policies of the certified IP are being repealed and not replaced, and could result in impacts to coastal resources inconsistent with the LUP. In addition, a number of the new sections proposed for certification may allow for development in a hazardous location or within an area that contains habitat, biological buffers, required fuel modification zones, public accessways or established view corridors also inconsistent with the LUP.

C. SPECIFIC FINDINGS FOR REJECTION

1. Articles Proposed for Repeal.

a) **Purpose and Intent of the Ordinance.** The subject LCP amendment includes a number of articles proposed for repeal, and the purpose and intent of each article is briefly described below:

- Articles 5, 7, 32 (Residential Zones): To classify and set standards for residential development that is compatible with surrounding properties and the protection of their values within the Coastal Zone;
- Articles 8, 10, 11, 34 (Office and Commercial Zones): To classify and set standards for business, office, commercial and visitor-serving commercial uses within the Coastal Zone;
- Article 12 (Industrial Zone M-1): To allow a wide diversity of industrial uses under minimum development and operational controls in areas where such uses will not have an adverse effect upon adjacent residential areas;

- Article 14 (“F” Flood Plain Areas): To establish permitted uses and development standards for development located within the floodplain;
- Article 14.5 (Hillside Development Regulations): To assure that development in hillside areas results in minimum disturbance of the natural terrain and does not result in soil erosion, flooding, landslides, and severe cutting and scarring of natural terrain;
- Article 17 (General Provisions, Development Standards, Conditions and Exceptions): To establish certain development standards pertaining to setbacks, height limits, placement of buildings, etc.;
- Article 40 & 41 (Affordable Housing Density Bonus & Reasonable Accommodation): To establish policies which facilitate the development of affordable housing and reasonable accommodations; and
- Article 41C (Use Permits, Coastal Zone – Exclusive of Downtown): To approve those uses that must be authorized, due to their unique or special characteristics, only through the issuance of an Administrative or Regular Conditional Use Permit.

b) **Major Provisions of the Ordinance.**

The provisions listed above are the majority of the articles that collectively represent the City’s currently certified Implementation Plan. The major provisions of these articles include the regulation of residential, commercial, office, and industrial uses; development within the floodplain and on hillsides, the general development standards that apply to all uses (such as setbacks, height, lot area, landscaping). Articles 40 and 41 contain the requirements and potential incentives associated with affordable housing/density bonus and reasonable accommodations and Article 41C lists the types of uses allowed in the Coastal Zone through the issuance of a Conditional Use Permit.

2. Articles Proposed for Certification.

a) **Purpose and Intent of the Ordinance.** The subject LCP amendment includes a number of articles proposed for certification, and the purpose and intent of each article is briefly described below:

- Article 10C (Coastal Residential Districts): To provide appropriately located areas for residential development, promote development of affordable housing, and protect adjoining single family residential districts from excessive loss of sun, light, quiet, and privacy resulting from proximity to multifamily development, among others.
- Article 11C (Coastal Commercial Districts): To provide appropriate areas for a full range of office, retail commercial and service commercial uses as needed, and to strengthen the city’s economic base, and provide employment opportunities close to home for residents of the city and surrounding communities, among others.

- Article 13C (M-1/CZ Light Industrial Zone): To allow a wide diversity of industrial uses under minimum development and operational controls in areas where such uses will not have an adverse effect upon adjacent residential areas.
- Article 30 (Site Regulations): To provide land use and development regulations, other than parking, loading, and sign regulations, that are applicable to sites in all or several districts.

b) **Major Provisions of the Ordinance.**

The major provisions of the ordinance include the following:

- Article 10C contains the Land Use Regulations (permitted uses) in the residential zones including single and multifamily residential development, food and beverage establishments, hotels, motels and timeshares, parking lots, and utilities. Article 10C also establishes property development regulations including minimum lot size, setbacks, height and landscaping.
- Article 11C contains the Land Use Regulations (permitted uses) in the office/commercial zones including food and beverage establishments, daycare facilities, grocery stores, office professional uses, retail, etc. Article 11C also establishes property development regulations including minimum lot size, setbacks, height and landscaping.
- Article 13C contains the Land Use Regulations (permitted uses) in the M-1 Light Industrial zone including airports, automobile service stations, breweries, equipment rental yards, offices, manufacturing uses, and self-storage facilities. Article 13C also establishes property development regulations including minimum lot size, setbacks, height and landscaping.
- Article 30 includes a number of additional development standards that provide regulations for development proposals such as hillside development regulations, landscaping, measurements of height, undergrounding of utilities, fences and walls, mixed-use plans and emergency shelters. While some of the sections of Article 30 have been previously certified by the Commission, including– Accessory Dwelling Units (Section 3006), Measurements of Height (Section 3017), Exceptions to Height Limits (Section 3018), Affordable Housing/Density Bonus (Section 3032) and Emergency Shelters (Section 3044) – the majority of the sections contained within Article 30 are new regulations.

3. Adequacy of the Ordinance to Implement the Certified LUP Segments.

Section I. Coastal Access

A. *Coastal Act Policies*

The Coastal Act requires that development not interfere with the public right of access to and along the shoreline. New development may be required to provide public access to the shoreline.

Policy 2 – New public beach access shall be dedicated laterally along the sandy beach from Witherby street south to the City limits in conjunction with restoration of the beach or new private development, whichever comes first.

Policy 5 – The City, in conjunction with the State Department of Fish and Game, shall continue its efforts to provide and maintain an adequate buffer zone between Buena Vista Lagoon and development along its shore. Such a buffer is necessary for the provision of public access and protection of the lagoon from adverse environmental impacts.

Section II. Recreation and Visitor Serving Facilities

A. Coastal Act Policies.

The Coastal Act requires adequate distribution of public facilities, such as parking areas, provision of lower cost visitor facilities, protection of oceanfront areas for Coastal recreation, granting of priority to commercial recreation uses, reservation of upland areas to support coastal recreation, and distribution of visitor serving facilities throughout the Coastal zone.

Policy 5 – The City shall continue to take the initiative to resolve the problem of beach erosion.

Policy 6 – Lower cost visitor serving and recreational facilities shall be protected, encouraged, and, where possible, provided.

Policy 7 – In granting approvals for new development within the Coastal Zone, the City shall give priority to visitor serving commercial recreational facilities over private residential, general industrial or general commercial uses.

Policy 13 – If existing beach parking is removed for any reason, one-to-one replacement parking shall be provided west of the railroad right-of-way.

Policy 26 - The City shall protect a minimum of 375 lower cost hotel and motel units and 229 recreational, vehicle/camping sites within the coastal zone. Twenty percent of those hotel/motel units shall be maintained in shorefront locations. The City shall not allow any demolitions of affordable hotel/motel units which would allow the coastal zone inventory of such units to drop below the number required by this policy. In order to verify its compliance with this policy, the City shall report the inventory of affordable hotel/motel units to the Coastal Commission on an annual basis.

Section III. Water and Marine Resources; Diking, Dredging, Filling, and Shoreline Structures; and Hazard Areas

A. Coastal Act Policies.

The Coastal Act requires maintenance, protection and restoration of marine resources and coastal water quality, as well as control of discharges and run-off into the ocean and coastal wetlands.

The Act also limits diking, dredging and filling of coastal waters to very specific circumstances, including maintenance dredging of channels, expansion of boating facilities and habitat restoration activities.

Shoreline structures such as breakwaters, groins and seawalls, are permitted to serve coastal dependent uses, or protect existing structures or public beaches. Impacts on shoreline sand transportation must be mitigated.

Local agencies are required to control risks in areas subject to geologic, flood, and fire hazard. New development must not create or contribute to erosion of geologic stability.

B. Objectives.

The City shall seek to minimize risks to life and property in areas of high geologic and flood hazards.

Policy 4 - The diking, dredging or filling of Oceanside's coastal waters shall be permitted where there are no less environmentally damaging alternatives and where feasible mitigation measures have been provided to minimize adverse environmental impacts, and shall be limited to the following:

- a. New or expanded port, energy, and coastal dependent facilities.*
- b. Maintaining existing or restoring previous dredged depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- c. In open coastal waters, other than wetlands, new or expanded boating facilities.*
- d. Incidental Public service purposes*
- e. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- f. Restoration purposes.*
- g. Nature study, aquaculture, or similar resource-dependent activities.*

Policy 6 – Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate impacts on local

shoreline sand supply. Such structures shall be designed and constructed to minimize erosive impacts on adjacent unprotected property and minimize encroachment onto the beach. The structures shall not interfere with access along the beach. The property owner shall dedicate all area seaward of the shoreline structure for lateral access for the public.

Policy 10 – As an LCP implementing measure, the City has developed discretionary review procedures for all permanent or temporary artificial structures proposed for shoreline erosion control, including seawalls, revetments, retaining walls and breakwaters. Such structures shall be allowed if each of the criteria listed in Policy #6 is met.

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

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

Policy 13 – The demonstration of stability for bluff development shall occur at the time of building permit issuance and shall include a report prepared by a registered geologist, professional engineer and/or a certified engineering geologist acting within their area of expertise, based on an on-site evaluation.

Policy 14 – The Community Development Commission will adhere to the guidelines and recommendation of the “Geotechnical and Erosion Control Study Report, Bluff Area, Ninth Street to Wisconsin Avenue, Oceanside, California”.

Section V. Environmentally Sensitive Habitat Areas

A. Coastal Act Policies: The Coastal Act requires that environmentally sensitive habitat areas be protected against significant disruption. Development adjacent to such shall be sited and designed to prevent adverse environmental impacts.

Section VI. Visual Resources and Special Communities

A. Coastal Act Policies: The Coastal Act requires that the visual qualities of the Coastal Zone shall be protected and that new development be sited and designed to be visually compatible with the character of surrounding areas.

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

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

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

Section VII. New Development and Public Works

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

The City's LCP also includes a number of guidance documents, and relevant sections of these guidance documents are included below:

Design Standards for Preserving and Creating Views

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

The amendment request is proposing to repeal the majority of the articles that comprise the City's certified IP. However, the majority of what is being repealed will be replaced by identical language, to be relocated and combined with the City's citywide zoning ordinance. Nevertheless, some of the provisions of the existing ordinances were not carried over to the new combined zoning document. Some are considered to be outdated, and removal does not raise LUP consistency concerns. However, some of the provisions proposed for repeal raise LUP consistency concerns and are discussed below.

Article 32 (Residential Tourist Zone), a certified component of the IP, states that the *R-T Zone is intended to accommodate tourist and year-round visitor-serving uses to serve all income levels*. This language is not proposed to be carried over to Article 10C (Coastal Residential Districts). The City's LUP includes policies that require the City to protect, encourage, and, where possible, provide lower-cost visitor-serving and recreational facilities, as well as generally give priority to visitor serving commercial recreational facilities. The Residential-Tourist Zone is one of two zones that provide visitor uses within the Coastal Zone. Without the inclusion of the language detailed above, priority of those types of uses may not be sufficiently provided or maintained. In addition, the provision of *lower cost* facilities becomes increasingly difficult as the price of land and rent in the Coastal Zone increases. While the R-T zone currently provides a variety of uses, few can be considered both visitor-serving and lower-cost. As such, it is imperative

that the City maintain the provision that the R-T zone accommodate visitor-serving uses that will serve all income levels. The removal of such language cannot be found as consistent with the certified LUP.

Article 32 (Residential Tourist Zone) and Article 34 (V-C Visitor Commercial Zone) both include a requirement that *buildings located along The Strand should be designed so that when viewed from the beach, the visual impact of the structure is minimized*. This policy language is not proposed to be carried over to Article 10C (Coastal Residential Districts). The Strand is a 10-block region of the City's shorefront that is bounded by The Strand (public road) and the ocean to the west and a coastal bluff to the east. It is a line of development that, due to changes in elevation, is geographically separated from the remainder of the shorefront. The Strand area is primarily developed with residential structures, but also contains the City's municipal pier and a number of park areas. The views to and along this portion of the City represent the quintessential Southern California beach and the area is highly utilized by visitors and residents alike. The City's LUP contains a number of provisions that protect existing views and promote the development of new vantages to and along the ocean. Removal of this provision could allow for development that may result in visual impacts to and along the ocean, inconsistent with the certified LCP.

Article 32 (Residential Tourist Zone) and Article 34 (V-C Visitor Commercial Zone) both contain a provision that requires the City to maintain at least seven (7) permanent access facilities from the nearest public street to the beach. The City's LUP includes a provision that requires new public beach access shall be dedicated along the sandy beach from in conjunction with restoration of the beach or new private development. By removing this above provision, adequate public access cannot be assured, inconsistent with the City's LUP.

Article 14 ("F" Flood Plain Area) provides the only provisions within the City's IP that regulate development within the floodplain. The currently certified provisions limit the types of development permitted within the floodplain to agricultural uses, structures not intended for living purposes, and limited habitable developments designed to accommodate flood conditions. Article 14 also prohibits the excavation or the fill of flow of any waterway. As proposed, the City is repealing Article 14 with no replacement language. Instead, the City has indicated that the Municipal Code contains provisions for development within the floodplain; however, these provisions are not a part of the certified LCP. The City's LUP identifies three areas prone to flooding in the City's Coastal Zone; these include the San Luis Rey River, Loma Alta Creek and Buena Vista Lagoon, and further provisions require the City to minimize risk to life and property in areas of high geologic and flood hazards. Removal of these provisions without the inclusion of any replacement provisions will not protect the City's identified flood prone areas. In addition, in the face of climate change, the policies for the protection of the floodplain will only become increasingly important. Therefore, the repeal of all regulations for development within the floodplain cannot be found consistent with the certified LUP.

Articles Proposed for Certification

The subject amendment request includes the certification of four new articles to be included in the City's IP. As previously discussed, three of the proposed Articles (10C, 11C, 13C) essentially carry over previously certified regulations for residentially, commercially and industrially zoned properties, and include minimal revisions to the certified language. However, the fourth article, Article 30 (Site Regulations), contains a number of new provisions that apply to all or several zoning districts. The provisions of Article 30 range from regulations as simple as exterior materials permitted in residential districts to as complex as the regulation of development when located on steep hillsides. A number of the articles fail to include when a Coastal Development Permit will be required or how consistency with the certified Land Use Plan will be secured.

Section 3002 (Relocated Buildings) would allow for the relocation of existing structures without the issuance of a Coastal Development Permit. The City's LUP prohibits development that either creates or contributes to erosion or geological instability. If the structure is located on a coastal bluff, relocating further seaward could result in additional erosion, geological instability, or increase the need for shoreline protection, all of which are inconsistent with the certified LUP.

Section 3003 (Exterior Material in R Districts) limits the types of materials that can be proposed on the exterior of residential structures to those that have a nonmetallic finish. The LUP includes provisions that require new development to be subordinate to the natural surroundings. The Commission has historically interpreted this policy to restrict proposed structures adjacent to open space areas to colors compatible with the surrounding environment, such as earth tones (A-6-OCN-02-121; CDP No. 6-03-23). Without this requirement, structures may be proposed that include bright coloring in an otherwise natural setting, inconsistent with the certified LUP.

Section 3005 (Nonresidential Accessory Structures) regulates the placement of nonresidential structures on commercial and residentially zoned lots. The provisions of this section include that the structures shall not occupy required front or side yards, shall be limited to 12 feet in height. For residential zones, the size of a proposed structure shall not exceed 6% of the lot. However, the section fails to include regulations for structures proposed within a geologic setbacks, view corridors or public access areas, which may result in impacts to sensitive coastal resources and access, inconsistent with a number of certified LUP policies.

Section 3008 (Swimming Pools and Hot Tubs) includes regulation for construction of pools and spas. The City's LUP protects natural landforms and does not permit new development that either creates or contributes to erosion or geological instability and would include the construction of pools, spa, etc. As proposed, Section 3008 fails to regulate the location of pools and hot tubs on lots that include a coastal bluff. Thus, there

is the potential that, based on the proposed regulations, a pool or spa could be sited in a geologically unsafe location, inconsistent with the certified LUP.

Section 3019 (Landscaping, Irrigation and Hydroseeding) includes a number of new provisions that regulate the type of landscaping that is required associated with any new development proposal. The currently certified IP has various landscaping requirements scattered throughout the various zones and well as within Article 17 (General Provisions, Development Standards, Conditions and Exceptions). Generally speaking, the existing regulations are vague and outdated; they contain no discussion on native or drought tolerant plants, nor do they provide any brush management measures or fuel modification requirements. As proposed, Section 3019 would include more modern and detailed regulation for landscaping. However, some of the detail necessary to adequately protect coastal resources, such as brush management requirements, screening of prominent structures, and the prohibition of using invasive vegetation, were not included and the regulations cannot therefore be determined as consistent with the certified LUP.

Section 3020 (Outdoor Facilities) regulates ancillary facilities typically located outside of and in proximity to existing structures. Examples of this include storage containers, outdoor displays of merchandise, sidewalk cafes, and outdoor sales events, to name a few. While this section can generally be found consistent with the LUP, there are two sections that are problematic. As proposed, sidewalk cafes would not have any parking requirements. Section VII of the City's LUP prohibits development proposals from diminishing public access. If the patrons of the sidewalk café do not have adequate parking onsite, they will likely park on the street, potentially usurping public beach parking, inconsistent with the LUP. Additionally, Section 3020 contains regulations for outdoor storage containers. However, the section fails to restrict the containers from being located within required geologic setback areas, biological buffers, or required fuel modification zones. Locating storage containers within these areas could result in impacts to coastal resources, inconsistent with the LUP.

Section 3023 (Underground Utilities) outlines the process for which a proposed development should relocate existing facilities underground. Generally speaking, relocating utilities underground removes visual blights and often results in improved coastal views. However, if the site contains native vegetation or sensitive habitat such as wetlands or coastal bluff, the grading required to underground such utilities could result in significant impacts to coastal resources. As proposed, the section fails to restrict relocating utilities underground when such efforts would result in significant impacts to coastal resources.

Section 3024 (Performance Standards) establishes standards for pollution including noise, vibration, dust, glare, and hazardous materials. The concern with the proposed section relates to the standards placed on light pollution. As proposed, the section regulates glare from glass by restricting the use of mirrored or highly reflective glass. The section further reduces light pollution from security or field lighting by requiring such lighting be directed away from residential areas. However, the LUP includes a number of provisions that protect sensitive habitat areas and wildlife that inhabit these areas. In addition, the

Commission has become increasingly concerned with the impacts outdoor lighting has on sensitive avian species. As proposed, the restrictions on glare from glass and outdoor lighting do not address the potentially harmful impacts that lighting could have on wildlife and birds specifically, and is therefore not sufficient to ensure adequate protection of such resources, inconsistent with the certified LUP.

Section 3035 (Live/Work Quarters) allows a portion of existing commercial structures to be developed as living space to accommodate live/work quarters. Allowing the combination of live/work quarters is a fairly new use and can generally be supported by the certified LUP. These types of developments often help reduce vehicle miles travelled, help provide additional housing options and allow for the concentration of development. However, the City's Coastal Zone contains a limited number of areas zoned as Visitor-Serving Commercial. The intent of the Visitor-Serving Zone is to provide recreation-oriented and visitor-serving commercial activities near freeways and major thoroughfares. In addition, a number of the policies contained within Section II (Recreation and Visitor Serving Facilities) of the City's LUP require the promotion of higher priority uses throughout the Coastal Zone. If a live/work quarter is proposed within this zone, the residential portion of the development could potentially usurp vital visitor-serving commercial space inconsistent with the LUP. Similar to Section 3035, Section 3042 (Mixed-Use Plans) contains the regulations for developments that include a mix of uses. The same concerns mentioned above also apply to Mixed-Use Development. Specifically, residential uses may usurp vital commercial space within an area that has been set aside to provide primarily visitor-serving uses.

In conclusion, while a significant portion of the proposed amendment involves the relocation of existing language, concerns have been identified for a number of sections that are either proposed for repeal without replacement. In addition, as identified herein, certification of the amendment as proposed would fail to adequately protect coastal resources; and, cannot be found to be consistent with the certified LUP.

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

As detailed above, there are a number of LUP consistency concerns raised by the City's amendment request. As proposed, the City will be repealing the certified residential, commercial/office and industrial zones as well as the general development standards that apply to the majority of development types, relocating them into the City's Citywide Zoning Ordinance; and, in some cases, updating the regulations. While the relocation of certified policies does not result in any consistency concerns, portions of the IP proposed for repeal without replacement could result in impacts to coastal resources, inconsistent with the LCP. In addition, some of the new regulations proposed for certification raise additional LUP consistency concerns. The suggested modifications can be broken into three categories. The first set of nine (9) revisions will reinsert certified regulations proposed for repeal into the IP. Nineteen (19) modifications have been included that revise various sections of Article 30 (Site Regulations) to be consistent with the LUP.

The final three (3) revisions are included as clean-up or help clarify the regulations proposed for certification.

Suggested Modification No. 1 has been included and will add the identified purpose of the R-T (Residential Tourist) Zone, “*to accommodate tourist and year-round visitor-serving uses to serve all income levels*” within Article 10C (Coastal Residential Districts). Preserving this language allows for greater assurance that a variety of visitor-serving uses will be adequately provided and protected within the Residential-Tourist Zone. **Suggested Modifications Nos. 4 & 11** will reinsert existing language that requires buildings located along The Strand to be designed so that when viewed from the beach, the visual impact is minimized to the maximum extent practicable. This language is a certified part of the existing regulations for residential development. The Strand is a highly utilized area of the City’s beachfront that is predominantly developed with residential development. Preserving this policy will help maintain the balance between the private and public uses in the area. **Suggested Modifications Nos. 7 and 31** serve to protect an existing policy that requires a minimum of seven (7) permanent pedestrian access facilities are provided from the first public street on the bluff top to the public beach. Similar to most coastal communities, a significant portion of the City’s shorefront is developed with a contiguous row of residential structures that do not provide vertical access from the street to the beach. By preserving this policy, vertical public accessways will be maintained at a minimum of 7 locations within the northern portion of the City.

Suggested Modification No. 14 reinserts the final sentence of an existing policy that describes the purpose of the VC/CZ Visitor Commercial District. As proposed, the City did not include that the Visitor Commercial District includes the Harbor area, the San Luis Rey River area and the Municipal Pier area. While these three locations are not the only locations where visitor-serving commercial uses should be located, these locations are frequented by the public, and specifically identifying these locations gives priority to visitor-serving commercial uses within these areas. **Suggested Modification No. 17** reinserts specific building setback requirements within the Visitor-Serving Commercial Zone. The City has indicated this language was inadvertently omitted and requested the inclusion of these setbacks into the Visitor-Serving Commercial section of Article 11 (Coastal Commercial District). **Suggested Modification No. 18** adds “*tourist cottage*” back into the allowable uses within the V/C (Visitor-Serving Commercial), C-1 (Neighborhood Commercial), and C-2 (Limited Commercial) Zones. While the City’s LCP does not include a definition for a tourist cottage, it was a previously allowable use within the commercial zones and is proposed as an allowable use within the R-T (Residential Tourist) zone. To maintain conformity and protect what is a potential overnight accommodation within the CZ, this use has been retained within the coastal commercial zones.

Suggested Modification No. 32 adds back the policy language previously contained within Article 14 (“F” Floodplain Areas). As proposed, the City repealed Article 14 and did not propose any regulations to replace this article. As previously described, the City’s LCP identified three locations within the City’s Coastal Zone that are subject to flooding; the San Luis Rey River, Loma Alta Creek and Buena Vista Lagoon. The proposed

modification would carry over the regulations of Article 14 into a new section (Section 3046) within Article 30 (Site Regulations). The regulations restrict development within the floodplain and prohibit the excavation or fill of any waterway. As proposed, the development allowed in the floodplain includes agricultural uses, those structures not designed for living purposes, and limited residential development if designed to be located out of the floodplain or with design standards, such as foundation walls and footings, that will prevent damage to a structure during flood conditions. The Commission acknowledges that residential development is not something the Commission typically supports within the floodplain; however, in this case, the language has been previously certified as consistent with the LUP. More importantly, it has been recognized by the City and the Commission that the City's regulations for development within the floodplain will be updated through the LCP update the City is currently processing. The reinsertion of this language is considered a temporary measure until additional review has been completed by the City, which will develop modern regulations and will incorporate anticipated changes to the floodplain associated with climate change.

The City is proposing the certification of replacement zones for residential (Article 10C), commercial/office (Article 11C) and industrial (Article 13C) uses within the Coastal Zone. While the majority of the language contained within these three articles is taken directly from the previously certified zones, the City is proposing to update and revise some portions of these new articles, a few of which result in LUP consistency concerns. **Suggested Modification No. 2** revises the general criteria for approval of projects located within the residential zones to comply, not only with the General Plan, but also with the Local Coastal Program, when applicable. Through the inclusion of the LCP, the policies of the LCP will be applied to the approval of CDPs. **Suggested Modification Nos. 3, 15, and 19** all revise the regulation of high rise structures. As proposed, high-rise structures could be approved as a conditionally permitted use within the residential, commercial/office and industrial zones. The proposed language includes a number of parameters that must be met to permit high-rise structures, including provisions for height, building bulk, yards, and open space, among others. However, the proposed language does not require that the structure, when located in the Coastal Zone, comply with the regulations specified in the Local Coastal Program. As such, Suggested Modifications Nos. 3, 15, and 19 require that for properties located in the Coastal Zone, any proposal for a high-rise structure must comply with the regulations of the LCP. **Suggested Modification No. 9** revises the City's regulations for fences and walls in the residential zone to require sideyard fencing located on properties between the sea and the first coastal road to be designed to maintain views and fences shall be at least 75percent open. The City has been implementing this provision along its shorefront for over a decade; however, language requiring open sideyard fencing was never included as a part of the LCP. In practice, requiring sideyard fencing to be open helps maintain and create views from Pacific Street to the ocean, consistent with the City's LUP.

Suggested Modification Nos. 6, 8, 13 and 24 revise the regulations for landscaping within the Coastal Zone. As proposed, the City included some regulation within each land use district and also as a separate section within Article 30 (Site Regulations). As proposed, the language within the land use districts was outdated, required 100%

irrigation, and did not include the use of native or drought tolerant plant species. As such, Suggested Modifications Nos. 6, 8 and 13 remove the regulations within the various land use districts and instead refer to the more robust section on landscaping contained within Article 30. Therefore, as revised, all landscaping requirements will be contained within one single provision. Additionally, Suggested Modification No. 24 revises Section 3019 (Landscaping, Irrigation and Hydroseeding) to include provisions that require submittal of landscaping plans that shall include fire-resistant, native, non-invasive, drought- and salt-tolerant species, be designed to protect views, and, when development is proposed adjacent to undeveloped land, include measures to provide appropriate fuel modification area. Suggested Modification 24 further requires that when new development is proposed, no brush management shall occur within ESHA. Through the incorporation of these suggested modifications, landscaping within the Coastal Zone will be consistent with the LUP policies that protect Environmentally Sensitive Habitat Areas and will ensure that new development located adjacent to undeveloped land provides adequate fuel modification zones consistent with the LUP.

Article 30 (Site Regulations) contains a number of provisions that raise consistency concerns as proposed. To remedy this, **Suggested Modification No. 20** revises Section 3002 (Relocated Buildings) to clarify that a building proposed for relocation within the Coastal Zone will require the issuance of a Coastal Development Permit (CDP) unless otherwise exempt. Through the inclusion of the CDP process, any relocated building will be reviewed for geologic stability and may not encroach into sensitive habitat, public accessways or within public vantages. **Suggested Modification No. 21** revises Section 3003 (Exterior Materials) of Article 30 to clarify that the exterior of any residential structure located in the Coastal Zone shall be subordinate to the natural environment and the use of colors compatible with the surrounding environment should be used to the maximum extent practicable. To assist in the protection of coastal resources, **Suggested Modification No. 22** revises Section 3005 (Nonresidential Accessory Structures) to prohibit any nonresidential structure from being located within a required geologic setback, habitat buffer, public accessway or scenic view corridor. To ensure the stability of any coastal bluff is maintained when a pool or spa is proposed, **Suggested Modification No. 23** revises the City's provisions to prohibit pools or spas within any required geologic setback area. To ensure that public access are adequately maintained when an outdoor facility is proposed, **Suggested Modification No. 25** revises Section 3020 (Outdoor Facilities) to clarify that sidewalk cafés within the Coastal Zone must provide onsite parking for the outdoor seating. The parking requirement calculation for outdoor cafes will be the same as those for indoor restaurants, allowing any nearby public parking to be maintained for the public. **Suggested Modification No. 26** also revises Section 3020 to clarify that outdoor storage containers shall not be located in areas that may result in impacts to coastal resources, including geologic setbacks, biological buffers, and fuel modification zones. **Suggested Modification No. 27** revises Section 3023 (Underground Utilities) to prohibit the undergrounding of utilities if such activities will result in impacts to ESHA or if located within a biological buffer or a geologic setback area.

As previously discussed, the City's proposed regulations for outdoor lighting and glare from glass were not sufficient to protect sensitive wildlife species inconsistent with the LUP. To remedy this, **Suggested Modification No. 28** revises the City's regulations to further minimize the use of reflective glass, adds regulations for outdoor lighting including limits on light intensity and hazardous wavelengths, and requires the use of best visor and light direction technology. Finally, **Suggested Modifications Nos. 29 & 30** revise the City's regulation of Live/Work Quarters and Mixed-Use Plans to require that higher-priority visitor-serving commercial uses are maintained when a Live/Work quarters or a Mixed-Use development is proposed in the (V-C) Visitor-Serving Commercial Zone.

The remaining suggested modifications have been included to eliminate duplicative regulations and to make a revision requested by the City. **Suggested Modification Nos. 5 & 10** have been included to resolve conflicting provisions for horse yards in residential zones. While the regulation of horse yards has minimal, if any, application in the Coastal Zone, in order to eliminate any unnecessary confusion, the modifications will eliminate the regulations for horse yards contained within the residential zone and replace them with a reference to the preferred regulations contained within Section 3034 (Animals) of Article 30. **Suggested Modification No. 12** has been included at the City's request and relocates the provision for exceptions to height limits from Article 10C (Coastal Residential Districts) into Article 30.

Revisions that can be approved as submitted include the repeal of Article 14.5, which contains the currently certified regulation for development of hillsides. The amendment subsequently proposes the certification of Section 3039 (Hillside Development Provisions). Article 14.5 is outdated and does not provide adequate regulation for hillside development. Section 3039 is more robust and modern and provides additional regulation for hillside development, and can therefore be approved as submitted. The City is also proposing the repeal of Article 41C (Use Permits – Coastal Zone). This article contained all of the conditionally approvable development types for Coastal Zone properties. However, conditionally approved uses are now incorporated into the permitted uses within each respective base zoning district and the repeal of Article 41C does not raise any LUP consistency concerns.

In summary, the Commission recommends certification of the IP provisions as modified including general provisions that call out when a Coastal Development Permit is required, or when consistency with the LCP needs to be determined when a number of different development types such as fencing, pools, utilities, non-residential accessor structures are proposed adjacent to sensitive coastal resources. Additionally, specific revisions have been included that more adequately protect coastal resources when development is proposed within the floodplain or within the wild/urban interface. Revisions has also been included to identify the types of landscaping appropriate in the Coastal Zone, address require that outdoor lighting be limited to the least amount necessary for security. Therefore, as modified, the Commission finds the implementation plan, as modified, meets the requirements of, and conforms with the certified Land Use Plan, and the revised implementation plan may be approved.

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

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission. The City of Oceanside found that the LCPA proposal is exempt, pursuant to Section 15061(b)(3) of CEQA [no possible effect on the environment].

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. In this particular case, the LCP amendment, with incorporation of the suggested modifications, will not have any significant adverse effects on the environment and no significant coastal resource impacts are anticipated. The suggested modification will ensure that development occurs consistent with LCP provisions, including those related to protection of public views, adequate protection for wetlands and environmentally sensitive habitats, and minimization of hazards. Therefore, the Commission finds that the subject IP, as amended, conforms with CEQA.