

**CALIFORNIA COASTAL COMMISSION**

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# W19a

**Date:** September 24, 2021

**To:** COMMISSIONERS AND INTERESTED PERSONS

**From:** KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
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**Subject:** STAFF RECOMMENDATION ON CITY OF OCEANSIDE MAJOR AMENDMENT NO. LCP-6-OCN-20-0086-3 (Downtown Commercial Uses) for Commission Meeting of October 13-15, 2021)

## SYNOPSIS

On March 11, 2021 the subject Local Coastal Program (LCP) implementation plan amendment was submitted and filed as complete. A one-year time extension was granted on May 12, 2021. As such, the last date for Commission action on this item is June 7, 2022. This report addresses one of three components of the City of Oceanside's batched submittal. The other components, LCP-6-OCN-20-0087-3 (Time Extension Requests) and LCP-6-OCN-20-0088-3 (Climate Action Plan Amendments) are currently undergoing review.

## SUMMARY OF AMENDMENT REQUEST

The City is proposing to modify Articles 4a and 12 of its certified Implementation Plan (IP) to update and expand commercial uses in the Downtown District and streamline the review of certain uses. Examples of the types of commercial uses added to the Downtown District include Bars and Cocktail Lounges, Commercial Recreation, Fast Food, Market, Health Club, Day Spa, Retail Sales, Hotel-Resorts, and Wine and Beer Tasting Rooms. The amendment will also specifically list various regulated uses as either permitted with a conditional use permit or not permitted in the Downtown District Land Use Matrix. Additionally, the amendment proposes to allow certain land uses within the Downtown District to be reviewed administratively - after public notice - with the City Planner rather than the Planning Commission or the City Council.

## SUMMARY OF STAFF RECOMMENDATION

Staff is recommending the Commission first reject the Implementation Plan (IP) amendment as submitted and then approve with one suggested modification. The primary purpose of the proposed amendment is to update and broaden the types of commercial uses permitted within the City's Downtown District and expedite review of non-controversial uses, with the intent to increase commercial activity within the Downtown District. As a result, there will be additional opportunities for high-priority, visitor-serving commercial uses consistent with the requirements of the Land Use Plan (LUP). However,

while the City's proposed changes do not raise any LUP consistency concerns, the City has identified one error within the proposed language which they have requested be corrected through the inclusion of a suggested modification. Specifically, the text revisions submitted by the City revise the Land Use Matrix to permit Accessory Massage within Day Spas and Health Studios/Spas by right. However, the definition for Accessory Massage does not reflect this change and, instead, describes Accessory Massage as a use permitted through the approval of a conditional use permit. The suggested modification requested by the City will remove "with a use permit" from the definition to be consistent with the proposed Land Use Matrix.

The appropriate motions and resolutions begin on Page 4. The suggested modifications begin on Page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 7. The findings for approval of the plan, if modified, begin on Page 8.

### **ADDITIONAL INFORMATION**

Further information on the City of Oceanside LCP Amendment No. LCP-6-OCN-20-0086-3 may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370 or [SanDiegoCoast@coastal.ca.gov](mailto:SanDiegoCoast@coastal.ca.gov).

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### EXHIBITS

- [Exhibit 1 – Resolution No. 20-R0085-1](#)
- [Exhibit 2 – Ordinance No. 20-OR0106-1](#)
- [Exhibit 3 – Text Changes in Strike-out and Underline](#)

## **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 the maximum opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City held Planning Commission and City Council meetings with regard to the subject amendment request on February 26, 2020 and March 11, 2020. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **II. MOTIONS AND 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.

### **1. MOTION:**

I move that the Commission reject the City of Oceanside Implementation Program Amendment No. LCP-6-OCN-20-0086-3 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 AMENDMENT AS SUBMITTED:**

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

**2. MOTION:**

I move that the Commission certify the City of Oceanside Implementation Program Amendment No. LCP-6-OCN-20-0086-3 if it is modified as suggested by the staff recommendation.

**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.

### 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. Revise Article 4a - Redevelopment Project Area (D-Downtown District) Use Classifications, Subsection 423 - Commercial Use Classifications, Section W - as follows:

- W. Personal Improvement Services. Provision of instructional services or facilities, including: photography, fine arts, crafts, dance or music studios; driving, business or trade schools; diet centers, or reducing salons; and health/fitness studios, spas or clubs.
- a. Health/Club/Studio/Spa. Establishments with equipment for exercise and physical conditioning. Facilities offering the use of exercise equipment for public use, and services such as, expertise and instruction for fitness training, weight loss, yoga and aerobics classes.
  - b. Day Spa. A day or full-service spa must provide at least four different types of services and all services must be provided on the premises during regular business hours and include some type of instructional service. These services may include any of the following: facial therapies, body treatments, hair removal, nail care, salon care, makeup application, permanent cosmetic makeup, skin care treatments, therapeutic massage, aromatherapy, hydrotherapy, and instructional services such as; nutritional counseling, weight management, stress management, medical evaluations, and fitness activities such as; private or personal fitness training, yoga, meditation, and retail products such as; skin and body care products, work out or spa clothing, juice bar, spa or health food cuisine, health food products.
    - i. All services shall be administered by licensed cosmetologists, estheticians or similar professionals and should offer a vast array of the highest quality skin, body, health care, and fitness services. At a minimum spa's establishment must be: clean, and safe environment; have private treatment rooms for clients receiving a personal service; business licenses; professional, licensed estheticians and therapists; professional spa products for which estheticians and therapists have received training in their use; and have showering and changing facilities for women and men (when necessary).
  - c. Accessory Massage. Massage only permitted as an incidental use to a primary use listed above, ~~with a use permit~~ and must abide by all other City Ordinances and Codes.

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

### **A. AMENDMENT DESCRIPTION**

The City is proposing to modify Articles 4a and 12 of its Implementation Plan (IP) to update and expand commercial uses in the Downtown District and streamline the review of certain uses that are encouraged by the City or are non-controversial. Examples of the types of commercial uses added to the Downtown District include Bars and Cocktail Lounges, Commercial Recreation, Fast Food, Market, Health Club, Day Spa, Retail Sales, Hotel-Resorts, and Wine and Beer Tasting Rooms. The amendment will also specifically list various regulated uses as either permitted with a conditional use permit or not permitted in the Downtown District Land Use Matrix. Additionally, the amendment proposes to allow certain land uses within the Downtown District to be reviewed administratively - after public notice - with the City Planner rather than the Planning Commission or the City Council

### **B. SUMMARY FINDINGS FOR REJECTION**

While the City's proposed changes do not raise any Land Use Plan (LUP) consistency concerns, the City has identified one error within the proposed language they have requested be corrected through the inclusion of a suggested modification. Specifically, the text revisions submitted by the City revised the Land Use Matrix to permit Accessory Massage to Day Spas and Health Studios/Spas by right. However, the definition for Accessory Massage does not reflect this change and, instead, described Accessory Massage as permitted through the approval of a conditional use permit. The suggested modification requested by the City will remove "with a use permit" from the definition to be consistent with the proposed Land Use Matrix.

### **C. SPECIFIC FINDINGS FOR REJECTIONS**

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.

#### **a) Purpose and Intent of the Ordinance.**

The Downtown District Ordinance, or Article 12, is intended to: a) promote the long-term viability of and rejuvenation of the Downtown area and to protect and enhance primarily boating and water-oriented activities; and secondarily other public-oriented recreational uses in the Oceanside Small Craft Harbor; b) maintain and enhance an appropriate mix of uses; and c) provide land-use controls and development criteria consistent with the General Plan, the Redevelopment Plan, and the Local Coastal Plan.

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

The major provisions of the ordinance include adding new commercial uses in the Downtown area to reflect uses currently permitted in the remainder of the coastal zone,

providing a streamlined review for desirable commercial uses, and specifying various regulated uses as permitted, permitted with a conditional use permit, or not permitted.

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

The standard of review for LCP implementation plan submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The City's LUP contains a number of policies that address priority uses in the Coastal Zone and state, in part:

II. Recreation and Visitor Serving Facilities [...]

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

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.

As discussed in greater detail below, the City's proposed changes do not raise any LUP consistency concerns and can be supported as proposed. However, since the time the LCP Amendment was submitted by the City, one error in the proposed language was identified. Specifically, the text revisions submitted by the City revised the Land Use Matrix to permit Accessory Massage within Day Spas and Health Studios/Spas by right. However, the definition for Accessory Massage does not reflect this change and, instead, describes Accessory Massage as permitted through the approval of a conditional use permit. The suggested modification requested by the City will remove "with a use permit" from the definition to be consistent with the proposed Land Use Matrix. The City has requested the Commission correct the error through the inclusion of a suggested modification.

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

The primary intent of the LCP amendment is to update and expand the types of commercial uses permitted within the City's Downtown District. The Downtown District spans from Harbor Drive to the North to Wisconsin Street to the south, Interstate-5 to the East and the ocean to the west, and includes the highest-density of development (both residential and commercial) within the City's Coastal Zone. Key features of the Downtown District include the Municipal Pier and Pier Complex, the Junior Seau Community Center, and the Oceanside Transit Center. Historically, the Downtown District served as the redevelopment area of the City, however; more recently, the City's downtown area provides a significant portion of the City's lands developed with visitor-serving uses in the coastal zone, including several open-air markets, popular beaches, a number of hotel and timeshare resorts, and commercial and mixed-use areas.

The City has indicated that currently the types of commercial uses permitted in the Downtown District are too limited, and several popular visitor-serving use classifications are not currently permitted within the Downtown District. To remedy this, the amendment



request would add contemporary and desirable commercial use classifications in the Downtown District. Examples of the types of commercial uses added include Bars and Cocktail Lounges, Commercial Recreation, Fast Food, Market, Health Club, Day Spa, Retail Sales, Hotel-Resorts, and Wine and Beer Tasting Rooms. The amendment will also remove several uses identified as outdated or undesirable including Pawn Shop, Payday Loans and Tobacco and Drug Paraphernalia. Additionally, the amendment proposes to allow certain land uses within the Downtown District to be reviewed administratively - after public notice - with the City Planner rather than the Planning Commission or the City Council. The City has indicated that this expedited process will increase commercial activity, economic revitalization and provide better access to goods and services within the Downtown Area. It is important to note that the while the process to review land uses will be expedited, the process to review and approve any associated coastal development permit will remain unchanged.

The City's LUP requires lower cost visitor and recreational facilities to be protected, encouraged and, where possible, provided and gives priority to visitor-serving commercial recreational facilities over private residential, general industrial or general commercial uses. The revisions proposed by the subject amendment will provide additional opportunities for high-priority, visitor-serving uses with a range of affordability within the Downtown District consistent with the certified LUP. Additionally, the expedited review for permitted land uses can also be supported, given that the process for review and approval for any associated coastal development permit will remain unchanged, and through this process potential inconsistencies with the LUP, including impacts to public access, public views, provision of adequate setbacks, etc., will be adequately reviewed.

Regarding the suggested modification, the revision has been included at the request of the City to correct an error in the proposed text identified by the City after submitting the subject LCP amendment request. Specifically, the text revisions submitted by the City revised the Land Use Matrix to permit Accessory Massage within Day Spas and Health Studios/Spas by right. However, the definition for Accessory Massage does not reflect this change and, instead, describes Accessory Massage as permitted through the approval of a conditional use permit. Therefore, Suggested Modification No. 1 will remove "with a use permit" from the definition to be consistent with the proposed Land Use Matrix.

## **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 found that the proposed amendment exempt, as the regulatory changes would have no potential to cause significant effect on the environment. (Cal. Code of Regs., tit. 14, § 15061(b)(3) ["common sense" exemption]).

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP

amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. The Commission finds that approval of the proposed ordinance amendment, as submitted, would not result in significant impacts under the meaning of the California Environmental Quality Act. However, an error in the text has been identified by the City and, with the inclusion of the suggested modification, the error will be corrected. Implementation of the revised ordinance would not result in significant impacts to the environment within the meaning of the California Environmental Quality Act. Therefore, the Commission finds that approval of the LCP amendment, as modified, will not result in any significant adverse environmental impacts.