

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384



W16a

Date: August 18, 2022

To: **COMMISSIONERS AND INTERESTED PERSONS**

From: **KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DIANA LILLY, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PLANNER, SAN DIEGO COAST DISTRICT**

Subject: **STAFF RECOMMENDATION ON CITY OF OCEANSIDE MAJOR
AMENDMENT NO. LCP-6-OCN-21-0065-1 (Tattoo Regulations) for
Commission Meeting of September 7, 2022**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on October 18, 2021. A one-year time extension was granted on December 17, 2021. As such, the last date for Commission action on this item is January 12, 2023. This report addresses one of two components of the City of Oceanside's batch submittal. The other component, LCP-6-OCN-21-0066-1 (Cannabis Regulations II) was certified by the Commission in February 2022.

SUMMARY OF AMENDMENT REQUEST

The proposed LCP amendment will revise Article 36 (Separation of Regulated Uses) of the City's certified Implementation Plan (IP) to modify the locational restrictions for tattoo establishments. Currently, all tattoo establishments are prohibited within 500 feet of a residential district. As proposed, tattoo establishments could be located less than 500 feet from residential districts if an intervening freeway is located between the proposed location and a residential district. The amendment will also relocate the findings for separation for regulated uses from within Article 36 to an appendix (Appendix A) to be located at the end of the article.

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 City's existing tattoo establishments are located solely within the City's commercial and industrial districts, which often run along the main transportation corridors, but which also border on residential districts. Thus, opportunities for tattoo businesses are limited given the existing separation requirements. The City has determined that bisecting freeways provide a visual and sometimes physical barrier that is functionally equivalent to the 500-foot separation

requirement, creating an appropriate separation from existing residential development while expanding locational opportunities for tattoo establishments. While historically tattoo establishments were not considered family-friendly or tourist-oriented uses, such establishments are now generally accepted and are considered compatible with visitor-serving commercial uses. All of the subdistricts proposed to permit tattoo establishments allow commercial or visitor-serving commercial uses and, therefore, adding tattoo establishments within the proposed subdistricts can be found to be consistent with the LUP.

While the proposed changes do not raise any Land Use Plan (LUP) consistency concerns, staff is recommending a single suggested modification at the request of the City of Oceanside in order to correct a discrepancy in Article 12 (Downtown District). The City Council previously approved an LCP amendment expanding tattoo establishments within the Downtown District into several additional subdistricts including Subdistrict 6A, 6B, 6C, 7B, 11, 13 in February, 2020 ([ref. Exhibit No. 4](#)). However, this revision was unintentionally omitted from the LCP Amendment that was approved by the Commission in October 2021, which expanded several commercial uses within the Downtown District (ref. LCPA No. LCP-6-OCN-20-0086/Downtown Commercial Uses). At this City's request, these additional subdistricts have been incorporated into the subject LCP amendment request as Suggested Modification No. 1.

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

Further information on the City of Oceanside LCP Amendment No. LCP-6-OCN-21-0065-1 may be obtained from [Toni Ross](#), Coastal Planner, at (619) 767-2370 or SanDiegoCoast@coastal.ca.gov

TABLE OF CONTENTS

I. OVERVIEW	4
A. LCP HISTORY	4
B. STANDARD OF REVIEW.....	4
C. PUBLIC PARTICIPATION.....	4
II. MOTIONS AND RESOLUTIONS.....	4
III. SUGGESTED MODIFICATIONS	6
IV. FINDINGS FOR REJECTION OF THE OCEANSIDE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED AND APPROVAL IF MODIFIED.	6
A. AMENDMENT DESCRIPTION.....	6
B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN	6
V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	8

EXHIBITS

- [Exhibit 1 – Resolution No. 21-R0607-1](#)
- [Exhibit 2 – Ordinance No. 21-OR0593-1](#)
- [Exhibit 3 – Text Changes in Strike-out and Underline](#)
- [Exhibit 4 – Map of the Downtown District](#)

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

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

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 Implementation Program Amendment 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 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 Implementation Program Amendment for the City of Oceanside if it is modified pursuant to 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. The modification allows tattoo establishments as approved by Administrative Regulated Use Permits in six subdistricts.

1. Modify Article 12 (Downtown District), Section 1220 – Land Use Regulations by Subdistrict matrix as follows:

	Subdistricts																					
Land Use	1	1a	2	3	4a	4b	5	5a	6a	6b	6c	7a	7b	b	8b	9	10	11	12	13	14	15
Tattoo Establishments	AR		AR						<u>AR</u>	<u>AR</u>	<u>AR</u>		<u>AR</u>					<u>AR</u>		<u>AR</u>		

AR – Administrative Regulated Use Permit

IV. FINDINGS FOR REJECTION OF THE OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED, AND APPROVAL IF MODIFIED

A. AMENDMENT DESCRIPTION

The proposed LCP amendment will revise Article 36 (Separation of Regulated Uses) of the City’s certified Implementation Plan (IP) to modify the locational restrictions for tattoo establishments. Currently, all tattoo establishments are prohibited within 500 feet of a residential district. As proposed, tattoo establishments could be located less than 500 feet from residential districts if an intervening freeway is located between the proposed location and a residential district. The amendment will also relocate the findings for separation for regulated uses from within Article 36 to an appendix (Appendix A) to be located at the end of the article.

B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN

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 certified LUP has a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

II. Recreation and Visitor-Serving Facilities

Policy 7

Tattoo Regulations

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

10. The City shall continue to promote coastal tourism through the revitalization of the coastal area in upgrading of visitor amenities.

1. FINDINGS FOR DENIAL

The standard of review for the proposed amendment to the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed IP amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP). The certified LUP contains policies that aim to maximize shoreline access, protect recreation and visitor serving facilities, preserve community character, and balance human use of coastal resources with ecological concerns. As currently certified, tattoo establishments are prohibited within 500 feet of a residential district. As proposed, tattoo establishments would be allowed to be located less than 500 feet from residential districts if there is a physical barrier of a freeway or highway located between the tattoo establishment and the residential district. While there are no LUP policies that explicitly mention tattoo establishments, there are broad policies that allow commercial development in many portions of the coastal zone. The proposed IP amendment is not in conflict with these policies or any other policy in the certified LUP and will not result in any adverse impacts to coastal resources. Tattoo establishments are compatible with visitor-serving commercial uses.

During review of the LCP Amendment, an error in the text was identified. The City Council previously approved an LCP amendment expanding tattoo establishments within the Downtown District into several additional subdistricts including Subdistrict 6A, 6B, 6C, 7B, 11, 13 in February, 2020 ([ref. Exhibit No. 4](#)). However, this revision was unintentionally omitted from the LCP Amendment that was approved by the Commission in October 2021 that expanded several commercial uses within the Downtown District (ref. LCPA No. LCP-6-OCN-20-0086/Downtown Commercial Uses). At this City’s request, Suggested Modification No. 1 has been included to add tattoo establishments as permitted through an Administrative Regulate Use Permit in Subdistricts 6A, 6B, 6C, 7B, 11, 13 ([ref. Exhibit No. 4](#)) within the City’s Downtown District.

2. FINDINGS FOR APPROVAL IF MODIFIED

As previously discussed, the proposed revisions to not raise any LUP consistency concerns. However, the City has requested that an error identified during the review process be corrected through a single suggested modification. This modification will expand where tattoo establishments are permitted within the City’s Downtown District. One of the primary intents of the Downtown District is to maintain and enhance an appropriate mix of uses within the Downtown District. There are 22 sub-districts located within the Downtown District. Currently, only two subdistricts permit tattoo establishments. As modified by Suggested Modification No. 1, tattoo regulations will be permitted, through an Administrative Regulated Use Permit, in six additional subdistricts. The specified purpose for each affected subdistrict is listed below:

Subdistrict 6(A): To provide sites for highway oriented commercial businesses and visitor serving uses related to the harbor and the Interstate 5 freeway

Subdistrict 6(B): To provide sites for highway oriented, commercial recreational businesses and visitor serving uses related to the harbor and the Interstate 5 freeway. Residential uses are allowed as part of mixed-use development projects.

Subdistrict 6(C): To provide sites for uses supporting the Oceanside Small Craft Harbor, consistent with the Harbor Precise Plan.

Subdistrict 7(B): To provide for a mix of recreational and commercial uses conveniently located near recreational and residential areas. Residential uses are allowed as part of a mixed-use development projects.

Subdistrict 11: To provide sites, primarily, for commercial uses serving the adjacent residential neighborhood. Residential uses are encouraged where appropriate, as stand-alone and/or as part of mixed-use development projects.

Subdistrict 13: To provide for a mix of visitor/commercial, office, and residential uses. Residential uses are allowed as stand-alone and/or as part of a mixed use development projects.

While historically tattoo establishments were not considered family-friendly or tourist-oriented uses, such establishments are now generally accepted and are considered compatible with visitor-serving commercial uses. Each of the subdistricts where tattoo establishments are proposed to be added include commercial or visitor-serving commercial as an allowable use. Additionally, all but one of the subdistricts are located at least two blocks inland from the ocean and will not occupy space that should be retained for water-oriented purposes. The single subdistrict that is located adjacent to coastal waters is subdistrict 6C which is located at the eastern edge of Oceanside Harbor ([ref. Exhibit No. 4](#)). The site is currently development with an at-grade public parking lot. While the public parking lot is considered to be a high-priority use, it is not the only use permitted in Subdistrict 6C. As currently certified, allowable uses on this site include retail sales, antique shops, wine and beer tasting, and various types of overnight accommodations. Tattoo establishments can be considered as a use comparable to those already certified in the LUP. Additionally, the City has indicated that if/when Subdistrict 6C is redeveloped with something other than a public parking lot, the replacement of the existing parking spaces will be determined through a site-specific review of a project; and are likely to be replaced by a multi-level structure. Therefore, the expansion of tattoo establishments into the proposed subdistricts do not raise any coastal resources concerns and can be found consistent with the City's LUP as amended.

V. 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 Coastal Commission and 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.

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 its action, the City found that the action was either not subject to CEQA in accordance with State CEQA Guidelines Section 15060(c)(2) as it will not result in a direct or reasonably foreseeable indirect physical change in the environment, or it was not a project as defined in the Guidelines and therefore not subject to CEQA in accordance with Section 15060(c)(3). For the Commission, the proposed amendment is primarily procedural in nature and the Commission thus finds there are no anticipated impacts on coastal resources. A single suggested modification has been included to certify a revision to Article 12 of the City's Implementation Plan that was unintentionally omitted from a previous LCP Amendment. 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.