Greg Nyhoff
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CITY OF OXNARD CALIFORNIA

October 19, 2016

Lyn Krieger, Director
Ventura County Harbor Department
3800 Pelican Way
Oxnard, California 93035

Re: Local Coastal Plan Amendment Process

Dear Ms. Krieger:

Thank you for your letter of October 12, 2016 to Ashley Golden, Development Services Director for the City of Oxnard. The City of Oxnard is pleased to provide you with an update on the status of the Local Coastal Plan ("LCP") amendment process and address specific issues raised in your letter.

As you know, the City of Oxnard is currently in the middle of updating its Local Coastal Plan (the "LCP Amendment") and will submit this document to the Coastal Commission once the LCP Amendment goes through the local approval process. While there have been other amendments to this LCP, this will be the LCP's first comprehensive update since its original adoption. This LCP Amendment will address a wide range of issues, including issues relating to climate change adaptation strategies.

This LCP Amendment will also consider the incorporation into the LCP of certain General Plan policies from the 2030 General Plan, including the "Urban Village" designation for the Channel Islands Harbor Marina Village area, commonly called Fisherman's Wharf. As outlined in the General Plan, this envisioned land use is described as "[v]isitor serving commercial and medium/high density mixed use

residential" and is "intended as a `seaside' village capitalizing on the harbor assets, including the visitor serving uses such as restaurants, retail and other activities centered on the harbor."[1] While the "Urban Village" designation was included as part of the 2030 General Plan, even if the Urban Village language is incorporated directly into the LCP, additional steps need to occur before the "Urban Village" designation becomes effective anywhere within the City of Oxnard, including within the Channel Islands Harbor. Specifically,

> "It is the intent of the Urban Village designation that specific or strategic plans for each area will be prepared in advance of the planning entitlement process....Urban villages are envisioned as characterized by:
>
> - Infill and/or development of formerly agricultural land
> - Reinvestment in the existing community
> - Mixture of land uses
> - Mix of residential densities and housing types
> - Providing a minimum of 15 percent affordable housing
> - Location along or near corridors, downtown, and transit nodes
> - Transit, pedestrian, and bicycle circulation given high priority[.]"[2]

The General Plan then outlines additional specific elements of an Urban Village specific or strategic plan including design guidelines, connectivity, streetscapes, road design, infrastructure compatibility, open space areas/parks and open space connections.[3]

Subsequent to the City starting the LCP Amendment process, you sent a letter to Ashley Golden dated September 1, 2016[4] that stated:

> "[T]he County of Ventura Harbor Department requests that the City of Oxnard amend its Local Coastal Plan (LCP), as certified by the California Coastal Commission in 1986 and as subsequently amended, in order to fulfill the requirement under the laws of the State of California to bring the City's LCP in conformance with the General Plan policies adopted by the City Council in 2011."

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[1] General Plan, CD-7.1(1).
[2] General Plan, CD-7.1.
[3] General Plan, CD-7.2 to CD-7.13.
[4] This letter was transmitted to the City on September 6, 2016 via e-mail.

Your letter then requested specific changes to the LCP, including removal of the 35-foot height limit at Victoria Avenue and Channel Islands Boulevard to allow developments 55 feet in height, with a maximum of 10 additional feet for rooftop appurtenances. You also requested changes to the allowable density of up to 35 units per acre, calculated on the basis of gross acreage, and the adoption of the Urban Village land use designation at the intersection of Channel Island Boulevard and Victoria Avenue.

In response to your letter dated September 1, 2016, City staff sent multiple e-mails to you and your staff requesting additional information and clarification regarding your request for an LCP amendment specifically for the Fisherman's Wharf area, including e-mails sent by City staff on September 6, 2016, September 13, 2016, and September 16, 2016. On September 21, 2016, Ashley Golden sent you a detailed e-mail that included the following language:

> "[P]er General Plan Policy CD-7.1, to implement an urban village, a specific plan or strategic plan needs to be submitted for each Urban Village area, and in this case the Fisherman's Wharf site specifically. Per the policy, the specific plan needs to be prepared in advance of the planning entitlement process[.]"
>
> "We understand that your intent is to use the County's Public Works Plan as the specific or strategic plans; however, as proposed PWP Amendment #7 lacks any substantive detail to qualify as a specific plan to implement an urban village."

Ms. Golden went on to request additional documentation from you, including:

> "(1) The distribution, location, and extent of the uses of land, including open space, density and parking.
>
> (2) Development standards and criteria by which development will proceed.
>
> (3) An analysis of the project's consistency with the City's General Plan and Local Coastal Plan[.]"

To date, the City has not received all of the requested information for an LCP amendment for the Channel Islands Harbor Marina Village area. Until the City receives all of this requested information, the City cannot properly consider if it wishes to separately process

an LCP amendment for the Channel Islands Harbor Marina Village area. Instead, the City will simply include any desired modifications to the LCP regulations for Channel Islands Harbor Marina Village area as part of the overall LCP Amendment that the City is currently processing.

Finally, your letter of October 12, 2016 made multiple references to the City's "obligation under state law to conform its LCP with its own, adopted 2030 General Plan, and particularly with regard to the Fisherman's Wharf area, without further delay." First, as outlined above, the City is currently processing a comprehensive LCP Amendment. Given the complexities of the issues associated with this LCP Amendment, the City has a reasonable time period to effectuate any specific amendments to its certified LCP, over which the City has exclusive control except in very narrow circumstances not present here.[5] In the interim, the existing land use designations for the Channel Islands Harbor Marina Village area allow a wide variety of visitor-serving uses. Second, as stated in *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 571, "[a]fter its adoption, the LCP becomes a part of the local government's general plan and is vested with the same `constitutional' authority"[6]. As such, the LCP is already deemed part of the City's General Plan and the provisions of the two documents can be interpreted consistently, subject to the submittal of necessary information for a strategic or specific plan needed for the Urban Village designation.[7]

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[5]With very narrow exceptions, only local governments may initiate changes to a certified LCP, with the Coastal Commission reviewing such changes only for conformity with the policies of the Coastal Act and only to the extent necessary to achieve the basic state goals specified in the statute. (*City of Malibu v. California Coastal Commission* (2012) 206 Cal.App.4th 549, 563.) "[T]he override provision in [Public Resources Code] section 30515 is meant to prevent a local government from standing in the way of development of a public works project or an energy facility that would meet the public needs of an area greater than that encompassed in the local coastal program that were not anticipated when the LCP was certified." (*Id.* at 564.) The factors necessary for an override pursuant to Public Resources Code section 30515 are clearly not present in proposed Public Works Plan Amendment #7, which (if approved) would modify the Publics Work Plan to allow a large, high density market-rate rental apartment complex in the Channel Islands Harbor Marina Village area (Fisherman's Wharf).

[6] See also *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 494.

[7] To the extent, however, that densities or height limits greater than allowed in the LCP are desired, these proposed changes would necessitate an LCP amendment.

In closing, the City looks forward to working collaboratively with the County as it relates to our shared interests for the Channel Islands Harbor and its benefits to the surrounding communities.

Very truly yours,

Greg Nyoff
City Manager

cc: Honorable Mayor and Members of the City Council
Stephen Fischer, City Attorney
Ashley Golden, Development Services Director
Kathleen Mallory, Planning Manager
Kenneth Rozell, Assistant City Attorney
Ventura County Board of Supervisors
Michael Powers, Chief Executive Officer, Ventura County
Leroy Smith, County Counsel, Ventura County
Robert Orellana, Assistant County Counsel, Ventura County