

ORDINANCE NO. 966

AN ORDINANCE OF THE CITY OF SEASIDE REGULATING THE DEVELOPMENT AND OPERATION OF CONDO-HOTELS AND AMENDING TITLE 17 OF THE SEASIDE MUNICIPAL CODE

WHEREAS The City of Seaside finds it necessary and appropriate to regulate the development and construction of Condo-Hotels within the City of Seaside; and

WHEREAS the City currently has no land use development standards for Condo-Hotels and the City intends to propose an addition and amendments to the City of Seaside Municipal Code (Title 17) to establish minimum requirements pertaining to the operation and development of Condo-Hotels in order to protect the City's tourism economy. Specifically, the proposed change will add Section 17.42.065 (Condo-Hotels) to the City of Seaside Municipal Code to establish requirements and an application process for approval of Condo-Hotels. The proposed Ordinance would also amend other Sections in order to maintain consistency with the new Section 17.42.065; and

WHEREAS on August 8, 2007 and September 12, 2007, the Planning Commission conducted duly noticed public hearings regarding the proposed addition and amendments to the Zoning Code, and following the receipt of public testimony, closed the hearings and approved recommendation of a Condo-Hotel Ordinance to the City Council; and

WHEREAS on September 20, 2007, October 18, 2007, and November 1, 2007 the City Council conducted a duly noticed public hearing regarding the proposed addition and amendments to the Zoning Code, and following the receipt of public testimony, closed the hearings and;

WHEREAS this Ordinance has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et. seq.*, hereafter the "Guidelines"). The City Council finds and determines that this Ordinance is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378. Specifically, this Ordinance is adopted in order to regulate and control the use of certain hotel rooms as Condo-Hotel rooms, and is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment. (Guidelines Section 15378(b)(5)). Therefore, because it is not a "project," this Ordinance is not subject to CEQA's requirements. Further, even if this Ordinance were deemed a "project" and therefore subject to CEQA, the Ordinance would be covered by the general rule that CEQA applies only to projects that have the potential to cause a significant effect in the environment. (Guidelines Section 15061(b)(3)). As a regulatory activity that does not effect any change in the physical environment, the Ordinance providing regulations of Condo-Hotels does not have the potential to cause a significant effect on the environment and is therefore exempt under this general rule.

Further, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and thus this Ordinance is not subject to CEQA (Guidelines Section 15061(b)(3)).

THE CITY COUNCIL OF THE CITY OF SEASIDE HEREBY ORDAINS AS FOLLOWS:

Section 1. Chapter 17.42 (Standards for Specific Land Uses) of Title 17 of the Seaside Municipal Code is hereby amended to add a new Section 17.42.065 to read as follows:

“17.42.065 CONDO-HOTELS

- A. Applicability.** Condo-Hotels shall comply with the standards of this Section, and should be allowed as a use only in those zones where listed in Article 2 (Zones, Allowable Land Uses and Zoning Standards).

- B. Condo-Hotels Regulations.** No person or entity shall construct or operate a Condo-Hotel within the City without first applying for and obtaining all necessary entitlements pursuant to this Section. Each application for a Condo-Hotel shall be subject to the review and recommendation of the City’s Planning Commission (and the approval of the City Council). If the Planning Commission recommends granting approval of the application, the City Council shall set notice of a public hearing to be held within forty five (45) days thereafter or such later date as may be set by the City Council. Except as specifically provided for in this Section, all other provisions of the Seaside Municipal Code, including, without limitation, Title 17 (Zoning Code) shall be applicable to the construction and maintenance of Condo-Hotels; provided however, that the more specific provisions contained in this Section shall prevail over any general provisions set forth in the Seaside Municipal Code.

- C. Application for a Condo-Hotel.** An application for a Condo-Hotel shall include the following requirements, in addition to any other information that the City may determine is necessary in order to review the application. No Condo-Hotel application shall be deemed complete without submission of all of the following:
 - 1. Consent of Property Owner.** If the applicant and the property owner are separate entities, the applicant shall submit, with each Condo-Hotel application, documentation demonstrating that the property owner has consented to the construction and maintenance of a Condo-Hotel on the property.

 - 2. Detailed Description of the Condo-Hotel.** The applicant shall submit, with each Condo-Hotel application, a detailed description of the proposed Condo-Hotel. The detailed description shall include the following: (a) the proposed number of Condo-Hotel Units and total square footage devoted to the Condo-Hotel Units; (b) the percentage of Condo-Hotels Units compared with the total number of hotel rooms in the proposed Condo-

Hotel; (c) site and architectural plans showing the location of the Condo-Hotel Units; (d) the exchange privileges (if any) of the Condo-Hotel Unit Owners; (e) the proposed rental management requirements; and (f) the location and quantity of parking for both the Condo-Hotel Units and the hotel rooms.

3. **A Detailed Site Plan.** The applicant shall submit, with each Condo-Hotel application, a detailed site plan. A detailed site plan shall include the following: (a) a legal description of the subject property; (b) the property owner's name and address; (c) easements, liens and encumbrances; (d) proof of title in the applicant (or authority of the applicant to apply on behalf of the property owner); (e) location of boundary property lines; (f) location, width, and names of all existing or platted streets or other public ways within or adjacent to the project; (g) any existing permanent buildings; (h) all existing uses contiguous to the property within a distance of three hundred feet from the boundary of the parcel or lot on which the Condo-Hotel is proposed to be located; and (i) information regarding Unit configuration; and (j) preliminary landscape design and plans for all buildings and structures proposed on site to meet the exterior and interior standards required for the Condo-Hotel and other site information as may be deemed necessary by the City.
4. **A Subdivision Map.** The applicant shall submit, with each Condo-Hotel application, an application for a tentative or vesting tentative map pursuant to Chapter 16 of the Seaside Municipal Code.
5. **A Use Permit.** The applicant shall submit, with each Condo-Hotel application, an application for a use permit pursuant to Section 17.52.070.
6. **Conditions, Covenants and Restrictions (CC&Rs).** The applicant shall submit, with each Condo-Hotel application, the proposed CC&Rs for the Condo-Hotel containing the provisions required by 17.42.065(F).
7. **Final Approval of Applications, Agreements or Other Documentation.** If the property is subject to a Disposition and Development Agreement or other agreement, the applicant shall, with each Condo-Hotel application, simultaneously submit any applications, agreements or other documentation that is pertinent to the property that is required by the City or any Agencies. The Condo-Hotel application will not be approved by the City without final approval of any application, agreement or other documentation that is pertinent to the property, including Disposition and Development Agreements, that are required by the City or any Agencies.

- D. **Development Standards.** The Condo-Hotel shall comply with all the development, use, area, landscaping, parking, other applicable standards of the zone in which the project is located, and any previously imposed entitlement conditions otherwise applicable to the Condo-Hotel.

E. Operational Restrictions. The following operational restrictions shall be applied to all Condo-Hotels:

1. **Durational Limitation.** Condo-Hotel Unit Owners are prohibited from remaining in any Unit for more than sixty (60) days per year, and the Condo-Hotel Unit Owner is prohibited from remaining in the Unit for more than twenty-nine (29) consecutive days. At any and all times when a Condo-Hotel Unit Owner has not reserved its Condo-Hotel Unit for Personal Use, the Condo-Hotel Unit shall be made available to hotel guests as a rental unit.
2. **Condo-Hotel Association.** A Condo-Hotel Association shall be established to govern, maintain and operate the Condo-Hotel Units and its services. Each Condo-Hotel Unit Owner shall become a member of a Condo-Hotel Association, comprised of Condo-Hotel Unit Owners within the same Condo-Hotel. The CC&Rs shall require the Condo-Hotel Association to hire a Condo-Hotel Management Entity in order to maintain and operate all portions of the Condo-Hotel in a manner consistent with the First Class Hotel Standard, as that term is defined by the Seaside Municipal Code.
3. **Condo-Hotel Management Entity.** The Condo-Hotel Association shall enter into a contract with a Condo-Hotel Management Entity to manage the Condo-Hotel. The Condo-Hotel Management Entity shall have at least five (5) consecutive years of experience in the hotel management business in hotels that meet the First Class Hotel standard and have no fewer than ten (10) other properties (each in separate cities, or distinct and separate projects in any given city, nationally or internationally) under current management. Upon request by the applicant, the experience standards for the Condo-Hotel Management Entity may be modified with approval of the City Manager, or his or her designee, upon a finding that the Condo-Hotel Management Entity has substitute experience meeting the interests served by the standards. The Condo-Hotel Management Entity shall ensure that all portions of the Condo-Hotel are maintained and operated in accordance with the First Class Hotel standard, including, but not limited to, the lobby and hallways, front desk, concierge services, landscape and open space areas, parking, banquet/ballroom facilities, conference areas, restaurants, retail areas, recreational and spa facilities, and other amenities and improvements, unless other City or Agency approvals, including Development Agreements or Disposition and Development Agreements, require a different standard. Any changes in the Condo-Hotel Management Entity shall require review and approval by the City Manager, or his or her designee, for compliance with the provisions of this Section of the Seaside Municipal Code.

4. **Transient Occupancy Tax.** Every Condo-Hotel shall be subject to the City's transient occupancy tax (Chapter 3.24 of the Seaside Municipal Code), as may be amended from time to time. All transient occupancy taxes in effect and as amended from time to time shall be collected by the Condo-Hotel Management Entity and provided to the City.
5. **Insurance.** All Unit Owners shall obtain third party insurance for the contents of the Units and shall join in insurance liability for the structural elements and common areas incident to such Unit, if any. The Condo-Hotel Management Entity shall ensure that this requirement is met by all Condo-Hotel Unit Owners.
6. **Furniture, Fixtures, Appliance, Décor and Equipment.** All Condo-Hotel Units shall be completely standardized with furniture, fixtures, appliances and décor to meet the standards established by the Condo-Hotel Management Entity. It shall be the responsibility of the Condo-Hotel Management Entity to undertake the maintenance of all Condo-Hotel Units, including the maintenance and repair of furniture, fixtures, appliances, décor and equipment during operation of the Unit as a rented hotel room. Periodic refurbishment or replacement of furniture, fixtures, appliances, décor and equipment, when worn, shall be the responsibility of the Condo-Hotel Management Entity. Moreover, a furniture, fixtures, appliances, décor and equipment reserve account shall be established by the Condo-Hotel Management Entity in order to maintain, and, when necessary, replace the furniture, fixtures, appliances, décor and equipment within the Condo-Hotel Units in order to maintain uniformity and its First Class Hotel standard. In addition to the foregoing account, a Condo-Hotel reserve fund shall be established and maintained pursuant to California general law and Department of Real Estate regulations. The operations agreement or other agreement between the Condo-Hotel Association and the Hotel Management Entity shall specify the party or parties obligated to pay for the maintenance of the Units or portions of the maintenance. Condo-Hotel Units may contain limited kitchen areas, lockable storage closets and/or cabinets and washer/dryer equipment or connections, subject to City approval, determined on a case-by-case basis, during the application process.
7. **Utilities.** All Condo-Hotel Units shall be served by centrally metered utility services, including, but not limited to, telephone, cable services and internet services.
8. **Amenities.** Each Condo-Hotel shall be designed to provide a sufficient level of recreational facilities and other amenities to serve all occupants, with the extent of the facilities provided proportional to the size and number of both Condo-Hotel Units and rental units at the Condo-Hotel. A front desk and lobby area shall also be maintained and made accessible to Condo-Hotel Unit Owners, hotel guests and members of the public.

9. **Resident Manager's Unit.** No more than one (1) Condo-Hotel Unit in each Condo-Hotel may be used for the occupancy by a person or family serving as the on-site manager of the Condo-Hotel. Such Unit must be owned by the declarant under the CC&Rs, the Condo-Hotel Association, or the Condo-Hotel Management Entity, and shall not be used for homestead purposes. This Unit shall be exempt from time limits described in 17.42.065E(1).
10. **Signage.** All Condo-Hotels shall have sufficient signage viewable by the general public designating the Condo-Hotel as a hotel. Signage shall conform to the City's sign regulations in Chapter 17.38.

F. **Conditions, Covenants and Restrictions ("CC&Rs").** The applicant is required to provide the City with a copy of the proposed Condo-Hotel's CC&Rs before an application will be deemed complete. The proposed CC&Rs must be approved by the City Manager, or his or her designee, prior to final approval of the Condo-Hotel application, and thereafter recorded against the subject property in the County Recorder's Office. All CC&Rs shall include the following:

1. **Rental Units.** The CC&Rs shall stipulate that one hundred percent (100%) of the Condo-Hotel Units in the Condo-Hotel must be made available as rental units for hotel guests of the Condo-Hotel when not being used by the Condo-Hotel Unit Owner for the Unit Owner's Personal Use, unless another arrangement is agreed to by the City. In the event that any Condo-Hotel Unit Owner's Personal Use exceeds the time period contained in Chapter 3.24 of the Seaside Municipal Code (Transient Occupancy Tax Ordinance), as such section exists or may be amended from time to time, the Owner shall be subject to the regulations provided for in Chapter 3.24, or other fees and penalties as may be established by the City.
2. **Reservation.** The CC&Rs shall provide that the Condo-Hotel Management Entity will maintain a central reservation system for rental of all Condo-Hotel Units and that all Condo-Hotel Unit Owners are required to use the central reservation system for their personal use and the use of their guests, provided, however, the Condo-Hotel Unit Owner may use a third party agent to procure a renter.
3. **Operation.** The CC&Rs shall provide assurances that the Condo-Hotel shall be operated, on a seven (7) day a week basis, with the following services: room service, housekeeping, food and beverage service, concierge, parking, bellman services and any other services that are customarily provided by a hotel.

4. **Enforcement.** The CC&Rs shall give the Condo-Hotel Association and the Condo-Hotel Management Entity the right, power and obligation to enforce the First Class Hotel standard including, without limitation, the right to enter into any portion of the Condo-Hotel, and any individual Condo-Hotel Units upon sale or assignment of the Unit, and to cure any failure to meet the First Class Hotel standard. The CC&Rs shall also provide for the enforcement by the City, in its discretion, of this Section.
 5. **Management Services.** The CC&Rs shall give the Condo-Hotel Management Entity the exclusive right to provide to the Condo-Hotel, the property, and to Condo-Hotel Unit Owners, and all guests, any or all “on property” services commonly provided at First Class Hotels, restaurants and resorts, including without limitation, reservation programs, maid and housekeeping services, maintenance, laundry and dry cleaning, room service, catering and other food and beverage services, massage, personal training and other spa services. The use of such services shall be conditioned upon payment of such charges or fees as may be imposed on Condo-Hotel Unit Owners by the Condo-Hotel Management Entity. Access and use of any and all shared facilities within the Condo-Hotel shall be restricted and controlled by either the Condo-Hotel Management Entity or the Condo-Hotel Association, as provided in the operations agreement between the two entities. The Condo-Hotel Management Entity shall monitor and document the use of each and all of the Condo-Hotel Units.
 6. **Amendment of CC&Rs.** The CC&Rs shall provide that they shall not be amended without the prior written approval of the City Manager, or his or her designee. In the review and approval of the CC&Rs, the City Manager, or his or her designee, shall limit his or her review to issues involving compliance with the provisions of this Section of the Seaside Municipal Code and all land use entitlements, conditions and permits issued for the Condo-Hotel.
 7. **Requirements of Section 17.42.065.** The CC&Rs shall contain any other requirements set out by this or other Sections that are deemed necessary by the City Manager, or his or her designee, to ensure compliance with the provisions of this Section of the Seaside Municipal Code and all land use entitlements, conditions and permits issued for the Condo-Hotel.
- G. Inspection.** Upon the request of the City, each Unit Owner of the Condo-Hotel Unit, the Condo-Hotel Association, and the Condo-Hotel Management Entity shall promptly provide the City and its employees and agents with access to all rental records, books, tax receipts and any other documentation necessary to verify conformance with all of the standards, conditions and requirements set forth in this Section, including, but not limited to, collection and payment of the transient occupancy tax. Each Unit Owner of the Condo-Hotel Unit, the Condo-Hotel Association and the Condo-Hotel Management Entity shall allow City

reasonable access to individual Condo-Hotel Units, as the City finds necessary in order to enforce the Condo-Hotel's compliance with this Section and, including, but not limited to, any other applicable City laws, regulations, and the CC&Rs.

- H. **Conversions.** Existing hotels may be converted to Condo-Hotels, subject to any limitations that may be imposed during the application process.
- I. **Compliance with the Law.** It shall be the responsibility of the applicant for a Condo-Hotel or the owner of a Condo-Hotel Unit, the Condo-Hotel Association, and the Condo-Hotel Management Entity, to comply with the requirements of this Section, as well as any other applicable federal, state, and local laws and regulations.”

Section 2. Section 17.70.020 of Chapter 17.70 (Definitions) of Title 17 of the Seaside Municipal Code is hereby amended to include the following definitions in alphabetical order:

- A. **Condo-Hotel.** A Condo-Hotel is defined as a commercial condominium project with Condo-Hotel Units, or Units within a Hotel, which Units are individually owned, and, except as permitted in Section 17.42.065(E)(9), one hundred percent (100%) of which are made available for transient use occupancy as short-term vacation or tourist rentals when not being used by the Unit Owner, as well as convention uses, group sales, special events and other uses typically associated with resort hotels. A Condo-Hotel shall not include timeshares in or interval or fractional ownership of a Condo-Hotel Unit.
- B. **Condo-Hotel Management Entity.** The “Condo-Hotel Management Entity” shall mean the owner or operator of the hotel component of a Condo-Hotel.
- C. **Condo-Hotel Unit, or Unit.** Condo-Hotel Unit, or Unit, shall refer to the individual rooms within a Condo-Hotel offered by developers for sale.
- D. **Condo-Hotel Unit Owner.** The holder or record title owner for one or more Condo-Hotel Units.
- E. **First Class Hotel Standard.** A “First Class Hotel” shall mean a Condo-Hotel where either of the following apply: (1) the Condo-Hotel has or will meet the requirements of a brand that is included within the “Upscale Segment” or “Luxury Segment” as defined by J.D. Power and Associates as of the effective date of this Ordinance; or (2) the Condo-Hotel satisfies or will satisfy the published requirements sufficient for a ranking of no less than Three Stars in the most recent annual awards list published by AAA or Mobil Travel Guides as of the effective date of this Ordinance. The City may also adopt alternative standards to be applied to any or all proposed Condo-Hotels instead of (1) and (2), or in addition to these standards. Changes in the J.D. Power and Associates, AAA or Mobil Travel Guide criteria and listings may be adopted on an annual basis as amendments to this Ordinance or by Resolution of the City Council or as approved pursuant to other agreements.

- F. **Personal Use.** Personal Use shall mean the use or occupancy of a Condo-Hotel Unit by a Unit Owner or any guest of the Owner for whom the Unit Owner may, and does, reserve its Condo-Hotel Unit in accordance with any procedures set forth in the CC&R's. Use of a Unit arising out of an exchange program with an affiliated hotel property shall not be subject to transient occupancy tax in accordance with Seaside Municipal Code Chapter 3.24 if such use is applied toward and counted against the 60 days of Personal Use by the Unit Owner. Any use of a Unit arising out of an exchange program with a hotel property that is not affiliated with the Condo-Hotel Management Entity, or any use arising out of an exchange program with an affiliated hotel property once the 60 days of Personal Use by the Unit Owner has been exhausted, shall be subject to transient occupancy tax in accordance with Seaside Municipal Code Chapter 3.24 based on the equivalent daily rental value for that room exchanged free of charge or otherwise reduced in the program. No provision herein shall be deemed to permit a timeshare, fractional or other vacation ownership unit in the Condo-Hotel Units."

Section 3. Paragraph (D) of Section 17.24.020 of Chapter 17.24 (Commercial Zones) of Title 17 of the Seaside Municipal Code is hereby amended to read:

- A. **CRG (Regional Commercial) zone.** The CRG zone is applied to areas of the City that are appropriate for large scale commercial development with retail, entertainment, and/or service uses, business parks or a scale and function to serve a regional market. Allowable land uses may include hotels, *Condo-Hotels*, "big box" retail, movie theaters., and business parks. The maximum floor area ration (FAR) is 1.0; except that hotels *and Condo-Hotels* are allowed a maximum FAR of 3.0. the CRG zone implements and is consistent with the Regional Commercial (RCC) land use designation of the General Plan."

Section 4. Paragraph (G) of Section 17.24.070 of Chapter 17.24 (Commercial Zones) of Title 17 of the Seaside Municipal Code is hereby amended to read:

- A. **Hotels, *Condo-Hotels* and motel standards.** Hotels, *Condo-Hotels* and motels within the Coastal Zone shall apply with the following requirements.
1. **Density of hotels, *Condo-Hotels*, and motels.** The maximum unit density for a hotel, *Condo-Hotel*, or motel shall not exceed 35 units per acre. For the purposes of this Chapter, a "unit" means individual living quarters or sleeping places to accommodate transient travelers. A density in excess of 35 units per acre to a maximum density of 75 units per acre may be authorized through Use Permit approval, provided the site plan and activities related to the use are so designated as to adequately and safely provide pedestrian access, vehicular access, parking, loading/unloading, utilities and other public and private services and spaces that ensure an innovative, unique and feasible design for the overall plan.

2. **Height limit for hotels, *Condo-Hotels* and motels.** The height limit for hotels, *Condo-Hotels* and motels within the Coastal Zone shall be the lesser of six stories or 72 feet. Additional height may be authorized by the review authority up to a maximum of 15 stories or 165 feet, whichever is less, in compliance with the following standards:
 - a. The structures permitted for development shall be designed and located to minimize view obstructions and enhance and enable desirable views, maximizing the overall aesthetic and visual character of the area; and
 - b. The height of the structures shall be measured from the average finished grade of the development site; provided, that the grade shall not exceed the highest top-of-curb height abutting the development site. If the finished grade exceeds the highest top-of-curb height abutting the development site, then the height of the structure shall be measured from the highest top-of-curb height abutting the development site. Mechanical equipment, vent pipes, elevator and stairwell penthouses, and other associated roof top equipment shall not exceed the maximum height requirements.
3. **Landscaping.** Landscaping and screening shall be provided in compliance with 17.30.040 (Landscaping Standards), provided that a minimum of 15 percent of the development site shall be landscaped. *The Landscaping Standards outlined at 17.30.040 shall also be applied to Condo-Hotels.*

Section 5. Paragraph (A) of Section 17.29.060 of Chapter 17.29 of Title 17 of the Seaside Municipal Code is hereby amended to read:

“(A) The purpose of this chapter is to provide consistent development guidelines for lands designated visitor serving in the city of Seaside general plan, Fort Ord lands, land use element, to promote development of hotel, *condo-hotel* and resort uses, along with associated commercial recreation uses such as golf courses and recreation-oriented residential uses.”

Section 6. Paragraph (D) of Section 17.29.060 of Chapter 17.29 of Title 17 of the Seaside Municipal Code is hereby amended to read:

“Principal permitted uses.

1. Hotels;
2. *Condo-Hotels*;
3. Conference centers;
4. Restaurants;
5. Golf courses.”

Section 7. Paragraph (H) of Section 17.24.030 of Chapter 17.29 of Title 17 of the Seaside Municipal Code is hereby amended to read:

“The following regulations shall control development in the V-FO district:

1. Where not in conflict with this Chapter, the property development standards listed in this subparagraph (a) for commercial and transient occupancy uses development in the V-FO district shall be (i) consistent with the standards described in Section 17.24.050 (Visitor Serving Commercial District) of the Zoning Code; or (ii) as determined by the City pursuant to its approval of a Planned Unit Development under Chapter 17.40 of the Zoning Code: (1) minimum lot area, (2) minimum lot width, (3) minimum front and rear yard setbacks, (4) minimum side yard setbacks, (5) maximum lot coverage, (6) off-street parking, (7) signs, (8) landscaping and screening, and (9) minimum floor area.
2. Total number of hotel, *condo-hotel* rooms and timeshare units permitted within Polygon 22 of the Fort Ord Reuse Plan shall not exceed 800.
3. Hotel *and condo-hotel* rooms shall be distributed in several buildings to reduce the scale of the project and the visual intrusion into the State Highway 1 Scenic Corridor.
4. Development within the district shall provide substantial landscaping, incorporating regional plant material, to minimize the visual impact of development on Highway 1 scenic views.
5. All development within the district which is located within 500 feet of the Highway 1 right-of-way or the edge of the Highway 1 viewshed shall conform to the regulations of the Highway 1 Special Overlay Design District, Chapter 17.787 of this title.
6. Building height shall not exceed the mature landscape height of the trees in the golf course area.
7. Structures shall be integrated into the existing topography and landscaped setting so as to minimize grading and tree removal.
8. Where not in conflict with this Chapter, the property development standards for residential uses shall be those applicable in the R-1-FO District, Chapter 17.79 of this title.
9. The average overall density for residential uses, exclusive of golf course and commercial areas, shall not exceed ten dwelling units per acre.”

Section 8. Table 2-4 of Section 17.24.030 of Chapter 17.24 (Commercial Zones) of Title 17 of the Seaside Municipal Code is hereby amended to read as shown in Attachment 1.

Section 9. Table 2-7 of Section 17.26.030 of Chapter 17.26 (Special Purpose Zones) of Title 17 of the Seaside Municipal Code is hereby amended to read as shown in Attachment 2.

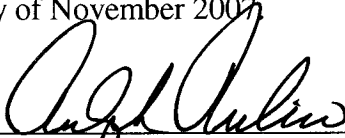
Section 10. SEVERABILITY. The provisions of this Ordinance shall be severable, and if any clause, sentence, paragraph, subdivision, section, or part of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 11. LEGAL CONSTRUCTION. The provisions of this Ordinance shall be construed as necessary to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety and welfare.

Section 12. PUBLICATION. The City Clerk is directed to publish this Ordinance in the manner and in the time required by law.

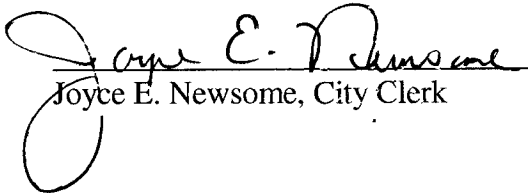
INTRODUCED on October 18, 2007

PASSED AND ADOPTED on 1st day of November 2007




Ralph Rubio, Mayor
City of Seaside

ATTEST:



Joyce E. Newsome, City Clerk

APPROVED AS TO FORM:



Don Freeman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)ss.
CITY OF SEASIDE)

CERTIFICATION FOR ORDINANCE NO. 966

I, Joyce E. Newsome, City Clerk of the City of Seaside, **DO HEREBY** certify that the foregoing Ordinance No. 966 was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 18th day of October 2007, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 1st day of November 2007, by the following vote, to wit:

AYES: COUNCIL MEMBERS: Alexander, Jordan, Mancini, Bloomer
NOES: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: Rubio
ABSTAIN: COUNCIL MEMBERS: None

ATTACHMENT 1
CITY OF SEASIDE MUNICIPAL CODE – TITLE 17, ZONING ORDINANCE

Commercial Zones

17.24.030

TABLE 2-4 Allowed Land Uses and Permit Requirements for Commercial Zones	P	Permitted Use, Zoning Clearance Required					Specific Use Regulations
	MUP	Minor Use Permit Required (see Section 17.52.070)					
	UP	Use Permit required (see Section 17.52.070)					
	S	See cited Section for permit requirement					
	—	Use not allowed					
LAND USE (1)	PERMIT REQUIRED BY ZONE						
	CD	CMX	CC	CRG	CA	CH	

SERVICES – GENERAL

Catering service	—	—	MUP	MUP	—	P
Child day care center	UP(2)	UP(2)(6)	UP	UP	—	—
Construction Contractor Base	—	—	—	—	—	P
Drive-through service	—	—	UP(4)	UP(4)	—	—
Kennel, animal boarding	—	—	—	—	—	UP
Lodging – Hotel, <i>Condo-Hotel</i> or motel	—	—	UP	UP	—	—
Maintenance facility	—	—	—	—	—	UP
Maintenance service – Client site services	—	—	—	—	—	P
Mortuary, funeral home	—	—	UP	—	—	—
Personal services	P(5)	P(5)	P(5)	P(5)	—	—
Personal services – Restricted	—	—	—	—	—	UP
Public safety facility	UP	UP	UP	UP	UP	UP
Repair service – Equipment, large appliances, etc.	—	—	—	—	—	P
Social service organization	—	UP	UP	—	—	—
Vehicle services – Major repair/body work	—	—	—	—	UP	P
Vehicle services – Minor maintenance/repair	—	—	—	—	UP	P

TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE

Ambulance, taxi, or limousine dispatch facility	—	—	—	—	—	UP
Broadcasting studio	MUP(2)	MUP(2)	MUP	—	—	MUP
Parking facility, public or commercial	UP	UP	UP	UP	UP	UP
Telecommunications facility	S	S	S	S	S	S
Transit station or terminal	UP	UP	—	UP	—	UP
Utility facility	UP	UP	UP	UP	UP	UP
Vehicle storage	—	—	—	—	—	UP

Key to Zoning District Symbols

CD	Downtown Commercial	CRG	Regional Commercial
CMX	Commercial Mixed Use	CA	Automotive Regional Commercial
CC	Community Commercial	CH	Heavy Commercial

Notes:

- (1) See Article 7 for land use definitions.
- (2) Use allowed only on second or upper floors; Office – business/service may be allowed on ground floor with Minor Use Permit.
- (3) Use allowed only on a site north of Light Fighter Drive.
- (4) Use limited to the establishments existing in the City as of December 4, 2006.
- (5) Beauty and nail salons limited to the existing as of December 4, 2006.
- (6) Use may be approved on street-fronting ground floor in a CMX zone on a local street.

Attachment 2
CITY OF SEASIDE MUNICIPAL CODE – TITLE 17, ZONING ORDINANCE

Special Purpose Zones

17.26.030

TABLE 2-7 Allowed Land Uses and Permit Requirements for Special Purpose Zones	P	Permitted Use, Zoning Clearance Required				
	MUP	Minor Use Permit Required (see Section 17.52.070)				
	UP	Use Permit required (see Section 17.52.070)				
	S	See cited Section for permit requirement				
	—	Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY ZONE					Specific Use Regulations
	OSR (2)		OSC	PI	M	
	Laguna	Other				
AGRICULTURAL, RESOURCE & OPEN SPACE USES						
Ecological restoration activities	—	—	P	P	P	
Habitat management	—	—	P	P	P	
Nature preserve	P	—	P	P	P	
RECREATION, EDUCATION & PUBLIC ASSEMBLY						
Boating and related facilities	UP	—	—	—	—	
Conference/convention facility	—	UP	—	—	—	
Golf course	—	UP	—	—	—	
Hiking/riding trail	P	P	P	—	—	
Interpretive center or environmental education activities	MUP	—	P	—	—	
Park, playground	P	P	—	P	P	
Public amphitheater	UP	UP	—	—	P	
RESIDENTIAL						
Military housing	—	—	—	—	P	
SERVICES						
Office – Government	—	—	—	P	P	
Lodging – Hotel, <i>Condo-Hotel</i>	—	UP	—	—	—	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE						
Maintenance facility	—	—	—	P	P	
Utility facility	UP	UP	UP	UP	UP	
Vehicle storage	—	—	—	—	P	

Key to Zoning District Symbols

OSR	Open Space – Recreation	PI	Public/Institutional
OSC	Open Space – Conservation	M	Military

Notes:

- (1) See Article 7 for land use definitions.
- (2) The OSR zone includes two areas: Laguna Grande Lake and Roberts Lake area ("Laguna"); and all other sites designated OSR.

**CITY OF SEASIDE
STAFF REPORT**

TO: Honorable Mayor and City Council
FROM: Ray Corpuz, City Manager
BY: Diana Ingersoll, Deputy City Manager-Resource Management Services
Rick Medina, Senior Planner
DATE: November 1, 2007

SUBJECT: ORDINANCE NO. 966 – AN ORDINANCE ADOPTING AMENDMENTS TO THE SEASIDE ZONING ORDINANCE REGULATING THE DEVELOPMENT AND OPERATION OF CONDO-HOTELS, AND AMENDING TITLE 17 OF THE SEASIDE MUNICIPAL CODE [Second Reading – Roll Call Vote]

PURPOSE

This item has been scheduled to conduct the second reading for the adoption of a Zoning Ordinance Update, amending specified Chapters of the Seaside Municipal Code Title 17 (Zoning Code) regulating the development and operation of Condo-Hotels, amending additional Sections of the Seaside Municipal Code to include Condo-Hotels, and adding definitions related to Condo-Hotels.

RECOMMENDATION

It is recommended that the City Council adopt Ordinance No. 966 attached as Exhibit “A”.

BACKGROUND

A Condo-Hotel is a commercial condominium project with Condo-Hotel Units or Units within a Condo-Hotel, which Units are individually owned and one hundred percent (100%) of which are made available for transient occupancy use as short-term vacation or tourist rentals when not being used by the Unit Owner.

The Condo-Hotel concept has re-emerged as a major component of the U.S. hotel industry, particularly for resort projects. This is primarily due to two principal factors. First, after the downturn in the stock market in the early part of this decade, many high net worth investors have turned to alternative investments such as hedge funds and real estate. Within the real estate sector, Condo-Hotels have been viewed positively as they can be used by the owner in addition to being “just” an investment. Secondly, the cost to develop hotels has increased significantly over the past three to five years, particularly for resort properties. As a result of this increase in construction costs, the income generated by many projects does not provide a sufficient return on investment to attract traditional equity capital. As a point of reference, most institutional investors require an Internal Rate of Return (“IRR”) on their equity investment in a hotel project of approximately 20 percent.

However, individual investors in Condo-Hotels typically require a much lower return on their investment (less than five percent) as they view their investment as partially a life style choice. As a result of this “lower cost of capital”; a Condo-Hotel can often be made financially viable when a traditional hotel at the same location would not be feasible.

The Seaside Municipal Code does not currently provide standards for Condo-Hotels. The proposed Condo-Hotel ordinance, if adopted, would apply to any application for a Condo-Hotel. The additions to Title 17 of the Seaside Municipal Code for Condo-Hotels were presented to the Planning Commission on August 8, 2007 and September 12, 2007 whereby the Planning Commission adopted Resolution No. 07-20 recommending that the City Council approve the proposed text amendments to the Zoning Code as proposed.

The City Council opened the public hearing on this Ordinance at its meeting on September 20, 2007. Following receipt of a staff report, a question and answer period, and public testimony, the public hearing, the Ordinance was continued to the City Council meeting of October 18, 2007. On October 18, 2007, the City Council heard additional public testimony, closed the public hearing, and declared their intent to accept the proposed Text Amendments to the Zoning Ordinance as introduced at the first reading and directed staff to return with the Ordinance for adoption under a second reading.

FISCAL IMPACT

Enactment of the proposed amendments could have a fiscal impact on the City by allowing some existing and/or prospective hotels to be partially Condo-Hotels and thereby decreasing the number of days a hotel room would be available for use by hotel guests and the amount of transient occupancy tax generated to the City by the hotel. This decreased revenue could be partially offset by increases in property value, property tax and tax increment revenues in redevelopment project areas. Based on financial revenue/loss projections prepared by City staff and evaluated by the City Council at its October 18, 2007 City Council Meeting, it was determined that the enactment of the proposed Ordinance to allow new condo hotels and/or the conversion of existing hotel units into condo hotel units would not have a significant fiscal impact on the City and that it could have the effect of encouraging the development of more hotel rooms in the City.

ATTACHMENTS

Exhibit “A”: Ordinance No. 966 adopting Comprehensive Zoning Ordinance Update and Zoning Map to Title 17 of the Seaside Municipal Code.

Reviewed for Submission to the
City Council by:

Ray Corpuz, City Manager