ITEM NO. 21

MEMORANDUM

DATE: June 10, 2009

TO: Honorable Mayor and Councilmembers

FROM: Patricia Allison, City Manager's Office

SUBJECT: **REQUEST BY COUNCILMEMBER SANCHEZ TO ADOPT AN AMENDMENT TO ARTICLE 4(A), SECTION 450H REGARDING SMALL-SCALE EATING AND DRINKING ESTABLISHMENTS WITH LIVE ENTERTAINMENT IN THE REDEVELOPMENT PROJECT AREA: "ESTABLISHMENTS WITH 5 OR FEWER PERFORMERS, 75 PERCENT FOOD SALES COMPARED TO ALCOHOL SALES, NO DANCE FLOOR AND WITH ENTERTAINMENT PROVIDED ONLY DURING TYPICAL LUNCH AND DINNER HOURS (11 A.M. TO 11 P.M.)," CONSISTENT WITH SECTION 450.J2(A) OF THE ZONING ORDINANCE; AND DIRECTION TO STAFF**

ITEM NO. 10

STAFF REPORT

CITY OF OCEANSIDE

DATE: May 17, 2006

TO: Honorable Mayor and City Councilmembers

FROM: Community Development Department/Planning Division

SUBJECT: **ZONE AMENDMENT (ZA-1-06) AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA-1-06) TO THE ZONING ORDINANCE MODIFYING SECTION 450.J.2(A) REGARDING THE LIMITATION ON LIVE ENTERTAINMENT AT EATING AND DRINKING ESTABLISHMENTS TO ALLOW MORE THAN 3 PERFORMERS IF THE ESTABLISHMENT HAS A GREATER PERCENTAGE OF FOOD SERVICE COMPARED TO ALCOHOL SERVICE. THE PROVISION REQUIRING NO DANCE FLOOR AND ALLOWING ENTERTAINMENT ONLY DURING LUNCH AND DINNER HOURS (11:00 A.M. THROUGH 11:00 P.M.) WILL NOT CHANGE – EATING AND DRINKING ESTABLISHMENTS LIVE ENTERTAINMENT – APPLICANT: CITY OF OCEANSIDE**

SYNOPSIS

At the March 15, 2006 meeting, the City Council directed staff to process a Zone Amendment and Local Coastal Program Amendment modifying Section 450.J.2(a) regarding limitation on live entertainment at eating and drinking establishments to allow up to 5 performers if the establishment has a minimum 75 percent food service compared to alcohol service and no dance floor. This provision would be in effect only during lunch and dinner hours (11:00 a.m. through 11:00 p.m.). The existing regulation allows only 3 performers at any one time. Azafran Restaurant on South Coast Highway provided testimony at the City Council relating to the need for more than 3 performers for certain types of music.

ANALYSIS

The regulation of eating and drinking establishments with live entertainment is important for the protection of patrons and surrounding neighbors. With strict regulation, the allowance of up to 5 performers at a predominantly eating establishment with no dance floor would not result in significant disturbance to patrons or neighbors. The Police Department has reviewed this request and concurs with modifications to this section of the code.

Staff believes that the modification to allow up to five performers is reasonable. Numerous types of music require up to 5-person bands to properly create the desired musical genre. The additional regulations are designed to ensure orderliness at the eating and drinking establishment.

Attached as Exhibit "A" is the specific text language that staff is recommending.

FISCAL IMPACT

There would be no fiscal impact with this action.

COMMISSION/COMMITTEE REVIEW

The Planning Commission reviewed the proposed Zone Amendment on April 24, 2006. The Commission, on a 7-to-0 vote, recommended approval of the proposed Zone Amendment to the City Council. One member of the public commented on the proposed Zone Amendment voicing concern that the change may increase noise and other effects in the Coastal Zone.

CITY ATTORNEY'S ANALYSIS

Pursuant to Oceanside Zoning Ordinance Article 4506, the City Council is authorized to hold a public hearing on the proposed Zone Amendment and Local Coastal Program Amendment. Consideration of the zoning code amendments should be based on the recommendation of the Planning Commission, the record of the Planning Commission public hearing, public input, and any other evidence introduced at the public hearing on this matter. Consideration of the Local Coastal Program Amendment should be based on evidence introduced at the public hearing including public input.

After conducting the public hearing, the Council shall affirm, modify, or reject the Planning Commission's recommendation with regard to the Zone Amendment. After conducting the public hearing the Council shall approve, modify or reject the proposed Local Coastal Program Amendment. A modification not previously considered by the Commission shall be referred to the Commission for review and report prior to adoption of the proposed Zone Amendment.

ENVIRONMENTAL DETERMINATION

The proposed zone text amendment is exempt from the provision of the California Environmental Quality Act (CEQA).

RECOMMENDATION

Staff is of the opinion that the proposed Zoning text amendment will provide a positive modification to the eating and drinking establishment regulation by allowing up to 5 performers subject to certain conditions. Therefore, staff recommends that the City Council introduce the ordinance approving the Zone Amendment and adopt the resolution approving the Local Coastal Plan Amendment.

PREPARED BY:

Jerry Hittleman
Acting City Planner

SUBMITTED BY:

Steven R. Jepsen
City Manager

JH/vnm

REVIEWED BY:

Michelle Skaggs Lawrence, Assistant to the City Manager
Mike Blessing, Deputy City Manager

ATTACHMENTS/EXHIBITS:

1. Exhibit "A"
2. City Council Ordinance approving the Zone Amendment
3. City Council Resolution approving the Local Coastal Plan Amendment
4. Planning Commission Resolution No. 2006-P23
5. Planning Commission Staff Report dated April 24, 2006
6. Article 4 Use Classifications