

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

**Th 14b**

May 29, 2013

**TO:** Commissioners and Interested Persons

**FROM:** Sherilyn Sarb, Deputy Director  
Teresa Henry, District Manager  
Karl Schwing, Supervisor, Regulation & Planning  
Meg Vaughn, Coastal Program Analyst

**SUBJECT:** Major Amendment Request No. 1-13-B (Citywide Maximum Height) ((LGB-MAJ-1-13-B) to the City of Laguna Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the June 12-14, 2013 meeting in Long Beach).

**SUMMARY OF LCP AMENDMENT REQUEST NO. 1-13-B**

City of Laguna Beach Local Coastal Program (LCP) Amendment Request No. 1-13-B was submitted pursuant to City Council Resolution No. 12.072, and is reflected in Ordinance No. 1572. The proposal would amend the Implementation Plan portion (IP) of the certified LCP by re-inserting into the certified IP Section 25.51.010, a citywide maximum height limit of 36 feet. The proposed amendment will affect Title 25 *Zoning* which is contained in the City's certified Implementation Plan. Only the Implementation Plan portion of the City's certified LCP is affected by the proposed amendment.

**SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending that the Commission, after public hearing:

**Approve** the amendment request to the Implementation Plan **as submitted**.

The proposed amendment, as submitted, is in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motion to accomplish this recommendation is found on page 2.**

**STANDARD OF REVIEW**

The standard of review for the proposed Implementation Plan amendment is conformance with and adequacy to carry out the policies of the certified Land Use Plan.

**SUMMARY OF PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states: *During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal*

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*program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.*

The City of Laguna Beach City Council and Planning Commission held a total of five public hearings on Ordinance No. 1572: City Council 11/13/13, 10/16/12 and 7/17/12; Planning Commission 8/15/12 and 12/12/12. One eighth page public hearing notices were published in the local newspaper, the Laguna Beach Coastline Pilot for each public hearing. No written comments were received during the City's review process. One member of the public spoke in opposition to the maximum height limit at the City Council meeting of 7/17/12, suggesting the ordinance should be more flexible. Four members of the public spoke at the Planning Commission meeting of 8/15/12. Three of the speakers supported re-establishing the 36 foot high citywide height limit; one speaker expressed concerns with the height limit, questioning whether it would be too restrictive depending on specifics of a site. Five people spoke at the Planning Commission meeting of 12/12/12: four in favor of the height limit; one opposed.

**Exhibits:**

1. City Council Resolution No.12-072; Ordinance No. 1572

**ADDITIONAL INFORMATION**

Copies of the staff report are available online at [www.coastal.ca.gov](http://www.coastal.ca.gov) and at the South Coast District office located at 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact Meg Vaughn in the Long Beach office at (562) 590-5071.

**I. STAFF RECOMMENDATION**

Following a public hearing, staff recommends the Commission adopt the following resolution and findings.

**Approval of the IP Amendment as Submitted**

**MOTION:**     *I move that the Commission reject Implementation Plan Amendment No. 1-13-B for the City of Laguna Beach as submitted.*

**STAFF RECOMMENDATION:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Plan as submitted 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 PLAN AS  
SUBMITTED:**

The Commission hereby certifies the Implementation Plan Amendment 1-13-B for the City of Laguna Beach as submitted and adopts the findings set forth below on grounds that the Implementation Plan amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment 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 Plan 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.

**II. FINDINGS**

The following findings support the Commission's approval as submitted of the proposed LCP Implementation Plan amendment. The Commission hereby finds and declares as follows:

**A. Amendment Description**

The City of Laguna Beach has requested to amend the Implementation Plan (IP) portion of the certified Local Coastal Program (LCP). The main document comprising the City's certified Implementation Plan is Title 25 *Zoning*, the City's Zoning Code, although the certified IP also includes other documents. The changes proposed to the City's certified IP pursuant to this amendment request affect only Title 25 and are reflected in City Council Resolution No. 12-072, which requests action on Ordinance 1572, to re-establish a citywide maximum height limit of 36 feet. LCPA 1-13 also includes a second request, submitted via City Council Resolution No. 13.004 requesting action on Ordinance No. 1576 regarding Chapter 25.38, the flood ordinance. The changes proposed via the separate resolutions are not related to each other. Although submitted together as a single submittal, because the two segments of the proposed LCPA were submitted via separate resolutions and are not interdependent, Commission staff is processing them independently, as LCPA 1-13-A (flood ordinance) and LCPA 1-13-B (maximum building heights). This prevents the processing of one impacting the processing of the other. That is, if issues are identified in one part of the LCPA, that would not prevent final certification of the other part of the LCPA. A separate staff report for LCPA 1-13-A will be prepared. The changes proposed under LCPA 1-13-B are described in greater detail below.

The specific language proposed, in its entirety is:

*“Notwithstanding any section to the contrary, no building shall exceed thirty-six (36) feet in height.”*

This language is intended to re-establish a maximum Citywide height limit, however, in zones

with lesser height limits, the lesser height is not affected by the proposed language and any development in those zones would still be required to adhere to the lesser height limit.

**B. Approval of Implementation Plan Amendment No. 1-13-B as Submitted**

The standard of review for amendments to the Implementation Plan of a certified LCP is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP).

**Consistency with Certified Land Use Plan**

The City's certified LUP Land Use Element (LUE) contains the following policies:

**Policy 2.1** *Maintain the diversity and uniqueness of individual neighborhoods. Development standards and design review guidelines shall minimize the scale and bulk of new construction and/or renovation and require development to be compatible with the surrounding residences.*

**Policy 2.10** *Maximize the preservation of coastal and canyon views (consistent with the principle of view equity) from existing properties and minimize blockage of existing public and private views. Best efforts should be made to site new development in locations that minimize adverse impacts on views from public locations (e.g. roads, bluff top trails, visitor-serving facilities, etc.).*

**Policy 3.1** *Promote development that is compatible with the pedestrian-oriented village character of the downtown (e.g. small lot sizes and height limitations).*

**Policy 3.10** *Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography or other significant on-site resources, and protect public views as specified in the Design Guidelines and Landscape and Scenic Highways Resource Document by maintaining the low-profile character of structures. Require use of appropriate landscaping, special architectural treatments, and siting considerations for projects visible from major highways and arterial streets. Best efforts should be made to site new development in locations that minimize adverse impacts on views from public locations (e.g. roads, bluff-top trails, visitor-serving facilities, etc.).*

**Policy 7.3 & 10.2** *Design and site new development to protect natural and environmentally sensitive resources, such as areas of unique scenic quality, public views, and visual compatibilities with surrounding uses and to minimize natural landform alterations.*

The City's certified LUP Land Use Element (LUE) provides numerous policies intended to protect public views and neighborhood character and scale. Building heights play a significant role in the protection of both. Increasing the allowable height can have the effect of interfering with public views. Likewise, building heights that are out of scale with existing

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surrounding development can adversely impact neighborhood character and scale. Thus, it is important to assure that the proposed language regarding re-establishing a citywide maximum building height will not allow future development to adversely impact either public views or existing neighborhood character and scale.

The previously certified Section 25.51 was deleted via LCPA 3-08. At that time, Section 25.51.010 included a second section which stated: “(B) *For development proposed on the seaward side of Pacific Coast Highway, where topography allows, no structures shall be constructed above the finish elevation of Pacific Coast Highway at the right-of-way line.*” Pursuant to LCPA 3-08, this language was deleted from Section 25.51.010 and added to Section 25.08.016 in the definition for “Height, building,” where it remains (see below).

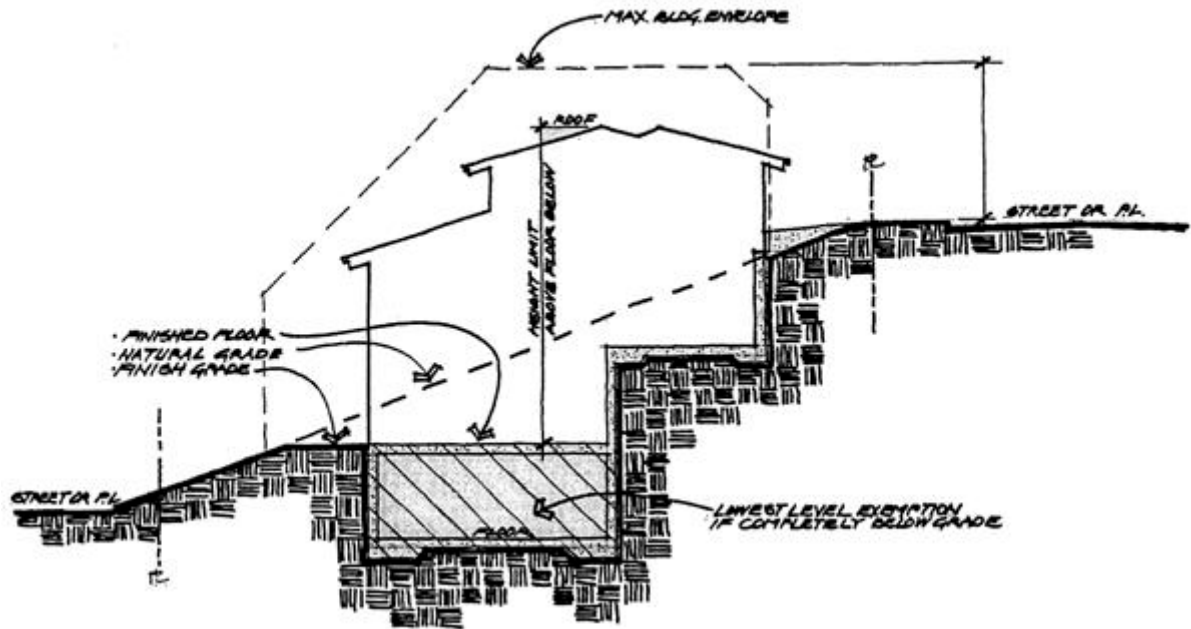
In addition, the language proposed to be added back as Section 25.51.010 was previously a part of the certified IP except that it did not include the “*notwithstanding any section to the contrary*” language. The intent of the new language is to prevent any buildings over 36 feet in height within the City. It is not the intent of the proposed language to override and increase any existing lesser height limits.

The maximum height limit varies with individual zones, but no zone currently allows a height greater than 36 feet. In zones that allow up to the 36 foot maximum height, such as the Commercial Hotel – Motel (CH-M) and Light Industrial (M-1A), the 36 foot limit is inclusive of “*parking garage floor levels with access ramps located outside the structure’s ground floor footprint. This thirty-six-foot height limit shall include roof chimneys, vents, mechanical equipment, mechanical enclosure, elevator shafts, stairways and other such structural elements required for the operation of the building.*”

Moreover, Section 25.08.016 of the certified IP provides the definition for building height and establishes how the building height is measured. Section 25.08.016 states:

“*Height, building*” means one or more of the following:

- (1) *The vertical distance from any point on the finished roof surface to the finished floor surface of the lowest floor measured directly below or to the natural or finished grade, whichever is more restrictive or lower. If the entire lowest floor, measured from the finished floor surface of the floor above, is located completely below natural or finished grade, whichever is more restrictive, then the building height shall be measured to the top of the finished floor of the next level directly above that subterranean level;*



(2) For purposes of measuring the height above the front lot line, an applicant may have the option of measuring by one of the following two options: (a) The vertical distance from the curb, street centerline or property line to the highest point of the roof, whichever is the applicable measurement as required under the specific chapters of this title. The elevation of the curb shall be taken on top of the curb at a point created by the intersection of the curb and a line perpendicular to and intersecting the midpoint of the front lot line. In the event, there is no curb, height shall be measured from the centerline of the street to the top of the roof. The elevation of the centerline of the street shall be taken at a point created by the intersection of the centerline and a line perpendicular to and intersecting the midpoint of the front lot line; or (b) at every point along the curb or street center line.

(3) For purposes of measuring the height above the rear lot line, the elevation of the rear lot line shall be taken at every point along the rear property line.

(4) Exception: Provided they do not exceed a maximum height limit of thirty-six feet, and provided further that no structure in excess of the specified building height shall be used for additional living or floor space, the following items may be permitted to a height in excess of that permitted within a zone when approved by the design review authority pursuant to the procedures and findings of Chapter 25.05 as applicable: structures for the sole purposes of housing elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, skylights, spires, flagpoles, broadcasting and receiving antennae and chimneys.

(5) For development proposed on the seaward side of Pacific Coast Highway, where topography allows, no structures shall be constructed above the finish elevation of Pacific Coast Highway at the right-of-way line."

The proposed amendment will not result in an increase in any existing maximum allowable height limit. In zones with lesser maximum height limits, the proposed language “*notwithstanding any section to the contrary*” does not affect the lesser height limit since a lesser height is not contrary to the proposed maximum limit as it does not contain a height limit above the maximum height of 36 feet. In addition, the proposed amendment makes no change to the method for measuring the height of a building. Thus, the proposed language would not result in adverse impacts on public views or to neighborhood character or scale, as required by the certified LUP policies cited above. Therefore, staff recommends that the Commission find that the proposed amendment is consistent with and adequate to carry out the policies of the certified LUP and approve the proposed Implementation Plan amendment as submitted.

### **III. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 21080.9 of the California Public Resources Code – and the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing environmental impact reports (EIRs), among other things, in connection with their activities and approvals necessary for the preparation and adoption of local coastal programs (LCPs). 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 Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required, in approving an LCP submittal, to find that the proposal does conform with the provisions of CEQA, and to base any certification on a specific factual finding supporting the conclusion that the proposal “meets the requirements of [CEQA] Section 21080.5(d)(2)(i) ... , which requires that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.” 14 C.C.R. Sections 13555(b), 13542(a), and 13540(f). The City of Laguna Beach LCP amendment 1-13-B consists of an amendment to the Implementation Plan (IP) only. The City has found the proposed amendment to be categorically exempt under CEQA.

As outlined in this staff report, the proposed Implementation Plan amendment as submitted is not expected to result in significant adverse impacts on the environment. For the reasons described above and throughout this staff report, the IP amendment is in conformity with and adequate to carry out the policies of the certified LUP, including the land use and public access policies. Therefore, the Commission finds that approval of the Implementation Plan amendment as submitted will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies City of Laguna Beach LCP amendment request 1-13-B as submitted.

MAR 21 2013

RESOLUTION NO. 12.072

CALIFORNIA  
THE CITY OF  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL  
PROGRAM AMENDMENT 12-1456 AND REQUESTING ITS  
CERTIFICATION BY THE COASTAL COMMISSION.

**WHEREAS**, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held public hearings to consider the adoption of Laguna Beach Local Coastal Program Amendment No. 12-1456, and such amendment was recommended to the City Council for adoption; and

**WHEREAS**, the City Council after giving notice as described by law, held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment No. 12-1456, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

**WHEREAS**, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES RESOLVE AND ORDER** as follows:

**SECTION 1.** That Laguna Beach Local Coastal Program Amendment No. 12-1456 is hereby approved, consisting of Ordinance Number 1572 pertaining to Maximum Building Height in the City of Laguna Beach. A copy of the aforesaid Ordinance is attached hereto as Exhibit "A" and is incorporated by those references as though fully set forth herein.

**SECTION 2.** That the California Coastal Commission is hereby requested to consider, approve and certify Local Coastal Program Amendment 12-1456.

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Exhibit I  
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1            **SECTION 3.** That pursuant to Section 13551(b) of the Coastal Commission  
2 Regulations, Laguna Beach Local Coastal Program Amendment No. 12-1456 will take  
3 effect automatically upon Coastal Commission approval, as provided in Pubic Resources  
4 Code Sections 30512, 30513 and 30519.  
5

6  
7 ADOPTED this 13<sup>th</sup> day of November, 2012.  
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12 Jane Egly, Mayor

13 ATTEST:

14   
15 \_\_\_\_\_

16 City Clerk

17 I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do  
18 hereby certify that the foregoing Resolution No. 12.072 was duly adopted at a Regular  
19 Meeting of the City Council of said City held on November 13, 2012 by the following vote:

20 AYES: COUNCILMEMBER(S): Boyd, Iseman, Pearson, Rollinger, Egly

21 NOES COUNCILMEMBER(S): None

22 ABSENT COUNCILMEMBER(S): None  
23

24   
25 \_\_\_\_\_

26 City Clerk of the City of Laguna Beach, CA  
27

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**ORDINANCE NO. 1572**

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING THE LAGUNA BEACH MUNICIPAL CODE RELATING TO MAXIMUM BUILDING HEIGHT.**

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The City Council of the City of Laguna Beach does hereby ORDAIN as follows:

**SECTION 1:** Chapter 25.51 ("Maximum Building Height") of the Laguna Beach Municipal Code is hereby added to Title 25 ("Zoning") to read in its entirety as follows:

**Chapter 25.51  
MAXIMUM BUILDING HEIGHT**

**Section:**

**25.51.010 Maximum Building Height Limits.**

**25.51.010 Maximum Building Height Limits.**

Notwithstanding any section to the contrary, no building shall exceed thirty-six (36) feet in height.

**SECTION 2:** This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

**SECTION 3:** All ordinances and provisions of the Laguna Beach Municipal Code and sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

**SECTION 4:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

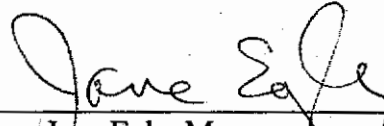
**SECTION 5:** The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective on the expiration of thirty (30) days from and after the date of its adoption.

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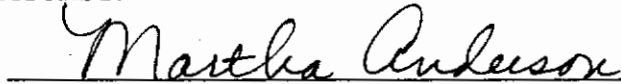
Exhibit 1

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ADOPTED this 13th day of November, 2012.

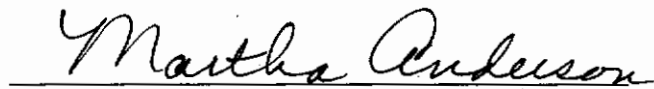
  
\_\_\_\_\_  
Jane Egly, Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

I, Martha Anderson, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 1572 was introduced at a regular meeting of the City Council on October 16, 2012 and was finally adopted at a regular meeting of the City Council of said City held on November 13, 2012 by the following vote:

AYES: COUNCILMEMBER(S): Boyd, Iseman, Pearson, Rollinger, Egly  
NOES: COUNCILMEMBER(S): None  
ABSTAIN: COUNCILMEMBER(S): None  
ABSENT: COUNCILMEMBER(S): None

  
\_\_\_\_\_  
City Clerk, City of Laguna Beach, CA

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Exhibit 1  
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