

CALIFORNIA COASTAL COMMISSION

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F15b

September 27, 2018

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director, South Coast District
Charles Posner, Supervisor of Planning
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RE: Amendment Request No. 4-17 Part B (LCP-5-NPB-17-0084-1) to the City of Newport Beach Local Coastal Program (LCP), for Commission Action at its October 12, 2018 meeting in San Diego.

SUMMARY OF LCP AMENDMENT REQUEST NO. 4-17 PART B

The City of Newport Beach is requesting that the Commission certify an amendment to both the Land Use Plan (LUP) and the Implementing Plan (IP) portions of the Newport Beach certified Local Coastal Program (LCP) to add provisions for the regulation of Accessory Dwelling Units (ADUs). The LCP amendment will add new policy 2.7-5 to Chapter 2 (Land Use and Development) of the LUP to allow ADUs per Government Code Section 65852.2, make changes to IP Section 21.18 (Residential Coastal Zoning Districts), and add a new IP section to Chapter 21.48 (Standards for Specific Land Uses) pertaining specifically to ADUs. The LCP amendment is proposed in response to recent state legislation which alters Government Code 65852.2 to impose requirements on local governments' regulation of ADUs in a State effort to facilitate the availability of housing units statewide.

The Coastal Commission certified the City of Newport Beach LCP on January 13, 2017. Amendment Request No. 4-17 Part B is a major LCP amendment that would result in a change in the intensity of use in residentially zoned areas. The Newport Beach Planning Commission held two public hearings on May 4, 2017, and June 8, 2017 and recommended approval of the proposed amendments to the City Council. The Newport Beach City Council held a public hearing on July 25, 2017 and passed City Council Resolution No. 2017-51 (**Exhibit 1**) authorizing City staff to submit the LCP amendment to the Coastal Commission. On December 4, 2017 the City submitted the LCP amendment request for Coastal Commission certification. Amendment Request No. 4-17 was deemed by staff to be complete on May 3, 2018 and the Commission granted a one-year time extension at its June 8, 2018 meeting. The City's submittal is consistent with the procedural requirements of the Coastal Act and the regulations which govern such proposals (Sections 30501, 30510 and 30514 of the Coastal Act, and Sections 13551, 13552 and 13553 of Title 14 of the California Code of Regulations).

SUMMARY OF STAFF RECOMMENDATION

The subject LCP amendment involves both the Land Use Plan (LUP) and Implementation Plan (IP) portions of the certified LCP. Staff recommends approval of the LUP amendment as submitted and recommends denial of the IP as submitted, and then recommends approval of the IP amendment with four suggested modifications.

Staff recommends that the Commission, after public hearing, **certify** Amendment Request No. 4-17 Part B with suggested modifications. The suggested modifications are necessary to ensure that the LCP's requirements are consistent with the certified LUP, as amended herein, and implements changes to Government Code Section 65852.2 consistent with the Coastal Act and LCP. The City is in agreement with the staff recommendation.

Following the City's December 2017 submittal of the LCP amendment to add provisions for the regulation of Accessory Dwelling Units (ADUs) per recent State law (Government Code Section 65852.2), the State made changes to Government Code Section 65852.2 that became effective January 1, 2018. Thus, the City's 2017 submittal does not reflect the recent changes made to the State law. Therefore, staff is recommending suggested modifications to bring the LCP into compliance with the recent changes to Government Code Section 65852.2 relating to ADUs. Specifically, four (4) suggested modifications are necessary to effectively update the proposed new regulations to permit ADUs in conjunction with single-family residences in all residential zoning districts, including two-unit and multiple residential zoning districts. If modified as suggested, the Commission finds that the City's IP conforms with and is adequate to carry out the requirements of the certified LUP, consistent with Section 30513 of the Coastal Act.

The resolutions and motions begin on **Page 6**. The suggested modifications begin on **Page 8**. The findings for approval of the LUP portion of the amendment as submitted and denial of the IP portion of the amendment as submitted begin on **Page 15**. The findings for approval of the IP amendment, if modified, begin on **Page 16**.

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EXHIBITS

1. City Council Resolution No. 2017-51 (Including Redline Version of proposed LUP and IP changes)

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The standard of review for the proposed amendment to the Coastal Land Use Plan (CLUP), pursuant to Section 30512(c) and 30514(b) of the Coastal Act, is that the proposed LUP amendment meets the requirements of, and is in conformance with the Chapter 3 policies of the Coastal Act. The standard of review for the proposed amendment to the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514(b) 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), as proposed to be amended.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in LCP development. It states: “During the preparation, approval, certification, and amendment of any LCP, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of an LCP 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.”

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to each of the Zoning Text Amendments and the Zoning Map Amendment, which comprise 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.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that an LCP Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. Should the Commission deny the LCP amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective. Should the Commission deny the LCP amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. The modified LCP amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment 4-17 Part B is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

D. DEADLINE FOR COMMISSION ACTION

The City submitted the LCP amendment request on December 4, 2017. After a request for additional information, the amendment request was deemed by staff to be complete on May 3, 2018 and the

Commission granted a one-year extension at its June 8, 2018 meeting. As such, the last date for Commission action on this item is August 1, 2019. (*See* Pub. Res. Code § 30511(a).)

FOR ADDITIONAL INFORMATION

The LCP Amendment file is available for review at the South Coast District office located at 200 Oceangate, Suite 1000, Long Beach, 90802. The staff report can be viewed on the Commission's website: www.ca.coastal.ca.gov. For additional information, contact Liliana Roman or Charles Posner in the South Coast District office at (562) 590-5071.

II. MOTIONS AND RESOLUTIONS

A. CERTIFY THE LUP AMENDMENT AS SUBMITTED

Motion I: *I move that the Commission **certify** the Land Use Plan Amendment No.4-17 Part B for the City of Newport Beach as submitted.*

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Land Use Plan Amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Certify the LUP Amendment as Submitted

The Commission hereby certifies the Amendment to the Land Use Plan for the City of Newport Beach as submitted and adopts the findings set forth below on grounds that the Amendment to the Land Use Plan will meet the requirements and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Amendment to the Land Use Plan complies with the requirements of 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 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 that will result from certification of the Amendment to the Land Use Plan as submitted.

B. DENY THE IP AMENDMENT AS SUBMITTED

Motion II: *I move that the Commission **reject** the Implementation Plan Amendment No.4-17 Part B for the City of Newport Beach as submitted.*

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Plan Amendment and adoption of the following resolution and findings. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Deny as Submitted:

The Commission hereby denies certification of the Amendment to the Implementation Plan for the City of Newport Beach certified LCP as submitted by the City of Newport Beach and adopts

the findings set forth below on grounds that the Amendment to the Implementation Plan as submitted does not conform with and is not adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to 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 Amendment to the Implementation Program as submitted.

C. CERTIFY THE IP AMENDMENT WITH SUGGESTED MODIFICATIONS

Motion III: *I move that the Commission **certify** the Implementation Plan Amendment No.4-17 Part B to the City of Newport Beach certified LCP if modified in conformance with the suggested changes set forth in this staff report.*

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the IP Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Certify if Modified:

The Commission hereby certifies the Amendment to the Implementation Plan for the City of Newport Beach certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan with the suggested modifications will be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program 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 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.

III. SUGGESTED MODIFICATIONS

Certification of the LCP amendment is subject to the following modifications. All of the City’s proposed changes are shown in **Exhibit #3**.

Proposed new text added by suggested modification is shown **bold, italicized and underlined**, and text suggested to be deleted is shown in ~~double strikethrough~~. Existing certified language is shown in regular text. The City’s proposed LCP amendment language changes are shown in single underline and ~~single strikethrough~~.

The following suggested modifications are necessary to carry out the provisions of the certified LUP:

Suggested Modification 1 - Delete “accessory dwelling units” from NBMC Subsections 21.18.010(A) and (B):

- A. R-A (Residential-Agricultural) Coastal Zoning District. The R-A Coastal Zoning District is intended to provide for areas appropriate for detached single-family residential dwelling units, ~~accessory dwelling units~~, and light farming uses, each located on a single legal lot, and does not include condominiums or cooperative housing.
- B. R-1 (Single-Unit Residential) Coastal Zoning District. The R-1 Coastal Zoning District is intended to provide for areas appropriate for a range of detached single-family residential dwelling units ~~and accessory dwelling units~~, each located on a single legal lot, and does not include condominiums or cooperative housing.

Suggested Modification 2 - Modify Table 21.18-1 in NBMC Section 21.18.020(C) (Allowed Uses and Permit Requirements) to allow Accessory Dwelling Units in all residential coastal zoning districts:

Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	R-A	R-1 R-1-6,000	R-BI R-2 R-2-6,000	RM RM-6,000	Specific Use Regulations
Residential Uses					
Accessory Dwelling Units	A	A	<u>A</u>	<u>A</u>	<u>Section 21.48.200</u>

Suggested Modification 3 - Modify new NBMC Section 21.48.200 (Accessory Dwelling Units) in IP Chapter 21.48 outlining the provisions for Accessory Dwelling Units, as follows, with all other provisions of Chapter 21.48 remaining unchanged:

21.48.200 Accessory Dwelling Units

A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units as defined in Part 7 (Definitions) and in the California Government

Code Section 65852.2, or any successor statute, in single-unit residential zoning districts or areas designated for single-family *unit* residential use, *including* as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.

B. Review Authority. Accessory dwelling units shall be approved ~~in all single-unit residential coastal zoning districts~~ in conjunction with single-unit dwellings in all coastal residential zoning districts ~~or areas designated for single-family residential use as part of a Planned Community Development Plan or Specific Plan~~, subject to the approval of the Director upon finding that the following conditions have been met:

1. The dwelling conforms to the development standards and requirements for accessory dwelling units established in the subsections below.
2. Public and utility services including emergency access are adequate to serve both dwellings.

C. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential coastal zoning district, any applicable overlay district, and all other applicable provisions of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.

1. Minimum lot area. A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be required in order to establish an accessory dwelling unit.
2. Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
 - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit, provided that the side and rear setbacks comply with required Building Codes.
 - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.
3. Building height. Detached accessory dwelling units shall not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.
4. Unit size. The maximum size of an accessory dwelling unit shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less. ***The minimum size of an accessory dwelling unit must be at least that of an efficiency unit.***

5. Design. An accessory dwelling unit shall be designed and sited to:
 - a. Be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials;
 - b. Protect public access to and along the shoreline areas;
 - c. Protect public views to and along the ocean and scenic coastal areas;
 - d. Protect sensitive coastal resources; and
 - e. Minimize and, where feasible, avoid shoreline hazards.
6. Conversion of space within existing structure. Notwithstanding the provisions of subsections C(1), C(2), C(3), C(4) and C(5) above, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required Building Codes, and if the accessory dwelling unit conforms with the following:
 - a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure must have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit.
 - b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power.
 - c. ***The property is located within a coastal residential zoning district that permits single-unit dwellings and no more than one dwelling unit exists on the property.***
7. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the principal residence.
8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purposes of this section, “passageway” means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
9. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking), except as modified below:
 - a. ***A maximum of one*** ~~One~~ ***parking space shall be provided for an accessory dwelling unit.*** ~~required for one bedroom or efficiency unit; two parking spaces required for unit with two or more bedrooms.~~

- b. Such parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
- c. No parking shall be required for:
 - i. Accessory dwelling unit converted as part of ~~the~~ *a proposed or* existing principal residence or existing accessory structure as described in subsection (C)~~56~~.
 - ii. Accessory dwelling units located within one-half mile of a public transit. For the purposes of this section “public transit” shall include a bus stop with fixed route bus service that provides transit service at 15-minute intervals or better during peak commute periods.
 - iii. Accessory dwelling units located within an architecturally and historically significant historic district.
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, “car-share vehicle” shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- d. If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

D. Additional requirements for all accessory dwelling units.

- 1. Sale of units. The accessory dwelling unit shall not be sold separately from the principal dwelling.
- 2. Short-term lodging. The accessory dwelling unit shall not be rented for periods of less than 30 days.
- 3. Number of units allowed. Only one accessory dwelling unit may be located on the lot.
- 4. Existing development. A single-unit dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
- 5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.

E. Deed restriction and recordation required. Prior to the issuance of a Building and/or Grading Permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.

F. Coastal Development Permits.

1. Hearing Exemption. All of the provisions of Chapter 21.52 regarding the review and approval of Coastal Development Permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted.
2. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64, coastal development permits for accessory dwelling units that are defined as "appealable development" pursuant to Section 21.64.035(A) may be directly appealable to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

Suggested Modification 4:

Modify the proposed replacement definition of "Dwelling, Unit, Accessory (Land Use)" in NBMC Section 21.70.020 (Definition of Specialized Terms and Phrases) as follows:

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family ~~dwelling~~ residential use. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

IV. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF THE LCP (LUP AND IP) AMENDMENT REQUEST

The subject Amendment Request No. 4-17 Part B is a City initiated LCP amendment revising the City's regulations pertaining to Accessory Dwelling Units (ADUs) in response to recent State law (Government Code Section 65852.2). Specifically, the amendment would establish regulations permitting the development of ADUs in single-family residential zoning districts. This major LCP amendment would add one new policy to the LUP in support of the administration of provisions of Government Code Section 65852.2 addressing ADUs; and incorporate several changes to certified language in the IP, including the existing definition of an ADU, and the addition of a new IP section outlining specific regulations for ADUs and the manner of CDP issuance without a public hearing requirement.

LUP Amendment

The proposed LUP amendment would add a single new policy pertaining to ADUs as follows:

***Policy 2.7-5.** Administer the provisions of Government Code Section 65852.2 relative to the development of accessory dwelling units to increase the supply of lower-cost housing in the coastal zone and meet the needs of existing and future residents, while respecting the architectural character of existing neighborhoods and in a manner consistent with the LCP and any applicable policies from Chapter 3 of the Coastal Act.*

The inclusion of this policy in the LUP would allow for the inclusion of specific regulations in the IP for the regulation of ADUs in the coastal zone. The proposed policy language specifically refers to Government Code Section 65852.2 (a state law which neither supersedes nor lessens the application of the Coastal Act) and clearly states that the administration of the provisions of this state law (i.e., the streamlining of ADU approvals) in the coastal zone shall be done in a manner consistent with the LCP and any applicable policy of Chapter 3 of the Coastal Act.

IP Amendment Request

The proposed IP amendment makes the following changes:

- Adds ADUs as an allowable use in two Coastal Zoning Districts: R-1 (Single-Unit Residential) and R-A (Residential-Agricultural). Each legal R-1 and R-A designated lot shall be allowed one single-unit detached dwelling with one ADU as an accessory use.
- Replaces the existing certified definition of "ADU" with a new definition.
- Deletes a provision for a "granny unit" subject to a minor use permit and replaces it with "accessory dwelling unit" in conformance with IP Section 21.48.200.
- Adds new IP Section 21.48.200 which adds specific provisions relating to ADUs.

The proposed new IP Section 21.48.200 imposes the standards for ADUs as outlined in Government Code Section 65852.2 that became effective January 1, 2017. IP Section 21.48.200 includes a purpose statement stating that the purpose of this section is to establish the procedures for the creation of ADUs as defined in Part 7 (Definitions) and in the California Government Code Section 65852.2, or any successor statute, in single-unit residential zoning districts or areas designated for

single-family residential use as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.

Additionally, Section 21.48.200 states that ADUs shall be approved in all single-unit residential coastal zoning districts subject to the approval of the Planning Director upon the finding that it conforms to the development standards and other requirements. Other ADU requirements outlined are those established by state law (i.e., an ADU shall not be sold separately from principal dwelling, ADU shall not be used as short-term lodging, one ADU may be located on the lot, site must be occupied by at least one person having an ownership interest in the lot, requirement for a deed restriction and recordation, etc.). The proposed ADU development standards comply with the provisions in the state law. As proposed, the LCP would require that an ADU conform to all requirements of the underlying residential coastal zoning district, any applicable overlay district, and all other applicable provisions of the IP, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the ADU is contained within a legal, nonconforming structure and does not expand the nonconformity. An ADU shall also not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district. Additionally, the maximum size of an ADU shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less. Additionally, the City establishes a minimum lot area of five thousand (5,000) square feet, excluding submerged land area, in order to establish an ADU on a lot designated with the R-1 and R-A zone.

Regarding parking standards, an ADU requires one parking space for a one-bedroom or efficiency unit, and two parking spaces for a unit with two or more bedrooms. The required parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley. However, there are exceptions to the parking requirement. No parking shall be required for the following ADUs: 1) an ADU converted as part of the existing principal residence or existing accessory structure; 2) ADUs located within one-half mile of a public transit; 3) ADU located within an architecturally and historically significant district; 4) when on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or 5) when there is a car-share vehicle located within one block of the accessory dwelling unit. If an ADU replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, any required replacement spaces may be located in any configuration on the same lot as the ADU, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. Parking shall comply with all other requirements of IP Chapter 21.40 (Off-Street Parking).

Most importantly, Section 21.48.200 also clarifies that all of the provisions of IP Chapter 21.52 regarding the review and approval of coastal development permits in relation to accessory dwelling units are applicable, except that a public hearing as required by IP Chapter 21.62 shall not be required. Public notice shall be provided as required in IP Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted. And notwithstanding the local appeal provisions of IP Chapter 21.64, coastal development permits for ADUs that are defined as “appealable development” pursuant to IP Section 21.64.035(A) may be

directly appealable to the Coastal Commission in accordance with the provisions of IP Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

In summary, the LCP amendment, as proposed by the City, would allow ADUs as accessory uses only in single-family residential zoning districts. The City proposes to enforce minimum lot size requirements and require one parking space for each ADU in the coastal zone, except where exempted as set forth in the ADU law.

B. APPROVE THE LUP AMENDMENT REQUEST AS SUBMITTED

Under Sections 30512(c) and 30514(b), the Commission shall certify a land use plan amendment that meets the requirements of, and is in conformance with, the Chapter 3 policies of the Coastal Act. The City proposes to add a new policy to LUP Chapter 2 – Land Use and Development, Section 2.7 – Residential Development addressing ADUs. Currently, this LUP section contains policies pertaining to residential development such as the appropriate setbacks and density, floor area, and height limits for residential development to protect the character of established neighborhoods and to protect coastal access and coastal resources; administration of State law relative to the demolition, conversion and construction of low and moderate-income dwelling units in the coastal zone; authorization of short-term rentals pursuant to permits and standard conditions; and a policy requiring a Report of Residential Building Records inspections prior to the sale of residential properties (providing a new owner with information on permitted and illegal uses and construction on the site).

The City of Newport Beach did not previously have provisions in its Zoning Code or in its recently certified LCP regulating ADUs. However, in response to recent State legislature changes intended to create greater flexibility to encourage construction of ADUs, the proposed LUP amendment would add a new policy specifically addressing this use as follows:

2.7-5. Administer the provisions of Government Code Section 65852.2 relative to the development of accessory dwelling units to increase the supply of lower-cost housing in the coastal zone and meet the needs of existing and future residents, while respecting the architectural character of existing neighborhoods and in a manner consistent with the LCP and any applicable policies from Chapter 3 of the Coastal Act.

The proposed policy specifically refers to Government Code Section 65852.2 (a State law which neither supersedes nor lessens the application of the Coastal Act), and provides that administration of Government Code Section 65852.2 must be in a manner consistent with the LCP and applicable Coastal Act Chapter 3 policies, and uses broad and flexible language allowing for detailed regulation to be provided in the IP portion of the certified LCP. Indeed, as part of this LCP amendment, the City also proposes amendment to the IP portion of the LCP establishing regulations pertaining to ADUs.

The proposed LUP amendment does not raise any significant Coastal Act issues. The proposed new policy will not adversely impact coastal access, coastal resources, public recreation or coastal views. To the contrary, the proposed LUP amendment will implement important policies in the Coastal Act designed to encourage the provision of low- and moderate-income housing opportunities (Section 30604(f)) and the location of new development in existing developed areas (Section 30250), and it

specifically requires that ADUs be consistent with the LCP and any applicable policies of the Coastal Act.

Therefore, the Commission finds that the proposed policy to administer the provisions of state law pertaining to ADUs meets, and is in conformance with, the Chapter 3 policies of the Coastal Act, including the public access requirements of Section 30212.

C. DENY THE IP AMENDMENT REQUEST AS SUBMITTED

Under Sections 30513 and 30514(b), the Commission shall certify a proposed amendment to an IP unless it does not conform with, or is inadequate to carry out, the provisions of the certified LUP. In this case, the LUP (Policy 2.7-5) requires the City to administer the State ADU law (Government Code Section 65852), consistent with the Coastal Act and LCP. Therefore, unless there are Coastal Act concerns, a clear failure to implement the statute's requirements renders the amendment inadequate to carry out the provisions of the LCP.

In December 2017, the City submitted Resolution 2017-15 authorizing submittal of this LCP amendment to implement new state law requirements that went into effect on January 1, 2017 relating to ADUs (Government Code Section 65852.2) bundled with numerous other resolutions for unrelated LCP changes. Since the City's submittal in 2017, the State has adopted two changes to Government Code Section 65852.2. Therefore, suggested modifications are necessary in order for the proposed IP amendment to be fully in compliance with the most recent changes to Government Code Section 65852.2 that became effective on January 1, 2018. Specifically, most recent changes to the State law allowed ADUs to be built concurrently with a new single-family residence, as opposed to only when an existing single-family residence already exists on a lot. The recent changes to the Government Code Section 65852.2 also expanded zoning districts where ADUs can be converted from existing floor area within a single-family residence or accessory structure to include all zoning districts that allow single-family uses, as opposed to single-family zoning districts only; and it also reduced parking requirements for new ADUs from one space required for one-bedroom units and two spaces for two or more bedroom units, to a maximum of one space regardless of bedroom count.

Part of the purpose of this proposed IP amendment is to add new provisions that govern ADUs in order to comply with recent changes in State law that seeks to encourage the development of this type of housing across the State.

The proposed IP amendment pertains to specific land use policies of the certified LUP. The proposed IP amendment would change the intensity of use in the R-1 and R-A (single-family) coastal zoning districts and is therefore considered a major amendment. The proposed IP amendment however, does not fully conform to the most recent changes in state law since the amendment request was originally submitted.

With respect to parking, Section 65852.2(a)(1)(D)(x) provides that parking requirements for ADUs "shall not exceed one parking space per unit or per bedroom, whichever is less." The City's proposed IP amendment, however, provides a "minimum" of one parking space is required for one bedroom or efficiency unit, and two parking spaces are required for a unit with two or more bedrooms. This would allow a requirement of two parking spaces for an ADU unit that contains two bedrooms, which is more than a requirement of one parking space per ADU unit.

Therefore, the proposed IP amendment as submitted, does not conform with, and/or does not adequately carry out, the provision of the LUP requiring administration of the provisions of Government Code section 65852.2, and must be denied pursuant to Section 30513 of the Coastal Act.

D. CERTIFY THE IP AMENDMENT WITH SUGGESTED MODIFICATIONS

Suggested modifications are necessary to ensure the City's proposed new ADU regulations are adequate to carry out the LUP, which requires administration of Government Code Section 65852.2 consistent with the Coastal Act and LCP. If approved with suggested modifications, the Commission finds that the City's IP would conform with, and is adequate to carry out, the requirements of the certified LUP, as approved herein, consistent with Section 30513 of the Coastal Act.

Suggested Modification 1 strikes out proposed City language that would limit ADUs as an allowable use only to R-A and R-1 (single-family) coastal zoning districts. This change is necessary because Government Code Section 65852.2 permits ADU conversions within existing single-family residences and proposed new construction of single-family residences located on two-unit (R-2/R-BI) and multiple (RM) residential zoned lots.

Suggested Modification 2 expands the ADU use as an allowable use to R2 and RM (multi-family) coastal zoning districts. These modifications are necessary to ensure compliance with Government Code Section 65852.2 as explained above for suggested modification 2.

Suggested Modification 3 deletes pertinent language in the proposed new Section 21.48.200 (Accessory Dwelling Units) to IP Chapter 21.48 outlining the provisions for ADUs, including development standards, additional requirements, and CDP requirements which limits ADUs to single-family unit coastal zoning districts and adds new language clarifying that ADUs are an allowable use on any property located within a coastal residential zoning district that permits single-unit dwellings (this includes R-1, R-A, R-2, and R-M coastal zoning districts) and where no more than one dwelling unit exists on the property; and modifies the ADU parking requirement to a maximum of one parking space for an ADU. These modifications are necessary to ensure compliance with Government Code Section 65852.2. For example the statute refers to "proposed or existing" primary residence, specifically stating that no parking may be required if "The accessory dwelling unit is part of the proposed or existing primary residence." Additionally, the statute states that "Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less." Thus, the suggested modification is necessary to clarify the one parking space per unit is a maximum, not a minimum.

Suggested Modification 4 also makes a minor change to the City's proposed new ADU definition clarifying that an ADU is an allowable use on a site zoned for single-family residential use (this includes two-unit and multiple-unit residential coastal zoning districts). This change is necessary for compliance with Government Code Section 65852.2 which permits ADU conversions within existing single-family residences and proposed new construction of single-family residences located on two-unit (R-2/R-BI) and multiple (RM) residential zoned lots.

Conclusion

With the suggested modifications described above, the Commission finds that the City's Implementation Plan conforms with and is adequate to carry out the requirements of the certified LUP, consistent with Section 30513 of the Coastal Act.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. (14 CCR § 15251(f).) Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP 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.

The Commission finds that, for the reasons discussed in this report, the proposed LCP amendment, with adoption of the suggested modifications listed in Section III of this report, is in conformity with, and adequate to carry out the land use policies of the certified LUP. The Commission finds that approval of the LCP Amendment with suggested modifications will not result in significant adverse environmental impacts under the meaning of CEQA. Certification of the LCP if modified as suggested complies with the CEQA because: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, and 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the LCP Amendment may have on the environment. The Commission finds that the proposed LCP amendment if modified as suggested will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.