

**CALIFORNIA COASTAL COMMISSION**

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# W11a

September 28, 2018

**TO:** Commissioners and Interested Persons

**FROM:** Steve Hudson, Deputy Director, South Coast District  
Charles Posner, Supervisor of Planning  
Dani Ziff, Staff Analyst

**SUBJECT:** Amendment Request No. 2-17 (LCP-5-LOB-17-0052-2 Alcoholic Beverage Manufacturing and Triennial Building Code Update) to the City of Long Beach Certified Local Coastal Program, for Public Hearing and Commission Action at the October 10, 2018 meeting in San Diego.

## **SUMMARY OF LCP AMENDMENT REQUEST NO. 2-17**

The Coastal Commission certified the City of Long Beach Local Coastal Program (LCP) on July 22, 1980. Amendment Request No. 2-17 would amend the Implementing Ordinances of the certified LCP to revise regulations relating to alcoholic beverage manufacturing (ABM) and update zoning codes including landscaping regulations, electric vehicle requirements, and the definitions of demolish and rebuild (Triennial Update). The LCP amendment request affects only the Implementation Plan (IP) portion of the certified LCP (Zoning Regulations – Title 21 of the Long Beach Municipal Code). The proposed changes to the City’s zoning code are contained in City Council Ordinance Nos. ORD-16-0025 and ORD-16-0028 (**Exhibit 1**). The LCP amendment request was submitted for Commission certification by City Council Resolution Nos. RES-16-0110 and RES-16-0112 (**Exhibit 2**). The City of Long Beach Planning Commission held public hearings for the ABM ordinance on October 20, 2016 and the Triennial Update ordinance on October 6, 2016 (continued from September 15, 2016). The City Council held public hearings for the resolutions on November 15 and 22, 2016. The City submitted LCP Amendment Request No. 2-17 on September 12, 2017 and Commission staff deemed the LCP amendment request complete on September 26, 2017.

Part of the subject LCP amendment request relates to ABM facilities. The City proposes to clarify parking requirements and standards for hours of operation for an ABM and accessory tasting rooms in commercial zones. The City also proposes to process permits for an ABM facility and associated accessory tasting room in a commercial zone administratively, rather than require a Conditional Use Permit (CUP).

The other portion of the subject LCP amendment is proposed in response to the triennial update of the California Building Standards Code. Among the proposed changes to the City's IP are modifications to Chapter 21.15 of the City's Municipal Code (*Definitions*) including the addition of "terms not defined" and revised definitions of "balcony", "deck", "demolish", and "rebuild". Amendment Request No. 2-17 also proposes to extend the period before permit expiration, including local coastal development permits, from one year to two years. Chapter 21.31, *Residential Districts*, is also proposed to be changed to clarify when rooftop solar collectors are allowed to exceed applicable height limits. The proposed modification to Chapter 21.41 (*Off-Street Parking and Loading Requirements*) adds electric vehicle space and charging station requirements to the LCP. In addition, the City proposes to amend Chapter 21.42 (*Landscaping Standards*) to update the regulations relating to landscape areas, plan check requirements, and water efficiency standards to comply with the State Model Water Efficient Landscape Ordinance. Only the Implementation Plan portion of the City's certified LCP is affected by the proposed amendment.

In summary, the LCP amendment, as proposed by the City, would clarify and make more specific its regulations and definitions relating to ABM facilities, balconies, decks, demolition and reconstruction, solar panels, electric vehicle parking, and landscaping.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission certify LCP Amendment Request No. 2-17 with suggested modifications necessary to clarify the definitions of demolish and rebuild in the coastal zone, eliminate references to sections of the City's Municipal Code outside the purview of the LCP, assure protection of public views and native species, and encourage further water and energy conservation. The motions and resolutions to carry out the staff recommendation are on **Page Five**. The suggested modifications to the LCP amendment request are included under Section III of this staff report.

Therefore, staff recommends that the Commission, after public hearing:

- 1. Deny the IP amendment request as submitted; and,**
- 2. Certify, only if modified, the IP amendment request.**

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## EXHIBITS

Exhibit 1 – RES-16-0110 & ORD-16-0025  
Exhibit 2 – RES-16-0112 & ORD-16-0028

## **I. PROCEDURAL HISTORY**

### **A. STANDARD OF REVIEW**

The standard of review for the proposed amendment to the LCP Implementation Plan (IP), pursuant to Sections 30513 and 30514 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).

### **B. LOCAL REVIEW AND DEADLINE FOR COMMISSION ACTION**

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 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 Long Beach Planning Commission held public hearings and the City Council held public hearings on the proposed amendment summarized below:

The City of Long Beach Planning Commission held public hearings for the ABM ordinance (**Exhibit 1**) on October 20, 2016 and the Triennial Update ordinance (**Exhibit 2**) on October 6, 2016 (continued from September 15, 2016). On these dates, the Planning Commission approved recommendations to amend the zoning code and to accept the CEQA Categorical Exemption for the zoning code amendments. The City Council held public hearings for the resolutions on November 15, 2016 (first reading) and November 22, 2016. The City Council adopted the City's zoning code amendments and Resolution Nos. RES-16-0110 (**Exhibit 1**) and RES-16-0112 (**Exhibit 2**) to submit a LCP amendment request on November 22, 2016. Verbal public testimony was received in support of both zoning code amendments.

On September 12, 2017, the City of Long Beach submitted a request to the Commission to amend its certified Local Coastal Program (LCP). Only the Implementation Plan (IP) portion of the City's certified LCP is affected by the proposed amendment. On September 26, 2017, the Executive Director determined that LCP Amendment Request No. 3-17 was in proper order and legally adequate to comply with the submittal requirements of the Coastal Act and the California Code of Regulations and was deemed complete pursuant to the requirements of Section 30510 of the Coastal Act. On November 9, 2018, the Commission extended for one year the deadline for Commission action on this LCP amendment. The deadline for Commission action on the proposed amendment request is November 25, 2018.

### **FOR ADDITIONAL INFORMATION**

The file is available for review at the South Coast District office located in the Molina Center at 200 Oceangate, Suite 1000, Long Beach, 90802. The staff report can be viewed on the Commission's website: <http://www.coastal.ca.gov/mtgcurr.html>. For additional information, contact Dani Ziff or Charles Posner in the South Coast District office at (562) 590-5071.

## II. MOTIONS AND RESOLUTIONS

**Motion I:** *I move that the Commission **reject** Implementation Plan Amendment No. 2-17 to the City of Long Beach certified LCP as submitted.*

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Plan Amendment 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 Deny as Submitted:**

*The Commission hereby denies certification of the Amendment to the Implementation Plan submitted for the City of Long Beach certified LCP 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.*

**Motion II:** *I move that the Commission **certify** Implementation Plan Amendment No. 2-17 to the City of Long 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 certification of the Amendment to the Implementation Plan with suggested modifications 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 if Modified:**

*The Commission hereby certifies the Amendment to the Implementation Plan for the City of Long 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 conforms with and is 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

For the following suggested modifications:

- Language of the currently certified IP is shown in plain text.
- The City’s proposed additions are shown in underlined text.
- The City’s proposed deletions are shown in ~~strike out text~~.
- The Commission’s suggested additions are shown in ***bold, italic, underlined text***.
- The Commission’s suggested deletions are shown in ***bold, italic, underlined, strike out text***.

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

**Suggested Modification 1:** Correct Table 41-C which, as written, does not have parking requirements for ABM office spaces that equal twenty-five percent (25%) of the gross floor area.

Table 41-C. Alcoholic Beverage Manufacturing and Accessory Tasting Room Use (Parking)

	<u>Commercial Zones</u>	Industrial Zones
1. Manufacturing/Brewing area	<del>2 spaces per 1,000 SF GFA</del> <u>None</u>	<u>2 spaces per 1,000 SF GFA of ABM facility</u>
2. Accessory Tasting Room area	<del>105 spaces per 1,000 SF GFA of Accessory Tasting Room only</del>	
3. Office space	If greater than <b><i><u>or equal to</u></i></b> 25% of total GFA 4 spaces per 1,000 SF GFA; if less than 25% total GFA, the area shall be included in the manufacturing/brewing area calculation.	

**Suggested Modification 2:** Revise the definition of demolish in the coastal zone to clarify the difference between the terms demolish and rebuild and provide more specificity.

21.25.750 Demolish.

**A. Outside the coastal zone,** “~~D~~**demolish**” means to remove or modify more than fifty percent (50%) of the exterior walls (structural framing) of an existing building or structure, as measured by the linear length of the walls. ~~Where windows, doors and/or partial wall sections are removed, the corresponding amount of linear length of wall removed shall be calculated on a pro rata basis. For purposes of implementing Chapter~~

21.27 (Nonconformities) of this Title, "Demolish" shall also include any projects meeting the definition of "rebuild" (Section 21.15.2250).

**B. In the coastal zone, "demolish" means to remove fifty percent (50%) or more of one or more major structural components including exterior walls, structural floor systems, roof framing systems, and foundation systems; to remove less than 50% of one or more major structural components where the proposed demolition of the component(s) would result in cumulative demolition meeting or exceeding 50% of the entire structure since January 1, 1977(based on available City of Long Beach records); or to remove a structure or a portion of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction based on the documented construction bid costs and either an appraisal by a professional property appraiser or County assessor data, if it is based on current market values.**

**1. A wall is considered to be demolished when any of the following occur above or below grade:**

- a. Cladding or framing systems are altered in a manner that requires removal and replacement of fifty percent (50%) or more of those cladding or framing systems.**
- b. Existing support for fifty percent (50%) or more of the wall is temporarily or permanently removed such that any portion of the remaining floors, roof, ceiling, or other building elements supported by the wall cannot remain freestanding without supplemental support.**
- c. Additional reinforcement is needed for fifty percent (50%) or more of the wall including any remaining portions of the wall and cladding to provide structural support (e.g., addition of beams, joists and/or rafters, etc., whether alone or alongside existing/retained system elements).**

**2. Roof framing and structural floor systems shall be considered to be demolished when any of the following occur:**

- a. The roof and/or floor structural framing is altered in a manner that requires removal and replacement of fifty percent (50%) or more of roof or floor structural framing system elements (e.g., trusses, joists, and rafters).**
- b. The roof and/or floor structural framing system requires additional reinforcement for fifty percent (50%) or more of the roof and/or floor structural framing including any remaining portions of the roof or floor system to provide structural support (e.g., addition of beams, joists and/or rafters, etc., whether alone or alongside existing/retained system elements).**

**3. Foundations shall be considered demolished and the entire structure shall be considered demolished, when fifty percent (50%) or more of the foundation has**

*been removed or modified as measured by horizontal surface area (slab foundation) or by number of piers, posts, caissons, and/or grade beams (pier and posts/caissons).*

*4. For structures without walls or roofs, including fences, patios, decks, or similar, "demolish" means to remove fifty percent (50%) or more of the foundation or structural elements.*

**Suggested Modification 3:** Revise the definition of rebuild in the coastal zone to clarify the difference between the terms demolish and rebuild and provide more specificity.

21.15.2250 Rebuild.

*A. Outside of the coastal zone, "Rebuild" means:*

*1. An addition or additions to a building whereby the (non-garage) area of the building is expanded by more than fifty percent (50%) by construction over an existing the building's existing size, such that the expanded structure contains 150 percent (150%) or more of the square footage of the structure prior to expansion. In calculating the fifty percent (50%) expansion, all construction after January 1, 1990, shall be included; or*

*2. To modify more than fifty percent (50%) of exterior walls as measured by the linear length of the walls. "Modify" means removal of both interior and exterior cladding of the wall sections. "Modify" does not include repairs associated with Section 21.27.090 - Restoration, or projects consisting solely of exterior façade remodels with no interior reconfiguration.*

"Rebuild" is used in conjunction with "demolish" (Section 21.15.750) for purposes of implementing Chapter 21.27 (Nonconformities) of this Title. On any project meeting the definition of "rebuild," any existing legal nonconformities on the structure may only continue to be maintained if it is not removed or modified as part of the project, intentionally or otherwise.

*B. In the coastal zone, "rebuild" means to modify fifty percent (50%) or more of one or more major structural components including exterior walls, structural floor systems, roof framing systems, and foundation systems; to modify less than 50% of one or more major structural components where the proposed demolition of the component(s) would result in cumulative demolition meeting or exceeding 50% of the entire structure since January 1, 1977 (based on available City of Long Beach records); or to modify a structure or a portion of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction based on the documented construction bid costs and either an appraisal by a professional property appraiser or County assessor data, if it is based on current market values.*

**1. A wall is considered to be rebuilt when any of the following occur above or below grade:**

- a. Cladding or framing systems are altered in a manner that requires removal and replacement of fifty percent (50%) or more of those cladding or framing systems.**
- b. Existing support for fifty percent (50%) or more of the wall is temporarily or permanently removed such that any portion of the remaining floors, roof, ceiling, or other building elements supported by the wall cannot remain freestanding without supplemental support.**
- c. Additional reinforcement is needed for fifty percent (50%) or more of the wall including any remaining portions of the wall and cladding to provide structural support (e.g., addition of beams, joists and/or rafters, etc., whether alone or alongside existing/retained system elements).**

**2. Roof framing and structural floor systems shall be considered to be rebuilt when any of the following occur:**

- a. The roof and/or floor structural framing is altered in a manner that requires removal and replacement of fifty percent (50%) or more of roof or floor structural framing system elements (e.g., trusses, joists, and rafters).**
- b. The roof and/or floor structural framing system requires additional reinforcement for fifty percent (50%) or more of the roof and/or floor structural framing including any remaining portions of the roof or floor system to provide structural support (e.g., addition of beams, joists and/or rafters, etc., whether alone or alongside existing/retained system elements).**

**3. Foundations shall be considered rebuilt and the entire structure shall be considered rebuilt, when 50% or more has been removed or modified as measured by horizontal surface area (slab foundation) or by number of piers, posts, caissons, and/or grade beams (pier and posts/caissons).**

**4. For structures without walls or roofs, including fences, patios, decks, or similar, "rebuild" means to modify 50% or more of the foundation or structural elements.**

**"Modify" includes removal of both interior and exterior cladding of the wall sections. "Modify" does not include repairs associated with Section 21.27.090 - Restoration, or projects consisting solely of exterior facade remodels with no interior reconfiguration.**

**Suggested Modification 4:** Add a section to Chapter 21.27 (*Nonconformities*) of the City's Zoning Code to clarify that all structures qualifying as 'rebuilt' lose any existing nonconforming rights.

**21.27.055 Modifications to nonconforming structures.**

**If a nonconforming structure is demolished and/or rebuilt, as defined in sections 21.15.750 and 21.15.2250 of this Title, the structure must be brought into conformity with the provisions of the Zoning Code and certified Local Coastal Program, as appropriate.**

**Suggested Modification 5:** Revise regulation for exceedance of height allowance for rooftop solar structures to add a requirement for consistency with the policies of the certified LCP, including visual resource protections.

21.31.220.B.4

~~Solar~~Rooftop solar collectors and associated supporting structures may exceed the applicable height limit only if necessary for the sole purpose of solar collection, ~~and~~ not otherwise installed on any occupiable areas of the roof, **and consistent with the policies of the City of Long Beach certified Local Coastal Program.**

**Suggested Modification 6:** Remove reference to municipal codes that are outside the purview of the certified LCP for areas in the coastal zone and add minimum electric vehicle space and charging requirements.

21.41.232 Parking—Electric vehicle space and charging station requirements.

**Outside the coastal zone, p**~~Parking shall comply with Chapter 18.47 of the Long Beach Municipal Code with regard to electric vehicle space and charging station requirements.~~  
**In the coastal zone, for a building containing three or more dwelling units or a hotel that is constructed, demolished, or rebuilt on a building site, at least twenty-five percent (25%) of the total number of parking spaces, but in no case less than one, shall be EV spaces capable of supporting future EVSE and five percent (5%) of the total number of parking spaces, but in no case less than one (1), shall have EV chargers installed. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.**

**Suggested Modification 7:** Add a coastal resource protection measure (No. 12) to the landscape requirements.

21.42.030.A Landscaped Area.

All required yards and setback areas shall be attractively landscaped primarily with drought tolerant and native plant materials. Decorative non-living materials such as brick, stone, art, fountains and ponds may be used within the landscaped area provided such materials present an attractive setting consistent with the intent of these landscaping requirements...

**12. The use of invasive plant species, such as those listed by the California Invasive Plant Council, shall be prohibited in the coastal zone.**

**Suggested Modification 8:** Remove references to municipal codes that are outside the purview of the certified LCP for areas in the coastal zone and add coastal resource protection measures.

21.42.050 Landscaping standards—Public right-of-way (Parkway).

B. Street Trees...

2. **Exceptions.** Street trees shall be spaced ***a reasonable and safe distance*** from driveways, light standards, intersections, utility poles and street furniture and shall be located only in the prescribed width of parkway ***[at least thirty inches (30'') wide between the sidewalk and curb] as provided in Chapter 14.28 of this Code.*** An in-lieu fee shall be provided for any tree required in Subsection 21.42.050.B.1 that is not allowed by these provisions of Chapter 14.28...

C. Parkway Landscaping...

1. **Provision of Landscaping.** The area between the sidewalk and the curb and between the sidewalk and the private property line, if any, shall be landscaped primarily with live plant materials and maintained in a neat and healthy condition. Nonliving material and decorative elements may be used within the parkway and in accordance with the provisions of this Chapter. The owner of private property adjoining the public right-of-way shall be responsible for planting and maintaining such landscaping. Sidewalk width shall be responsible for planting and maintaining such landscaping. Sidewalk width shall be four feet (4') or, if adjoining the curb, five feet (5'), ***as provided in Chapter 20.36...***

2. **Live Planting Material.** Groundcover of not more than eight inches (8") in height, accent plantings or shrubbery not more than thirty-two inches (32") in height and street trees are the only plant materials allowed in the parkway. The planting of low-water demand and drought-tolerant plant materials shall be encouraged by the City of Long Beach. ~~High water demand plant material that require, at maturity, one inch (1'') or more of irrigation water per week shall be prohibited.~~ ***With the exception of trees, Grass*** (turf) and other high water use plants, characterized by a WUCOLS plant factor of 0.7 to 1.0, are prohibited in parkways and street medians. ***Trees shall be allowed in parkways and street medians with preference given to***

**native, low water use trees. All irrigation systems shall limit water use to the maximum extent feasible. Automatic drip irrigation and similar low volume systems are encouraged and, if installed, shall be maintained so as to conserve water, and shall not cause water to runoff into the sidewalk or street or pond within the parkway. Use of reclaimed water for irrigation is encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they shall use water conserving emitters (e.g., microspray) and drip irrigation only. Use of reclaimed water (“gray water “systems) and rainwater catchment systems are encouraged. Weather based irrigation controllers and, where feasible, other water conservation measures shall be required.**

## IV. FINDINGS

### A. AMENDMENT DESCRIPTION

This LCP amendment request involves a City-initiated update to the City's Zoning Ordinance (Municipal Code), which is certified as part of its LCP Implementation Plan (IP). No changes to the certified LCP Land Use Plan (LUP) are proposed herein.

The City is proposing to amend regulations relating to certified alcoholic beverage manufacturing (ABM), add and revise definitions, clarify requirements for rooftop solar structures, add a section relating to electric vehicle parking requirements, and update landscaping regulations. LCP Amendment Request No. 2-17 is proposed, in part, to reflect recent changes to the California Building Standards Code and implement the State Model Water Efficient Landscape Ordinance.

The portion of the subject LCP amendment request that relates to ABM facilities includes proposed clarifications of parking requirements and standards for hours of operation for ABM facilities and accessory tasting rooms in commercial zones. The City also proposes to process permits for such ABM facilities and associated accessory tasting rooms administratively, rather than requiring a Conditional Use Permit (CUP).

In response to the triennial update of the California Building Standards Code, the City is proposing modifications to Chapter 21.15 of the City's Municipal Code (*Definitions*) including the addition of "terms not defined" and revised definitions of "balcony", "deck", "demolish", and "rebuild". Amendment Request No. 2-17 also includes a proposal to extend the expiration of permits including local coastal development permits from one year to two years, meaning a City-approved administrative permit would expire within two years of approval if the subject development or privilege has not commenced within that time period. Chapter 21.31, *Residential Districts*, is also proposed to be changed to clarify when rooftop solar collectors are allowed to exceed applicable height standards. In addition, the City is proposing to add a section to Chapter 21.41 (*Off-Street Parking and Loading Requirements*) to add electric vehicle space and charging station requirements to the LCP.

In response to the adoption of the State Model Water Efficient Landscape Ordinance, the City proposes to amend Chapter 21.42 (*Landscaping Standards*) to update the regulations relating to landscape areas, plan check requirements, and water efficiency standards to conserve water and reduce energy consumption. The proposed changes include the addition of a Maximum Applied Water Allowance (MAWA) to increase the efficiency of water use across the City and the requirement for applications for certain projects, including those requiring Site Plan Review or plans for large new or rehabilitated landscapes, to complete a Landscape Document Packet that includes water efficiency calculations. The Landscape Document Packet also includes a project checklist, to be completed and adhered to by the applicant, which must be consistent with the landscaping standards in the Zoning Code and any adopted changes thereto.

In summary, the LCP amendment, as proposed by the City, would clarify and make more specific its regulations and definitions relating to ABM facilities, balconies, decks, demolition and reconstruction, solar panels, electric vehicle parking, and landscaping.

## **B. REJECTION OF LCP AMENDMENT 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 addition, the purpose of this proposed Zoning Ordinance amendment is to revise the existing regulations to provide more clarity and be consistent with recent changes in State law.

The City of Long Beach coastal zone includes several single-family and multi-family residential zoned neighborhoods, commercial centers, and parks that would be affected by the proposed LCP amendment. Some of these properties are immediately adjacent to or are located on sensitive habitat areas and/or in low-lying hazardous areas including sandy beach and Alamitos Bay. The City's certified LUP includes policies that call for a "*balance between human use and ecological concerns*" (Introduction, Coastal Resources), require development to "*maximize view corridors*" along Ocean Boulevard (Downtown Shoreline, Shoreline Access), and encourage "*efforts to alleviate flood hazard conditions*" (Area E, Hazard Areas). The LCP has not been updated to address sea level rise.

One of the primary proposed changes to the City's Zoning Code is the revision of the definitions of "demolish" and "rebuild". These definitions provide for the threshold at which demolition and reconstruction would result in the loss of rights to nonconforming uses under Chapter 21.27 (*Nonconformities*) and, therefore, be required to comply with current standards for public access, public view, and sensitive habitat protections and minimization of hazards. The City proposes revisions that are intended to provide more detail to the proposed definitions and add references to the certified IP chapter on nonconformities to clarify that the thresholds for both demolish and rebuild, if met, would trigger a loss of nonconforming rights. This intention is consistent with the City's certified LUP which, as described above, includes protections of coastal resources and aims to minimize coastal hazards. However, the City's proposed changes to the definitions of "demolish" and "rebuild" are not adequate to carry out the LUP policies or the apparent intent of the proposed changes. For example, the City defines "demolish" to include all forms of "rebuild," including projects consisting entirely of additions to an existing building even if no portion of the existing building is removed or altered in any fashion. In addition, the proposed definitions of "demolish" and "rebuild" lack sufficient clarity needed to assess whether a project qualifies and, thus, triggers the loss of non-conforming rights.

Finally, Chapter 21.27 of the City's Municipal Code does not currently include a provision regarding non-conforming uses for projects that qualify as "rebuild." The City proposed revising the definition of "rebuild" to state that for any project meeting the definition, "any existing legal nonconformities on the structure may only continue to be maintained if it is not removed or modified as part of the project, intentionally or otherwise." The Commission agrees that the LCP should clearly define the point at which projects involving demolition or rebuild become new development that must comply with the LCP standards; however, the proposed language is more of an exception than a requirement, as it would allow non-conforming structures to remain when rebuild occurs as long as those specific structures are not removed or modified. This definition is too narrow and frustrates LCP policies designed to ensure protection of coastal resources for new development. Therefore, as proposed, Amendment Request No. 2-17 is not adequate to carry out the provisions of the certified LUP.

Another major proposed change is the update of the City's certified landscaping regulations. The Open Space & Recreation Element of the certified LUP contains goals and policies "*to preserve areas which serve as natural habitats for fish and wildlife species,*" "*to develop well-managed, viable ecosystems that support the preservation and enhancement of natural and wildlife habitats*" (Goal 1.1), and to "*protect and improve the community's natural resources...*" (Policy 1.2). Amendment Request No. 2-17, as submitted, does not prohibit invasive species from being used in landscaping projects and would, thus, adversely impact natural habitats in the coastal zone inconsistent with the aforementioned LUP provisions. Therefore, the change, as proposed, would be inconsistent with the City's certified LUP.

Furthermore, the Open Space & Recreation Element of the certified LUP includes a program to "*preserve and protect water resources available to the City of Long Beach*" (Program 2.3) and policies (including M85) of the Dedicated Policy Statement of the certified LUP generally aimed at mitigating energy consumption by adopting conservation measures. While Amendment Request No. 2-17 is an improvement on past water efficiency standards, there are measures that could be taken to conserve more water and reduce adverse impacts on the environment resulting from energy consumption.

The City also intends to clarify when rooftop solar collectors and associated supporting structures are allowed to exceed applicable height limits. The City proposes to allow these exceedances only if necessary for the sole purpose of solar collection and if not installed on occupiable areas of the roof. As submitted, rooftop solar collectors exceeding allowable height limits could be permitted in the coastal zone where they may impact public views of the ocean. Public views of the ocean are protected through policies of the certified LUP including requirements for maintenance of "*open vistas of the ocean across public lands*" (Open Space & Recreation Element) and for development to "*maximize view corridors*" along Ocean Boulevard (Downtown Shoreline, Shoreline Access). Therefore, as proposed, the City's change is not adequate to carry out the provisions of the certified LUP.

In addition, the City proposes to add references to municipal codes that are not part of the certified LCP and are, therefore, not reviewed by the Coastal Commission for potential impacts to coastal resources. The proposed references to Chapters 14.28 (*Trees and Shrubs*), 18.47 (*Green Building Standards Code*), and 20.36 (*[Subdivision] Design Standards*) would allow the City to indirectly incorporate changes that may be inconsistent with the City's certified LCP and/or the Coastal Act into the IP without Coastal Commission certification. Thus, the City's proposed inclusion of external references in the IP is inconsistent with certified LUP.

In this case, as proposed by the City, Amendment Request No. 2-17 is not adequate to carry out the policies of the City's certified LUP and must be rejected.

### **C. APPROVAL OF LCP AMENDMENT IF MODIFIED AS SUGGESTED**

The City's proposed LCP amendment does not conform with, and is not adequate to, carry out the policies of the certified LUP as submitted. As such, eight suggested modifications are necessary to clarify and make the City's IP consistent with the LUP policies.

**Suggested Modification 1** corrects Table 41-C which, as written, does not have parking requirements for ABM office spaces that equal twenty-five percent (25%) of the gross floor area. As written there are only stated parking requirements for office spaces totaling more or less than twenty-five percent. While this language was certified by the Coastal Commission in 2016 (LCP Amendment Request No. 2-16), this suggested modification would correct this oversight.

**Suggested Modification 2** revises the City's proposed definition of "demolish" in the coastal zone to clearly distinguish between the activities that qualify as "demolish" and "rebuild," and provide additional specificity regarding the threshold for new development. As proposed by the City, the definition of demolish includes removal or modification of structural elements and incorporates projects meeting the definition of rebuild. As proposed, projects meeting the definition of rebuild include additions to a building's existing size which may or may not involve work meeting an ordinarily accepted understanding of demolition. Thus, as proposed, the City defines "demolish" in terms that are not typically associated with demolition. **Suggested Modification 2** also ensures that projects in the coastal zone meeting the threshold for "demolish" constitute redevelopment and, therefore, must conform with current LCP standards including those related to setbacks and parking. In addition, the suggested revision clarified what activities, in the coastal zone, constitute "demolish." This change is necessary to assure that projects qualifying as "new development" comply with LCP policies, including policies relating to protection of sensitive habitat and/or hazardous areas in the coastal zone of Long Beach, and that improvements to non-conforming structures do not significantly extend the lifetime of the structure where that structure may be, either currently or in the near future, subject to coastal hazards or adversely impacting coastal resources. Therefore, the suggested modification would modify the City's proposed changes to ensure they are adequate to carry out the policies of the certified LUP.

**Suggested Modification 3** revises the definition of "rebuild" in the coastal zone to clarify the relationship between the terms rebuild and demolish, and provide more specificity regarding the threshold for new development. These changes are necessary to clarify the City's proposed requirement regarding rebuild and nonconforming structures and ensure that significantly modified development is considered new development that must comply with LCP resource protection policies.

**Suggested Modification 4** adds a section to Chapter 21.27 (*Nonconformities*) of the City's Zoning Code to clarify that all structures qualifying as 'rebuilt' must conform to the provisions of the Zoning Code and LCP. Section 21.27.050 already states that all rights to a nonconforming use are lost if the structure housing the use is demolished and loss of nonconforming parking rights are lost if the primary structure on the lot is demolished, but there are no existing requirements for structures that are rebuilt or demolished to come into conformance with current standards. This suggested modification allows for the revisions described above (**Suggested Modifications 2 and 3**) while upholding the City's intention to assure that projects meeting the definitions of "demolish" and/or "rebuild" trigger a loss of all nonconforming rights.

**Suggested Modification 5** revises Section 21.31.220 which regulates the exceedance of height allowances for rooftop solar collectors to add a requirement for consistency with the policies of the certified LCP, including visual resource protections. Public views of the ocean are protected

through policies of the certified LUP such as requirements for maintenance of “*open vistas of the ocean across public lands*” (Open Space & Recreation Element) and for development to “*maximize view corridors*” along Ocean Boulevard (Downtown Shoreline, Shoreline Access). As proposed, the City would allow height exceedances for rooftop solar collectors and associated supporting structures if necessary for the sole purpose of solar collection and if not installed on occupiable areas of the roof. Thus, as proposed, rooftop solar collectors exceeding allowable height limits could be permitted in the coastal zone where they may impact public views of the ocean. In addition, there are building and site design policies that incorporate discussions of view corridors in the Downtown Shoreline Community Plan of the certified LUP which should be considered in evaluating excessive height allowances. Therefore, this suggested modification adds that rooftop solar collectors may exceed applicable height limits if the City’s two requirements are met and if the development is consistent with the policies of the certified LCP. Therefore, as modified, rooftop solar collectors would not be permitted to exceed applicable height limits if visual resources protected in the LCP would be adversely impacted. This modification to the City’s IP change would be adequate to carry out the policies of the City’s certified LUP.

**Suggested Modification 6** revises the new City-proposed section relating to electric vehicle parking requirements to eliminate the reference to municipal codes that are outside the purview of the LCP. Any City regulations not certified as part of the LCP are not reviewed by the Commission and, thus, any changes the City makes to those sections (which could directly or indirectly adversely affect coastal resources) would thereby be incorporated in the IP. This suggested modification maintains the City’s proposed reference for areas outside the coastal zone and includes minimum electric vehicle space and charging requirements consistent with the State Green Building Standards and with the building standards adopted by the City of Long Beach in 2016 for areas within the coastal zone. The imposition of such electric vehicle standards helps achieve the goal of “*lessening the emissions of harmful contaminants into the air basin,*” which is described in the Detailed Policy Statement of the certified LUP. Thus, this revision removes the reference to an uncertified part of the Municipal Code and is, therefore, adequate to carry out the provisions of the City’s certified LUP.

**Suggested Modification 7** adds coastal resource protection measures to landscape requirements. The coastal zone in Long Beach contains natural resource areas including sandy beach, lagoons, and wetlands that are adversely impacted by invasion by exotic plant species. The Open Space & Recreation Element of the certified LUP contains goals and policies “*to preserve areas which serve as natural habitats for fish and wildlife species,*” “*to develop well-managed, viable ecosystems that support the preservation and enhancement of natural and wildlife habitats*” (Goal 1.1), and to “*protect and improve the community’s natural resources...*” (Policy 1.2). This suggested revision would add a prohibition of planting invasive species in the coastal zone thereby minimizing the spread of invasive species and adverse impacts on natural habitats due to exotic plant invasion. As modified, the City’s proposed changes would be adequate to carry out the ecological resource policies of the certified LUP.

**Suggested Modification 8** removes references to municipal codes that are outside the purview of the certified LCP for areas in the coastal zone and add coastal resource protection measures. First, the City proposes references to chapters of the municipal code that are not reviewed by the

Coastal Commission. The inclusion of such references would allow the City to indirectly incorporate changes that may be inconsistent with the City's certified LCP and/or the Coastal Act into the IP without Coastal Commission certification. This suggested modification includes the removal of such references and replacement, where necessary, with relevant portions of the text of the City-referenced standards and ensures that street trees will not be spaced in an unsafe or unreasonable manner. Thus, this revision is adequate to carry out the provisions of the City's certified LUP.

Additionally, this suggested revision encourages the use of native, low water use trees in public right-of-way areas consistent with the ecological resource and water conservation policies of the certified LUP. The suggested modification also includes added language that further encourages water (and energy) conservation consistent with Program 2.3 of the Open Space & Recreation Element of the certified LUP—to "*preserve and protect water resources available to the City of Long Beach*" and with Measure 85 and other policies of the Dedicated Policy Statement of the certified LUP—to mitigate energy consumption by adopting conservation measures. Therefore, as modified, the City's update of the landscaping ordinances is adequate to carry out the provisions of the certified LUP.

With the eight suggested modifications described above, the proposed amendment is consistent with and adequate to carry out the certified LUP.

#### **D. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing environmental review documentation in connection with its activities and approvals necessary for the preparation and adoption of an 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).) Thus, under Section 21080.5 of CEQA, the Commission's review and analysis of the LCP amendment in this staff report satisfies CEQA environmental review requirements. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with 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. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The City of Long Beach LCP Amendment No. 2-17 consists of an amendment to the Implementation Plan (IP) of City's certified LCP.

As outlined in this staff report, the proposed LCP Amendment, if modified as suggested, will be consistent with the policies of the LUP. Thus, the Commission finds that the LCP Amendment, if modified as suggested, is in conformity with and adequate to carry out the land use policies of the certified LCP. The Commission finds that approval of the LCP Amendment, as modified, will not result in significant adverse environmental impacts under the meaning of CEQA and will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code. Furthermore, as modified, there are no other feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the LCP amendment may have on the environment.