

**CALIFORNIA COASTAL COMMISSION**

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# W11b

September 27, 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. 3-17 (LCP-5-LOB-17-0086-3 Accessory Dwelling Units) 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. 3-17**

The Coastal Commission certified the City of Long Beach Local Coastal Program (LCP) on July 22, 1980. Amendment Request No. 3-17 would amend the Implementing Ordinances of the certified LCP to revise regulations regarding accessory dwelling units (ADUs). 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 No. ORD-17-0031 (**Exhibit 1**). The LCP amendment request was submitted for Commission certification by City Council Resolution No. RES-17-0144 (**Exhibit 2**). The City of Long Beach Planning Commission held public hearings for the ordinance on June 1, 2017 and July 6, 2017. The City Council held public hearings for the resolution on October 10, 2017 and December 12, 2017. The City submitted LCP Amendment Request No. 3-17 on December 29, 2017 and Commission staff deemed the LCP amendment request complete on January 16, 2018.

The LCP amendment is proposed to be consistent with recent state legislation (the enactment of AB 2299 and BS 1069 and subsequent amendments) which alters Government Code 65852.2 to impose requirements on local governments’ regulation of ADUs in order to increase the availability of smaller, more affordable housing units statewide. Among the changes to the City’s IP are clarifications of definitions for accessory uses and structures, housing types, and other relevant terms, clarification of parking requirements, and inclusion of a new section for the regulation of ADUs. More specifically, the proposed amendment would add the definitions of “accessory dwelling unit”, “carport”, and “primary dwelling”, revise the definitions of “accessory building, accessory structure”, “accessory use, residential”, “manufactured housing”, “mobile home”, and “single-family dwelling”, and delete the terms “dwelling, one-family” and “secondary housing unit” to Chapter 21.15 of the City’s Municipal Code (*Definitions*).

Amendment Request No. 3-17 also proposes to add a category of development that would be exempt from CDP requirements to Chapter 21.25 (*Administrative Procedures*) for the creation or expansion of ADUs and prohibit ADUs in Planned Unit Developments (Chapter 21.31, *Residential Districts*). Also, proposed modifications to Chapter 21.41 (*Off-Street Parking and Loading Requirements*) establish a parking requirement for all ADUs in the coastal zone and in the City's designated Parking Impacted Areas, relax the required locations of on-site parking, including allowing tandem parking, and require on-site replacement of any parking eliminated in the development of an ADU. In addition, a new section within Chapter 21.51 (*Accessory Uses*) of the IP defines Limited and Conforming ADUs and lays out regulations for their location, density, and development standards, including parking and design. 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 allow ADUs as accessory uses where there is an existing single-family residence. The City does propose to enforce minimum lot size requirements and require one parking space for an ADU in the coastal zone. If these standards are met, the City would exempt the ADU from coastal development permit requirements.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission certify LCP Amendment Request No. 3-17 with suggested modifications necessary to assure the protection of sensitive habitats, public access, and public views by requiring use of the coastal development permit process for ADU projects in areas adjacent to coastal beaches and water, construction of new floor areas associated with an ADU in a nonconforming structure to adhere to applicable setback standards, and removal of an ADU due to coastal hazards upon request by a government agency. In addition, the suggested modifications further encourage the development of ADUs consistent with the LCP objective to provide opportunities for low and moderate income housing. The motions and resolutions to carry out the staff recommendation are on **Pages Five and Six**. The suggested modifications to the LCP amendment request are included under Section III of this staff report.

The suggested modifications are also necessary to ensure that the LCP's requirements are consistent with currently applicable state rules implementing the changes to Government Code Section 65852.2. The proposed LCP amendment, if modified as suggested, will be consistent with the requirements of the City's certified LCP Land Use Plan (LUP), which is the standard of review.

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 – Long Beach City Council Ordinance No. ORD-17-0031
- Exhibit 2 – Long Beach City Council Resolution No. RES-17-0144

## **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 ordinance on June 1, 2017 and July 6, 2017. The hearing on June 1, 2017 resulted in the continuation of the hearing to the July 6, 2017 hearing date when the Planning Commission approved the recommendation to find the Zoning Code Amendment (ZCA) was exempt from CEQA with an amendment to reduce the maximum size of an ADU. The City Council held public hearings for the resolution on October 10, 2017 and December 12, 2017. The first City Council reading of the ordinance at the hearing on October 10, 2017 resulted in a motion to increase the minimum lot size from 4800 to 5200 square feet, reduce the maximum allowed size of ADUs, require the provision of open space equal to 30% of the gross floor area, and add preferential parking districts to parking impacted areas. The City Council adopted Resolution No. RES-17-0144 to submit a LCP amendment request on December 12, 2017 and adopted the City's ZCA on December 19, 2017. Notice of Public Hearing was posted and published in the Long Beach Press-Telegram, The Beach Reporter, Daily Breeze, and Palos Verdes Peninsula News. Written and verbal public testimony was received for the subject ZCA.

On December 29, 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. The subject amendment request was submitted for Coastal Commission action via City Council Resolution No. RES-17-0144, which requests Commission action on City of Long Beach Ordinance No. ORD-17-0031. On January 16, 2018, 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 March 7, 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 March 17, 2019.

**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** the Amendment to the Implementation Plan for 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 I:**

*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** the Amendment to the Implementation Plan for the City of Long Beach certified LCP if it is modified as suggested 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 II:**

*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:** Fix a typographical error in the section number.

21.165.1770 Mobile home. See "Manufactured housing."

~~"Mobile home" means a manufactured dwelling unit capable of being transported to a site on a trailer or on wheels. A mobile home is not considered a building, as defined by the Building Code.~~

**Suggested Modification 2:** Delete City-proposed exemption from coastal development permit requirement for all ADUs, regardless of location and/or coastal resource impacts.

21.25.903.C

~~***5. Creation or expansion of an accessory dwelling unit in conformance with the requirements of Section 21.51.276 (Accessory dwelling units).***~~

**Suggested Modification 3:** Add language to exempt ADU projects from the CDP public hearing requirement.

21.25.904 Procedures—Coastal permit.

This section outlines the procedures for issuing coastal permits...

B. Hearing Required. A public hearing shall be required prior to the approval of a local coastal development permit ***with the exception of local coastal development permits for the creation or expansion of an accessory dwelling unit in***

*conformance with the requirements of Section 21.51.276 (Accessory dwelling units) and consistent with Government Code Section 65852.2.*

**Suggested Modification 4:** Delete Section 21.51.275 which relates to secondary housing units.

~~*21.51.275 Secondary housing units ("granny flats").*~~

~~*This Section will remain in effect in the Coastal Zone until such time as new Section 21.51.276 is approved and certified by the California Coastal Commission as an amendment to the Local Coastal Program (LCP). Upon certification, Section 21.51.275 will no longer be in force and effect.*~~

**Suggested Modification 5:** Clarify which ADU projects can be processed ministerially, which require a coastal development permit, and which can be processed as exempt from the coastal development permit requirement.

21.51.276 Accessory Dwelling Units.

An accessory dwelling unit ("ADU") is an allowed accessory use on a lot having only one detached single family dwelling (a "primary dwelling") and no other principal uses, or principal buildings or structures. An accessory dwelling unit shall have the provisions described in the definition of ADU (Section 21.15.045 - Accessory Dwelling Unit). Permits for ADUs shall be considered ministerially, without discretionary review or a hearing, ***with the exception of projects falling under the categories listed in Sections 21.25.903.A and 21.25.903.B. Applications for ADUs in the coastal zone that are exempt from the coastal development permit requirement shall be processed according to Section 21.25.906.*** ~~and~~ ~~†~~The Director of Development Services shall approve or deny a ministerial application for an ADU within 120 days after receiving said application. Coastal Development permits shall be processed according to Section 21.25.904. ADUs are subject to the following regulations:

**Suggested Modification 6:** Add coastal resource protection measures to nonconforming setback compliance requirements, second-story ADU design requirements, and landscaping requirements.

21.51.276.D Development Standards.

An accessory dwelling unit shall conform to all development standards of the zone in which the property is located, including but not limited to, parking, height limits, setbacks, projections, lot coverage, landscape, open space, and floor area ratio (FAR), except as specifically provided by this Section, and shall be subject to the following standards, and the provisions of Tables 51 .276-1 and 51 .276-2:

1. Nonconforming Setbacks. An ADU may be located within an existing, permitted structure with non-conforming setbacks, provided that any new construction of floor area complies with the applicable setback standards. Conversion of an existing

detached accessory structure with non-conforming setbacks may include a second floor, provided that any new construction complies with the applicable setback standards ***and the policies of the City of Long Beach certified Local Coastal Program (LCP).***

2. Relationship to Other Accessory structures. The gross floor area of an ADU shall not be counted toward the allowable size of accessory structures specified in Section 21.31.245.
3. Architecture, Design, and Site Planning. An ADU shall be subject to the following criteria for architecture, design, and site planning compatibility:
  - a. Exterior modifications to a primary dwelling or accessory building, as well as the construction of a new attached ADU, shall be architecturally compatible with the primary dwelling, including the use of complimentary color palettes, exterior finishes, roof pitch, and other design standards as set forth in Chapter 21.31.
  - b. Any garage door(s) shall be removed from a garage or other accessory structure that is converted to an ADU, and the opening shall be treated and finished to match the building per Subsection 21.51.276.D.3.a.
  - c. Any window, door, or deck of a second story ADU shall utilize techniques to lessen views onto adjacent residential lots to preserve a reasonable level of privacy of adjacent residents. These techniques may include facing a unit entrance away from an interior property line, use of obscured glazing, window placement above eye level, or screening between properties.
  - d. ***A second story ADU shall be designed to preserve public views of the beach, bay, ocean, or tidelands from public areas in the coastal zone. Techniques, including siting decks to maximize public views of the ocean and using visually permeable guardrails, may be utilized.***
  - e. ~~d.~~ Where a driveway abuts an ADU, a landscape area with a depth between eighteen (18) to thirty-six (36) inches shall be provided for the entire width of the driveway, ***consistent with Chapter 21.42,*** provided that:
    - i. The landscape area does not reduce the driveway length below the minimum required in this Section when it serves as the required parking; and
    - ii. Existing pedestrian paths and entrances to the ADU and primary dwelling are not negatively impacted, or can feasibly be relocated.

**Suggested Modification 7:** Clarify minimum lot size requirements within and outside the coastal zone.



Table 51.276-1 \*See complete table in *Exhibit 1*

		Limited ADU	Conforming ADU
Minimum	<i><u>Within the Coastal Zone</u></i>	<i>N/A</i>	<i>4,800 sq. ft.</i>
Lot Size	<i><u>Outside the Coastal Zone</u></i>	<i>5,200 sq. ft.</i>	

**Suggested Modification 8:** Delete City-proposed parking space requirement for all ADUs in the coastal zone.

Table 51.276-2

Location	Parking spaces required	
	ADU <sup>(a)</sup>	Primary Dwelling
<i><u>Coastal Zone and/or Parking Impacted Area (outside the Coastal Zone)<sup>(b)</sup></u></i>	<u>1</u>	Same as existing number of spaces
<i><u>Other permitted areas (outside the Coastal Zone)</u></i>	<u>0</u>	
<i><u>Coastal Zone</u></i>	<u>1<sup>(c)</sup></u>	

Notes

(a) The parking required for an ADU is in addition to that required for the primary dwelling.

(b) The boundaries of the Parking Impacted Area *outside the coastal zone* for purposes of this Section shall be taken from Map 17 of the Mobility Element of the General Plan, as adopted by the City Council on October 15, 2013, or as may be subsequently amended.

(c) An ADU in the coastal zone shall be exempt from the parking requirement if any of the following criteria are met:

- i. *The ADU is located within one-half mile of public transit.*
- ii. *The ADU is located within an architecturally and historically significant historic district.*
- iii. *The ADU is part of the proposed or existing primary residence or an existing accessory structure.*
- iv. *When there is a car share vehicle located within one block of the ADU.*

**Suggested Modification 9:** Add a requirement to remove or vacate an ADU upon request by a government agency in response to coastal hazards.

21.51.276.E. Other Provisions.

1. Owner Occupants, Sales, Rentals, and Covenants. The following requirements shall apply to all accessory dwelling units:
  - e. The accessory dwelling unit shall be removed at the expense of the property owner upon violation of Section 21.51.276, ~~or~~ upon cessation of the primary land use as a single-family dwelling, including, but not limited to, addition of another principal dwelling unit, *or upon a request by any government agency to remove or vacate the structure due to coastal hazards.*

## IV. FINDINGS

### A. AMENDMENT DESCRIPTION

This request involves a city-initiated LCP amendment 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 of Long Beach zoning code includes provisions regulating secondary housing units. The existing regulations contained in Chapter 21.51.275 of the IP allow secondary housing units on lots with single-family residences and establish development standards regulating the setbacks, height, lot size, unit size, parking, entrance, and lot coverage of secondary housing units. This LCP amendment would revise and update these provisions in response to recent changes in State law.

California Government Code Section 65852.2, related to land use and second units, has been amended a number of times, including most recently by Assembly Bill 2299 (Bloom, 2016), Senate Bill 1069 (Wieckowski, 2016), and Assembly Bill No. 494 (Bloom 2017). The new State law authorizes local governments and agencies to provide for the creation of secondary units, termed "accessory dwelling units" (ADUs), in single-family and multi-family residential zones by ordinance. The law, approved by the Governor and effective as of January 1, 2017, specifically requires that applications for ADUs that comply with local regulations be approved ministerially within 120 days of submittal and not be subject to public hearings, although the law states specifically that the statute shall not be interpreted to "*supersede or in any way alter or lessen the effect or application of the California Coastal Act . . . except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.*" (Gov. Code, § 65852.2, subd. (j).) The Legislature also enacted Government Code section 65852.22, which establishes streamlined review of "junior" ADUs in jurisdictions that adopt ordinances that meet certain specified criteria. Unlike Government Code section 65852.2, the junior ADU statute does not specifically address or refer to the Coastal Act.

The new state law also adds a number of criteria to be included in a local ordinance for ADUs, including those related to maximum size, setbacks, the number, location and configuration of required parking and exceptions to parking requirements, growth limits, and density requirements. However, except for removing the requirement to hold a public hearing on coastal development permits for ADUs none of the amendments have changed the effect or application of the Coastal Act (Gov. Code § 6582.2(j)).

The City proposes to amend the Implementation Plan (IP) portion of the City's certified LCP to revise regulations regarding accessory dwelling units. Amendment Request No. 3-17 proposes changes to Chapter 21.15 (*Definitions*) to add the definitions of "accessory dwelling unit", "carport", and "primary dwelling", revise the definitions of "accessory building, accessory structure", "accessory use, residential", "manufactured housing", "mobile home", and "single-family dwelling", and delete the terms "dwelling, one-family" and "secondary housing unit". The amendment request also proposes changes to Chapter 21.25 (*Administrative Procedures*), Chapter 21.31 (*Residential Districts*), Chapter 21.41 (*Off-Street Parking and Loading*), and Chapter 21.51 (*Accessory Uses*). Amendment Request No. 3-17 proposes to add ADUs as an

allowed accessory use subject to location, density, size, parking, design, and rental restrictions, among other regulations. See **Exhibit 1** for the relevant City Ordinance.

The proposed changes to *Definitions* update the language that relates to ADUs. The City proposes to replace the previously used term “secondary housing unit” with “accessory dwelling unit”. Similarly, the term “one-family dwelling” would no longer be used and would instead be incorporated into the definition of “single-family dwelling”. In order to help define ADUs, the City is proposing to add the term “primary dwelling” which informs where ADUs can be developed. The proposed amendment would also clarify the meanings of “manufactured housing” and “mobile homes” which are considered ADUs. Language is also added to the definition “accessory use, residential” to distinguish between an accessory residential use (i.e. a caretaker’s or night watchman’s residence) and an ADU. “Accessory building, accessory structure” would also be updated to expand the use of the term from a detached building to an attached or detached building or structure which would include attached or detached ADUs. In addition, the City also proposes to add the term “carport” to the *Definitions* section of the IP because it is used in the proposed parking regulations relating to ADUs as a potential location to satisfy parking requirements.

Amendment Request No. 3-17 also proposes to add to Chapter 21.25 (*Administrative Procedures*) a category of development that would be exempt from CDP requirements, for the creation or expansion of ADUs. This would allow for ministerial review of all ADU development projects.

The City’s Ordinance (**Exhibit 1**) also included a prior change to Chapter 21.31 (*Residential Uses*) to prohibit ADUs in Planned Unit Developments. The subject section, Section 21.31.360 was not previously submitted by the City when it was adopted in 2015 but would become certified by this LCP amendment. There are no Planned Unit Developments in the City’s coastal zone.

The amendment also proposes to change Section 21.41.233.A and C, which relates to tandem parking, to allow tandem parking to satisfy parking replacement and other parking requirements related to ADUs.

Lastly, the City proposes to update the *Accessory Use* section of the IP to add ADU regulations. Section 21.51.110 is modified to replace the term “secondary housing units” with “accessory housing units”, Section 21.51.275 is a placeholder for the temporary use of the existing regulations relating to secondary housing units until the LCP amendment is approved and certified by the Coastal Commission, and Section 21.51.276 is added, which creates two categories of ADUs, Limited ADUs (within the existing footprint of the primary dwelling or accessory structure in single-family residential zones) and Conforming ADUs (additional floor area or located in multi-family residential zones) and regulates allowed locations, densities, development standards, and other provisions. Within this section, the City also proposes to require one parking space for all ADUs in the coastal zone.

In summary, the LCP amendment, as proposed by the City, would allow ADUs as accessory uses where there is an existing single-family residence. The City does propose to enforce minimum

lot size requirements and require one parking space for each ADU in the coastal zone. If these standards are met, the City is proposing to exempt the ADU from coastal development permit requirements.

The Commission has acted on a number of LCP amendments across the State to address ADUs in the coastal zone. These LCP updates are mostly necessitated by the amendments to Government Code Section 65852.2 regarding ADUs, including de minimus LCP amendments in Carmel By the Sea and Santa Cruz County, LCP amendment requests approved as submitted from Del Mar and the City of San Diego, and an LCP amendment approved with suggested modifications for the City of Carlsbad. The Executive Director published two memoranda in 2017 intended to help coastal jurisdictions and members of the public understand how to harmonize the new state ADU requirements with LCP and Coastal Act policies and clarify whether and how to amend LCPs in response to these changes. In each of these cases, the Commission found that the proposed amendments (as modified in the case of the City of Carlsbad LCP amendment) were consistent with the policies of either the local government's certified LCP or the Coastal Act and protected coastal resources while supporting lower-cost housing in the coastal zone.

#### **B. REJECTION OF AMENDMENT AS SUBMITTED**

The standard of review for LCP implementation plan submittals or amendments is whether the amendments are consistent with and adequate to carry out the provisions of the certified LUP. In addition, the purpose of this proposed Zoning Ordinance amendment is to revise the existing provisions that govern accessory dwelling units to be consistent with recent changes in State law that seeks to encourage the development of lower-cost housing units across the State.

The City of Long Beach coastal zone includes several single-family and multi-family residential zoned neighborhoods that would be affected by the proposed LCP amendment. Some of the single-family residences (which might be suitable to legally support ADUs) in these zones 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 addition of a new category of development (ADUs) that would be exempt from coastal development permit requirements (Section 21.25.903.C). The City's proposal to exempt all conforming ADUs from coastal development permit requirements would aid in the City's compliance with the recent changes to State law that mandate ministerial action on ADU permit applications within 120 days of submittal, and would effectively eliminate the requirement for public hearings relating to ADU development applications (Section 21.51.276). However, the Coastal Act establishes specific procedures for exempting categories of development, such as section 30610(e), which authorizes the Commission to exempt categories of development within a specifically defined geographic area for which there is no potential for any significant adverse effect on coastal resources, after approval by the Commission by a two-thirds vote of its appointed members. The

City has not applied for a categorical exclusion for ADUs. Even if it had, the City of Long Beach coastal zone contains single-family residences (which might be suitable to legally support ADUs) that are immediately adjacent to sensitive habitat areas or in potentially hazardous areas, including sandy beach and Alamitos Bay, so it is not clear that an exemption for all ADUs from the requirement to obtain a CDP would be consistent with the Coastal Act. In addition, Categorical Exclusion Order No. E-80-5, certified by the Commission on July 15, 1980, exempts minor additions to single-family residences near the beach, bay ocean, or tidelands and for all projects not requiring discriminatory review which are consistent with the Zoning Regulations, and will likely already exclude a majority of ADU projects from coastal development permit requirements. Therefore, the proposal contained in Amendment Request No. 3-17 to exempt all ADUs from the requirements to obtain a coastal development permit is both unnecessary and also not an appropriate avenue for approving such an exemption.

Another major proposed change is the addition of a new section to the Zoning Code, Section 21.51.276, which defines ADUs and regulates allowed locations, densities, development standards, and other provisions. While these additions do encourage the development of ADUs and, thus, lower-cost housing units, they do not provide adequate protection of coastal resources or maximize the potential for development of ADUs. More specifically, development of ADUs on lots with non-conforming setbacks is not required to conform with the City's LCP policies and the proposed ADUs may, therefore, meet the development standards in the subject section (as required) without an analysis of the development's consistency with the LCP's visual or ecological resource or public access protection policies. This change, as proposed, would be inconsistent with the City's certified LUP.

The City also proposes development standards to minimize impacts of ADUs that involve a second story on adjacent neighbors' views, but fails to require the minimization of impacts on public views of the coast. The LUP protects public views of the ocean through policies including requirements for maintenance of "*open vistas of the ocean across public lands*" (Open Space & Recreation Element), for development to "*maximize view corridors*" along Ocean Boulevard (Downtown Shoreline, Shoreline Access), and for special development standards for Subarea 1 of LCP Area A, building design standards in LCP Area C, and visual resource policies for LCP Areas B, D, and E of the certified LUP. Therefore, as proposed the view protection provisions in the amendment are not adequate to carry out the provisions of the certified LUP. In addition, the proposed amendment includes a development standard requiring landscaping where an ADU abuts a driveway; however, there are no proposed requirements that prohibit the use of invasive species which could adversely impact the City's ecological resources, inconsistent with the portions of the LUP requiring protection of ecological resources.

The proposed LCP amendment imposes a requirement of one parking space for all ADUs in the coastal zone and outside the coastal zone in the City's designated Parking Impacted Areas. The ADU law authorizes local jurisdictions to impose parking standards on ADUs. However, to encourage the construction of ADUs, and therefore housing availability and affordability throughout the state, Government Code Section 65852.2 mandates that no parking shall be required within 0.5 miles of public transit, within an architecturally or historically significant area, if the ADU is part of an existing or proposed primary residence or accessory structure, when on-street parking permits are required and not offered for the ADU occupant, and within

one block of a car share vehicle. The proposed amendment does not include these exceptions to the proposed parking requirement and, therefore, appears to be inconsistent with the ADU law.

The standard of review for the proposed LCP amendment is not the ADU law, however, but rather whether the proposed IP amendment is adequate to carry out the LUP and is consistent with the Coastal Act.

The Commission has in the past required the provision of adequate parking for new development in the coastal zone because it has recognized that the availability of adequate parking in congested coastal areas such as Long Beach has a direct impact on public access to the coast. Furthermore, the certified LUP states: *“this Plan also recognizes that inadequate parking can frustrate visitor access and recreational use of coastal resources”* (Page III-DS-50). In some cases, construction and conversion of ADUs could impact coastal access if it intensifies use of coastal areas without providing for additional parking facilities; if this is the case, private residents of ADUs may use street parking and parking structures that also are used by the general public to visit the coast, thereby reducing available parking and creating a barrier to public access. Exactly how this would play out in Long Beach as a result of the ADU amendments is difficult to predict or quantify, given that ADUs are a subset of new development allowed in Long Beach.

The City finds that the entire coastal zone, with very few exceptions, is within a half mile of public transit and, thus, construction of ADUs in the coastal zone would not require the creation of additional parking in parking impacted areas and would adversely impact public access to the beaches of Long Beach. The City, therefore, finds that implementing the State law’s parking exceptions would be inconsistent with the Coastal Act. In this case, however, the Transportation and Access policies of the certified LUP state: *“Succinctly, the Long Beach LCP transportation and access policies are: (1) Increase reliance on public transit. (2) Decrease reliance on automobiles. (3) Provide slightly more parking. [and] (4) Increase pedestrian and bicycle access opportunities”* (Page II-3). While complying with the State law’s exceptions for parking would not provide more overall parking in the coastal zone, implementing the State ADU law will encourage more dense and affordable residential development in the coastal zone that, in turn, will decrease reliance on automobiles, increase pedestrian and bicycle access opportunities, and facilitate use of public transit. The benefits to public transportation and public access will help mitigate any potential adverse impacts to public access and parking availability caused by adherence to the parking exceptions in the State ADU law. In addition, the City appears to acknowledge that there are small portions of the coastal zone where ADUs might not qualify for a parking exception and, therefore, could be required to provide one parking space for a new ADU. The LCP refers to providing “slightly more parking,” while promoting alternative forms of transportation, including walking, bicycle access, and public transit. Therefore, the State law’s requirement to eliminate the parking requirement within a half mile of public transit or a block of a car share vehicle is consistent with the transportation and access policies of the certified LUP.

In addition to public access protection, the Coastal Act also directs the Commission to encourage the development of housing opportunities for low- and moderate- income households

(section 30604(f)) and calls for the concentration of existing development (section 30250(a)). The City's certified LUP likewise states, "*This program [the LCP] has as a fundamental imperative the preservation of extant viable neighborhoods and low/moderate cost housing opportunities.*" Thus, concerns about affordable housing that are at the core of the ADU law are reflected in the City's LUP, as well as the Coastal Act, and, therefore, are also relevant to the Commission's review of the proposed LCP amendment.

Recognizing the important public policies underlying the ADU law, on November 20, 2017, Commission staff advised coastal cities and counties on how to implement the ADU statute and recommended that "LCP policies should be updated to be consistent with the new ADU statute to the greatest extent feasible while still complying with Coastal Act requirements."

Therefore, the Commission acknowledges the strong public policies underlying the ADU statute and the importance of complying with the law's requirements in the coastal zone to the extent feasible while also complying with the Coastal Act. The Commission finds that a parking requirement for all ADUs in the coastal zone in Long Beach is not necessary to protect public access to the coast; that including such a requirement in the LCP, without incorporating the exceptions outlined in the ADU statute, frustrates the goals of the LCP (consistent with the ADU statute) to preserve viable neighborhoods and low- and moderate- cost housing opportunities; and that the proposed amendment cannot be approved as submitted.

Amendment Request No. 3-17 also includes a provision for the removal of ADUs at the expense of the property owner upon violation of the subject section or upon a change of the primary land use from a single-family dwelling. The provision does not include removal of an ADU by request of a government agency due to coastal hazards like flooding and erosion. Thus, an ADU could remain in a hazardous location, without being required to be removed at the property owner's expense, making this proposed amendment inadequate to carry out the LUP's hazards policies such as the encouragement of "*efforts to alleviate flood hazard conditions*" (Page E-12, Area E, Hazard Areas) and "*eliminating public health hazards*" (Page E-9, Area E, Shoreline Access).

In sum, the proposed ADU provisions, which include requirements for ministerial review of all applications for the creation or expansion of ADUs, ADUs on lots with non-conforming setbacks, second-story ADUs, landscaping requirements for ADUs, and ADU removal, are, therefore, not adequate to protect ecological resources, coastal views, public access, and low- to moderate- cost housing, as required by the City's LUP and the Coastal Act. The Commission must reject amendments where it can be shown that the amendment would be inconsistent with the certified Land Use Plan (LUP) or render the Implementation Program (IP) inadequate to carry out the LUP. In this case, as proposed by the City, Amendment Request No. 3-17 is not consistent with the policies of the City's certified LUP and must be rejected.

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

The City's proposed LCP amendment was not found to conform with, and be adequate to carry out the policies of the certified LUP as submitted. As such, nine suggested modifications are required to make the City's IP consistent with the LUP policies and new State law.



**Suggested Modification 1** corrects a typo that misidentifies the definition of “mobile home” as being listed under Section 21.16.1770 of the IP. The intended section number is 21.15.1770.

**Suggested Modification 2** revises Section 21.25.903.C to eliminate the proposed inclusion of all ADU projects, consistent with the proposed Section 21.51.276, as a category of development that would be exempt from coastal development permit requirements. Exemptions in LCPs may only be created through approval of categorical exclusions. The City is not proposing a categorical exclusion for ADUs. In addition, for the reasons cited above, this exemption is not consistent with the LUP. Suggested Modification 2 is therefore required to remove ADUs as a category of development that is exempt from CDP requirements. This revision, in association with **Suggested Modification 3** and **Suggested Modification 5**, will ensure that ADU projects with the potential to adversely impact the environment will require a coastal development permit consistent with the coastal resource protection policies of the LUP.

**Suggested Modification 3** revises Section 21.25.904 (*Procedures—Coastal Permits*), subsection B which requires a public hearing prior to the approval of a local coastal development permit. To be consistent with Government Code Section 65852.2, which states that the statute “*shall not be interpreted to supersede or in any way alter or lessen the effect or application of the California Coastal Act...except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units*”, the suggested modification adds language to Section 21.25.904.B to exempt the creation or expansion of ADUs consistent with Section 21.51.276 from the hearing requirement. This revision will ensure that **Suggested Modification 2** is consistent with state law.

**Suggested Modification 4** revises Section 21.51.275 to delete the section (regulations regarding secondary housing units, or “granny flats”) per the City’s proposed Zoning Code Amendment. The ZCA changed the text of Section 21.25.275 to state that the section shall remain in effect until Section 21.51.276 is approved and certified by the Coastal Commission as an LCP amendment at which time, Section 21.51.275 will no longer be in force. Therefore, upon approval of the LCP amendment with modifications, the definition and regulations for secondary housing units would no longer be found in the IP and would be replaced with the definitions and regulations relating to ADUs.

**Suggested Modification 5** revises the proposed new ADU section (Section 21.51.276) to clarify that not all ADU projects will be processed ministerially, without discretionary review or a hearing. Projects on tidelands and submerged lands (Section 21.25.903.A, requiring a CDP from the Coastal Commission), projects near the beach, bay, ocean, or tidelands that are not exempt, projects requiring discretionary review, traffic improvements that are not exempt, and public works projects costing \$50,000 or more (Section 21.25.903.B, requiring a CDP from the City of Long Beach) will require a coastal development permit consistent with Section 21.25.904, as modified. In addition, the suggested modification clarifies that the only exemptions for ADUs in the coastal zone are those that are included within the City’s categorical exclusion. Thus, in conjunction with **Suggested Modifications 2** and **3** above, this revision will ensure that ADU projects with the potential to adversely impact the environment will require a coastal development permit consistent with the coastal resource protection policies of the LUP.

**Suggested Modification 6** revises Section 21.51.276.D, subsections 1 and 3 to protect coastal resources. Section 21.51.276.D.1 (*Nonconforming Setbacks*), as proposed, requires new construction to comply with the applicable setback standards. The suggested modification adds a requirement for compliance with the policies of the certified LCP to ensure that when conforming to the applicable setback standards, no coastal resources would be adversely impacted. Section 21.51.276.D.3 is modified, in part, to add a subsection that requires the preservation of public views of the beach, bay, ocean, or tidelands from public areas in the coastal zone. This revision will ensure that the IP is in conformity with the LUP policies protecting public views of the coast. Section 21.51.276.3 is also modified to update the subsection numbering, given the previous revision, and ensure that required landscaping will be consistent with the certified landscaping policies of the IP.

**Suggested Modification 7** revises Table 51.276-1 to clarify that there is no minimum lot size requirement for Limited ADUs and to reduce the minimum lot size requirements for Conforming ADUs in the coastal zone. The City's General Housing Policy of the certified LUP states; "*The intent of these regulations is to maintain the present number of very low, low, and moderate income housing units within the Coastal Zone.*" The LUP has additional policies that encourage low and moderate income housing. By reducing the minimum lot size from 5,200 square feet (what City Council approved) to 4,800 square feet (the minimum lot size for "secondary housing units") for Conforming ADUs (those that require additional floor area or are located in multi-family residential zones) in the coastal zone and eliminating the minimum lot size requirement for Limited ADUs in the coastal zone, the number of lots that could support ADUs would increase from approximately 19% to 23%, thereby, increasing the potential for development of lower cost housing, in conformity with the LUP.

**Suggested Modification 8** revises Table 51.276-2 to clarify parking requirements within the coastal zone and outside the coastal zone and creates exceptions to the one space parking requirement for all ADUs in the coastal zone. Government Code Section 65852.2 mandates that, notwithstanding any other law, no parking shall be required within 0.5 miles of public transit, within an architecturally or historically significant area, if the ADU is part of an existing or proposed primary residence or accessory structure, when on-street parking permits are required and not offered for the ADU occupant, and within one block of a car share vehicle. This suggested modification adds language from Government Code Section 65852.2 relating to these exceptions to parking requirements to the Notes associated with Table 51.276-2. Two of the exceptions in the State law are for ADUs that would be in close proximity to public transit or ridesharing opportunities which should encourage the use of alternative transportation, minimizing energy consumption and vehicle miles traveled consistent with Section 30253(d) of the Coastal Act and with the transportation and access policies of the certified LUP. Similarly, the parking requirement exception for ADUs in architecturally or historically significant areas is not inconsistent with the visual resources policies of the Coastal Act.

This suggested modification includes the addition of text from the State law that is slightly altered in two ways. First, the exception from providing an additional parking space for an ADU when on-street parking permits are required and not offered to the ADU occupant was not included in the proposed suggested modification because the Commission has found that preferential parking in the coastal zone of Long Beach adversely impacts public access to the

coast<sup>1</sup>. Therefore, the reference to parking permit programs was not included in the suggested modification. In addition, to clarify that the parking exception does not apply to all ADUs, the word “existing” was added in front of “accessory structure.” As suggested, ADUs proposed as part of a new accessory structure that do not fit the criteria of the other three exceptions, would require one on-site parking space in the coastal zone thereby reducing the potential for a misunderstanding that could adversely impact on-street parking availability and, thus, public access.

These parking exceptions were not proposed by the City as part of the subject LCP amendment. Instead, the City found that one parking space is necessary within the coastal zone, which is almost entirely within a half mile of public transit, to prevent adverse impacts to public access to the coast due to already existing issues with the availability of street parking within the coastal zone. However, while the Long Beach coastal zone does have limited beach parking availability in some areas due to residential parking demand, the housing policies of the certified LUP call for the preservation of low- and moderate- cost housing opportunities, the maintenance of all extant very low/low/moderate cost units, and the replacement of such low cost units on a one-for-one basis in the coastal zone. The required replacement of very low/low/moderate cost units may be satisfied by methods including on-site as part of the development or off-site through the construction of units (subject to approval by the Housing Authority). Thus, it is possible that the development of ADUs could be used to satisfy the low cost unit replacement requirement and would support the City’s objective to preserve and maintain low and moderate cost housing opportunities in the coastal zone. Given the small lot sizes of many suitable properties in the coastal zone, requiring a parking space for ADUs may discourage the development of ADUs in the coastal zone.

Furthermore, the Transportation and Access policies of the certified LUP state: “*Succinctly, the Long Beach LCP transportation and access policies are: (1) Increase reliance on public transit. (2) Decrease reliance on automobiles. (3) Provide slightly more parking. [and] (4) Increase pedestrian and bicycle access opportunities*” (Page II-3). While complying with the State law’s exceptions for parking would not provide more overall parking in the coastal zone, implementing the State ADU law will encourage more dense and affordable residential development in the coastal zone that, in turn, will decrease reliance on automobiles, increase pedestrian and bicycle access opportunities, and facilitate use of public transit. The benefits to public transportation and public access will help mitigate any potential adverse impacts to public access and parking availability caused by adherence to the parking exceptions in the State ADU law. In addition, the City appears to acknowledge that there are small portions of the coastal zone where ADUs might not qualify for a parking exception and, therefore, could be required to provide one parking space for a new ADU. The LCP refers to providing “slightly more parking,” while promoting alternative forms of transportation, including walking, bicycle access, and public transit.

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<sup>1</sup> On October 7, 1997, the Commission heard an appeal on CDP Appeal No. A-5-LOB-97-259 and denied the City’s proposal for a preferential parking district on Naples Island and along portions of other roads in the coastal zone. Furthermore, the Commission certified LCP Amendment Request No. 1-13 (LCP-5-LOB-13-0229-1) for the addition of the Mobility Element on February 12, 2015 with suggested modifications including the elimination of the map that identified “Parking Impacted Areas” because the City planned to create preferential parking districts within those areas which would provide street parking for the private benefit of local residents at the expense of coastal visitors.

Therefore, as modified, the proposed IP amendment will be adequate to carry out the policies of the certified LUP.

Additionally, as proposed, the map that is cited in the City's proposed LCP amendment as defining the boundaries of Parking Impacted Areas was proposed as part of the City of Long Beach's LCP Amendment Request No. 1-13 (LCP-5-LOB-13-0229-1 Mobility Element) and deleted from the amendment language by the Commission because the Parking Impacted Areas are not supported by a referenced parking study or methodology, and because the map has the potential to be used as justification for future preferential parking districts which would negatively affect public access to the coast. Thus, the revision clarifies which parking standards apply to the coastal zone and does not recognize Parking Impacted Areas, as designated by the City, within the coastal zone consistent with the Commission's past actions.

In sum, the City's certified LUP states: "*This program [the LCP] has as a fundamental imperative the preservation of extant viable neighborhoods and low/moderate cost housing opportunities.*" The General Housing Policy of the certified LUP also contains general and implementing regulations for the maintenance and replacement of affordable housing in the coastal zone and Coastal Act sections 30250(a) and 30604(f) also encourage housing opportunities for low and moderate income households and call for the concentration of existing development. In addition, implementing the parking exception provisions of the State ADU law will encourage more dense and affordable residential development in the coastal zone that, in turn, will decrease reliance on automobiles, increase pedestrian and bicycle access opportunities, and facilitate use of public transit consistent with the transportation and access policies of the certified LUP. Thus, Suggested Modification 8 is consistent with the City's certified LUP because it encourages the development of lower cost housing opportunities in the coastal zone in developed areas within one half mile from public and alternative transportation.

**Suggested Modification 9** revises Section 21.25.276.E.1.e which is the provision for the removal of ADUs at the expense of the property owner upon violation of the subject section or upon a change of the primary land use from a single-family dwelling. The suggested modification adds the removal of an ADU by request of a government agency due to coastal hazards like flooding and erosion to the provision. Therefore, the revision would ensure protection of life and property from coastal hazards, including those associated with sea level rise (flooding and erosion) which are expected to impact the coastal zone in Long Beach.

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

## **V. 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. 3-17 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.