

**CALIFORNIA COASTAL COMMISSION**

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August 30, 2018

**F13c****TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
TONI ROSS, COASTAL PROGRAM ANALYST, SD COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE LOCAL COASTAL  
PROGRAM AMENDMENT NO. LCP-6-OCN-18-0055-1 (Accessory Dwelling  
Units) for Commission Meeting of September 12-14, 2018**

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**SYNOPSIS**

The City of Oceanside submitted Local Coastal Program Amendment No. LCP-6-OCN-18-0055-1 on June 22, 2018. The subject LCP implementation plan was filed as complete on August 9, 2018. The date by which the Commission must take action, absent an extension of the time limits by the Commission, is October 8, 2018. This report addresses one of three components of the City's submittal. LCP-6-OCN-18-0053-01 and LCP-6-OCN-18-0054-01 address nonconforming uses and structures and telecommunication facilities respectively. Commission staff is separately requesting a one-year extension for both of these LCP amendments to allow for additional time to review the revisions. Both of these time extension requests are also on the Commission's September 2018 agenda.

**SUMMARY OF AMENDMENT REQUEST**

The City of Oceanside is proposing to revise the City's Zoning Ordinance, part of the certified LCP implementation plan (IP), to include regulation of accessory dwelling units consistent with recent changes in state law. Specifically, the City is proposing a new Section – Section 3006 – to be included within the City's IP. Section 3006 includes definitions and addresses permitting requirements, unit size restrictions, setbacks, parking requirements and provides regulations for the development of utilities associated with new accessory units. Section 3006 also prohibits both the accessory and primary dwelling unit from being rented for less than 31 days, thereby prohibiting the use of the primary home as well as any ADU as a short term rental (STR). These regulations would apply citywide.

**SUMMARY OF STAFF RECOMMENDATION**

Staff is first recommending denial of the Implementation Plan (IP) as submitted, and then recommends approval of the IP amendment with two suggested modification(s). The

proposed revisions to the City's certified Implementation Plan (IP) to incorporate recent state law changes regarding regulation of accessory dwelling units (ADUs) raise several issues. One of the provisions adopted by the City mandates a zero or reduced setback for the conversion of an existing garage into an ADU or the addition of an ADU above a garage. Improvements made to a garage structure in order to convert it to or add an ADU are likely to significantly extend the expected lifetime and economic value of such existing structures. In the limited circumstances that a garage is located within an ecological buffer or within a setback area necessary to ensure geologic stability, allowing such reduced setbacks could result in impacts to sensitive habitat or place the structures and their occupants at risk. **Suggested Modification No. 1** clarifies that within the coastal zone, garage or other accessory structure conversions or ADUs built above garages must conform with habitat preserve buffers and geologic stability setbacks required in the certified Local Coastal Program. An additional provision adopted by the City requires that, with regard to permitting requirements, all ADUs located in the coastal zone must conform to the policies of the Local Coastal Program. In this case, this would mean that all development proposals located with the City's appeals jurisdiction would be subject to a public hearing. SB 1069 and AB 2299 require that the majority of accessory dwelling proposals be approved ministerially and not subject to a public hearing. To address this inconsistency, **Suggested Modification No. 2** clarifies that ADU proposals will be subject to the requirements of the City's LCP, with the exception of the requirement of public hearings.

The appropriate resolutions and motions begin on Page 4. The suggested modifications begin on Page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 6. The findings for approval of the plan, if modified, begin on Page 11.

## **BACKGROUND**

Currently the City of Oceanside utilizes two different zoning ordinances, one of which applies to lands within the coastal zone and serves as the City's certified Implementation Plan (IP), the second of which applies to lands outside the coastal zone. However, the City is currently working to consolidate these two documents in order to have one zoning document that would apply Citywide. Since 2015, the City has been processing LCP amendments to update and merge these two documents through a phased approach. City and Commission staffs have been working cooperatively to expedite those changes, which do not raise Land Use Plan (LUP) or Coastal Act consistency concerns. The Commission initially certified the re-organizational changes that could be found to be minor in nature in December of 2015. A second City of Oceanside LCP amendment was approved by the Commission at the January 2017 hearing that continued this approach to merge the two zoning ordinances, and primarily focused on a number of items that were not likely to impact coastal resources, such as repealing unused zoning designations or repealing older designations and replacing them with comparable designations from the more recent zoning ordinance. Three more LCP amendments to merge the zoning ordinances were approved by the Commission in 2017. It is anticipated that as the efforts to combine these two zoning ordinances continue to move forward, the City will submit the more substantive revisions to its certified IP as it continues toward the goal of having

one certified zoning document to be applied Citywide. These substantive changes will include updating the City's stringline maps, modifying height restrictions, and updating definitions for terms that have historically caused issues for the City, among others. In addition, the City recently received a Commission LCP Local Assistance Grant to include a Sea Level Rise Vulnerability Assessment, Adaptation Plan, and overall LUP Update, and; as such, the City will include these specific components into its proposed LCP Update.

This LCP amendment request does not include further merging of the two zoning ordinances, and instead is proposing one article – Section 3006 – to be implemented both inside and outside the coastal zone. At the current time, Article 30, in which Section 3006 is contained, is not part of the City's LCP. Article 30 – Site Regulations - contains a number of development regulations that are currently implemented outside the coastal zone. The City has indicated that given the breadth of Article 30 and the potential for coastal resource impacts, certification of the article in its entirety is not being proposed at this time. However, in order to facilitate the new housing law regarding Accessory Dwelling Units, the City does want to pursue certification of Section 3006 immediately. Section 3006 establishes Accessory Dwelling Unit (ADU) regulations. As such, only Section 3006, and not Article 30 in its entirety, is being certified a part of the Implementation Plan at this time. Section 3006 would apply Citywide, including within the coastal portions of the Downtown "D" District area.

The City first adopted Section 3006 in 2017 to address Senate Bill SB-1069 and Assembly Bills AB-2406 and AB-2299. Prior to submitting the revisions to the Coastal Commission, the City made additional revisions to Section 3006 to include the changes made by Senate Bill SB-229 and Assembly Bill AB-494. The subject LCP amendment request includes the most up-to-date version of Section 3006, including all revisions.

### **ADDITIONAL INFORMATION**

Further information on the City of Oceanside LCP Amendment LCP-6-OCN-18-0055-01 may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

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### **EXHIBITS**

[Exhibit 1 – Resolution No. 18-R0243-1](#)

[Exhibit 2 – Ordinance No. 18-ORO285-1](#)

[Exhibit 3 – Proposed Text Changes in Strikeout/Underline](#)

## **PART I. OVERVIEW**

### **A. LCP HISTORY**

The City of Oceanside first submitted its Land Use Plan (LUP) to the Commission in July 1980, and it was certified with suggested modifications on February 19, 1981. This action, however, deferred certification on a portion of the San Luis Rey River valley where an extension of State Route 76 was proposed. On January 25, 1985, the Commission approved with suggested modifications the resubmitted LUP and Implementing Ordinances. The suggested modifications for this approval were related to the guaranteed provision of recreation and visitor-serving facilities, assurance of the safety of shorefront structures, and the provision of an environmentally sensitive routing of the proposed Route 76 east of Interstate 5. The suggested modifications to the Zoning/Implementation phase resulted in ordinances and other implementation measures that were consistent with the conditionally certified LUP policies.

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for “Commercial” use; the Commission's suggested modification designated it as “Open Space.” On July 10, 1985, the Commission certified the City's LCP as resubmitted by the City, including deferred certification on the above parcel.

### **B. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

The City has held Planning Commission and City Council meetings with regard to the original adoption of Section 3006 on April 24, 2017 and June 21, 2017 respectively. Then, prior to submitting the LCP amendment to the Commission, the City revised Section 3006 to reflect the revisions to ADU housing law on February 12, 2018 and May 9, 2018 respectively. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS**

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission reject Implementation Program Amendment No. LCP-6-OCN-18-0055-01 for the City of Oceanside as submitted.*

**STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program 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 CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Oceanside and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of 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 Implementation Program as submitted

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment No. LCP-6-OCN-18-0055-01 for the City of Oceanside if it is modified as suggested in this staff report.*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment 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 THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program Amendment for the City of Oceanside if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carryout the certified Land Use Plan as amended. Certification of the Implementation Program Amendment 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 Program Amendment on the

environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

### **PART III. SUGGESTED MODIFICATIONS**

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Modify Section 3006, Subsection “D.2” – Required Setbacks, as follows:

- a. ADUs shall meet the setback requirements of the underlying zoning district.
- b. No setback shall be required for an existing garage or accessory structure converted, or portion thereof, to an ADU. An ADU constructed above an existing garage shall provide a minimum setback of five feet from the side and rear lot lines. However, within the coastal zone, an existing garage or accessory structure that is converted to an accessory dwelling unit or an accessory dwelling unit that is constructed above a garage shall be consistent with all habitat preserve buffers and geologic stability setbacks in the certified local coastal program.

2. Modify Section 3006, Subsection “C” - Permit Requirements, as follows:

1. The City shall ministerially approve an application for a building permit to create an ADU, within 120 days after receiving the application.
2. ADUs within the coastal zone shall be subject to applicable requirements of the Local Coastal Program; except for that no public hearing shall be required.

### **PART IV. FINDINGS FOR REJECTION OF THE CITY OF OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

#### **A. AMENDMENT DESCRIPTION**

The City of Oceanside proposes revisions to the City’s Zoning Ordinance, part of the certified LCP implementation plan (IP), to include regulation of accessory dwelling units consistent with recent changes in state law. Specifically, the City is proposing a new Section – Section 3006 – to be included within the City’s IP. Section 3006 includes definitions and addresses permit requirements, unit size restrictions, setbacks, parking requirements and provides regulations for the development of utilities associated with new accessory units. Section 3006 also prohibits both the accessory and primary dwelling unit from being rented for less than 31 days, thereby prohibiting the use of the primary home as well as the ADU as short term rentals (STR). These regulations would apply citywide.

## **B. SPECIFIC FINDINGS FOR REJECTION**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

### a) Purpose and Intent of the Ordinance.

The purpose of the City's amendment is to incorporate the provisions of recent state legislation so as to address the shortage of lower cost housing through encouraging the development of accessory dwelling units. Due to their smaller size and lower construction cost, accessory dwelling units are viewed as a relatively simple method to speedily increase a community's housing stock in a manner that is more financially accessible to both current property owners and prospective tenants.

### b) Major Provisions of the Ordinance.

The major provision of the amendment encourages the development of accessory dwelling units through modifying the applicable development standards and permit requirements. Specifically, the City is proposing the following regulations for ADUs:

#### Permit Requirements

- ADUs are permitted in all districts that allow single and multifamily uses;
- Ministerial review for ADUs within 120 days of receiving the application;
- ADUs within the coastal zone shall be subject to the applicable requirements of the Local Coastal Program;

#### Unit Size and Location

- Floor area of an ADU is limited to 50 percent of the existing living area or 1,200 square-feet, whichever is less;
- The minimum floor area for an ADU is 350 square-feet;
- The living area of the existing primary dwelling shall not be reduced by more than 20 percent to accommodate an attached ADU;
- ADUs can be either attached or detached units subject to compliance with the development standards of the base zone district;
- Efficiency units are restricted to no smaller than 150 sq. ft.;
- The existing unit may be considered the ADU, and a new dwelling unit built, if all applicable requirements are met;

#### Setbacks

- ADUs must meet setback requirements of zone;
- No setbacks required for existing garage or converted accessory structures;
- ADUs constructed above an existing garage requires five foot side and rear yard setbacks;

#### Parking

- One additional parking space per unit;
- Additional parking exemption applied consistent with Section 65852.2;

Restrictions

- ADUs cannot be sold separately from primary residence;
- Neither the ADU nor the primary dwelling unit shall be rented for less than 31 days;
- Property owner is required to record covenant declaring compliance with regulations

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The Commission may only reject LCP implementation plan amendments where it can be shown that the amendment would be inconsistent with the certified land use plan (LUP) or render the IP inadequate to carry out the LUP. The applicable provisions of the City's LUP are listed below and state:

Section III. Water and Marine Resources; Diking, Dredging, Filling, and Shoreline Structures; And Hazard Areas

*A. Coastal Act Policies: The Coastal Act requires maintenance, protection and restoration of marine resources and coastal water quality, as well as control of discharges and run-off into the ocean and coastal waters...*

*Shoreline structures, such as breakwaters, groins and seawalls, are permitted to serve coastal dependent uses, or protect existing structures or public beaches. Impacts on shoreline sand transport must be mitigated.*

*Local agencies are required to control risks in area subject to geologic, flood, and fire hazard. New development must not create or contribute to erosion of geologic instability.*

*Policy 11 – New development along the City's coastal bluffs and hillsides should assure stability and protection of natural landforms, and neither create nor contribute significantly to erosion or geologic instability, or in any way require the construction of protective devices that would substantially alter natural landforms.*

*Policy 12- Coastal bluff development shall be permitted if the design and setbacks are adequate to ensure stability for the expected economic life of the development, and measures are taken to control run-off, foot traffic, irrigation or other activities which could aggravate erosion problems.*

*Policy 13- The demonstration of stability for bluff development shall occur at the time of building permit issuance and shall include a report prepared*

*by a registered geologist, professional engineer and/or a certified engineering geologist acting within their area of expertise, based on an on-site evaluation.*

*Policy 14 – The Community Development Commission will adhere to the guidelines and recommendations of the “Geotechnical and Erosion Control Study Report, Bluff Area, Ninth Street to Wisconsin Avenue, Oceanside, California”.*

#### Section IV. San Luis Rey River Specific Plan

*Policy 3 – Developers proposing projects in the San Luis Rey Specific Plan study are shall:*

- a. Maintain adequate buffers surrounding sensitive habitat areas, using setbacks, fencing and/or vertical separation*

#### Section V. Environmentally Sensitive Habitat Areas

*A. Coastal Act Policies: The Coastal Act requires that environmentally sensitive habitat areas be protected against significant disruption. Development adjacent to such shall be sited and designed to prevent adverse environmental impacts.*

*Policy 2 – Prior to approving any development on dry lands adjacent to Buena Vista Lagoon, the City shall consult the State Department of Fish and Game to ensure that adequate measures are provided to protect and enhance the lagoon’s sensitive resources. Such measures shall include, where appropriate:*

- a. Provision of adequate buffers between development and the lagoon.*

#### Section VI. Visual Resources and Special Communities

*A. Coastal Act Policies: The Coastal Act requires that the visual qualities of the Coastal Zone shall be protected and that new development be sited and designed to be visually compatible with the character of surrounding areas.*

*Policy 1 – In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment.*

*Policy 4 – The City shall maintain existing view corridors through public rights-of-way.*

*Policy 8 – The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.*

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, the updated accessory dwelling unit regulations cannot be found consistent with the certified LUP or are inadequate to carry it out, and therefore must be rejected as submitted.

The Commission's recent guidance to local governments regarding the new accessory dwelling unit legislation clarifies that ADU provisions in LCPs should be consistent with the new requirements of Government Code Section 65852.2 to the greatest extent feasible while still protecting coastal resources. Coastal resources such as sensitive habitats, shoreline bluffs, public view corridors, and public access all have the potential to be adversely affected by development programs if incentives or modifications offered to encourage lower-cost housing would conflict or eliminate critical resource protection measures in the certified Land Use Plan(s). Development standards such as habitat buffers, geologic setbacks, building height limits and parking requirements all dictate a development's footprint and bulk/massing. Reducing setbacks that provide buffers from identified resources, such as wetlands or coastal bluffs, could result in both direct and indirect impacts to those resources or the siting of new development in a more hazardous location. Thus, streamlining the review and approval of ADUs must nevertheless ensure protection coastal resources. Usually the protection of coastal resources occurs during the review of the associated coastal development permit.

In this case, Subsection "C" – Permit Requirements, requires that ADUs located in the coastal zone shall be subject to applicable requirements of the Local Coastal Program. Specifically, the City's LCP does not exempt additions or improvements to single family homes if the property is located within the Commission's appeals jurisdiction. The City's Coastal Permit Handbook, a certified component of the City's Implementation Plan, lists the types of exempt development as:

A. Exempt Projects

*The following projects are exempt from requirements of a Regular or Administrative Coastal Permit:*

[...]

4. *Improvements and additions to existing structures and buildings except where:*

a. *The structure or improvement would encroach within 50 feet of the edge of a coastal bluff; and*

b. *Where the improvement or addition is located within the appeal area as shown on the City of Oceanside Post Certification map on file at the Planning Division.*

This language dictates that improvements or additions to home located in the appeals jurisdiction cannot be exempt. In this case, the appeals jurisdiction includes properties within the Harbor area or located in close proximity to beaches, bluffs or wetlands. Thus, the appeals jurisdiction captures the areas where coastal resource impacts are most likely to occur. Because of this, the construction of ADUs (junior or otherwise) requires the applicant to obtain a CDP and through this process, the policies of the City's LUP are invoked. As included above, the City has a number of policies that require development to establish appropriate geological setbacks, habitat buffers, height limitations, and protections of existing public accessways. However, one provision of the City's proposed amendment does raise concerns related to adequate setbacks when proposed within, or as an addition to existing structures. Subsection D.2. – required setbacks, states that:

*No setback shall be required for an existing garage or accessory structure converted, or portion thereof, to an ADU. An ADU constructed above an existing garage shall provide a minimum setback of five feet from the side and rear lot lines.*

It is unclear, based on this language, what setback would be required if the structure was located within a geologic setback or ecological buffer area. The City's LUP requires that coastal bluff development be permitted if the design and setbacks are adequate to ensure stability for the expected economic life of the development. The LUP further requires that environmentally sensitive habitat areas be protected against significant disruption. As proposed, the amendment does not ensure these policies are implemented and thus coastal resources, as well the safety of new ADUs and their occupants, are not protected and cannot be found consistent with the certified LUP.

Additionally, the amendment does not carry out the intent of state housing law regarding the processing of accessory dwelling units. Specifically, state legislation directed that accessory dwelling units be approved ministerially, and may be not subject to a public hearing. As proposed, any ADU located in the coastal zone is subject to the permitting requirements determined by the Local Coastal Program. The City's LCP includes a list of specific permit category determinations that specify if development is located within the appeals jurisdiction; will automatically require a "Regular Coastal Permit." The only way to process a Regular Coastal Permit in the appeals jurisdiction includes a full public hearing, inconsistent with the new legislation. Therefore, as proposed by the City, the amended regulations are not consistent with, and are inadequate to carry out, the certified LUP(s) and must be rejected.

#### **PART V. FINDINGS FOR APPROVAL OF THE CITY OF OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED**

Again, the City is requesting to update its certified IP to include provisions that would facilitate and expedite the review and approval of accessory dwelling units, with the intent that those units help add and potentially lower the cost of available housing. Additionally, the City is requesting a minimum stay of 31 days or greater for all ADUs, effectively prohibiting the use of these units as short term rentals (STR); therefore,

policies pertaining to the protection of coastal access and recreation are also applicable. The relevant portions of these policies are included below, and state:

Section II. Recreation and Visitor Serving Facilities

*A. Coastal Act Policies: The Coastal Act requires adequate distribution of public facilities such as parking areas, provision of lower cost visitor facilities, protection of ocean-front areas for Coastal recreation, granting of priority to commercial recreation uses, reservation of upland areas to support coastal recreation, and distribution of visitor facilities throughout the Coastal zone.*

*Policy 6 – Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.*

*Policy 7 – In granting approvals for new development within the Coastal Zone, the City shall give priority to visitor serving commercial recreation facilities over private residential, general industrial or general commercial uses.*

*Policy 26 – The City shall protect a minimum of 375 lower cost hotel and motel units and 220 recreational vehicle/camping sites within the coastal zone. Twenty percent of those hotel/motel units shall be maintained in shorefront locations. The City shall not allow any demolitions of affordable hotel/motel units which would allow the coastal zone inventory of such units to drop below the number required by this policy. In order to verify its compliance with this policy, the City shall report the inventory of affordable hotel/motel units to the Coastal Commission on an annual basis.*

The City's proposed provisions regarding setbacks required for ADUs converted from or built above garages (Subsection D.2) and the permitting requirements (Subsection C) were not found to conform with, and adequate to carry out, the certified LUP policies as submitted. As such, two suggested modifications are required to make the City's Implementation Plan consistent with the LUP policies.

**Suggested Modification No. 1** revises Subsection D.2 – Required Setbacks, to clarify that within the coastal zone, ADUs converted from any accessory structure/garage or built on top of a garage must be consistent with applicable ecological buffers and setbacks for geologic stability that are required in the certified LCP. This revision will ensure that ADUs will not have adverse impacts on sensitive habitats, shoreline redevelopment and human safety.

**Suggested Modification No. 2** revised Subsection C – Permit Requirements, to clarify that the permitting requirements for ADUs located in the coastal zone include that development is consistent with the requirements of the Local Coastal Program, with the exception of the requirements for public hearings.

Additionally, and similar to a number of other jurisdictions, the City's amendment prohibits renting out an accessory dwelling unit for a term of less than 31 days (ref. City of San Diego LCPA No. LCP-6-SAN-17-0078-3; City of Carlsbad LCPA No. LCP-6-CAR-17-0055-2; City of Encinitas LCPA No. LCP-6-ENC-18-0035-1). Through this prohibition, the use of the ADU as a short term rental is eliminated. While the Commission views short term rentals as promoting public access through the provision of an additional avenue of lodging by the coast and offering a more affordable option for some, there is a sizeable inventory of overnight accommodations with a range of affordability within the City of Oceanside. In addition, as cited above, the City's LUP contains a specific policy that requires that the City maintain at least 375 lower cost hotel and motel units and 220 recreational vehicle/camping sites within the coastal zone, 20% of which need to be located along the shorefront. In 2007, the City undertook an inventory of its existing overnight accommodations as a part of an LCP amendment that added "condotels" as an allowable use/development type in the coastal zone (ref. Oceanside LCPA NO. 2-08), the findings of that staff report included the following:

*...the City of Oceanside completed a hotel stock and market demand survey on April 19, 2007. This survey indicated that the City currently has a strong stock of lower cost overnight accommodations. For the survey, the City interpreted low cost accommodations as those with costs of less than or equal to \$100 per night, and included hostels, campsites, RV parks, and low cost hotels. The survey submitted by PKF indicated that there are currently 12 facilities located coastally (near-shore) whose average room rates are less than or equal to \$100. These 12 facilities totaled 555 rooms available to the public in 2007. There are 8 other facilities located further inland whose rates on average are also less than \$100, for a total of 740 additional units available to the general public. The City of Oceanside also has two recreational vehicle parks and 173 asphalt camping spaces that are available to the general public. Oceanside RV Park fees range from \$46-49/night and Paradise by the Sea RV Park rents for between \$49-75/night. The Harbor District's asphalt overnight parking spaces cost between \$10-15/night. All of these support a range of affordability and can be considered low cost.*

Thus, given the need for affordable housing in the city and region, and the fact that the City has already has a large stock of affordable overnight accommodations, there is rationale to allow the accessory dwelling units constructed for a purpose of creating additional housing supply to be limited to that type of use and thus help achieve the intended increase in housing opportunities. In addition, the certified LUP provides specific direction on overnight accommodations.

However, unlike other jurisdictions, the City of Oceanside is also proposing to restrict the renting out of the primary structure, when an ADU is constructed, for a term of less than 31 days. The City's justification for this is that if the new laws regarding accessory dwelling units are intended to provide additional housing, banning only the accessory unit does not ensure *additional* housing supply. To demonstrate this, if a property owner is permitted to construct an accessory dwelling unit, but then rents out the primary structure as a short term rental, then there is no increase in housing stock. Thus, by

prohibiting both the primary and accessory structure from being used as a short term rental, the provision for *additional* housing is secured. As discussed above, the City already has, and is required to maintain, a large number of overnight accommodations in the coastal zone. Thus, the Commission can support to prohibition at this time.

However, the City is currently undergoing an update to its LCP to address STRs on a large-scale basis. The City will, through this process, collect data on the number of STRs in the city, the price of those STRs, as well as provide the Commission an update to its current overnight accommodation stock including specific identification of how many of these accommodations are considered affordable and/or are located along the City's shorefront. Therefore, it is important to note, that when the City submits any future amendment to regulate the use of STRs in the coastal zone, the Coastal Commission will have the opportunity to reconsider any and all restrictions and prohibitions of STRs collectively, including the restrictions certified by this amendment, for consistency with the City's LUP.

In conclusion, the City's proposed LCP amendment, as amended herein, will adequately implement recent state law regarding accessory dwelling structures while simultaneously providing adequate protection to coastal resources, consistent with the City's certified LUP.

## **PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission. The City of Oceanside found that the project is exempt, pursuant to Article 18, Section 15282(h) for the adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In this particular case, the LCP amendment, with incorporation of the suggested modifications, will not have any significant adverse effects on the environment and no significant coastal resource impacts are anticipated. The suggested modifications will ensure that ADUs are consistent with LCP provisions related to protection of sensitive habitats and safety from geologic hazards as well as carryout the intent of the applicable housing laws. Therefore, the Commission finds that the subject IP, as amended, conforms with the CEQA provisions.