

CALIFORNIA COASTAL COMMISSION

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September 27, 2019



F16a

TO: Commissioners and Interested Persons

FROM: Amber Dobson, District Manager
Zach Rehm, District Supervisor
Marlene Alvarado, Staff Analyst

RE: Minor Amendment Request No. 1-18 (LCP-5-LGB-18-0059-1) to City of Laguna Beach LCP Implementation Plan, for Commission Action at its October 18, 2019 meeting in Chula Vista.

Local Coastal Program Amendment No. 1-18 (Minor)

The City of Laguna Beach is requesting that the Commission certify an amendment to the City of Laguna Beach certified Local Coastal Program (LCP) Implementation Plan (IP) as a minor amendment. The LCP amendment would modify Chapter 25.05 *Administration* of Title 25 of the City's Zoning Code, which is part of the City's certified LCP IP. Chapter 25.05 provides standards, requirements, and processes for the City's non-coastal development permit entitlements. These entitlements include Administrative Use Permits, Variances, Conditional Use Permits, Temporary Use Permits, Administrative Design Review, and Design Review actions. The proposed amendment would change standards relating to Design Review. Changes proposed include:

Section 25.05.070(A) to clarify that the broader provisions of 25.05 apply not only to appeals but to "requests for review of discretionary decisions."

Sections 25.05.070(B) and 25.05.070(C) to clarify that appeal fees may be prorated if there is more than one appellant.

Section 25.05.070(E) to set the standards of review for design review decisions by an appointed board (Design Review Board or Planning Commission) which are appealed to the City Council. If the design review decision was supported by at least four members of the appointed board, then the City Council's review would be limited to a "substantial evidence" hearing, which is the current standard for all appeals/requests for review of design review decisions and limits the Council's discretion to reverse the decision. However, if the design review decision was supported by less than four members of the appointed board, then, pursuant to the subject LCP amendment, the City Council may conduct a "de novo" review which is more discretionary.

Other simple clean-up items and re-organization of Section 25.05.070

ANAYLSIS

The changes proposed in LCPA 1-18 affect only Chapter 25.05 of Title 25 of the City's certified Implementation Plan. Chapter 25.05 provides the requirements and procedures for City entitlements other than coastal development permits. The methods and procedures the City pursues regarding these other permits and entitlements will not have an effect on how coastal development permits are processed by the City. The procedure for processing Coastal Development Permits in the City of Laguna Beach is found in Chapter 25.07 *Coastal Development Permits* of the certified

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Implementation Plan. Chapter 25.07.002 states: “*It is the purpose and intent of this chapter to establish a procedure for the processing of coastal development permits within the city’s coastal zone, consistent with the city’s certified Local Coastal Program and pursuant to Public Resources Code Section 30600(d) and Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 17 of the California Administrative Code.*” No changes to Chapter 25.07 are proposed.

Existing Section 25.05.040(B)(1)(q) states that design review is required in any instance where a coastal development permit is required to be issued by the City, which means that the design review process is undertaken in tandem with a coastal development permit application. This tandem design review process would be subject to the requirements of Section 25.05.040 *Design Review*. Moreover, as stated above, the provisions of Chapter 25.07, not Chapter 25.05, establish the procedures and requirements for processing a coastal development permit. Coastal development permits will continue to be required for any project that meets the definition of “*development*” as defined in Section 25.07.006(D) of the certified Implementation Plan that is not otherwise exempt pursuant to section 25.07.008 of same.

The proposed changes to requests for review of discretionary decisions, prorated appeal fees, and the standard of review for appeals/requests for review of design review decisions will not change the requirements or procedures affecting coastal development permits, and, in any case, are consistent with the requirements of the Coastal Act.

The Executive Director has determined that the City of Laguna Beach LCP Amendment 1-18 is a minor LCP amendment. The LCP amendment has been determined to be a “minor” LCP amendment because the proposed changes to Chapter 25.05 *Administration* will affect only the non-coastal development permit entitlements processed by the City. As long as they do not interfere with or contradict Chapter 25.07 *Coastal Development Permits*, the manner in which a local government chooses to process its entitlements is not a matter in which the Commission would typically be involved. The proposed amendment will make changes to the methods and procedures for processing the City’s local entitlements other than coastal development permits. As such, the LCPA does not raise any issues with regard to consistency with the City’s certified Land Use Plan, or with protection of coastal resources in the City. Even if this amendment were processed as a major LCPA, Commission staff would not be recommending any suggested modifications, as none are necessary to find the proposed IP amendment consistent with the City’s certified Land Use Plan, which is the standard of review for amendments to the certified IP, such as this one.

Procedures

Pursuant to Section 30514(c) of the Coastal Act and Section 13554(a) of the California Code of Regulations, the Executive Director has determined that the proposed LCP amendment is “minor” in nature. Section 13554(a) of the California Code of Regulations describes minor LCP amendments as (but not limited to): changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity or density of use and are consistent with the certified LUP, and, changes in the notification and hearing procedures that are consistent with the requirements of the Coastal Act.

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Local Coastal Program minor amendment request No. 1-18 does not propose any rezoning or land use changes, nor does it alter any of the notice or hearing procedures relevant to review of coastal development permits. After holding noticed public hearings on June 26, 2018 and July 10, 2018, the Laguna Beach City Council adopted Resolution No. 18.040 and Ordinance No. 1631 authorizing City staff to submit a set of LCP amendments to the Coastal Commission. The City's Community Development Department submitted the subject LCP amendment request to the Commission's South Coast District office on August 1, 2018.

The application was initially deemed incomplete by the Executive Director on August 8, 2018, after which the City submitted additional information and the application was deemed complete September 4, 2018. At a public hearing on October 12, 2018, the Commission voted to extend the deadline for Commission action for one year, to November 3, 2019.

During Commission staff's review of the LCP amendment request, Commission staff identified several minor discrepancies between the language of the adopted ordinance (and, hence, the City's LCP as reflected in the Laguna Beach Municipal Code) and the language of the certified LCP, which were not shown as proposed to be changed by the LCP amendment through strike throughs or additions. Therefore, Commission staff determined that corrections to the proposed LCP amendment would likely be necessary, either by the Coastal Commission through suggested modifications or by the Laguna Beach City Council through a new ordinance. The City requested to correct the minor discrepancies through the City process by removing the minor changes to the LCP policies reflected in the City's Municipal Code that had not been certified by the Commission. Thus, after holding noticed public hearings on August 6, 2019 and September 10, 2019, the Laguna Beach City Council adopted Resolution No. 19.055 and Ordinance No. 1639, which explicitly reference the corrections needed to be consistent with the certified LCP, and thereby eliminating the discrepancies between the City's LCP (as reflected in the Municipal Code) and the LCP as certified by the Commission.

The proposed LCP amendment will become effective after reporting to the Commission any written objections received within ten working days of the mailing of notice unless one-third of the appointed members of the Commission request that the LCP amendment be processed and heard as a "major" LCP amendment pursuant to Section 13555 of the California Code of Regulations.