

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 East Ocean Blvd., Suite 300
Long Beach, CA 90802
(562) 590-5071



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F16b

TO: Commissioners and Interested Persons

FROM: Amber Dobson, District Manager
Zach Rehm, District Supervisor
Meg Vaughn, Staff Analyst

RE: Minor Amendment Request No. 2-19 (LCP-5-LGB- 19-0136-1) 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. 2-19 (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 Administrative Design Review, Design Review, and, more broadly to standards regarding staking, public notice, and initiation of revocations, among other things. Changes proposed include:

Section 25.05.040(B)(3)(a)(v) to only require the Administrative Design Review process for air conditioners and pool/spa equipment when they do not meet the requirements of the City's Noise ordinance (Municipal Code Section 7.25.130(C)).

Section 25.05.040(F) transfers Administrative Design Review authority for certain types of projects from the Design Review Board to the Planning Commission.

Section 25.05.040(B)(3)(e) allows the Director of Community Development (or designee) to refer Administrative Design Review projects directly to a higher review authority.

Section 25.05.040(C)(2)(a) for Design Review projects that require staking, requires that staking to be in place 21 calendar days prior to the public hearing (rather than the currently required 28 days); and in cases where a project undergoes modification during the review process, that those projects be re-staked for a minimum of 14 days prior to the subsequent public hearing.

Section 25.05.065 requires that public hearing notices for Administrative Design Review be sent a minimum of 21 days prior to the date of the public hearing, rather than 28 days. Other than for Administrative Design Review, public hearing notices must be sent not less than ten calendar days prior to the public hearing. This section also provides details on what must be included in public hearing notices, to whom the notices must be sent, requirements for posting notice at the project site, and circumstances under which newspaper notice is required. Section 25.05.065(A) already requires that "*if a Coastal Development Permit is required pursuant to Section 25.07, noticing for that type of permit shall instead be carried out through the public notice provisions of Section*

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25.07.014.” In addition, Section 25.05.065(D) includes the requirement that, for projects requiring a Coastal Development Permit, the City comply with all notification procedures required by Section 25.07.014. Chapter 25.07 *Coastal Development Permits* provides the requirements and procedures applicable to Coastal Development Permits.

Section 25.05.040(C) revises the *Early Neighbor Communication* (Section 25.05.040(C)(1)(a)) requirements.

Section 25.05.040(B)(3)(d) adds language making clear that decisions on administrative design review applications are subject to the appeals provisions of Chapter 25.05 *Administration*, and of Chapter 25.07 *Coastal Development Permits* when a CDP is required.

Section 25.05.075 adds language to this revocation section stating that any revocation or modification to any administrative use permit, conditional use permit, temporary use permit, variance, or design review approval may only be *initiated* by the approval authority or the director of community development. Currently, this revocation section is silent regarding initiating the revocation process, including regarding who may initiate the process. Whereas previous language (to be revised) states that any of these approvals may be *revoked* by the approval authority, this change would allow revocation to be *initiated* by only the approval authority or the director of community development. Revocation of Coastal Development Permits is addressed in Section 25.07.024; no change is proposed to this section.

Ordinance No. 1636 of City Council Resolution No. 19.049 also makes changes to Title 7 *Health & Sanitation* of the Laguna Beach Municipal Code regarding when permits are needed for heating, venting and air conditioning, and pool and spa equipment. However, Title 7 is not part of the City’s certified LCP.

ANAYLSIS

The changes proposed in LCPA 2-19 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 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 would be 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

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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.

Regarding revocation of coastal development permits, Section 25.07.024 of the certified IP establishes the procedure to revoke a coastal development permit. It states:

“Establishment, maintenance and operation of the structure(s) or use(s) proposed by the coastal development permit application shall be consistent with the information and specifications of the approved plan of development. Failure of any person to abide by and comply with any and all conditions that may be attached to the approval of a coastal development permit issued pursuant to the provisions of this chapter shall constitute grounds for the revocation of said coastal development permit by the city council.”

As with the rest of Chapter 25.07, no changes are proposed to the above cited section, and so the proposed amendment request would not result in any changes to the revocation procedure for CDPs. Furthermore, if revocation is sought on a CDP issued by the Coastal Commission on appeal, that process would be governed in accordance with the revocation provisions of the California Administrative Code, Sections 13104 – 13108.

The proposed changes to the public hearing noticing procedures will not change the requirements affecting public hearing notices for 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 2-19 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 including (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

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certified LUP, and, changes in the notification and hearing procedures that are consistent with the requirements of the Coastal Act.

Local Coastal Program minor amendment request No. 2-19, submitted via City Council Resolution No. 19.049 and reflected in City Council Ordinance No. 1636, does not propose any rezoning or land use changes. The proposal would alter procedural requirements, including notifications and revocation procedures, but only for City entitlements other than CDPs; therefore, the proposal does not raise any concerns with consistency with Coastal Act hearing or notice procedures. In short, the LCP amendment request does not raise any potential Coastal Act issues because it applies only to procedures relating to City entitlements, and procedures for processing CDPs will remain unchanged. The Laguna Beach City Council held public hearings for the LCP amendment on July 23, 2019; July 9, 2019; March 5, 2019; and April 23, 2019. The Planning Commission held a public hearing for the LCP amendment on June 5, 2019. The Design Review Board held a public hearing on June 13, 2019. The City Council adopted Resolution No. 19.049 and Ordinance No. 1636 on July 23, 2019 and submitted it to the Commission's South Coast District office for certification. The amendment was received in the South Coast District office on August 12, 2019. The sixtieth working day by which the Commission must either act on the amendment request or grant an extension to the sixty day deadline, is November 5, 2019.

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.