

CALIFORNIA COASTAL COMMISSION

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W11a

DATE: September 18, 2020

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
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Zach Rehm, District Supervisor
Marlene Alvarado, Coastal Program Analyst

SUBJECT: Major Amendment Request No. LCP-5-LGB-19-0074-1 (Short Term Lodgings) to the City of Laguna Beach Certified Local Coastal Program, for Public Hearing and Commission Action on October 7, 2020.

SUMMARY OF LCP AMENDMENT REQUEST NO. LCP-5-LGB-19-0074-1

The City of Laguna Beach (City) requests to amend the Implementation Plan (IP) of the certified Local Coastal Program (LCP) to implement new regulations and standards for the operation of short-term lodgings (STL), or vacation rentals, and limit where new STLs would be allowed in the City. STLs generally refer to the short-term rental (30 days or less) of private dwelling units or a room in a home by tourists and other travelers visiting the area.

Presently, the City's LCP includes a Commission-certified STL Ordinance (2008) that permits and provides for regulation of STLs in certain residential zones (Residential Low Density R-1, Residential Medium Density R-2, Residential High Density R-3, and Village Community VC) and commercial districts (Local Business Professional LBP, Commercial Neighborhood C-N, Local Business C-1, Commercial Hotel-Motel CH-M, and South Laguna Village Commercial SLV), which includes requirements for establishing and operating an STL. The proposed LCP amendment would modify various chapters of Title 25 (Zoning) of the City's Municipal Code related to the regulation and standards for the operation of STLs (Chapters 25.23 (Short-Term Lodging), 25.10 (R-1 Residential Low Density Zone), 25.12 (R-2 Residential Medium Density Zone), 25.14 (R-3 Residential High Density Zone), and 25.43 (Village Community Zone)).

Changes proposed to Title 25 (zoning code) are reflected in City Council Ordinance No. 1635 ([Exhibit 4](#)) and were submitted pursuant to City Council Resolution No. 19.030 ([Exhibit 3](#)). No changes are proposed to the Land Use Plan (LUP) portion of the certified LCP.

Changes proposed to Chapters 25.23, 25.10, 25.12, 25.14, and 25.43 as they relate to STL units (Ordinance No. 1635) include: the application of an **existing nonconforming status** designation to all existing permitted STL units that are currently operational, which

may continue to operate within residential zoning districts; prohibition of **new** STL units (including homestays, or owner-occupied) in residential zoning districts; and regulation of existing and new STL units in zoning districts where they are currently allowed (LBP, C-N, C-1, CH-M, SLV) and in new zoning districts where they will now be allowed (Residential Serving CBD-1, Downtown Commercial CBD-2, Central Bluffs CBD-CB, Office CBD-O and Visitor Commercial Districts CBD-V (or CBD-VCD as termed by the City)).¹ Moreover, the proposed LCP amendment would: supplement the existing regulations applicable to STLs by adding new language to clearly define STLs, and new registry requirements and operational standards, including, but not limited to, maximum occupancy and parking requirements; afford a mechanism for neighbors to report problems; and establish provisions for the imposition of fines and penalties for violation of the regulations. Home sharing, or owner-occupied vacation rentals, would be regulated in the same way as traditional STLs (non-owner occupied). Existing permitted STLs would be allowed to continue in perpetuity, regardless of the zone in which they are located. Moreover, the proposed amendment would allow **existing nonconforming** residential units (as to development standards, parking, and density) located in the allowable commercial zoning districts to be converted into STLs, with the exception of those restricted by covenant or similar instrument for the purpose of providing affordable housing, senior housing, or housing for the disabled.

SUMMARY OF STAFF RECOMMENDATION

Demand for STLs is especially high in this City because of its proximity to the coast and because of its historical reputation as a popular coastal-resort community. Although there is a history of vacation rentals in Laguna Beach, since online platforms have changed the dynamics of short term lodging, the City has more recently raised issues with the presence of STL rentals causing problems (e.g. noise, disorderly conduct, traffic congestion, excessive trash, etc.) that could negatively impact residents and communities, reduce the long-term rental housing stock, reduce the lower-cost hotel/motel stock, and unduly burden City services. The City has indicated that the intent of the proposed LCP amendment is to limit these conflicts by prohibiting any new STL units in residential zoning districts (with an exception for *existing* legally permitted units operating in residential zones), and by imposing regulation of existing and new STL units in commercial zoning districts where they are currently allowed and in new commercial districts where they are not currently allowed.

STLs provide a significant supplement for visitor accommodations promoting public access and visitor-serving opportunities to coastal communities. Depending on site-specific circumstances, STLs, including home shares,² can sometimes provide a lower cost option than a traditional hotel. The certified LUP contains policy language that protects and

¹ The listed commercial zoning districts are not all of the commercial zoning districts that exist in Laguna Beach.

² The proposed LCP amendment would define "Home sharing" as "a rental in a residential unit for 30 consecutive days or less during which the host lives on-site for the entirety of the visitor's stay."²

prioritizes lower-cost visitor and recreational facilities and requires that public coastal access be maximized. The Commission has found that visitor-serving overnight accommodation uses, including STL units, help maximize the opportunities provided for all the public to access the coast. These units can increase public coastal access by providing a wider selection of overnight accommodations in the Coastal Zone to groups and families that might not otherwise be able to afford a more expensive traditional option (i.e. hotels), and by including more units in areas where residential communities directly flank the shoreline. At the same time, the Commission has recognized legitimate community concerns over potential adverse impacts associated with vacation rentals, with respect to housing stock and affordability, community character, noise, and traffic impacts.

In the Commission's past actions, including with respect to the Local Coastal Programs of the County of Ventura (LCP-4-VNT-18-0058-1), City of Pismo Beach (LCP-3-PSB-18-0051-1), County of Santa Cruz (3-SCO-18-0032-2-Part B), City of Del Mar (LCP-6-DMR-17-0083-3), and County of Santa Barbara (LCP-4-STB-17-0086-3), and in order to be consistent with Chapter 3 of the Coastal Act, local jurisdictions in the Coastal Zone that have concerns about the impacts of STLs have been required to provide a means and a framework to appropriately regulate the establishment and operation of STLs, rather than overly restrict this use or otherwise significantly diminish its visitor-serving utility. The Commission has approved a number of LCP amendments regulating STLs in the Coastal Zone. Each of these LCP amendment cases presented its own set of unique issues based on local circumstances but, as a general rule, the approved LCP amendments generally provided for standards for continued STL operations in private residential dwellings, rather than blanket bans of STLs.

In this case, although the proposed amendment would reduce the total area where STLs are allowed and the potential number of lots for which a STL could be permitted by limiting STLs in all residentially zoned areas, the City of Laguna Beach offers more traditional overnight accommodations (i.e. hotel and motel units) than the other coastal communities discussed. The City has estimated there are approximately 1,305 existing hotel/motel lodging units within the City's coastal zone. The City of Laguna Beach provides an ample supply of visitor serving overnight accommodations based on its size and relative to other coastal cities. The City also has a history of allowing vacation rentals, and states through the proposed LCP Amendment that vacation rentals will continue where previously authorized by permit and in the permitted commercial areas, but where further proliferation of vacation rentals has the potential to adversely impact community character or other coastal resources, specific restrictions on STLs in specific areas may be appropriate.

In 2017, the City of Laguna Beach estimated that there were approximately 383 existing STL rentals citywide, including unpermitted STL units. The proposed LCP amendment would grandfather in (authorize as permitted uses) 117 existing legally operating STLs. Any STL that currently operates without a permit would not be grandfathered (authorized) through the LCP Amendment, and the proposed regulations and restrictions would apply. In addition, unlike the City's 2016 LCP amendment request, the proposed amendment would add a provision to the LCP to relax the parking requirements for the existing

residential units that are located in a permitted commercial district and are therefore legally non-conforming to encourage STLs in the mixed-use areas of the permitted commercial districts. The City estimates that approximately 723 existing residential units in the allowable commercial districts (not including existing units reserved as senior and disability housing) could accommodate STLs without the need for any future development because, as proposed today, the LCP amendment would allow for the conversion of these units into STLs, regardless if they are nonconforming to development standards, density, or parking.

Therefore, as proposed, the amendment is not a blanket ban of STLs or an “all or none” proposition. However, Commission staff is recommending **denial** of the LCP Amendment as submitted because the amendment, as proposed, could still significantly restrict the potential for alternate affordable (low- to moderate- cost)³ overnight lodging accommodations for all coastal visitors and limit public access, and would not be adequate to carry out the provisions of the certified Land Use Plan (LUP).

On August 13, 2020, the Coastal Commission conducted a public hearing to consider this LCP amendment, but the Commission continued the public hearing. The Commission directed the City and Commission staff to consider additional provisions, including a home sharing program to promote and encourage more affordable visitor-serving accommodations, and regulations to provide some protection to the City’s long-term rental housing stock in the mixed-use districts. The suggested modifications proposed by the City in a memorandum to Commission staff dated September 16, 2020 ([Exhibit 6](#)) and recommended in this report are the result of additional coordination on the STL proposal between Commission staff and City staff.

A few suggested modifications are necessary to ensure the proposed amendment provides an appropriate balance to continue to accommodate STLs in a manner that would not contribute to a loss of lower-cost overnight accommodations or affordable housing stock, unduly restrict the rental of residential units to visitors, or diminish the public’s ability to access and recreate on the coast.

If modified as recommended, the LCP amendment would allow for a total of 465 STL units (300 non-home sharing units and 165 home share units) citywide. The 465 STLs would exceed the demand for STLs which was estimated by the City as almost 400 units in 2017, while allowing for gradual increase as more units are either developed or converted. No more than 20 percent of units within an existing or proposed multi-unit building would be allowed to operate as STLs (no more than one unit in buildings with five or fewer units). Therefore, the proposed amendment would continue to provide enough STLs to accommodate visitor demand for this important type of coastal accommodation consistent with the LUP, without converting most of the City’s rental housing stock to STLs.

The 165 home share units would need to be occupied by the owner of the unit or a tenant, who could host visitors in a portion of the unit. These units would remain as part of the

³ The Land Use Element (LUE) of the certified LUP for the City of Laguna Beach defines ‘affordable overnight accommodations’ as “overnight visitor facilities – including, but not limited to hotels, motels, campground, recreational vehicle parks and hostels – that offer low to moderate cost accommodation rates.”

City's rental housing stock because these units would still be occupied by the owner or a tenant. They would also serve coastal visitors seeking a different type of accommodation than a traditional hotel or "whole house" rental. Home shares tend to be more affordable than hotels or other STL options because the space is shared and may be smaller (e.g. one room in a dwelling with a shared kitchen). In order to encourage these types of overnight accommodations, which will serve a segment of coastal visitors seeking more affordable options, the City would waive permit fees when they are registered, although TOT tax may still be applied consistent with City regulations outside of the policies of the LCP.

In addition, the suggested modifications would include a requirement that the City report to the Coastal Commission in three years to allow for reevaluation of the proposed STL program. If the report identifies evidence that STL units are contributing to the loss of lower-cost hotel/motel rooms or affordable housing, the suggested provisions require that the City propose and request an LCP amendment to the STL ordinance and/or other provisions of the LCP to address the identified trend.

Therefore, Staff is recommending that the Commission, after public hearing:

Deny the amendment request to the Implementation Plan **as submitted**.

Approve the amendment request to the Implementation Plan **if modified as recommended**.

The proposed amendment to the City's certified IP, if modified as recommended, will be in conformance with and adequate to carry out the public access and recreation policies of the certified Land Use Plan. The City of Laguna Beach is in agreement with the suggested modifications. **The motions to accomplish this are found on pages 9-10.**

DEADLINE FOR COMMISSION ACTION: Under the Permit Streamlining Act, the Commission was required to act on this LCP amendment request on or before August 30, 2020, one year after the application was filed and deemed complete. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time frame for action in the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this LCP amendment request on or before October 29, 2020.

ADDITIONAL INFORMATION

Copies of the staff report are available on the Commission's website at www.coastal.ca.gov. For additional information, contact Marlene Alvarado in the South Coast District Office of the Coastal Commission at marlene.alvarado@coastal.ca.gov.

TABLE OF CONTENTS

I. PROCEDURAL ISSUES	7
A. STANDARD OF REVIEW	7
B. PUBLIC PARTICIPATION	7
C. PROCEDURAL REQUIREMENTS	9
II. MOTIONS AND RESOLUTIONS.....	9
A. DENIAL OF THE IP AMENDMENT AS SUBMITTED.....	9
B. APPROVAL OF THE IP AMENDMENT IF MODIFIED AS SUGGESTED.....	10
III. SUGGESTED MODIFICATIONS.....	10
III. FINDINGS.....	13
A. AMENDMENT DESCRIPTION	13
B. BACKGROUND	18
C. DENIAL OF THE LCP AMENDMENT AS SUBMITTED.....	21
D. CERTIFY THE LCP AMENDMENT WITH SUGGESTED MODIFICATIONS	27
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	32

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Zoning Map](#)

[Exhibit 3 – City Council Resolution No. 19.030 Short-Term Lodgings](#)

[Exhibit 4 – City Ordinance No. 1635 Short-Term Lodgings \(Final Language Adopted by City\)](#)

[Exhibit 5 – Changes to LCP - Short-Term Lodgings \(Strike Out/Insert Version\)](#)

[Exhibit 6 – City Memorandum dated 9/16/2020](#)

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The City's Land Use Plan ("LUP") was certified with suggested modifications on June 11, 1985, and effectively certified on March 13, 1986. The City's LUP is comprised of a variety of planning documents including the Land Use Element (LUE), Open Space/Conservation Element, Technical Appendix, and Fuel Modification Guidelines (of the Safety General Element of the City's General Plan as adopted by Resolution 89.104). The Coastal Land Use Element was updated and replaced in its entirety via LCPA 1-10 in 2012.

The Implementation Plan for the City was certified in 1993, with the City assuming coastal development permit issuing authority at that time. The Implementation Plan (IP) of the City of Laguna Beach certified Local Coastal Program (LCP) is comprised of more than 10 documents, including Title 25 of the City's Municipal Code, which is the City's Zoning Code. The Open Space/Conservation Element and Title 25 have been amended a number of times since original certification.

The standard of review for the proposed amendment to the IP, pursuant to Sections 30513 and 30514 (regarding amendments) of the Coastal Act, is whether the IP would be in conformance with, and adequate to carry out, the provisions of the LUP portion of the City of Laguna Beach's certified LCP.

The standard of review of the IP amendment request is the certified language of the LUP, which Commission staff has referenced in development of the recommended findings below.

B. PUBLIC PARTICIPATION

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 has solicited broad public participation in the development of the proposed STL regulations. The City held 12 meetings related to the regulation of STLs between 2015 and 2019, and the proposed regulations were revised throughout the local process and have been revised again in the time since they were previously reviewed by the Coastal Commission.

Ordinance No. 1617: The proposed changes under Ordinance No. 1617 affected Chapters 25.23, 25.10, 25.12, 25.14, and 25.43. These changes were the subject of eight (8) related City Council public hearings: May 19, 2015, June 15, 2015, August 18, 2015, November 17, 2015, April 12, 2016, August 9, 2016, August 30, 2016, and September 27, 2016; and one (1) Planning Commission public hearing: March 16, 2016. In addition, a City Council Subcommittee held two public meetings on June 21, 2016 and July 14, 2016. Because the ordinance is of citywide effect, a 1/8th page notice was published in the local

newspaper. Public testimony at the hearings included concerns regarding the prohibition of new STL units in residential zoning districts and the regulation of existing and new STL units in the allowable commercial zoning districts.

On October 12, 2016, the City of Laguna Beach Community Development Department submitted to the Commission's South Coast District office a request to amend the Implementation Plan of the City of Laguna Beach certified LCP, which included City Council Resolution No. 16.076 and City Council Ordinance No. 1617. This requested amendment was assigned LCP No. 1-16 (LCP-5-LGB-16-0055-1).

On December 14, 2017, the Coastal Commission, after a public hearing, approved with modifications LCP Major Amendment No. 1-16 (Short-Term Lodgings). However, the City did not accept the suggested modifications within six months of the Commission's action, and, therefore, LCP Amendment No. 1-16 was never certified.

Ordinance 1635: Ordinance No. 1635 is similar to the City's previous ordinance (Ordinance No. 1617) with the exception of new language to address the following:

- 1) Offer protection of affordable housing, senior housing, or housing for disabled people from being converted into STLs.
- 2) Allow existing residential units in most commercial districts that are currently non-conforming to any density or development standard within its zoning district to be permitted to convert to STLs subject to the securing of an administrative use permit or conditional use permit.
- 3) Allow existing residential units in most commercial districts with nonconforming parking to be permitted to convert to STLs, provided the same number of nonconforming off-street parking spaces continues to be provided.
- 4) Require that newly constructed STLs provide the minimum amount of off-street parking spaces as set forth in Section 25.52.012(G).
- 5) Require hosting platforms to disclose to the City STL rental listings, names of persons responsible for each listing, the address of each listing, the length of stay for each listing, and price paid for each stay.

The City's first public reading of this proposed (revised) Ordinance No. 1635 was on April 23, 2019. A subsequent public hearing was conducted on June 4, 2019. Because this ordinance is also of citywide effect, a notice was published in the local newspaper. Public testimony at the hearings included both opposition to and support for the prohibition of new STL units in residential zoning districts.

On August 13, 2020, the Coastal Commission conducted a public hearing to consider LCP Major Amendment No. LCP-5-LGB-19-0074-1 (Short-Term Lodgings), but the Commission continued the item. The public hearing for this amendment has been continued to the Commission's October 2020 meeting.

C. PROCEDURAL REQUIREMENTS

If the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. City staff has indicated that the ordinance will only become final after certification by the Commission, but pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations, no further formal action is required. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP Amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment No. LCP-5-LGB-19-0074-1 is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

II. MOTIONS AND RESOLUTIONS

A. Denial of the IP Amendment as Submitted

MOTION I:

I move that the Commission reject the Implementation Plan Amendment No. LCP-5-LGB-19-0074-1 for the City of Laguna Beach 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 Laguna 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.

B. Approval of the IP Amendment if Modified as Suggested

MOTION II:

I move that the Commission certify the Implementation Plan Amendment No. LCP-5-LGB-19-0074-1 for the City of Laguna Beach if it is modified as suggested in the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the IP Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the Commissioners present.

RESOLUTION II:

The Commission hereby certifies the Amendment to the Implementation Plan No. LCP-5-LGB-19-0074-1 for the City of Laguna 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 will be in conformance with and 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

Certification of the LCP Amendment is subject to the following modifications. Text added to the City's proposed zoning code by the suggested modifications is **bold and double-underlined**, and text suggested to be deleted is **struck through twice and in bold**. Only those subsections of the LCP Amendment for which modifications are being suggested are shown below. The underlying language consists of the City's proposed amending language (shown as text underlined or struckthrough once) and the existing certified language. See [Exhibit 5](#) for a copy of the certified language, which is shown as the underlying text in the exhibit.

SUGGESTED MODIFICATION 1 TO SECTION 25.23.030 (Permit Required): *Clarify there not be an application fee for home shares and add provisions for protection of the housing stock in the allowable commercial districts.*

25.23.030 Permit Required ~~Administrative use permit or conditional use permit.~~

(A) Short-term lodging units shall only be allowed within the ~~R-1, R-2, R-3,~~ LB/P, C-N, C-1, and CH-M, and VC zoning districts, and within the CBD-1, CBD-2, CBD Central Bluffs, CBD Office

~~and CBD Visitor Commercial Districts of the Downtown Specific Plan, subject to the approval of an Administrative Use Permit as provided for in Section 25.05.020 of this title and SLV zoning district subject to the approval of a Conditional Use Permit as provided in Section 25.05.030, issued pursuant to this chapter. No owner of a dwelling unit or units located outside of those zoning districts shall rent that unit or units for a short term (30 consecutive days or less) without a valid administrative use permit or conditional use permit, as applicable, issued pursuant to this chapter.~~

(B) To protect the long-term rental housing stock, no more than twenty percent (20%) of the total number of allowable rental units located in the permitted zoning districts may be converted to short-term lodgings, with a maximum number of three hundred (300) total short-term lodgings (not including home share units) allowed city-wide, including those short-term lodgings units approved prior to October 2020. To promote home share units as another type of short-term lodging, an additional one hundred sixty-five (165) home share units may be authorized in single-family, duplex, and triplex dwellings located in the permitted zoning districts. The Use Permit fees are waived for home share units.

(C) To avoid wholesale conversion of existing and new housing complexes into short-term lodgings, properties with five or fewer units may only convert a maximum of one unit into a short-term lodging. Properties with more than five units may only convert a maximum of twenty percent (20%) of the total number of units into short-term lodgings (rounded down to the nearest whole number).

~~**(DB)** No owner or tenant of a lodging unit that is restricted by covenant or similar instrument for the purpose of providing affordable housing, senior housing, or housing for the disabled shall rent such unit for the purpose of providing short-term lodging.~~

~~**(EE)** A home exchange as defined in Section 25.23.020(D) shall not constitute short-term lodging for the purposes of this Chapter.~~

~~**(FB)** Existing residential units that are currently non-conforming to any density or development standard within the underlying zoning district of the subject property shall be permitted to convert to short-term lodging subject to the approval of an Administrative Use Permit or Conditional Use Permit.~~

(GE) The following information shall be included with the completed application form:

- (1)** The name, address and telephone number of the owner of the subject short-term lodging unit;
- (2)** The name, address and telephone number of the operator;
- (3)** The name, address and telephone number (available 24/7) of the local contact person that will be available to physically be able, if necessary, to respond within 60 minutes of notification of a problem resulting from the short-term lodging unit;
- (4)** The address of the proposed short-term lodging unit;
- (5)** The days of the week, weeks of the month and/or months of the year that the proposed short-term lodging unit will be available for rent on a short-term basis, and the minimum length of stay that the short-term rental will be advertised;
- (6)** The number of bedrooms and the applicable overnight and daytime occupancy of the proposed short-term lodging unit;
- (7)** The number of parking spaces located on site;

- (8) A site plan and floor plan, drawn to scale depicting the site layout, trash storage area that must be concealed from public view, parking area and a floor plan of the entire unit/rooms to be rented for short-term lodging purposes;
- (9) Acknowledgement of receipt and inspection of the Good Neighbor brochure;
- (10) Evidence that the residence/premises passed a safety inspection conducted by the Laguna Beach Fire Department;
- (11) Evidence that the use of the property is eligible for liability insurance (homeowners or rental property insurance) in the amount of not less than \$500,000.00 to cover injuries, damages, losses and other claims associated with the short-term lodging;
- (12) An estimate of the daily rental fee that will be charged for occupancy of the unit(s);
- (13) An application fee established by resolution of the City Council, **except for Use Permit applications for home share units. The Use Permit fees are waived for home share units;**
- (14) One set of public notification materials prepared by a qualified and independent vendor as instructed more fully in the "City of Laguna Beach Community Development Department Public Notice Package Requirements."

SUGGESTED MODIFICATION 2 TO SECTION 25.23.060(A): *To clarify the date from which to measure to define when Section 25.23.060(A) applies.*

(A) The operation of any legal short-term lodging unit ~~in existence as of the effective date of this ordinance~~ permitted prior to October 2020 and located within the R-1, R-2, R-3 or VC zoning districts may continue as a legal nonconforming use subject to (1) the requirements set forth below, (2) continuously maintaining a business license for the short-term lodging unit, (3) fully and timely complying with applicable requirements for record-keeping and the collection and remittance of transient occupancy taxes, and (4) complying with all other conditions of the previously approved permit. No new short-term lodging may be established within the R-1, R-2, R-3 or VC zoning districts.

SUGGESTED MODIFICATION 3 TO SECTION 25.23.065(A): *To clarify the date from which to measure to define when Section 25.23.065(A) applies.*

(A) The operation of any legal short-term lodging unit ~~in existence as of the effective date of this ordinance~~ permitted prior to October 2020 and located within the LB/P, C-N, C-1 or CH-M zoning districts or within the CBD-1, CBD-2, CBD Central Bluffs, CBD Office or CBD Commercial districts of the Downtown Specific Plan may continue as a legal conforming use subject to (1) the requirements set forth below, (2) continuously maintaining a business license for the short-term lodging unit, (3) fully and timely complying with applicable requirements for record-keeping and the collection and remittance of transient occupancy taxes, and (4) complying with all other conditions of the previously approved permit. The establishment of new short-term lodging units within these zoning districts shall conform to the provisions of this chapter.

SUGGESTED MODIFICATION 4: *Add new subsection to address reporting to the Coastal Commission.*

25.23.090 Reporting to the California Coastal Commission.

(A) Three years after the date of certification of this LCP Amendment No. LCP-5-LGB-19-0074-1 or three years after October 2020, whichever occurs first, the City shall provide the California Coastal Commission with a report to include the following:

(1) An update on new housing and hotel units added within the City including lower and higher cost hotels and affordable and higher cost housing;

(2) Total number of dwelling units in the permitted districts as well as the total number of short-term lodging permits that have been issued;

(3) Identification of the housing types and locations of the short-term lodging permits issued, including home share units.

(B) If the report identifies evidence that short-term lodging is contributing to a loss of lower cost hotel room stock or affordable housing stock, the City shall submit an amendment to the short-term lodging ordinance and/or other provisions of the Local Coastal Program to address the identified trend.

III. FINDINGS

The Commission hereby finds and declares:

A. AMENDMENT DESCRIPTION

The City of Laguna Beach has requested to amend the Implementation Plan (IP) of the certified LCP to implement new regulations and standards for the operation of short-term lodgings (STL), or vacation rentals, and limit where new STLs would be allowed in the City. The ordinance submitted with the LCP amendment request is a revised version of an earlier ordinance that was submitted as a former LCP amendment request by the City, and that was subject to Commission action in 2017 (LCP-5-LGB-16-0055-1), which is described in greater detail in the Background section of this report, below. The main document comprising the City's certified Implementation Plan is Title 25 of the City's Municipal Code, which is the City's Zoning Code, but the certified IP also includes a number of other documents. The City is only proposing to modify Title 25 (Zoning). The changes proposed are reflected in Ordinance No. 1635, which was submitted for Commission action via City Council Resolution No. 19.030 ([Exhibits 3 & 4](#)). This ordinance proposes modifications to various chapters related to the regulation and standards for the operation of STLs: Chapters 25.23 (Short-Term Lodging), 25.10 (R-1 Residential Low Density Zone), 25.12 (R-2 Residential Medium Density Zone), 25.14 R-3 (Residential High Density Zone), and 25.43 (Village Community Zone). [Note: the legislative draft version has been attached as [Exhibit 5](#) to highlight the changes proposed by the City].

Chapter 25.23 (Short-term Lodging) sets forth the currently certified standards for the short-term lodging use. Short-term lodging (STL) is currently defined in Chapter 25.23 as: “occupancy of a lodging unit⁴ for a period of thirty consecutive calendar days or less.”

Section 25.23.030 of Chapter 25.23 identifies the zones in which the STL use is allowed and prohibits the use in all other zones. Currently, STLs are allowed in the following zones: Residential Low Density R-1, Residential Medium Density R-2, Residential High Density R-3, Local Business Professional LBP, Commercial Neighborhood C-N, Local Business C-1, Commercial Hotel-Motel CH-M, Village Community V-C, and South Laguna Village Commercial SLV ([Exhibit 2](#)).⁵

As proposed, LCP Amendment No. LCP-5-LGB-19-0074-1 would revise the standards and impose limits on STLs, and would eliminate these rentals as an allowable use in the R-1, R-2, R-3, and VC residential zones. However, under the proposed ordinance, pre-existing (existing before certification of the proposed ordinance) legally permitted STLs within these residential zones would be grandfathered and allowed to operate and continue as a legal non-conforming use. There are currently 117 legally operating STLs in the city. Out of the 117 legally operating STLs, approximately 79 STLs are located in residentially zoned lots. The right to continue operation of the active legally operating 117 STLs would run with the land, regardless of the zone in which they are located, as long as they are not abandoned or cease to operate for a period of twelve or more consecutive months.

The ordinance approving the proposed LCP revisions would also expand the allowable commercial zoning districts where STLs would be permitted to include most (but not all) commercial zoning districts. The STL use is currently allowed within the Local Business Professional LBP, Commercial Neighborhood C-N, Local Business C-1, Commercial Hotel-Motel CH-M, and South Laguna Village Commercial SLV commercial zoned districts. The proposed amendment would add the following zones located within the Laguna Beach Central Business District (CBD) as districts where STLs would be allowed: Residential Serving CBD-1, Downtown Commercial CBD-2, Central Bluffs CBD-CB, Office CBD-O and Visitor Commercial Districts CBD-V (or CBD-VCD as termed by the City), which represents most (but not all) of the remaining commercial zoning districts within the City. STL units would still be subject to the approval of Administrative Use Permits, or Conditional Use Permits if located in the SLV Zoning District. However, the current proposal would require all new STLs to be subject to more detailed standards and regulations that were not previously imposed.

The LCP amendment would impose a number of administrative application requirements and operating standards, including maximum occupancy standards and parking

⁴ “Lodging unit” or “unit” is defined as: same as a “dwelling unit,” which is a room or suite of rooms with a single kitchen used for the residential use and occupancy of one family, and which is rented to person(s) other than the owner. (Municipal Code Section 25.23.020).

⁵ Although the South Village Commercial SLV zone is not included in the zoning map of the certified LCP, the Commission has recognized SLV zone as an existing zone in prior LCPAs (e.g. LCPA 2-11B). Therefore, the City will need to provide a revised zoning map to the Commission that includes the SLV zone recognized by the Commission through LCPA 2-11B.

requirements, as well as certain exceptions where applicable. See Table 1 below for a comparison summary of both the currently certified and the proposed STL regulations.

Table 1: Comparison of certified STL regulations and proposed STL regulations.

	Existing Certified STL Regulations	Proposed STL Regulations
Require Business License	Yes	Yes
Require Transient Occupancy Registration Certificate	Yes	Yes. Also requires that every Administrative Use Permit or Conditional Use Permit holder for short-term lodging submit a quarterly return, whether or not the short-term lodging unit was rented during the quarter and/or Transient Occupancy Tax was collected.
License Transferability	Yes – There currently are no limits on license transferability	No conveyance or transfer of an administrative use permit or conditional use permit for short-term lodging would be allowed
Number of Occupants Allowed	Number of occupants shall not exceed that permitted by the provisions of Titles 14 (Building and Construction) and 15 (Fire) of this code	Maximum of two persons per bedroom
Number of Visitors Allowed	No	Additional daytime guests would be allowed between the hours of 7:00 a.m. and 10:00 p.m. with the maximum daytime guests not to exceed two persons per bedroom with a maximum of 20 guests allowed for five bedrooms or more.
Parking Requirement	No	Existing residential units in commercial districts with nonconforming parking shall be permitted to convert to STLs. Each newly constructed short-term lodging unit must have a minimum of off-street parking spaces per applicable use of “Dwelling, single-family or two-family,” or “Dwelling multi-family” as set forth in Section 25.52.012(G). ⁶
Sound Time Restrictions	No	Yes: No device or equipment that produces or reproduces any sound shall be played outside of any short-term lodging or be audible from the useable area of any adjacent

⁶ Section 25.52.012(G) of the IP of the certified LCP requires that a minimum of two covered parking spaces per dwelling unit plus an additional space when the gross floor area of each residence is 3,600 or more square feet be provided for “dwelling, single-family or two-family” units; a minimum of 1 ½ spaces for every studio or 1-bedroom unit; 2 spaces for every unit with 2 or more bedrooms; and 1 additional guest space for 4 units and every 4 thereafter (at least 50% of the spaces must be covered) be provided for “dwelling multi-family” units.

City of Laguna Beach
LCP Amendment No. LCP-5-LGB-19-0074-1

	Existing Certified STL Regulations	Proposed STL Regulations
		residences between the hours of 10:00pm and 10:00am.
Good Neighbor Brochure	No	Yes
Require Posting of Valid Permit in conspicuous location onsite	No	Yes
Prohibition on Onsite Advertising Signs	No	Yes
Prohibition of large events and parties	No	Yes
Revocation	Failure to comply with any of the imposed conditions may be grounds for possible revocation of the administrative use permit for short-term lodging	Three or more confirmed violations of large or unruly gatherings would result in an automatic hearing for revocation of the Administrative Use Permit
Code Violations	No	Yes – Additional conditions; Permit modification, suspension and revocation; Administrative Citations
Permit Expiration	No	Permits valid for a maximum of two (2) years from the date of approval of the permit. Within three to six month prior to the expiration of permit, owner may apply for a permit renewal
Inspections	No	Evidence that the residence/premises passed a safety inspection conducted by the Laguna Beach Fire Department
Liability Insurance	No	Evidence that the use of the property is eligible for liability insurance (homeowners or rental property insurance) in the amount of not less than \$500,000.00 to cover injuries, damages, losses and other claims associated with the short-term lodging
Require Strict Adherence to Density Requirements	Yes	Existing residential units in commercial districts that are currently non-conforming to density shall be permitted to convert to STLs subject to administrative use permits or conditional use permits. New STLs would have to adhere to any density requirements within its zoning district.
Require local contact person available on 24-hour basis	No	Yes

As previously indicated, the currently certified ordinance defines “short-term” lodging within Chapter 25.23 as:

“Occupancy of a lodging unit for a period of thirty consecutive calendar days or less.”

The proposed ordinance would provide a revised definition of “short-term” lodging within Chapter 25.23:

“Short-term”: occupancy of a lodging unit for a period of thirty consecutive calendar days or less. "Short-term" shall include the rental of a lodging unit for a period of more than thirty consecutive days to an entity, person or group of persons and said entity, person or group of persons sublets or otherwise makes available the unit to another entity, person or group of persons whereby separate occupancy durations are established for the other entity, person or group of persons for a period of thirty calendar days or less.

In addition, the following language is proposed to be added within LCP Chapter 25.23:

- (B) Short-term lodging units are considered a commercial use, which are not permitted in residentially-zoned properties.
- (C) Short-term lodging units deplete the City's limited supply of multiple-family residential units.

The LCP amendment would specifically modify Chapters 25.10, 25.12, 25.14, and 25.43 of the zoning code pertaining to R-1, R-2, R-3, and VC residential zones by deleting the following language from the list of allowable uses in each chapter: “Short-term lodging as defined and specified in Chapter 25.23 of this title.”

Although Chapter 25.23 is currently silent on the matter of home shares, the proposed new STL regulations would characterize “Home sharing” as a form of STL, which would be subject to the proposed restrictions in residential districts but allowed within most commercial districts. Specifically, it would define “Home sharing” as “a rental in a residential unit for 30 consecutive days or less during which the host lives on-site for the entirety of the visitor's stay.”⁷

The revised ordinance (Ordinance 1635) underlying the proposed amendment before the Commission is similar the City's 2016 ordinance related to STLs with the exception of a few notable changes. Ordinance 1635 would:

- 1) Offer protection of affordable housing, senior housing, or housing for disabled people from being converted into STLs;
- 2) Allow *existing* residential units in commercial districts that are currently non-conforming to any density or development standard within its zoning district to convert to STLs subject to administrative use permit or conditional use permit;

⁷ Unlike home shares, the proposed LCP amendment would allow “Home exchanges” as a permissible use within residential zones and would not characterize them as a type of STL. The new STL regulations would define “Home exchange” as “the simultaneous exchange of homes by one owner with another owner in a different city for short periods of time, for not less than one week and not more than two times in total per calendar year, by written agreement between both parties to exchange homes without any exchange of compensation or other consideration.”

- 3) Allow *existing* residential units in commercial districts with nonconforming parking to be permitted to convert to STLs provided the same number of nonconforming off-street parking spaces continues to be provided;
- 4) Require *newly constructed* STLs to provide the minimum off-street parking spaces set forth in Section 25.52.012(G);
- 5) Require hosting platforms to disclose to the City STL rental listings, names of persons responsible for each listing, the address of each listing, the length of stay for each listing, and price paid for each stay; and
- 6) Allow the City to issue citations in the amount of \$1,000 per violation for any violation of Chapter 25.23.

In short, the LCP currently allows STLs in most residential zones, but the proposed LCP amendment would allow STLs within most commercial and visitor-serving districts, while banning them in all residential districts, and would require implementation of new regulations.

B. BACKGROUND

Setting

The City of Laguna Beach lies almost exclusively within the Coastal Zone, with a total area of 8.8 square miles. Geographically, the City of Laguna Beach is surrounded by open space/wilderness parks and is comprised of three main parts: the shoreline, the coastal plain, and the hillsides and canyons ([Exhibit 1](#)). The City's shoreline extends for approximately 6.2 linear miles. Most of the City's shoreline is fronted by bluffs, with areas of pocket beaches. The shoreline includes two large sandy beaches: Main Beach adjacent to the City's downtown area, at the mouth of Laguna Canyon; and Aliso Beach in South Laguna at the mouth of Aliso Canyon. Only two roads provide access into and out of the City (Coast Highway and Laguna Canyon Road), establishing a physical separation from other regions.

History of Short-Term Lodging Regulation in Laguna Beach

Since the late 1800s, the surrounding Pacific coastline, hillsides, and canyons have made this City a highly desirable, picturesque seaside community and prime tourist destination. The Laguna Beach Hotel was constructed in 1895.⁸ Early 20th century photographs and aerial images of Laguna Beach show canvas tents set up on the beach, offering visitors overnight accommodations directly along the coast. A variety of visitor-serving accommodations, from hotels and motels, bed-and-breakfast inns, to vacation rentals, are available throughout the City.

Historically, short-term lodgings have operated in the City of Laguna Beach. In response to concerns raised by Laguna Beach residents about the effects of unregulated vacation rentals in the City, the City began discussing short-term lodging (or vacation rental) regulations in the 1990s. The City first adopted a Short-Term Lodging (STL) ordinance in

⁸ Laguna Beach Historical Society, "Chronology of Laguna Beach"
<http://www.lagunabeachhistory.org/chronology/> (accessed November 20, 2017)

1999. On April 10, 2008, the Commission effectively certified the STL ordinance through LCPA No. 1-07C, modifying the IP portion of the LCP and adding Chapter 25.23 (Short-Term Lodging) to the City's municipal code. The STL ordinance permits and provides for regulation of STLs in certain residential zones (R-1, R-2, R-3, VC) and commercial districts (LBP, C-N, C-1, CH-M), and includes requirements for establishing and operating an STL.

On October 19, 2011, the Commission approved LCPA No. 2-10 to correct an inadvertent discrepancy between Chapter 25.23 (Short-Term Lodging) and Chapter 25.10 (R-1 Zone) that was created by LCPA No. 1-07C relating to which permit type is required (administrative or conditional use permit) to implement STL uses; STL units in the R-1 Zone are subject to administrative use permits.

In 2012, the Commission approved LCPA No. 2-11B with suggested modifications. The primary purpose of this LCPA was to amend the IP to identify the zones in which residential care facilities and residential housing for people with special need are allowed to operate. However, this LCPA included various other changes to the IP. One of the 'clean-up' items included deleting 'short term lodging' from the list of uses allowed with a Conditional Use Permit in the South Laguna Village Zone, which would prohibit that use in that zone. The Commission determined that the elimination of STLs as an allowable use in the South Laguna Village zone would adversely affect the availability of overnight accommodations in the City. Therefore, the Commission approved LCPA No. 2-11B with suggested modifications requiring that STLs continue to be an allowable use in the South Laguna Village Zone (SLV) and be subject to approval of a conditional use permit. No other changes were made to the IP with regard to STLs.

On November 15, 2013, the Commission approved LCPA No. 1-12 to add language to Chapter 25.17 (Second Residential Units) to prohibit short-term rentals of second residential units, or accessory dwelling units, which are allowed in R-1 zones, as a means to provide affordable housing within the City.

Since 2013, however, the City has noted a significant increase in the number and location of short-term rentals, and has raised concerns about the potential adverse impacts to residential neighborhoods resulting from the unregulated growth of short-term rentals, loss of rental housing stock, enforcement issues, altered residential community character, and parking and traffic congestion. The current STL ordinance includes no limits on the overall number of STLs in the City. The City is aware of approximately 117 legally permitted STLs, but based on online advertisement postings, more STLs are illegally operating in the City. In 2017, the City estimated that at least 383 residences were advertised as available and operating STLs in Laguna Beach.

The City Council asserts that while STLs serve an important lodging resource, they can have negative impacts on the character of residential neighborhoods and availability of housing. Therefore, on May 19, 2015, the City passed a 45-day moratorium on the issuance of new STL licenses until additional regulations or prohibitions could be implemented to minimize these potential impacts. On June 15, 2015, the City extended the

moratorium for 90 days; and on August 18, 2015, the City extended the moratorium for a one-year period, which expired as of October 1, 2016.

Numerous public hearings were held before the Laguna Beach Planning Commission and City Council on the subject of STLs within the City. Additional public meetings were also held before a City Council Subcommittee. In October 2016, the City submitted a request to the Commission's South Coast District office to amend the Implementation Plan of the City of Laguna Beach certified LCP, which included City Council Resolution No. 16.076 and City Council Ordinance No. 1617. This requested amendment was assigned LCP No. 1-16 (LCP-5-LGB-16-0055-1). This amendment proposal was deemed complete and filed on October 26, 2016. At the December 7, 2016 hearing, the Commission granted a one-year time extension to act on the subject amendment pursuant to Coastal Act Section 30517 and California Code of Regulations, Title 14, Section 13535(c).

On December 14, 2017, the Coastal Commission, after a public hearing, approved with modifications LCP Major Amendment No. 1-16 (Short-Term Lodgings). The main modification suggested by the Commission was to change the LCP Amendment to allow STLs to remain as a permitted use in the R-1, R-2, and R-3 Zoning Districts. Because the Commission denied LCP Amendment No. 1-16 as submitted, but then approved it with suggested modifications, the City Council has the option to accept or not accept the suggested modifications. The modified LCP Amendment would have become final at a subsequent Commission meeting if the Commission concurred with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment 1-16 was legally adequate. However, the City did not accept the suggested modifications within six months of the Commission's action, and LCP Amendment No. 1-16 was never certified. The City did not concur with the modification approved by the Coastal Commission that re-instated STLs as a permitted use in the R-1, R-2, and R-3 Zoning Districts.

On February 8, 2018, August 8, 2018, and November 26, 2018, the Commission and the City met and entered into a series of tolling agreements to allow additional time for the parties to further discuss and address concerns regarding the Commission's December 2017 suggested modifications, and to avoid litigation.

In 2016, only 81 STL units were legally permitted and operating in Laguna Beach. Since the expiration of the moratorium, approximately 36 applications have been submitted to the City for the operation of new STL units in residential zones, and 19 in commercial zones. As of September 2020, approximately 117 STLs are legally operating in the City of Laguna Beach.

On April 23, 2019, and June 4, 2019, the City Council conducted public hearings and adopted City Council Resolution No. 19.030 and Ordinance No. 1635. On June 17, 2019, the City submitted to the Commission's South Coast District office the LCP amendment request that is currently before the Commission (No. LCP-5-LGB-19-0074-1) related to City Council Resolution No. 19.030 and Ordinance No. 1635, which was deemed officially received on July 1, 2019.

On August 13, 2020, the Coastal Commission conducted a public hearing to consider LCP Major Amendment No. LCP-5-LGB-19-0074-1 (Short-Term Lodgings) but the Commission continued the public hearing. The Commission directed the City and Commission staff to consider additional provisions, including requiring a home sharing program to promote and encourage more affordable visitor-serving accommodations, and regulations to provide some protection to the City's long-term rental housing stock in the mixed-use districts. The City's response to that direction is outlined in a memorandum dated September 16, 2020 (see [Exhibit 6](#)).

Past Commission Action related to STLs in Other Coastal Communities

As in other coastal communities in California, STLs have proliferated over the years. What may have been predominantly summer and holiday vacation rentals have evolved into what is now in some cases a year-round business. The unregulated proliferation of such STLs has raised concerns regarding impacts to the preservation of neighborhood integrity, reductions in rental housing stock, public safety, increased traffic and parking difficulties, and other issues that have sometimes been associated with STLs.

As a reaction to such issues, LCP amendment proposals have been submitted to the Commission to ban STLs in certain communities (e.g. outright bans in all residential zones). However, such bans can conflict with the Coastal Act and LCP policies and objectives to protect and provide for visitor-serving opportunities and coastal public access. In general, rather than supporting restrictive bans of such uses, the Commission has encouraged allowance of this use and more targeted, responsive regulations of STLs that are based on applicable community and area specific factors.

In the Commission's past actions, including in response to proposed amendments of the Local Coastal Programs of the County of Ventura (LCP-4-VNT-18-0058-1), City of Pismo Beach (LCP-3-PSB-18-0051-1), County of Santa Cruz (3-SCO-18-0032-2-Part B), City of Del Mar (LCP-6-DMR-17-0083-3), County of Santa Barbara (LCP-4-STB-17-0086-3), and City of Encinitas (ENC-MAJ-1-06), in order to be consistent with Chapter 3 of the Coastal Act, local jurisdictions in the Coastal Zone that have concerns about the impacts of STLs have been required to provide a means and a framework to appropriately regulate the establishment and operation of STLs, rather than overly restrict this use or otherwise significantly diminish its visitor-serving utility. The Commission has approved a number of LCP amendments regulating STLs in the Coastal Zone. Each of these LCP amendments presented unique issues considering geographic specificity, but the approved LCP amendments generally provide for standards for continued STL operations, rather than blanket bans.

C. DENIAL OF THE LCP AMENDMENT AS SUBMITTED

As described above, the standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program (LCP) is whether the Implementation Plan, as amended, would be in conformance with, and adequate to carry out, the policies of the certified Land Use Plan (LUP) portion of the certified LCP. (See Coastal Act sections 30513, 30514.)

The City of Laguna Beach's certified LUP contains objectives and policies that provide for visitor-serving uses with the intent of maximizing coastal access. Below are the relevant City of Laguna Beach certified LUP policies:

The Coastal Land Use Plan Technical Appendix segment of the certified LUP incorporates the following Coastal Act policies regarding public access and visitor serving uses:

Section 30210 states:

In carrying out the requirement of Section 2 of Article XV of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 states, in relevant part:

Lower cost visitor and recreational facilities...shall be protected, encouraged and where feasible provided. Developments which provide public recreational opportunities are preferred.

Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general commercial development, but not over agriculture or coastal-dependent industry.

In addition, the Land Use Element of the certified LUP contains the following policies:

Policy 4.2 states:

Promote policies to accommodate visitors, reduce conflicts between visitor-serving uses/infrastructure and residents, and reduce impacts on the City's natural resources.

Policy 6.2 states:

Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible, provide affordable overnight accommodations.

Policy 6.9 states:

Provide public access to designated public areas wherever safe and legally and environmentally appropriate.

Priority Uses

Section 30213 of the Coastal Act (adopted by the City as a Land Use Plan policy) requires that lower-cost visitor and recreation facilities be protected, encouraged, and where feasible provided. Section 30222 of the Coastal Act (adopted by the City as a Land Use Plan policy) places a higher priority on the provision of visitor-serving uses designed to enhance public opportunities for coastal recreation over residential, industrial, or general commercial uses.

Short-Term Lodgings

The City's LUP includes strong support for visitor serving uses including lower-cost overnight accommodations such as can be provided in some instances with short-term rentals. Policy 6.2 of the Land Use Element of the certified LUP requires that affordable overnight accommodations be protected, encouraged and, where, feasible, provided. The certified Coastal Technical Appendix incorporates Coastal Act Section 30213, which requires that lower-cost visitor facilities be protected, encouraged, and where feasible provided, and Coastal Act Section 30210, which requires that public coastal access be maximized. The Commission has found that generally visitor-serving overnight accommodation uses, including STL units, help maximize the opportunities provided for all the public to access the coast. At the same time, the Commission has recognized legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, with respect to housing stock and affordability, community character, noise, and traffic impacts.

Demand for STLs is especially high in this City because of its proximity to the coast and because of its historical reputation as a popular coastal-resort community. Because of recent proliferation of STLs in Laguna Beach, the City has cited issues about the presence of STL rentals causing problems (e.g. noise, disorderly conduct, traffic congestion, excessive trash, etc.) that could negatively impact residents and communities, unduly burden City services, and reduce the long-term rental housing stock.⁹ The City has indicated that the intent of the proposed LCP amendment is not to eliminate an existing, legally established use, but to clarify those new STL units should no longer be permitted in residential zones in order to preserve its long-term housing rental stock and to limit other conflicts by prohibiting new STL units in all residential zoning districts (with an exception for **existing** legally permitted units operating in residential zones), and by imposing regulation of existing and new STL units in existing and expanded allowable commercial zoning districts.

STLs provide a significant supplement to traditional visitor-serving overnight accommodations, promoting public access and visitor-serving opportunities to coastal communities. The provision of overnight visitor-serving accommodations, such as STLs, serves a significant purpose as a subset of visitor-serving uses that promotes public coastal access and provides California residents and visitors one way to enjoy the coast.

⁹ Of the existing permitted approximately 117 STLs, approximately 79 of them are situated in the R-1, R-2 and R-3 residential zones. Therefore, the City has expressed its concerns regarding the potential adverse impacts of STL units to the City's rental housing stock in the residential zones.

Overnight visitor-serving accommodations allow public members who do not reside within a day's journey to the coast an opportunity to enjoy the coastline.

Despite also being significant visitor-serving destinations, cities such as the City of Del Mar and the County of Santa Barbara have fewer overnight accommodations for coastal visitors. The City of Del Mar only has six hotels offering 355 rooms in total. Currently, within the Coastal Zone, the County of Santa Barbara only has one higher cost hotel, no bed and breakfasts, one County-owned campsite, and three State-owned campsites. In such areas in need of more overnight accommodations, short-term vacation rental units provide an important visitor-serving amenity that supports coastal access. Unlike the City of Del Mar and the County of Santa Barbara, the City of Laguna Beach has a number of overnight accommodations for coastal visitors. The City has estimated there are approximately 1,305 existing hotel/motel lodging units within the City's coastal zone. Therefore, the City of Laguna Beach already provides an ample supply of visitor serving overnight accommodations, and where further proliferation of vacation rentals has the potential to impair community character or other coastal resources, specific restrictions on STLs in specific areas may be appropriate.

In this case, the proposed amendment would expand the allowable commercial districts to permit STLs in areas where they are currently not permitted, and it would allow for the continuation of the existing legally permitted STL units (approx. 117 units) currently operating regardless of the zone in which they are located. Of the existing 117 STLs, approximately 79 of them are located in residentially zoned districts. The proposed amendment would restrict new STLs to only the allowable commercially zoned districts and would prohibit any new STLs in the residential zones. Although the proposed amendment would reduce the total area where STLs are allowed and the potential number of lots for which a STL could be permitted by prohibiting STLs in all residential areas, the City of Laguna Beach is unlike other coastal communities that have fewer traditional overnight accommodations (i.e. hotel and motel units) available for coastal visitors. Moreover, some of the mixed-use and commercially zoned districts are located within 200 feet from the shoreline. The City emphasizes that the location of the mixed-use and commercial zones are located along Coast Highway and relatively close to the beach; therefore, accessibility to the beach would still be maximized.

Additionally, as part of this LCP Amendment, the City has also proposed appropriate vacation rental regulations that address potential visitor-residential conflicts and that satisfy the sometimes competing objectives associated with facilitating public recreational opportunities near the shoreline.

In 2017, the City of Laguna Beach estimated that there were approximately 383 existing STL rentals city-wide, including unpermitted STL units, based on listings on the websites of hosting platforms such as VRBO and Airbnb. The City uses this figure to estimate current demand for STLs, although the actual demand for STLs may vary widely over time. Commission staff does not believe the estimated number of existing STLs alone is fully indicative of the demand for STLs in the region since demand is highly variable and changes depending upon the season, time of year, growing population, and other varying

factors. However, assuming the current demand for STLs in the City of Laguna Beach is around that number, the proposed LCP amendment would continue to provide enough STLs to accommodate visitor demand. The proposed LCP amendment would grandfather the existing legally operating STLs. Any STL that currently operates without a permit would not be grandfathered, and the proposed regulations and restrictions would apply. The proposed amendment would add a provision to the LCP to relax the parking requirements and development and density standards for the existing residential units that are legally non-conforming to encourage STLs in the mixed-use areas of the allowable commercial zones. Under the proposed LCP amendment, the City estimates that approximately 723 existing residential units in the allowable commercial zones (not including existing units reserved as senior and disability housing) could accommodate STLs without the need for any future development because, as proposed today, the LCP amendment would allow for the conversion of these units into STLs, regardless if they are nonconforming to development standards, density, or parking. Therefore, the existing 723 residential units could accommodate new STLs regardless of the potential non-conforming nature of some of them under the proposed LCP amendment.

However, the certified LUE contains policies to preserve relatively lower-cost housing opportunities in commercial zones.

Policy 6.12 of the certified LUE states:

Promote mixed-use development in commercial zones, where appropriate, to encourage the provision of lower-cost housing and to reduce traffic trips. Encourage ground floor uses to be commercial and where appropriate, visitor serving.

Action 6.12.1 of the certified LUE states, in relevant part:

Evaluate incentives for the development of affordable residential units in conjunction with mixed-use development in commercial zones.

Policies 6.12 and Action 6.12.1 promote and encourage the development of affordable residential units in conjunction with mixed-use development in commercial zones. Housing located within mixed-use commercial properties can offer reduced housing costs. As proposed, the LCP amendment does not provide any protections to ensure that not all of the City's long-term rental housing stock in the allowable mixed-use commercial districts be converted into STL units.

It is important to note that the City is currently working with Commission staff on another LCP amendment to address and implement new provisions in their LCP that would regulate accessory dwelling units (ADUs) consistent with State law, which requires that ADUs, which are intended to augment the City's affordable housing rental stock, be allowed on lots developed with single-family residences, most of which are located within the residentially zoned districts. That LCP amendment has not yet come before the Commission. However, as proposed, this LCP amendment currently before the

Commission would not conflict with any efforts to foster the development of ADUs as an additional long-term housing opportunity.

In addition, there are concerns that the proposed LCP amendment could inadvertently contribute to the loss of lower-cost hotel/motel units in Laguna Beach. The certified LUE has a policy intended to preserve and encourage affordable short-term overnight accommodations.

Policy 6.2 of the certified LUE states:

Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible provide, affordable overnight accommodations.

Although Policy 6.2 includes a specific requirement for the preservation of affordable motel and hotel rooms, the intent of the policy is also to protect, encourage, and where feasible provide, affordable overnight accommodations, which could include STL units. In addition, the certified Coastal Technical Appendix incorporates Coastal Act Section 30213.

Section 30213 states, in relevant part:

Lower cost visitor and recreational facilities...shall be protected, encouraged and where feasible provided. Developments which provide public recreational opportunities are preferred.

Coastal Act Section 30213 requires that lower-cost visitor facilities be protected, encouraged, and where feasible provided.

The City has provided an inventory of existing accommodation types (i.e. hotel/motel rooms) in various price ranges, including the number of rooms in each accommodation and averages of 2015-2016 nightly room rates. These range from high-end hotels such as the Montage where the rate varies upward of \$1,000 per night, to the Laguna Brisas Hotel where rates range from \$120 to \$180 per night. The rates range depending upon, among other things, the time of year (generally highest during summer weekends and lowest during winter weekdays). Based on 2015-2016 nightly room rate information, the average nightly weekday rental rate for the existing hotel and motel rooms averaged approximately \$292 and \$350 on weekends. While a number of visitor-serving overnight accommodations exist in the City of Laguna Beach, there are presently no hostels, campgrounds, or other types of accommodations that are generally considered to be 'low-cost' available in the City.

As the City has pointed out, many of the STLs rent at similar average rates as the local hotel rooms, but there is wide variation in prices, as evidenced by an online search. Depending on site-specific circumstances, short-term rental of a residence can provide a lower cost option than a traditional hotel. For instance, this can be true when traveling with extended family or other larger groups, where renting a single residence is less expensive

than renting multiple traditional hotel rooms.¹⁰ Short-term residential rental units also typically include full kitchen facilities, which allow overnight visitors the option of preparing meals in, a more affordable option than dining out.

Another instance is the operation of owner-occupied STLs, or home share units. Home share units permit owners and long-term residents who live onsite to be able to rent a spare room and host visitors in their homes. In a home share unit, because only a room or portion of a residential unit is being rented, home share units sometimes provide lower-cost overnight accommodations and can be more affordable than traditional overnight accommodations (i.e. hotel/motel and non-owner occupied STLs). Affordable (low- to moderate- cost) overnight accommodations aid public coastal access.

In all cases, STLs increase the range of options available to coastal visitors. Regardless of the cost, overnight accommodations are a higher priority use because they allow for enhanced public access.

However, as proposed, the LCP amendment does not include a home share program or any provisions that would encourage home share style short-term rentals. Encouraging home shares would help continue to aid and maximize public coastal access and will help strike a balance between preserving the City's available housing stock, preserving lower-cost hotel/motel stock, and preventing home-shares from turning into de facto hostels and hotels. Without such a program or provision, the proposed LCP amendment has the potential to reduce lower cost public visitor-serving opportunities, which would conflict with the LUP objectives to protect and maximize public access and visitor-serving opportunities in the City's coastal zone.

As proposed, the amendment is not a blanket ban of STLs or an "all or none" proposition. However, as discussed in greater detail above, several suggested modifications are necessary to ensure the proposed amendment provides an appropriate balance to continue to accommodate STLs in a manner that would not contribute to a loss of lower-cost overnight accommodations or affordable housing stock, unduly restrict the rental of residential units to visitors, or diminish the public's ability to access and recreate on the coast. For this reason, the proposed LCP amendment is inconsistent with and inadequate to carry out the certified LUP and must be denied. As a result, the Commission is recommending suggested modifications to the City's LCP in this regard, described in detail in Section III and IV(D) below.

D. CERTIFY THE LCP AMENDMENT WITH SUGGESTED MODIFICATIONS

Chapter 25.23 (Short-term Lodging) of the certified IP sets forth the currently certified standards for the STL use and identifies the zones in which STLs are allowed. Suggested modifications to sections in Chapter 25.23 are necessary to ensure the proposed LCP Amendment will not have significant adverse impacts on visitors, will not contribute to a loss of lower-cost hotel/motel stock or affordable housing stock, and would not conflict with

¹⁰ Even though the LCP amendment would still limit the maximum number of occupants in a STL to two persons per bedroom, where a STL constitutes an entire house comprising multiple rooms, rental of an entire multi-room house is likely to be more cost-effective than renting multiple hotel or motel rooms for an extended family or large groups.

the certified LUP requirements for promoting and maximizing access to the City's coastline. The modifications are contained in Suggested Modifications 1-4 described below. The recommended modifications are consistent with those outlined by the City in a memorandum to Commission staff dated September 16, 2020 ([Exhibit 6](#)).

Suggestion Modification 1 (Permit Requirements)

There is a total of approximately 772 dwelling units in Laguna Beach's commercial and mixed-use districts (including units reserved as senior and disability housing). Housing located within mixed-use commercial properties can offer reduced housing costs and offer proximity to needed commercial services. Therefore, the City's LUE contains policies to preserve relatively lower-cost housing opportunities in commercial zones.

Policy 6.12 of the certified LUE states:

Promote mixed-use development in commercial zones, where appropriate, to encourage the provision of lower-cost housing and to reduce traffic trips. Encourage ground floor uses to be commercial and where appropriate, visitor serving.

Action 6.12.1 of the certified LUE states, in relevant part:

Evaluate incentives for the development of affordable residential units in conjunction with mixed-use development in commercial zones.

Policies 6.12 and Action 6.12.1 promote and encourage the development of affordable residential units in conjunction with mixed-use development in commercial zones. Consistent with Policy 6.12 and Action 6.12.1, a suggested modification is recommended to Section 25.23.030 to help preserve the long-term rental housing stock in the allowable commercial districts and in mixed-used developments, which can provide relatively lower-cost housing opportunities, whilst still accommodating some STL allowances. The modification would impose a cap on the total number of STL allowed within the permitted commercial and mixed-use districts. The suggested cap would allow no more than 20 percent of the total number of units in the permitted commercial and mixed-use districts to be converted to STLs, with a maximum number of 300 traditional STLs (not including new home share units) allowed City-wide. This cap includes the existing 117 legally permitted STL units.

Another suggested modification is also recommended to Section 25.23.030 to promote home share units (owner-occupied vacation rentals) as a separate type of STL. Home share units will be regulated in the same way as traditional STLs (non-owner occupied). However, a separate cap will be applied to home share units. An additional 165 home share units will be allowed in single-family, duplex, and triplex dwellings located within the allowable commercial zoning districts. Of the 772 total dwelling units in the permitted commercial and mixed-use districts, there are approximately 240 single-family dwellings, 80 duplexes and 15 triplexes. The '165' figure is roughly one-half of the 240 single-family, duplex, and triplex dwellings available in the permitted commercial districts.

Home share units offer, in some instances, lower-cost overnight accommodations. The certified LUE has a policy intended to preserve and encourage affordable short-term overnight accommodations.

Policy 6.2 of the certified LUE states:

Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible provide, affordable overnight accommodations.

Although Policy 6.2 includes a specific requirement for the preservation of affordable motel and hotel rooms, the intent of the policy is also to protect, encourage, and where feasible, provide affordable overnight accommodations, which includes STL units. In addition, the certified Coastal Technical Appendix incorporates Coastal Act Section 30213.

Section 30213 states, in relevant part:

Lower cost visitor and recreational facilities...shall be protected, encouraged and where feasible provided. Developments which provide public recreational opportunities are preferred.

Regardless of the cost, overnight accommodations are a higher priority use because they allow for enhanced public access to the coast, consistent with the LCPs public access policies.

Encouraging home shares will continue to aid and maximize public coastal access and will help strike a balance between preserving the City's available housing stock, preserving lower-cost hotel/motel stock, and preventing home-shares from turning into de facto hostels and hotels. To encourage home shares, a suggested modification is being made to waive the Administrative Use Permit and Conditional Use Permit fees for home share units.

The suggested 20 percent cap and maximum cap of 300 STLs (for non-home sharing), and allowance of an additional 165 home share units, would allow a maximum of 465 STL units within the allowable commercial districts. An overly restrictive cap that does not take into account the estimated demand for STLs could result in higher priced STL units instead of helping realize more affordability. In 2017, the City of Laguna Beach estimated that there were approximately 383 active STL rentals citywide (permitted and unpermitted); this estimate should more accurately represent the demand for STL operations in Laguna Beach because it is based on conditions prior to the COVID-19 pandemic. Therefore, in this case, allowance of 465 units surpasses, and would be sufficient to meet, the estimated demand. A cap of 465 STLs (non-owner-occupied units and owner-occupied home share units) city-wide would still preserve the character of the commercial area and the majority of the housing stock but would allow for future development that includes short-term rental units.

With the proposed and suggested provisions, including the aforementioned caps, and the City's existing supply of overnight accommodations (i.e. approx. 1,305 hotel/motel units), the proposed LCP amendment as modified would balance the protection of the housing stock with the provision of a wide range of visitor accommodations.

To prevent wholesale conversion of existing and new housing complexes into STLs, another suggested modification is recommended to Section 25.23.030. This modification clarifies the number of units each property may convert into a STL, which will be contingent on the total number housing units on the property. Properties with five or fewer units may only convert a maximum of one unit into a STL, and properties with more than five units may only convert a maximum of twenty percent (20%) of the total number of units into STLs. This modification will help preserve and maintain the existing housing stock located in the allowable commercial districts, whilst still providing an allowance for STLs.

If the LCP amendment is modified as recommended, then the LCP amendment can be found to be consistent with and adequate to carry out the certified LUP policies regarding visitor serving use, lower cost overnight accommodations, and public access.

Suggestion Modification 2 (Grandfather Clause for STLs in Residential Zones)

The City is proposing to add a new section (Section 25.23.060) to Chapter 25.23 (Short-term Lodgings) to address the continuation of legal STL units in residential zones. As proposed, the cutoff date for existing STL to qualify for this "grandfather" clause is unclear. The proposed Section 25.23.060(A) would read, in relevant part [**emphasis added**]:

(A) The operation of any legal short-term lodging unit **in existence as of the effective date of this ordinance** and located within the R-1, R-2, R-3 or VC zoning districts may continue as a legal nonconforming use...

A minor suggested modification to Section 25.23.060(A) is necessary to clarify that this "grandfather" clause in the proposed LCP amendment would apply to current permits for STLs in residential zones that were approved before and during the review of the pending LCP amendment request. This modification will ensure that recently approved STL permits be honored, including those issued while the LCP Amendment has been pending.

Suggestion Modification 3 (Grandfather Clause for STLs in Allowable Commercial Districts)

Similar to Section 25.23.060, the City is adding another new section (Section 25.23.065) to Chapter 25.23 (Short-term Lodgings) to address the continuation of legal STL units in the allowable commercial districts. As proposed, the cutoff date for existing STL to qualify for this "grandfather" clause is unclear. The proposed Section 25.23.065(A) would read, in relevant part [**emphasis added**]:

A minor suggested modification to Section 25.23.065(A) is necessary to clarify that this "grandfather" clause in the proposed LCP amendment would apply to current permits for STLs in the permitted commercial districts that were approved before and during the

review of the pending LCP amendment request. This modification will ensure that recently approved STL permits be honored, including those issued while the LCP Amendment has been pending.

Suggestion Modification 4 (Reporting to the Coastal Commission)

Although STLs are essential for the promotion of public access to the City's major visitor destination beaches, it is recognized that STLs may result in conflicts, such as a reduction in the long-term rental housing stock, a reduction in the lower-cost hotel/motel stock, and increased burdens on City services, if STL use is not adequately regulated.

To allow for reevaluation of the proposed STL Program, a suggested modification is being made requiring that the City provide a report to the Coastal Commission after three years from the date of certification of this pending LCP Amendment. This provision will be included as a new section (Section 25.23.090) in Chapter 25.23. The suggested reporting provision requires that the report include: (1) an update on new housing and hotel units added within the City including lower and higher cost hotels and affordable and higher cost housing; (2) the total number of dwelling units in the permitted districts as well as the total number of STL permits that have been issued; and (3) the identification of the housing types and locations of the newly permitted STL, including home share units.

If the report identifies evidence that STL units are contributing to the loss of lower-cost hotel/motel rooms or affordable housing, the suggested Section 25.23.090 will require that the City request and submit an LCP amendment to the STL ordinance and/or other provisions of the LCP to address the identified trend.

Such reporting will help ensure that this LCP amendment provides an appropriate balance to continue to accommodate STLs in a manner that would not contribute to a loss of lower-cost overnight accommodations or affordable housing stock, unduly restrict the rental of residential units to visitors, or diminish the public's ability to access and recreate on the coast.

Conclusion

If modified as suggested, the LCP amendment is appropriate to avoid adverse impacts associated with the allowance of STLs in the City, while concomitantly ensuring that visitor-serving overnight accommodations are allowed. Under this LCP amendment, if modified as suggested, STLs would be expected to effectively coexist in mixed-use commercial areas with better clarity on regulations to ensure that they do not become problematic. If modified, the LCP amendment would provide an appropriate balance that is consistent with the LUP objectives of maintaining the City's vibrant tourism economy and ensuring cooperative use of the City by both residents and visitors, and would also provide an opportunity to regulate vacation rentals in a manner that protects coastal resources and access and recreational opportunities, as well as residential communities and community character, consistent with the requirements of the LUP.

For the reasons described above, the Commission finds that only as modified is the proposed IP amendment consistent with and adequate to carry out the provisions of the certified LUP.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (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).)

Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including 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.

As outlined in this staff report, the proposed LCP Amendment if modified as suggested is a feasible mitigation measure which will be consistent with the policies of the LUP and substantially lessen significant adverse impacts which the proposed LCP amendment will have with respect to coastal impacts to public access, visitor accommodations, and recreation. 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 LUP. The Commission finds that approval of the LCP Amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP Amendment request No. LCP-5-LGB-19-0074-1 if modified as suggested herein.