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# W13a

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## STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE & DE NOVO

**Appeal No.:** A-5-LGB-20-0001

**Applicant:** City of Laguna Beach (Public Works Dept.)

**Local Government:** City of Laguna Beach

**Local Decision:** Approval with no conditions

**Appellants:** Mark & Sharon Fudge

**Project Location:** Public streets and public and private parking lots citywide, Laguna Beach, Orange County

**Project Description:** Appeal of City of Laguna Beach Local Coastal Development Permit No. 19-5151 to establish a multi-year, multi-phase parking rate structure for public meters and public and private lots/structures located citywide for summer and non-summer months. The permit approved an immediate increase of \$1 for all meters and lots, no increase the following two years, and then an increase of 25% annually, not to exceed 50% in a rolling three-year period for non-summer months; and, for summer months, an immediate increase of 25%, and subsequent increases of up to 25% annually, not to exceed 50% in a rolling three-year period, for all downtown meters and metered lots. The rates for non-downtown meters and lots will be governed by the non-summer rate structure.

**Staff Recommendation:** Determine that a substantial issue exists, and approve the permit application with conditions.

**IMPORTANT HEARING PROCEDURE NOTE:** The Commission will not take public testimony during the “substantial issue” phase of the appeal hearing unless at least three Commissioners request it. If the Commission finds that the appeal raises a substantial issue, the “de novo” phase of the hearing will follow, during which the Commission will take public testimony.

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### SUMMARY OF STAFF RECOMMENDATION

The City’s action on Local Coastal Development Permit (“CDP”) No. 19-5151 approved an indefinite authorization of parking rate increases for all public meters and lots/structures located citywide. Staff recommends that the Commission first determine that a **substantial issue exists** with respect to the grounds on which this appeal has been filed for the following reasons: (1) the City’s decision did not consider eliminating or significantly reducing the cost of parking permits for fuel-efficient or alternative-fuel vehicles pursuant to LUE Action 1.1.6 of the certified Local Coastal Program (“LCP”); (2) the City’s decision did not adequately reduce conflicts between visitor-serving uses/infrastructure and residents; and (3) the indefinite authorization of the citywide parking rate increase would significantly impact public access and recreational opportunities to and along the coastline of Laguna Beach, and would disproportionately impact members of the underserved communities, who have less disposable income and fewer options for enjoying public access to and recreation on the coast.

Staff then recommends approval of the permit application with **three (3) special conditions** that require the City to: (1) limit its implementation of the parking rate increases to a limited term (three-year) authorization period; (2) implement the additional language accessibility program for the purpose of advertising its peripheral parking and free trolley program in languages other than English; and (3) implement parking incentives for fuel-efficient or alternative-fuel vehicles.

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## APPENDICES

Appendix A – Substantive File Documents

## EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – City Resolution for Local CDP No. 19-5154
- Exhibit 3 – Appeal
- Exhibit 4 – City’s 2019 Parking Occupancy Data
- Exhibit 5 – City’s Parking Rate Comparison Chart

## I. MOTION AND RESOLUTION – **SUBSTANTIAL ISSUE**

**Motion:** I move that the Commission determine that Appeal No. A-5-LGB-20-0001 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Following the staff recommendation on this motion will result in the Commission proceeding to conduct a de novo review of the application, and adoption of the following resolution and findings. Conversely, passage of this motion would result in a finding of No Substantial Issue and the local action would become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**Resolution:** The Commission hereby finds that Appeal No. **A-5-LGB-20-0001** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.

## II. APPELLANTS' CONTENTIONS

On January 8, 2020, Mark and Sharon Fudge filed an appeal of the City-issued CDP for parking rate increases citywide (**Exhibit 3**). The appellants raise the following concerns with the City-approved parking rate structure:

- 1) The City's action did not maximize protection of the community's coastal and other natural resources;
- 2) The City's action is not adequately committed to creating a sustainable community as provided by the certified LCP;
- 3) The City's action did not consider the impact of parking rate increase on Laguna Beach's traffic conditions and community character;
- 4) The City did not proactively participate in the planning activities of regional and adjacent jurisdictions in its approval as required by the certified LCP;
- 5) The City's action did not follow the policies of its General Plan;
- 6) The City's action did not adequately maximize public access to and along the coast, nor did it consider environmental justice in the approval of the parking rate increases.

In addition to the points raised in their appeal, at the March hearing, the appellants voiced their concern that a complete copy of Laguna Beach's certified LCP has not been provided to the public, thus making it uncertain which rules apply for this project. At the time this staff report was published, the complete copy of the certified LCP had been shared with the appellants, as well as published on the City's website. Therefore, appellants, and the public generally, have full access to the LCP, allowing them to assess the extent to which the above allegations identify inconsistencies with the certified Laguna Beach LCP.

### III. LOCAL GOVERNMENT ACTION

On December 4, 2019, the City of Laguna Beach Planning Commission held a public hearing and approved CDP No. 19-5154, which allows the establishment of a multi-year, multi-phase parking rate structure for public parking meters and public and private lots/structures located citywide, with different provisions for how the rates could change for summer and non-summer months (**Exhibit 2**).

The project description of Resolution No. 19-5154 (**Exhibit 2**) approving Local CDP No. 19-5154 reads as follows:

“The following Citywide parking rate structure shall be effective as of January 1, 2020:

**Non-Summer Months:** Citywide, immediate increase of \$1.00 for all meters and lots/structures (excluding Lot 15 and with exceptions to Lot 7 and Lot 8). No increase for the following two years, and then increase of up to 25 percent annually, not to exceed 50 percent in a rolling three-year period.

**Summer Months:** All downtown meters and metered lots, immediate increase of 25 percent, up to a maximum of 25 percent increase annually, not to exceed 50% in a rolling three-year period. Non-downtown meters and lots/structures will stay at the same non-summer rate.

**Exceptions:** Treasure Island Surface Lot and the Treasure Island Garage, year-round rates should be \$4.00/hour; and Act V Parking Lot rates should be \$10.00 all day on the weekends and \$7.00 all day on the weekdays during summer months.”

On December 23, 2019, the Coastal Commission’s South Coast District Office received a valid Notice of Final Action (NOFA) for Local CDP No. 19-5154. The Commission issued a Notification of Appeal Period on December 24, 2019. On January 8, 2020, during the ten (10) working day appeal period, Mr. and Mrs. Fudge filed this appeal (**Exhibit 3**). No other appeals were received. The City and applicants were notified of the appeal by Commission staff in a letter dated January 8, 2020. The appeal was originally scheduled for March 2020 hearing, but was postponed due to the request by Mr. and Mrs. Fudge calling out the need for the public to review the complete document of certified Laguna Beach LCP.

### IV. APPEAL PROCEDURES

After certification of LCPs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit applications. Development projects approved by cities or counties may be appealed if they are located within certain geographic appealable areas, such as those located between the sea and the first public road paralleling the sea or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore,

developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states in relevant part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:
  - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
  - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.
  - . . .
  - (5) Any development which constitutes a major public works project . . . .

Much of the project is in appealable areas because some of the public parking areas are located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of a beach or the top of a coastal bluff, or within 100 feet of a stream. (See Section 30603(a)(1) & (2), quoted above.) However, regardless of the location, because the project would result in an increase in citywide parking rates, it involves "publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities." Cal. Code Regs., tit. 14, § 13012(b) (defining such facilities as "major public works"). Therefore, the project qualifies as a major public works for Coastal Act purposes, and pursuant to Section 30603(a)(5), above, any development that constitutes a major public works project may be appealed to the Commission after certification of local coastal program. Therefore, the project in its entirety, regardless of whether portions of the project area falls within appealable area or non-appealable area, is appealable to the Commission.

**Grounds for Appeal**

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1):

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in

the certified Local Coastal Program or the public access policies set forth in this division.

Section 30625(b)(2) of the Coastal Act requires the Commission to conduct a de novo review of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a). If Commission staff recommends a finding that a substantial issue does exist, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered presumed, and the Commission will conduct the de novo portion of the public hearing on the merits of the project. A de novo review of the application on the merits uses the certified LCP as the standard of review. (Section 30604(b).) In addition, for projects located between the first public road and the sea, a specific finding must be made at the de novo stage of the appeal that any approved project is consistent with the public access and recreation policies of the Coastal Act. (Section 30604(c).) Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

#### **Qualifications to Testify before the Commission**

If the Commission, by a vote of three (3) or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. In this case, the City's record reflects that Mark and Sharon Fudge opposed the project in person at the local hearing. Testimony from other persons must be submitted in writing.

Upon the close of the public hearing, the Commission will vote on the substantial issue question. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will immediately follow, during which the Commission will take public testimony.

## **V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE**

### **A. PROJECT DESCRIPTION AND LOCATION**

The project (proposed parking rate increases) is a component of the implementation strategies of the City's Downtown Specific Plan Area & Laguna Canyon Road Parking Management Plan (more commonly known as the 2013 Parking Management Plan; "2013 PMP"). The City's 2013 PMP was intended to achieve goals to manage parking more efficiently, such as increasing parking capacity, reducing traffic congestion, and encouraging alternative transportation. Specific strategies included parking technology upgrades, improved signage, real-time information on parking availability, public outreach and marketing, improving walkability, promoting alternate forms of mobility, and best practice enforcement

strategies. The PMP has not been certified for inclusion in the LCP by the Coastal Commission.

The City-approved project is described as the establishment of a multi-year, multi-phase parking rate structure for all public parking meters and lots/structures located citywide for summer and non-summer months as outlined in Attachment A of City Resolution No. 19-5154 (**Exhibit 2**). For non-summer months, the Citywide parking rate structure would result in an immediate increase of \$1.00 for all meters and lots/structures (excluding Lot 15 and with exceptions to Lot 7 and Lot 8), no increase for the following two years, and then increase of up to 25 percent annually, not to exceed 50 percent in a rolling three-year period. For summer-months (mid-June to early September), all downtown meters and metered lots would result in an immediate increase of 25 percent, up to a maximum of 25 percent increase annually, not to exceed 50 percent in a rolling three-year period. Non-downtown meters and lots/structures will stay at the same non-summer rate for summer months. The parking rate structure would make exceptions to Treasure Island Surface Lot and the Treasure Island Garage, where the year-round rates would be \$4.00 per hour; and Act V Parking Lot, where the rates would be \$10.00 all day on the weekends and \$7.00 all day on the weekdays during summer months.

The public parking meters and lots/structures affected by the City-approved CDP are concentrated in the downtown area, near Main Beach, and along the Laguna Canyon Road and the coastline of Laguna Beach (adjacent to other popular beaches). Many of the parking spaces are located on both sides of Coast Highway, the first public road from the ocean (**Exhibit 1**). The City of Laguna Beach operates a free trolley program that serves the downtown area and most of the public beaches along the shoreline. The trolley also picks up visitors who park at the peripheral parking lots.

#### **B. LOCAL COASTAL PROGRAM CERTIFICATION**

The City of Laguna Beach LCP was certified on January 13, 1993. The City's LCP is comprised of a Land Use Plan (LUP) and an Implementation Plan (IP). The City's Land Use Plan 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 Implementation Plan portion of the certified LCP is comprised of over 10 documents, including Title 25, the City's Zoning Code. The Coastal Land Use Element of the LCP was updated and replaced in its entirety via LCPA 1-10 in 2012. The Open Space/Conservation Element and Title 25 have been amended a number of times since original certification. Laguna Beach has a certified LCP, but there are four areas of deferred certification in the City: Irvine Cove, Blue Lagoon, Hobo Canyon, and Three Arch Bay. The project is located within the City of Laguna Beach's certified jurisdiction and is subject to the policies of the certified LCP and the public access policies of the Coastal Act.

#### **C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS**

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the



grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act. The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and
5. Whether the appeal raises local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor.

Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

#### **D. SUBSTANTIAL ISSUE ANALYSIS**

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government are the project’s conformity with the policies of the LCP and with the public access policies of the Coastal Act. As discussed in detail below, some of the appellants’ arguments raise no substantial issue in this regard, while some of the appellants’ arguments do raise a substantial issue regarding consistency with the policies of the certified LCP or the public access policies of the Coastal Act. Therefore, Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

#### **Appellants’ Argument No. 1: Failure to Protect the City’s Coastal and Other Natural Resources.**

The appellants contend that the City did not adequately consider Goal 4 of the LUE, which is to enhance the visitor experience *while maximizing protection of the community’s coastal and other natural resources*.

Goal 4 of the LUE of the certified Land Use Plan (LUP) states, in relevant parts:

Recognizing that Laguna Beach is a worldwide visitor destination, enhance the visitor experience while maximizing protection of the community's coastal and other natural resources.

Intent - The increasing number of visitors to Laguna Beach requires the protection of the community's sensitive coastal and other natural resources. The intent of the following policies and actions is to enhance the visitor experience along the coast,

while minimizing impacts on Laguna Beach's natural resources. The primary method of implementing this goal is through development of a Coastal Resources Protection Program. Elements of such a program include, but are not necessarily limited to, the following: 1) Potential rezoning of designated areas adjacent to the coast to provide visitor-serving uses that include a mix of commercial uses and public services and facilities. Potential sites would be designated based on their potential to accommodate high levels of visitor traffic with minimal impact on sensitive coastal resources and minimal effects on neighboring land uses. The intent of potential rezoning would be to serve the City's increasing number of beach visitors and enhance coastal access, while redirecting beach activity from locations identified as more environmentally sensitive to less sensitive beach areas. 2) Ongoing coastal resource protection through enforcement and public education. 3) Potential impact fee on new visitor-serving land uses benefiting from visitor activity that would help offset costs associated with protecting coastal resources from the increasing number of community visitors. 4) Identification of a site for development of a Coastal Resources Interpretive Center. [emphasis added]

LUE Action 4.1.3: Evaluate and, if appropriate, establish a fair-share impact fee for land uses and development benefiting from visitor activity for the purpose of offsetting costs related to the Coastal Resources Protection Program.

Specifically, the appellants assert that the City's action is inconsistent with the above Goal because the City's record does not make clear that the parking revenues will be used to establish a fair-share impact fee to offset costs related to the protection of Coastal Resources pursuant to LUE Action 4.1.3. However, LUE Action 4.1.3 doesn't require that all new revenues be used for that purpose. In addition, it refers to the imposition of such a fee on new visitor-serving land uses that benefit from visitor activity, which the current program does not involve, so the increased parking revenues are distinct from the revenue that this Action envisions being generated by the fair-share impact fee. Moreover, Goal 4 does not require the establishment of such a fee (the Intent section refers to it only as a "potential" fee, and the Action only requires its establishment "if appropriate"), and it only discusses the creation of such a fee for the purpose of offsetting costs related to the Coastal Resource Protection Program (and the Intent section discusses such a fee as an element of that program). The City has not yet established the Coastal Resource Protection Program as contemplated by the LCP. The City's action to establish a citywide parking rate structure did not require evaluation of a fair-share impact fee, because the City does not have a Coastal Resource Protection Program in place. If and when the City does establish a Coastal Resource Protection Program, the land uses which pay into the program will be determined, and specific impact fees will be established. The appellants assert that the lack of Coastal Resources Protection Program has diminished the opportunity to use increased parking revenues to protect natural resources and request the Commission to make recommendations to the City that will result in funds being redirected towards protecting natural resources impacted by visitors. The appellants also assert that the parking revenues should be used to mitigate the impacts of visitors to the area and provide new parking options, and should not be used for fire safety measures or historic preservation as approved by the

City. However, neither LUE Action 4.1.3 nor any policy in the certified LCP of which the Commission is aware requires parking revenues to be used for parking related measures or for protection of natural resources impacted by visitors.

In connection with this first contention, the appellants also point to LUE Policy 4.2, which states:

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

The appellants argue that the City staff and Planning Commission failed to develop mitigation efforts for the impacts of the parking rate increases to residential neighborhoods. The establishment of a citywide parking rate structure is intended to reduce the occupancy rates of congested downtown public parking spaces by promoting the use of peripheral parking lots and alternate modes of transportation. The project, including the peripheral parking lots and free shuttles, would redirect some of the downtown parking demand, expanding the options for residents and visitors. Providing additional parking and transportation options may reduce conflicts between visitor-serving uses/infrastructures and residents near the downtown area. However, there is also a potential that the increase in parking fee in the downtown area would redirect motorists looking for cheaper parking into the surrounding residential neighborhoods, where the general public can park without a fee. In that case, the parking rate structure could increase conflicts between visitor-serving uses/infrastructure and residents, particularly if the parking fees increase at the high rates proposed by the City over the next three years and continue to increase indefinitely, and if additional parking alternatives are not provided. The City did not provide enough analysis to determine the immediate and future effect of the parking fee increases. Therefore, the appellants' claim does raise a substantial issue of nonconformity with LUE Policy 4.2.

Finally, the appellants also point to LUE Action 4.2.5, which states:

Plan and develop a peripheral parking program to increase mass transit access to Laguna Beach's visitor-serving beaches and other amenities. The peripheral parking program shall include an investigation of the concept of shared parking, such as the use of public parking lots and underutilized private parking lots that could serve as peripheral parking locations. The implementation of such a program would require a coastal development permit.

The appellants assert that the peripheral parking program was developed in 2013 but was never issued a CDP as required by LUE Action 4.2.5. However, the subject of this appeal is the citywide parking rate increase, not the peripheral parking program. The City is applying for a CDP to increase citywide parking rates in order to implement the peripheral parking program and comply with LUE Action 4.2.5. The proposed parking rate structure is one portion of the peripheral parking program's implementation, which qualifies as development and requires a coastal development permit. Considering that the original intent of the peripheral parking program was to alleviate traffic/parking congestion in the saturated downtown area by encouraging peripheral parking and

facilitating the free shuttle program, the establishment of fees for both the downtown area and the peripheral lots is necessary to implement the program, as it creates the increased incentive to use those peripheral lots. Raising the parking rate in the downtown area will discourage motorists from parking in the popular downtown metered zones and lots/structures, thereby helping implement the peripheral parking program.

Therefore, the Commission finds that the appeal does raise a substantial issue with respect to the project's consistency with LCP policies to enhance the visitor experience while protecting the City's coastal and other natural resources.

**Appellants' Argument No. 2: Failure to Create a Sustainable Community**

The appellants contend the City's approval did not consider Goal 1 of the LUE.

LUE Goal 1: Create a community that is sustainable, resilient, and regenerative.

Intent – The City is committed to meeting its ongoing needs without compromising the ability of future generations to meet their own needs. The City recognizes the magnitude of the threat that climate change poses. The City can move toward sustainability and a reduction of greenhouse gas emissions by the way it manages land development and building construction, conserves habitats and natural resources, provides efficient transportation and mobility systems, and develops its infrastructure and public services. Sites should be planned, buildings designed, and infrastructure developed to reduce the consumption of energy, water, and raw materials, generation of waste, and use of toxic and hazardous substances.  
[emphasis added]

Citing the above LUE Goal, the appellants assert that the City can move toward sustainability and a reduction of greenhouse gas emissions by the way it manages traffic and mobility; yet there were no traffic studies done to review what would happen when parking rates were increased as proposed. The above cited policy, and any other provisions of the certified LCP, does not require a traffic study for parking rate increases. Nevertheless, according to the City's findings, City staff has conducted ongoing parking space occupancy assessments based upon data collection during summer months to create a baseline that will allow it to address the impact of program updates and adjust future rates accordingly since the approval of the 2013 PMP. The City data collection statistics from 2013 to 2019 reveal that the City continues to have a higher than optimal parking space occupancy rate (over 85 percent) in certain areas, particularly during its peak summer season. The City identified that one of the recommendations of the 2013 PMP is to increase the parking rates to manage parking demand. The City concluded that parking rates higher than 85 percent in certain locations are a sign that parking rates are not being set at an appropriate amount to manage parking demand, and indicate that the City needs to continue to adjust rates accordingly. Therefore, the City was not required to conduct a traffic study, and has conducted ongoing parking space occupancy assessments to understand parking occupancy rates of its downtown parking meters and lots/structures, and incorporated the results in its decision to establish the parking rate structure.

Another Action item under LUE Goal 1 (calling for the creation of a sustainable community) is LUE Action 1.1.6, which states:

Evaluate and consider eliminating or significantly reducing the cost of parking permits for fuel-efficient or alternative-fuel vehicles.

The appellants cited the above Action 1.1.6. Based on the City's findings, the parking rates will apply to all motorists in a uniform manner, and there is no evaluation or consideration of reduced parking rates for fuel-efficient or alternative-fuel vehicles. The City's record contains no evidence that the project would eliminate or significantly reduce the cost of parking permits for fuel-efficient or alternative-fuel vehicles. The City's failure to evaluate incentives for alternative fuel vehicles is not consistent with LUE Goal 1 or its intent section to "move toward sustainability and a reduction of greenhouse gas emissions." There are no findings or conditions in the approved permit demonstrating consistency with LUE Action 1.1.6. When it took action to raise rates to manage parking demand in the downtown area and parking lots, the City should have also considered incentives to encourage residents and visitors to drive alternative fuel vehicles, consistent with the LUE.

Therefore, the Commission finds that the appeal does raise a substantial issue with respect to the project's conformance to the LCP policies related to creating a sustainable community.

**Appellants' Argument No. 3: Failure to Consider Impacts on Traffic and Community Character.**

1. The appellants contend the City's approval did not consider Goal 2 of the LUE.

LUE Goal 2: Preserve, enhance and respect the unique character and identity of Laguna's residential neighborhoods.

LUE Policy 2.3: Preserve and enhance the qualities that contribute to the character of the residential community, including quiet neighborhoods, pedestrian use of streets, and appropriate levels of illumination and nighttime activity and seek to mitigate the effects of high-volume thru-traffic.

LUE Action 2.3.4: Investigate streetscape improvements, street design, and regulations that will help reduce the speed and negative impacts of traffic on residential streets.

LUE Action 2.3.5: Modify the Corridor Progression Traffic Analysis Model thresholds to accurately reflect the unique nature of the City's residential streets.

The appellants claim that the parking rate hikes will create adverse impacts to community character because parking rate increases will cause people to spill over into residential neighborhoods adjacent to popular visitor destinations (such as beaches and the downtown area) to look for cheaper parking and park in front of residences, resulting in negative impacts on those neighborhoods from the increase in vehicular and foot traffic. The appellants mentioned three reasons for the project's impact on community character: 1) people will circle residential neighborhoods in search of parking and create more

conflicts between pedestrians and vehicles; 2) they will use parking spaces in front of private residences that might be more appropriately used by guests of those residences; and 3) they will create disturbance as many of them return to their cars late in the evening, especially after drinking at local bars and restaurants. As discussed in Appellant's Argument No.1, the proposed parking rate hikes could potentially increase conflicts between visitor-serving uses/infrastructure and residents, and as such, this presents an issue with respect to that contention. The proposed parking rate increases are intended to alleviate the congested downtown parking occupancy rates by encouraging the use of peripheral parking lots and free trolleys. The project does not include changes to parking management or design in residential neighborhoods, and the potential to create an incentive for some additional public parking in residential areas is not a significant change to the character of those areas. Therefore, the project, as intended to provide a solution to the identified congestion, would maintain the status quo and would not have an impact on the community character and identity of Laguna's residential neighborhoods. The appellants' argument that the parking rate increases may cause spillover into the residential neighborhoods does raise a substantial issue with regard to the previously cited LUE policies, but there is no evidence that the parking rate increase will adversely affect community character.

2. The appellants contend the City's approval did not consider Goal 5 of the LUE.

LUE Goal 5: Promote compatibility among land uses in the community.

Intent – Laguna Beach has a varied mix of land uses in close proximity to one another. For example, residential zones abut commercial and light industrial zones and building sites abut sensitive open space, creating the potential for incompatible land uses. Spillover parking from commercial areas negatively impacts some residential neighborhoods. Pressures to develop larger structures in all areas of the City have resulted in negative aesthetic and other impacts upon the community. In order to counteract the negative effects and avert future conflicts among land uses, the following policies and actions address the need to evaluate and, where appropriate, amend zoning standards and consider rezoning areas that are incompatible, establish compatibility guidelines for new development and subdivisions, and consider the adoption of neighborhood parking programs. [Emphasis added]

LUE Policy 5.4: Preserve and maintain the residential character and livability of neighborhoods adjacent to commercial districts and/or individual businesses by regulating and minimizing impacts from commercial activities, including but not necessarily limited to deliveries, amplified music, light trespass, alcohol-related impacts, and employee or valet parking. Establishment of any new preferential parking districts in the coastal zone shall be prohibited. [Emphasis added]

The appellants argue that, although the "intent" portion of this goal specifically mentions 'spillover parking' and the negative impacts to adjacent residential neighborhoods, the City did not consider implementing or improving employee or valet parking programs in its approval of the parking rate increases and violated LUE Policy 5.4. However, such

programs are just one example of what LUE Policy 5.4 suggests as a means of protecting the residential character and livability of certain neighborhoods. Not every new program subject to a coastal development permit must implement every element of the LCP. Rather it should implement all applicable provisions of the LCP. Furthermore, the project the City is proposing is designed to further the same goal that employee and valet parking programs are recommended to promote. Specifically, the parking rate increase is designed to encourage the use of peripheral parking and free trolley program, thereby alleviating the congested traffic of the City's downtown area and promoting compatibility among land uses in the community. Finally, the City's decision is not anticipated to influence the existing employee or valet parking programs, which do not rely on metered public street parking spaces, so there is nothing in the current proposal that necessitates consideration of these programs.

3. The appellants contend the City's approval did not consider Goal 8 of the LUE.

LUE Goal 8: Minimize the impact of the automobile on the character of Laguna Beach and emphasize a pedestrian-oriented environment, safe sidewalks, landscaped buffer zones, and alternate means of transportation.

The appellants claim that the project would increase traffic circulation caused by cars trying to find parking spaces and will not minimize the impact of automobiles on the character of Laguna Beach, nor does it provide for funds to be used from the increased parking revenues to make safer sidewalks or emphasize a pedestrian-oriented environment. However, the proposed parking rate structure is intended to reduce the number of cars trying to find parking in the downtown area, which will contribute to the goal listed above (minimizing the impact of the automobile on the character of Laguna Beach and emphasizing a pedestrian-oriented environment and alternate means of transportation).

4. The appellants contend the City's approval did not consider the Technical Appendix.

The Technical Appendix to the Laguna Beach LCP was developed in 1984 and contains studies and findings that center on five principal sections: 1) Recreation and visitor-serving facilities and uses, 2) parking and circulation, 3) environmentally sensitive areas, 4) shoreline access, and 5) undeveloped lands. Section 3 of the Technical Appendix, which concerns the City's parking and circulation, makes findings for the City's parking user groups and parking constraints/demands. The appellants assert that the Technical Appendix's facts and figures are outdated, and that the City's current approval of the parking rate structure made no reference to the appendix nor contained a study of what effects these rate hikes will have on parking in South Laguna, specifically, where many of the streets are held privately and do not provide parking for beachgoers. It is true that the Technical Appendix is outdated and is not directly relevant to the proposed project, especially because the City conducted a more updated parking study as grounds for the specific parking rate increases. The annual updates of the City's 2013 PMP have tracked parking occupancy of the downtown and Laguna Canyon Road parking spaces (**Exhibit 4**), and the City's approval has adequately referenced the results as justification for rate increases. The Technical Appendix references parking inventory generally and does not set parking rates. The appellants further contend that, although parking rate increases may

have been justified in the downtown and Laguna Canyon parking areas with the City's parking occupancy analysis (**Exhibit 4**), the same cannot be said for the metered lots in North and South Laguna, because the City's study does not reference any occupancy rates in those areas. The certified LCP does not require traffic study findings in order to raise parking rates, and the City drew its conclusion with all available parking occupancy data.

5. The appellants raise concerns about the cumulative effects of the loss of parking spaces that have already occurred and additional loss as contemplated by the about-to-be adopted "Downtown Action Plan."

The loss of parking spaces that occurred in the past and the City's "Downtown Action Plan" are not the subject of this appeal.

Therefore, the Commission finds that the appeal does not raise a substantial issue with respect to the project's consistency with the referenced LCP policies related to traffic and community character.

**Appellants' Argument No. 4: Lack of Proactive Participation in Planning Activities of Regional and Adjacent Jurisdictions.**

The appellants contend that the City's approval did not consider Goal 11 of the LUE.

LUE Goal 11: Proactively participate in the planning activities of regional and adjacent jurisdictions.

LUE Policy 11.3: Work with adjacent jurisdictions to resolve regionally based problems such as water quality, runoff and flooding, air space, and transportation/traffic congestion issues and to establish regional responses to open-space conservation and wilderness area access.

The appellants contend there is no evidence in the record that the City has worked with adjacent jurisdictions to resolve transportation/traffic congestion issues related to the proposed increase in parking rates. The appellants further contend that there is nothing in the record to reflect any efforts to work with those other jurisdictions to reduce the City's traffic and parking problems, nor has the City reviewed its parking rates as compared to nearby areas. In fact, the City's implementation of its peripheral parking program and free trolley service did include some collaboration with adjacent jurisdictions. Specifically, the City provides free parking during the summer months at its Summer Breeze lot, which is located in the City of Irvine, and provides free trolleys alternating from the site to the City's beaches and downtown. City staff provided evidence as part of the City's record that it did compare its existing and proposed rates to cities of Newport Beach, Huntington Beach, Santa Monica, Manhattan Beach, and downtowns of cities of San Francisco, Los Angeles and San Diego (**Exhibit 5**). The City staff further clarified that they specifically selected these cities because of the comparable number of these cities' yearly visitors (more than 2 million visitors).



The City's record for the subject CDP does not include "proactive" participation in the planning activities of regional and adjacent jurisdictions, because the City did not collaborate or work with adjacent jurisdictions to resolve regional problems related to parking and traffic through the subject CDP process. The City implemented the free Summer Breeze parking lot in Irvine as a component of its Parking Management Program, but has not worked with adjacent jurisdictions to provide additional alternatives or a coordinated regional parking rate structure in order to resolve the identified transportation/traffic congestion issue. However, the above cited goal and policy do not provide the timing of such collaboration in regards to specific planning activities. Not every new program subject to a coastal development permit must implement every element of the LCP. Therefore, the Commission finds that the appeal does not raise a substantial issue with respect to the project's consistency with the participation in planning activities of regional and adjacent jurisdictions as defined by the certified LCP.

### **Appellants' Argument No. 5: Lack of Conformity with the General Plan**

The Transportation, Circulation and Growth Management Element of the General Plan states, in part:

1A: Continue to investigate new techniques which promote the balancing of principles that roads are not just for cars; that residents have a right to the best quality of life which include the least noise possible, the least pollution possible, the safest environment possible and an environment which fosters a rich community life.

2D: Monitor the activities of adjoining jurisdictions to determine the impacts proposed development will have on traffic flow in Laguna Beach. Work with adjacent cities to ensure that the traffic resulting from development projects in these cities does not adversely impact the City of Laguna Beach. Actively oppose the creation of new arterials linking surrounding communities with Laguna Beach.

3B: Encourage street design and traffic levels that are sympathetic to the health, safety and social needs of individual neighborhoods.

3C: Compile updated level of traffic data utilizing traffic models developed specifically for the City of Laguna Beach residential neighborhood environment.

4B: Establish level of traffic thresholds and appropriate mitigation measures for neighborhood streets.

4D Develop a traffic impact mitigation program for transportation improvements within the City's boundaries.

6B Review the City's Parking Ordinance regularly to determine if requirements respond appropriately to parking demand, while balancing other General Plan objectives.

6D: Develop a program for directional signs to assist motorists in locating parking.

6G: To enhance and increase public access, pursue funding for planning and

development of a peripheral parking program for parking, increased access to the beaches and transit opportunities. Specifically, study the Pacific Coast Highway corridor, Laguna Canyon Road, El Moro School and the downtown area for parking and transit opportunities, including appropriate locations for parking structures.

6I: Continue to manage and enforce a comprehensive parking program for the summer festival season.

6J: Consider allocating funds for traffic and circulation improvements in connection with the annual Capital Improvement Program.

6L: Coordinate the peripheral parking program with the provision of frequent tram service to and from the CBD.

6M: Investigate the feasibility of a parking mitigation fee program as part of a comprehensive parking management plan to be imposed on businesses located in the CBD. Ensure that proceeds from the program are used to construct peripheral parking structures and connecting tram service.

8A Maximize the efficiency of the circulation system through the use of transportation system management and demand management strategies.

The appellants note that the City's certified LCP requires the approval authority to make a finding that the project is "in conformity with all the applicable provisions of the general plan, including the certified local coastal program and any applicable specific plans" (LBMC 25.07.012(G)). The appellants contend that the City's approval did not follow the Transportation, Circulation and Growth Management Element ("TCGME") of its General Plan due to its lack of adequate traffic impact study. The appellants invoke 10 policies of the TCGME (1A, 2D, 3B, 3C, 4B, 4D, 6B, 6G, 6M, 8A), but none of them requires a traffic impact study for the City to adjust citywide parking rates. In addition, the City's finding states the project's conformance with policies 6D, 6G, 6I, 6J, and 6L by enhancing coastal access with provision of free trolleys, use of peripheral parking lots, free parking, wayfinding signage, and other accomplishments outlined in the City's PMP Update Report. Therefore, the Commission finds the appeal does not raise a substantial issue with respect to the project's conformance with the Laguna Beach General Plan.

### **Appellants' Argument No. 6: Public Access and Environmental Justice**

The appellants assert that the City's action did not adequately maximize public access to and along the coast, nor did it consider Environmental Justice in its approval of the parking rate increases, and that the City could and should have conditioned the project to ensure that the lower cost parking areas, a key component of the peripheral parking program, are advertised in languages other than English and in publications circulated outside of the Coastal Zone. The City-approved parking rate structure applies to all public meters and lots/structures citywide, thus bearing a potential to impact public access to and along the coast of Laguna Beach. Particularly, the said parking rate structure allows for the increase

in parking rates indefinitely, with the only limitation being that the rate increases will not exceed 50% in any rolling three-year period.

While there may not be a direct relationship between vehicle parking and public access, and the City of Laguna Beach provides alternative means of accessing the coast (e.g. the trolley), incremental annual increases of parking rates in the coastal zone remain a concern of the Commission. The indefinite approval of parking rate increases along the coastline, up to 25% per year, as approved by the City's permit, could ultimately discourage members of the public from accessing the coast. The open endedness of the City's action, with future rate increases not subject to Coastal Commission review, makes the action inconsistent with the public access policies of the Coastal Act, which are part of the standard of review for the portions of the project in the appealable area of the coastal zone.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X 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 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states, in part:

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

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Additionally, the Commission must consider the public access policies of the Coastal Act through an environmental justice lens, consistent with Coastal Act Sections 30013 and 30604, and consistent with the Commission's Environmental Justice Policy.

Section 30013 of the Coastal Act states:

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by

the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

Section 30604 of the Coastal Act states, in relevant part:

(h) When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

The California Coastal Commission's Environmental Justice Policy states:

“The California Coastal Commission's commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to empower the public's full participation in the land-use decision-making process that protects California's coast and ocean commons for the benefit of all the people. In keeping with that visionary mandate, but recognizing that the agency has not always achieved this mission with respect to many marginalized communities throughout California's history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone. The agency is committed to ensuring that those opportunities not be denied on the basis of background, culture, race, color, religion, national origin, income, ethnic group, age, disability status, sexual orientation, or gender identity.

The Commission will use its legal authority to ensure equitable access to clean, healthy, and accessible coastal environments for communities that have been disproportionately overburdened by pollution or with natural resources that have been subjected to permanent damage for the benefit of wealthier communities. Coastal development should be inclusive for all who work, live, and recreate on California's coast and provide equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, income levels disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with Public Resources Code Section 300137 and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.”

Throughout California's history, low-income communities, communities of color, and other marginalized populations (altogether referred to as underserved communities in this staff

report) have faced uneven barriers to accessing the California coastline because of geographic, socioeconomic, and cultural reasons. Recognizing this historical injustice and how it is inconsistent with Coastal Act policies ensuring maximum and equitable public access to the California coastline, the Commission adopted its Environmental Justice Policy in March 2019 to promote the consideration of environmental justice principles in the agency's decision-making process.

The City's approval of a project that allows for the increase of parking rates indefinitely has the potential to disproportionately impact members of the underserved communities, who have less disposable income (both in raw numbers and as a percentage of their income and assets) and fewer options for enjoying public access to and recreation on the coast. The parking rates in downtown Laguna Beach are already relatively high (up to \$5 per hour) by regional comparison – and the project would allow the rates to increase indefinitely (up to 50% over a rolling three year period). While some rate increases are necessary to encourage turnover and encourage alternative modes of transportation, the cumulative impacts of the project could disproportionately impact members of underserved communities who would be discouraged from accessing the coast. The City provides free/lower cost peripheral parking spaces and a free trolley program, but these parking management programs have not been widely advertised to underserved communities or made accessible in languages other than English.

Therefore, the City's mitigation measures for the increased parking rates are not sufficient to alleviate the disproportionate impact on members of the underserved communities. The Commission finds that the appeal does raise a substantial issue with respect to the project's conformance to the public access and environmental justice policies of the Coastal Act.

**Summary of Conclusions Regarding Appellants’ Contentions**

Contention Number	General Contention	Specific Contention	Conclusion
1	Failure to Protect the City’s Coastal and Other Natural Resources	Violation of Goal 4 in failing to direct funds to a fair-share impact fee	No substantial issue
		Violation of LUE Policy 4.2 by failing to address conflicts with residents	Substantial issue
		Violation of LUE Action 4.2.5 by failing to require a CDP for implementation of peripheral parking program	No substantial issue
2	Failure to Create a Sustainable Community	Failure to perform a traffic study as required by LUE Goal 1	No substantial issue
		Failure to consider different rate structures for fuel-efficient or alternative-fuel vehicles as required by Violation of LUE Action 1.1.6	Substantial issue
3	Failure to Consider Impacts on Traffic and Community Character	Violation of LUE Goal 2 by failing to preserve community character	No substantial issue
		Violation of LUE Goal 5 by failing to consider implementing employee or valet parking programs	
		Violation of LUE Goal 8 by failing to minimize the impact of automobiles on the character of Laguna Beach	
		Failure to consider the Technical Appendix to the LCP	
		Failure to consider the loss of parking spaces in the past and future loss expected by the City’s “Downtown Action Plan”	
4	Lack of Proactive Participation in Planning Activities of Regional and Adjacent Jurisdictions	Violation of LUE Goal 11 by failing to work with adjacent jurisdictions	No substantial issue
5	Lack of Conformity with the GP	Failure to follow the TCGME of its GP	No substantial issue
6	Public Access and Environmental Justice	Failure to maximize public access to the coast, and failure to consider Environmental Justice in its approval of the project	Substantial issue

**SUBSTANTIAL ISSUE FACTORS:**

The Commission typically applies five factors in making a determination whether an appeal raises a substantial issue pursuant to Section 30625(b)(2).

**1. The degree of factual and legal support for the local government’s decision that the development is consistent with the certified LCP.**

The City did not adequately support its determination of the project’s consistency with all of the applicable policies of the certified LCP and the public access provisions of the Coastal Act. Specifically, the City’s action lacked support with respect to the following: (1) The City’s approval did not consider LUE Policy 4.2, which calls for policies to reduce conflicts between visitor-serving uses/infrastructure and residents, (2) the City’s approval did not consider LUE Action 1.1.6, which requires the City to consider eliminating or significantly reducing cost of parking permits for fuel efficient or alternative fuel vehicles; and (3) the approval’s indefinite term of parking rate increase authorization did not consider the public access and environmental justice policies of the Coastal Act. Therefore, this factor supports a substantial issue finding.

**2. The extent and scope of the development as approved or denied by the local government.**

The City-approved CDP will result in an immediate increase of parking rates in all public meters and lots/structures located citywide. Therefore, the Commission finds that the extent and scope of the development as approved by the local government is substantial. This factor supports a finding of substantial issue.

**3. The significance of the coastal resources affected by the decision.**

The City-approved CDP will affect the parking rates along the coastline of Laguna Beach. Therefore this project will affect public access and recreational opportunities to the coast in the City of Laguna Beach. Public access and recreational opportunities are among the Coastal Act’s highest priorities, and Laguna Beach is visited by millions of visitors each year, many by private vehicles. Therefore, this factor supports a finding of substantial issue.

**4. The precedential value of the local government’s decision for future interpretations of its LCP.**

The City-approved CDP would authorize future increases to the City’s public parking meters and lots/structures in perpetuity. In other words, the City would not need to process any future CDPs related to the City’s public parking after the subject CDP. Thus, the City’s decision would not have a precedential value for future interpretations of its LCP. This factor does not support a finding of substantial issue.

**5. Whether the appeal raises local issues, or those of regional or statewide significance.**

The appeal raises issues of statewide significance, given that the City-approved parking rate structure without a term of authorization may set a precedent for other coastal jurisdictions to follow. Managing parking along California’s coastline is related to maximizing public access and recreational opportunities pursuant to the Coastal Act, so the indefinite authorization of parking rate increase by the local government raises issues of statewide significance. Therefore, this factor supports a finding of substantial issue.



**Conclusion**

In conclusion, staff recommends that the Commission find that a substantial issue exists with respect to whether the local government action conforms with the policies of the City's certified LCP and the public access and environmental justice policies of the Coastal Act.

## VI. MOTION AND RESOLUTION – DE NOVO REVIEW

**Motion:** I move that the Commission **approve** Coastal Development Permit No. A-5-LGB-20-0001 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **Resolution:**

The Commission hereby approves Coastal Development Permit Application No. A-5-LGB-20-0001 and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

## VII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittees to bind all future owners and possessors of the subject property to the terms and conditions.

## VIII. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Term of Parking Rate Authorization.** This Coastal Development Permit only authorizes increases in parking rates for three calendar years (no new parking rate increases are authorized after December 31, 2022). The City shall comply with the following requirements for that term of parking rate increase authorization:
  - A. The year 2020 parking rates may be implemented up to the maximum rate in the table identified in **Exhibit 2** of this staff report. The City shall report the 2020 rates to the Commission's Executive Director prior to implementation.
  - B. The 2021 parking rates may be set at a level up to, but not more than, 10% higher than the 2020 parking rates, and shall be reported to the Commission's Executive Director prior to implementation.
  - C. The 2022 parking rates may be set at a level up to, but not more than, 10% higher than the 2021 parking rates, and shall be reported to the Commission's Executive Director prior to implementation.
  - D. If the City seeks to increase parking rates in 2023 or at any time again in the future, a new local CDP authorizing such a change must be processed, approved, and not overturned on appeal or otherwise, in order for the proposed future parking rate increase to be effective. If the Commission overturns the decision on appeal and requires a modification in parking rates, the modified parking rates will be effective even if they do not satisfy the requirements set forth in this condition.

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved project must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit or a new coastal development permit is required.

2. **Additional Language Accessibility Program.** Within 30 days of issuance of this permit, the City shall implement the additional language accessibility program for the purpose of advertising its peripheral parking and free trolley program in languages other than English. The additional language accessibility program shall comply with the following requirements:
  - A. The program shall translate the City's peripheral parking and free trolley information on its website to languages other than English including, but not limited to, Spanish.
  - B. The program shall translate the information on all printed materials related to the peripheral parking and free trolley programs to languages other than English including, but not limited to, Spanish.
  - C. If the City determines it to be feasible, the information on the City's mobile parking app and the Trolley Tracker app shall be translated to languages other than English including, but not limited to, Spanish.
3. **Incentives for Sustainability and Fuel-Efficient or Alternative-Fuel Vehicles.** Within 30 days of issuance of this permit, the City shall evaluate and consider reducing the cost

of hourly parking rates for the parking spaces adjacent to its electric vehicle charging stations located in the City’s parking lots and/or structures. The City shall also consider other incentives for fuel-efficient or alternative fuel vehicles that can be implemented concurrent with its parking management plan. No later than December 31, 2020, the City shall provide the Commission’s Executive Director a report on its implementation of LUE Goal 1 (Sustainability) and LUE Action 1.1.6 (Fuel Efficient and Alternative Fuel Vehicle Incentives), which may also include programs and incentives the City is already implementing (e.g. increased operations of the free trolley and incentives to encourage cycling and walking instead of driving).

## **IX. FINDINGS AND DECLARATIONS – DE NOVO**

Note: The Findings and Declarations in the Substantial Issue section of this staff report are hereby adopted by reference into the Findings and Declarations for the De Novo Permit.

### **A. PROJECT DESCRIPTION**

The City-approved project is described as the establishment of a multi-year, multi-phase parking rate structure for all public parking meters and lots/structures located citywide for summer and non-summer months as outlined in Attachment A of City Resolution No. 19-5154 (**Exhibit 2**). However, since the filing of the appeal of local CDP No. 19-5154, the City has agreed to modify its proposal to better conform to the provisions of the certified LCP and the Coastal Act. Specifically, the modifications are summarized as follows:

- The City will limit the term of parking rate increase authorization to the end of 2022. If the City seeks an increase in the parking rates after that date, it will need to process a new local CDP, which may be appealed to the Coastal Commission.
- The City will implement the proposed parking rate for year 2020, but it will limit the subsequent two years’ increases to a maximum of ten (10) percent of each previous year’s parking rates.
- The City will implement the additional language accessibility program on its website, as well as on all printed materials related to the parking and trolley programs, and if feasible, on the City’s mobile parking app and the Trolley Tracker app.
- The City will evaluate and consider reducing the cost of hourly parking rates for parking spaces adjacent to its electric vehicle charging stations located in the City’s parking lots and/or structures. The City will also continue and expand programs and incentives that encourage sustainability and offer alternatives to driving and parking (e.g. increased operations of the free trolley and incentives to encourage cycling and walking instead of driving).

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

Section 30604(b) of the Coastal Act states:

After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

In addition, Section 30604(c) of the Coastal Act states:

Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The project will be implemented citywide on public streets and public and private parking lots in Laguna Beach, with some of the public parking areas located between the sea and the first public road paralleling the sea. Therefore, the standards of review for this project are the City's certified LCP and the public access and public recreation policies of the Coastal Act. The City of Laguna Beach Local Coastal Program was certified by the Commission on January 13, 1993 (except for the areas of deferred certification: Three Arch Bay, Hobo Canyon, and Irvine Cove). The subject site falls within the City's certified LCP jurisdiction. The City's LCP Land Use Plan portion is comprised of a variety of planning documents including the Land Use Element (LUE), Open Space/Conservation Element (OSC), and the Coastal Technical Appendix. The Implementation Plan portion of the LCP is comprised of a number of documents including Title 25 Zoning.

### **C. Public Access**

In order to maximize public access, the City's certified LCP includes the following policies:

Land Use Element:

Policy 4.2: Promote policies to accommodate visitors, reduce conflicts between visitor-serving uses/infrastructure and residents, and reduce impacts on the City's natural resources.

Policy 4.3: Maintain and enhance access to coastal resource areas, particularly the designated public beaches, by ensuring that access points are safe, attractive, and pedestrian friendly.

Coastal Land Use Plan Technical Appendix:

The location and amount of new development shall maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation.

Open Space/Conservation Element:

Policy 3-A: Retain and improve existing public beach accessways in the City, and protect and enhance the public rights to use the dry sand beaches of the City.

Also, projects located between the sea and the first public road paralleling the sea, such as the subject site, must be consistent with the public access and recreation policies of the Coastal Act.

Section 30210 of the Coastal Act:

In carrying out the requirement of Section 4 of Article X 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.

The City-approved parking rate structure applies to all public meters and lots/structures citywide, thus potentially impacting public access to and along the coast of Laguna Beach by making access prohibitively expensive for some. However, as required by **Special Condition 1**, the City has agreed to limit its parking rate increases to a maximum of 10% for the years 2021 and 2022, and agreed to process a new local CDP, which will be appealable to the Coastal Commission, for any future parking rate increase effective after December 31, 2022. Even as so limited, the proposed parking rate increase in 2020 and the subsequent two years' maximum 10% rate increase will discourage some people from driving their vehicles and parking in the most expensive areas subject to the parking rate increases; however, this is the intent of the program, which overall, is designed to improve access. The City's parking rate structure is a component of the implementation strategy for its peripheral parking and free trolley program, which provides an alternative to parking in the busy downtown parking area. People who want to pay less to access the coast and the downtown may park in the peripheral parking lots and take the free trolleys (which are funded by the City's parking revenue) to the downtown area, Main Beach, and most of the City's other popular beaches.

The Commission also found that the City's proposed rate increases could increase conflicts between visitor-serving uses/infrastructure and residents, by creating an incentive for visitors to downtown and the coast to park in residential neighborhoods, particularly if the parking fees increase at the high rates proposed by the City over the next three years and continue to increase indefinitely, and if additional parking alternatives are not provided. LUE Policy 4.2 requires development to "promote policies to accommodate visitors, reduce conflicts between visitor-serving uses/infrastructure and residents, and reduce impacts on the City's natural resources." The three-year authorization of rate increases will ensure that the City, the Commission, and the public have an opportunity to evaluate the effects of the rate increases and associated transportation alternatives. The City will continue to track parking usage data, with the goal of reaching the 85% parking occupancy rate that reduces motorist circling and congestion. If future rate increases are necessary to achieve the 85% occupancy rate, they will be analyzed in combination with other incentives to encourage parking away from the busiest areas, including expansion of alternative modes of transport and other sustainability implementation strategies required by **Special Condition 3**. The three-year authorization will also avoid impacts which could occur as a result of perpetual, incremental, and annual increases of parking rates in the coastal zone, which remain a concern of the Commission.

**Special Condition 2** requires the City to implement the additional language accessibility program for the purpose of advertising its peripheral parking and free trolley program in languages other than English. Consequently, members of the public who read in languages other than English will be able to more readily utilize the peripheral parking and trolley program. This will help individuals whose primary language is not English understand their options – and it will help the City’s Parking Management Program as a whole by fully including more users.

Moreover, the intent of the City-approved program enhances public access to the coast and complies with the above policies. The Coastal Land Use Plan Technical Appendix requires that development maintain and enhance public access to the coast by providing adequate parking facilities, and the Open Space/Conservation Element of the certified LCP requires protection and enhancement of public rights to use the dry sandy beaches of the City. The peripheral parking program and the free trolley program, which are directly linked with the subject proposal to implement the overall intent of the City’s PMP, added the peripheral parking lots as new parking facilities and provided a connection between them and the downtown area and public beach access points. Land Use Element Policy 4.3 requires the City to maintain and enhance access to coastal resource areas, particularly the designated public beaches, which the City proposes to do through its continued implementation of the trolley program and expanded summer parking lots (some of which are leased from private institutions to provide extra parking specifically for beachgoers). The trolley program and expanded summer parking lots are paid for with revenue from the parking meters and public parking lots/structures.

Thus, the program, as a whole, and as conditioned by the Commission, is consistent with the LCP public access policies cited above and with the public access and recreation policies of the Coastal Act.

#### **D. Environmental Justice**

The City’s LCP does not contain policies specific to environmental justice. However, the Commission must consider the public access policies of the Coastal Act through an environmental justice lens, consistent with Coastal Act Sections 30013 and 30604, and consistent with the Commission’s Environmental Justice Policy.

Section 30013 of the Coastal Act states:

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

Section 30604 of the Coastal Act states, in relevant part:

(h) When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

The California Coastal Commission's Environmental Justice Policy states:

"The California Coastal Commission's commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to empower the public's full participation in the land-use decision-making process that protects California's coast and ocean commons for the benefit of all the people. In keeping with that visionary mandate, but recognizing that the agency has not always achieved this mission with respect to many marginalized communities throughout California's history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone. The agency is committed to ensuring that those opportunities not be denied on the basis of background, culture, race, color, religion, national origin, income, ethnic group, age, disability status, sexual orientation, or gender identity.

"The Commission will use its legal authority to ensure equitable access to clean, healthy, and accessible coastal environments for communities that have been disproportionately overburdened by pollution or with natural resources that have been subjected to permanent damage for the benefit of wealthier communities. Coastal development should be inclusive for all who work, live, and recreate on California's coast and provide equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.

"The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, income levels disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission's goal, consistent with Public Resources Code Section 300137 and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state's diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations."

As discussed previously, the City-approved project would have allowed for the indefinite increase of parking rates which would have the potential to disproportionately impact members of underserved communities. Therefore, the Commission imposes **Special**



**Condition 1**, limiting the City’s authority to increase parking rates to a three year period, subject to a maximum of 10% in years two and three.

Additionally, the City has provided free/lower cost peripheral parking spaces and a free trolley program, but these parking management programs have not been widely advertised to underserved communities or made accessible in languages other than English. **Special Condition 2** requires that, within 30 days of issuance of this permit, the City shall implement the additional language accessibility program by making information on its website, as well as in any printed materials related to the parking and trolley programs, available in other languages, and if feasible, doing the same with the information on the City’s mobile parking app and the Trolley Tracker app. Consequently, some members of the underserved communities should be more aware of the peripheral parking and free trolley programs and more likely to be able to access them in the same manner as the general members of the public.

Any identified impacts to underserved communities that occur despite the requirements of Special Conditions 1 and 2 should be addressed through immediate City action to maximize public access for all people. If impacts persist beyond the three year authorization of the CDP, and the City seeks future parking rate increases or other changes to its Parking Management Program that require a CDP, then the City (or the Coastal Commission on appeal) will be required to evaluate the effects of the rate increases and associated transportation alternatives on underserved communities. If future rate increases are necessary to achieve the 85% parking space occupancy rate, they will be analyzed in combination with other incentives to encourage parking away from the busiest areas, including expansion of alternative modes of transport and other sustainability implementation strategies required by **Special Condition 3**. The City or the Commission may also require additional incentives or programs to address environmental justice concerns in future CDPs. Additionally, the City should update its LCP to include environmental justice policies, which guide review and analysis of future CDPs. The three-year authorization will also avoid impacts that could occur as a result of perpetual, incremental, and annual increases of parking rates in the coastal zone, which remain a concern of the Commission.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the Environmental Justice policies of the Coastal Act.

#### **E. Promotion of Fuel-Efficient or Alternative-Fuel Vehicles**

LUE Goal 1 states:

Create a community that is sustainable, resilient, and regenerative.

Intent – The City is committed to meeting its ongoing needs without compromising the ability of future generations to meet their own needs. The City recognizes the magnitude of the threat that climate change poses. The City can move toward sustainability and a reduction of greenhouse gas emissions by the way it manages land development and building construction, conserves habitats and natural resources, provides efficient transportation and mobility systems, and develops its infrastructure and public services. Sites should be planned, buildings designed, and infrastructure

developed to reduce the consumption of energy, water, and raw materials, generation of waste, and use of toxic and hazardous substances.

LUE Action 1.1.6 states:

Evaluate and consider eliminating or significantly reducing the cost of parking permits for fuel-efficient or alternative-fuel vehicles.

The City-approved parking rates apply to all motorists in a uniform manner, and there was no evaluation and consideration of reduced parking rates for fuel-efficient or alternative-fuel vehicles in the City's permit record. However, since the appeal has been filed, the City has provided evidence that it promotes alternative fuel vehicles already (through installation of electric vehicle charging stations and striping designated parking spaces for electric vehicles). Currently, there are electric vehicle stations in at least two City-owned parking lots downtown. The City has also indicated that it will continue and expand programs and incentives that encourage sustainability and offer alternatives to driving and parking (e.g. increased operations of the free trolley and incentives to encourage cycling and walking instead of driving), consistent with LUE Goal 1 and Action 1.1.6.

**Special Condition 3** requires the City to evaluate and consider reducing the cost of hourly parking rates for the parking spaces adjacent to its electric vehicle charging stations located in the City's parking lots and/or structures before the summer 2020 peak visitor/beach use season, and provide the Executive Director with a report on its progress no later than December 31, 2020.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Action 1.1.6 of the certified LCP cited above.

#### **F. LOCAL COASTAL PROGRAM**

The City of Laguna Beach Local Coastal Program (LCP) was certified with suggested modifications, except for the areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and the City assumed permit-issuing authority at that time. The Land Use Plan of the LCP consists of the Coastal Land Use Element, the Open Space/Conservation Element, and the Coastal Technical Appendix. The Coastal Land Use Element of the LCP was updated and replaced in its entirety via LCPA 1-10 in 2012. The certified Implementation Plan of the LCP is comprised of a number of different documents, but the main document is the City's Title 25 Zoning Code. The Open Space/Conservation Element and Title 25 have been amended a number of times since original certification.

As discussed in this staff report, the proposed project, as conditioned, conforms to the provisions of the City of Laguna Beach Certified LCP.

#### **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing

the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Laguna Beach is the lead agency for the purposes of CEQA review. On December 4, 2019, the Laguna Beach Community Development Department Planning Commission adopted a Section 15273(a) CEQA Statutory Exemption (Rates, Tolls, Fares, and Charges), which allows for the establishment of parking rates by public agencies for the purposes of meeting operating expenses and obtaining funds for capital projects, necessary to maintain service within existing service areas.

In addition, the proposed project has been conditioned to be found consistent with the certified LCP. As conditioned to minimize the impact on public access to and along the coast and underserved communities, and promote fuel-efficient or alternative-fuel vehicles, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## **Appendix A – Substantive File Documents**

1. City of Laguna Beach certified Local Coastal Program.
2. Laguna Beach Community Development Department Planning Commission Staff Report for Local CDP 19-5154, dated December 4, 2019.
3. Downtown Specific Plan Area & Laguna Canyon Road Parking Management Plan “2013 PMP” by City of Laguna Beach, dated May 30, 2013.
4. Laguna Beach Coastal Land Use Plan Technical Appendix by City of Laguna Beach, dated August 1984.